

109TH CONGRESS
1ST SESSION

H. R. 3973

To authorize the Forest Service and the Bureau of Land Management to carry out a series of pilot projects to encourage collaborative approaches to, and to provide research on, the rehabilitation of forest ecosystem health following uncharacteristic disturbances of forested Federal lands, to be conducted in a manner that protects wildlife habitat, water quality, and forest resiliency while also promoting social and economic opportunities in nearby communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2005

Mr. UDALL of New Mexico (for himself, Mr. GRIJALVA, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Forest Service and the Bureau of Land Management to carry out a series of pilot projects to encourage collaborative approaches to, and to provide research on, the rehabilitation of forest ecosystem health following uncharacteristic disturbances of forested Federal lands, to be conducted in a manner that protects wildlife habitat, water quality, and forest resiliency while also promoting social and economic opportunities in nearby communities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Forests Reha-
5 bilitation and Recovery Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In enacting the Healthy Forest Restoration
9 Act of 2003 (Public Law 108–148; 16 U.S.C. 6501
10 et seq.), Congress clearly recognized the priority of
11 reducing wildfire risks to communities through ac-
12 tive hazardous fuels reduction treatment of adjacent
13 forested Federal lands.

14 (2) Because of funding limitations, the Sec-
15 retary of Agriculture and the Secretary of the Inte-
16 rior have been unable to fully implement the nec-
17 essary hazardous fuels reductions anticipated by the
18 Healthy Forest Restoration Act of 2003, and many
19 communities in the vicinity of forested Federal lands
20 remain at risk for wildland fire.

21 (3) The Secretary of Agriculture and the Sec-
22 retary of the Interior should increase efforts to
23 prioritize and aggressively pursue hazardous fuel re-
24 duction in communities at risk in the wildland-urban
25 interface.

1 (4) Many communities are still at risk from un-
2 natural accumulation of fuels, and, for such at-risk
3 communities, it is important to pro-actively consider
4 scenarios for the rehabilitation of Federal land near
5 these communities, should an uncharacteristic dis-
6 turbance occur.

7 (5) While significant scientific research exists
8 on the short-term and long-term impacts of vegeta-
9 tive removal following a fire, it is essential to test
10 various approaches to post-disturbance management
11 to determine whether and how trees of commercial
12 value can be removed during the post-disturbance
13 period while ensuring the best and fastest recovery
14 to a resilient state that will ensure long-term protec-
15 tion for both forest ecosystems and forest commu-
16 nities.

17 (6) Community collaboration has shown great
18 promise in resolving controversial issues prior to,
19 and as part of, the process required under the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C.
21 4331 et seq.), and the Healthy Forest Restoration
22 Act of 2003 recognized the promise of collaboration
23 by encouraging the development of community wild-
24 fire protection plans.

1 (7) It is important to promote pro-active plan-
2 ning and collaboration to accelerate the approval of
3 restoration projects following wildland fire or other
4 uncharacteristic disturbance events.

5 **SEC. 3. DEFINITIONS.**

6 In this section:

7 (1) **COLLABORATION.**—The term “collabora-
8 tion” means an inclusive and open process of bring-
9 ing together interested persons, including local elect-
10 ed officials, State and Federal agencies, and emer-
11 gency responders, to develop a consensus on a par-
12 ticular natural resource issue.

13 (2) **COMMUNITY WILDFIRE PROTECTION**
14 **PLAN.**—The term “community wildfire protection
15 plan” has the meaning given that term in section
16 101(3) of the Healthy Forest Restoration Act of
17 2003 (16 U.S.C. 6511(3)), which is further de-
18 scribed by the Western Governors Association in the
19 document entitled “Preparing a Community Wildfire
20 Protection Plan: A Handbook for Wildland-Interface
21 Communities” and dated March 2004.

22 (3) **FEDERAL LAND.**—The term “Federal land”
23 means—

24 (A) land of the National Forest System (as
25 defined in section 11(a) of the Forest and

1 Rangeland Renewable Resources Planning Act
2 of 1974 (16 U.S.C. 1609(a))) administered by
3 the Secretary of Agriculture, acting through the
4 Chief of the Forest Service; and

5 (B) public lands (as defined in section 103
6 of the Federal Land Policy and Management
7 Act of 1976 (43 U.S.C. 1702)), the surface of
8 which is administered by the Secretary of the
9 Interior, acting through the Director of the Bu-
10 reau of Land Management.

11 (4) FEDERAL LAND FOREST COMMUNITY.—The
12 term “Federal land forest community” means a
13 town, city, county, Indian tribe, or collaborative
14 group—

15 (A) located adjacent to (or, in the case of
16 a county, containing) Federal land; and

17 (B) whose residents (or, in the case of an
18 Indian tribe or collaborative group, whose mem-
19 bers) have a history of deriving income and em-
20 ployment from recreation, grazing, timber har-
21 vesting, or other activities involving Federal
22 land.

23 (5) INVENTORIED ROADLESS AREA.—The term
24 “Inventoried roadless area” means one of the areas
25 identified in the set of inventoried roadless areas

1 maps contained in the Forest Service Roadless
2 Areas Conservation, Final Environmental Impact
3 Statement, Volume 2, dated November 2000.

4 (6) PILOT PROJECT.—The term “pilot project”
5 means one of the post-disturbance rehabilitation
6 pilot projects authorized by this Act.

7 (7) PILOT PROJECT SITE.—The term “pilot
8 project site” means an area of Federal land des-
9 ignated by the Secretary concerned under section 4
10 as a location in which a pilot project will be carried
11 out.

12 (8) POST-DISTURBANCE.—The term “Post-dis-
13 turbance” means a period of three years immediately
14 following an uncharacteristic disturbance.

15 (9) REHABILITATION PLAN.—The term “reha-
16 bilitation plan” means a plan developed under sec-
17 tion 5 to address the post-disturbance rehabilitation
18 of a pilot project site.

19 (10) SECRETARY CONCERNED.—The term
20 “Secretary concerned” means—

21 (A) the Secretary of Agriculture, with re-
22 spect to land of the National Forest System de-
23 scribed in paragraph (3)(A); and

1 (B) the Secretary of the Interior, with re-
 2 spect to public lands described in paragraph
 3 (3)(B).

4 (11) UNCHARACTERISTIC DISTURBANCE.—The
 5 term “uncharacteristic disturbance” means a rel-
 6 atively discrete event, such as forest fire, insect in-
 7 festation, or hurricane, that significantly alters the
 8 structure, composition, function, or successional tra-
 9 jectory of an ecological system.

10 **SEC. 4. POST-DISTURBANCE REHABILITATION PILOT**
 11 **PROJECTS FOR FEDERAL LAND FOREST COM-**
 12 **MUNITIES.**

13 (a) ESTABLISHMENT.—On the basis of applications
 14 submitted by Federal land forest communities, the Sec-
 15 retary of Agriculture and the Secretary of the Interior
 16 may each establish not more than five post-disturbance re-
 17 habilitation pilot projects involving Federal land for the
 18 purpose of encouraging post-disturbance rehabilitation of
 19 the pilot project site in a manner that—

20 (1) reflects the common ground identified by di-
 21 verse interests within a Federal land forest commu-
 22 nity;

23 (2) restores the forest ecosystem health and di-
 24 versity of the pilot project site; and

1 (3) will benefit the Federal land forest commu-
2 nity.

3 (b) APPLICATION PROCESS.—Not later than 60 days
4 after the date of the enactment of this Act, the Secretary
5 concerned shall develop an application process by which
6 Federal land forest communities may seek the designation
7 of an area of Federal land as a pilot project site for use
8 of the authorities provided by this Act.

9 (c) ELIGIBILITY CRITERIA.—An area of Federal land
10 must satisfy at least one of the following criteria before
11 the Secretary concerned may designate the area as a pilot
12 project site:

13 (1) The area is covered by a community wildfire
14 protection plan or a collaborative working group or
15 infrastructure, in existence as of the date of the en-
16 actment of this Act.

17 (2) Federal lands that are demonstrably at seri-
18 ous risk from the impacts of uncharacteristically in-
19 tense wildland fire, a severe blow down, or other cat-
20 astrophic events, such as hurricanes with associated
21 windfall, beyond the range of historic variability.

22 (3) The area is in the vicinity of a Federal land
23 forest community or communities that have worked
24 to address forest health across land ownership types.

1 (4) The area is adjacent to, or intermingled
2 with, communities, and the area has had an unnatu-
3 ral buildup of fuels due to a long history of fire sup-
4 pression or has become an unnatural ecosystem due
5 to past management practices.

6 (d) SPECIAL CONSIDERATION FOR ELIGIBILITY FOR
7 PILOT PROJECTS.—In evaluating the application sub-
8 mitted by a Federal land forest community for the des-
9 ignation of a pilot project site, the Secretary concerned
10 shall give special consideration to the following:

11 (1) Documented support for the application
12 from a diversity of interested persons in the commu-
13 nity.

14 (2) The community has a proven track record
15 of working in a collaborative manner to resolve nat-
16 ural resource issues.

17 (3) The community has worked to address for-
18 est health issues through comprehensive watershed
19 assessments.

20 (4) The community, or entities in the commu-
21 nity, are already receiving grants or working with
22 the Secretary of Agriculture through one or more
23 programs under the Cooperative Forestry Assistance
24 Act of 1978 (16 U.S.C. 2101 et seq.).

1 (e) EXCLUSION OF CERTAIN FEDERAL LAND.—Not-
2 withstanding subsection (c), the following Federal land
3 may not be included within a pilot project site:

4 (1) Federal land containing old growth forest or
5 late successional forest.

6 (2) Federal land on which the removal of vege-
7 tation is prohibited, including components of the Na-
8 tional Wilderness Preservation System.

9 (3) Wilderness Study Areas.

10 (4) Inventoried roadless areas.

11 (5) Federal land included in a land allocation
12 made by an Act of Congress or the Secretary con-
13 cerned for the special protection of natural, histor-
14 ical, cultural, recreational, or other public values and
15 regarding which trees located on the land is not
16 scheduled to contribute to the regular timber sale
17 program

18 (f) ACREAGE LIMITATIONS.—A pilot project site may
19 not exceed 10,000 acres. The total acreage encompassed
20 by all pilot project sites designated by the Secretary con-
21 cerned may not exceed 50,000 acres.

22 (g) DURATION OF DESIGNATION AUTHORITY.—The
23 authority of the Secretary concerned to designate pilot
24 project sites expires at the end of the three-year period
25 beginning on the date of the enactment of this Act. The

1 expiration of such authority shall not affect the use of the
2 authorities provided by this Act in pilot project sites des-
3 ignated before the end of such period.

4 **SEC. 5. POST-DISTURBANCE REHABILITATION PLAN FOR**
5 **DESIGNATED FEDERAL LAND FOREST COM-**
6 **MUNITIES.**

7 (a) PLAN REQUIRED.—

8 (1) DEVELOPMENT OF PLAN.—Once an area of
9 Federal land is designated as a pilot project site, the
10 Federal land forest community that applied for the
11 designation of the pilot project site shall develop and
12 submit to the Secretary concerned a plan to address
13 post-disturbance rehabilitation of the pilot project
14 site, whether the uncharacteristic disturbance is
15 caused by a wildfire or nonfire-related
16 uncharacteristic disturbance event.

17 (2) COMMUNITY WILDFIRE PROTECTION PLAN
18 AMENDMENT.—If an area of Federal land des-
19 ignated as a pilot project site is already covered by
20 a community wildfire protection plan, the rehabilita-
21 tion plan may be developed as an amendment to the
22 community wildfire protection plan.

23 (3) ADDRESSING NON-FIRE-RELATED DISTURB-
24 ANCE EVENTS.—A rehabilitation plan intended to
25 address nonfire-related uncharacteristic disturbance

1 events shall be developed in accordance with the di-
2 rection provided for community wildfire protection
3 plans pursuant to the Healthy Forest Restoration
4 Act of 2003.

5 (b) TECHNICAL AND FINANCIAL ASSISTANCE.—The
6 Secretary concerned may provide technical and financial
7 assistance to Federal land forest communities to assist in
8 their efforts to develop a rehabilitation plan or amend a
9 community wildfire protection plan to include a rehabilita-
10 tion plan.

11 (c) CONTENTS OF PLAN.—A rehabilitation plan,
12 whether developed as an amendment to a community wild-
13 fire protection plan or as a separate plan, shall specifically
14 address the following:

15 (1) Any anticipated temporary road use or road
16 decommissioning.

17 (2) Reducing the standing dead hazardous fuels
18 and surface hazardous fuels to levels described in
19 the existing land management plan or returning the
20 area to a condition class 1 or 2 fire regime.

21 (3) Measures for protection of fragile soils and
22 rehabilitation of soil integrity.

23 (4) Water quality and quantity protection and
24 restoration.

25 (5) Wildlife and fish habitat and restoration.

1 (6) Management to prevent adverse impacts to
2 soils and wildlife and fish habitat.

3 (7) Guidance directing projects to avoid steep
4 slopes and erosion-prone areas.

5 (8) Utilization and marketing of material re-
6 moved to ensure economic benefit to the Federal
7 land forest community.

8 (9) Replanting needs, with an emphasis on na-
9 tive vegetation.

10 (d) FIRE PLANNING, GRAZING, AND TREE RE-
11 MOVAL.—

12 (1) FIRE PLANNING.—To be considered to ade-
13 quately address fire planning, post disturbance reha-
14 bilitation projects under a rehabilitation plan must
15 conform to the strategic restoration objectives pro-
16 vided by the applicable Fire Management Plan.

17 (2) GRAZING.—To be considered to adequately
18 address grazing, the rehabilitation plan for a pilot
19 project site must design and adjust allotment man-
20 agement plans (including grazing deferrals) to opti-
21 mize recovery of a disturbed area.

22 (3) TREE REMOVAL.—If standing trees are pro-
23 posed for removal at a pilot project site, the rehabili-
24 tation plan for the site shall—

1 (A) focus on small diameter trees and
2 thinning from below;

3 (B) maximize the retention of legacy trees
4 to promote recovery of a natural composition of
5 native plant and wildlife species; and

6 (C) vary treatment intensities, and avoid
7 even-aged management, to ensure forest health

8 (e) EXPEDITED CONSIDERATION OF REHABILITA-
9 TION PLAN AND UNCHARACTERISTIC DISTURBANCE RE-
10 SPONSES.—

11 (1) RESPONSE TO UNCHARACTERISTIC DIS-
12 TURBANCE.—After an uncharacteristic disturbance
13 occurs on a pilot project site that is covered by a re-
14 habilitation plan accepted by the Secretary con-
15 cerned, and at the request of the Federal land forest
16 community that developed the redevelopment plan,
17 the Secretary concerned shall initiate a process
18 under the National Environmental Policy Act of
19 1969 (42 U.S.C. 4331 et seq.) for the purpose of de-
20 ciding what, if any, management activities to take to
21 respond to the uncharacteristic disturbance.

22 (2) SCOPING; PREFERRED ALTERNATIVE.—De-
23 velopment of a qualifying rehabilitation plan is con-
24 sidered to meet the scoping requirements of the Na-
25 tional Environmental Policy Act of 1969. Among

1 those alternatives considered in the process initiated
2 under such Act, the rehabilitation plan shall be pro-
3 posed (with any necessary refinement) as the pre-
4 ferred alternative.

5 (3) ENVIRONMENTAL DOCUMENTATION.—To
6 the extent practicable, the Secretary concerned shall
7 make the environmental documentation available to
8 the public—

9 (A) within 60 days after the end of the
10 uncharacteristic disturbance; or

11 (B) in the case of an ongoing
12 uncharacteristic disturbance, such as an insect
13 infestation, as soon as practicable.

14 (4) PUBLIC COMMENT.—The Secretary con-
15 cerned shall provide for a period of public comment
16 of not less than—

17 (A) 30 days, in the case of an environ-
18 mental assessment; and

19 (B) 45 days, in the case of a draft environ-
20 mental impact statement or final environmental
21 impact statement.

22 (5) RECORD OF DECISION.—The Secretary con-
23 cerned shall issue a record of decision not later than
24 30 days after the close of the public comment pe-
25 riod.

1 (6) APPEAL.—To the extent practicable, deci-
2 sions on appeals should be made within 30 days.

3 (f) INDEPENDENT MONITORING.—In order to have
4 the most effective projects within a pilot project site,
5 projects shall have independent third-party monitoring (or
6 at the request of the Federal land forest community, local
7 level multi-party monitoring) to evaluate the impacts of
8 the post-disturbance rehabilitation work. A plan for moni-
9 toring shall be established at the earliest stages of collabo-
10 ration and shall be incorporated into project design and
11 implementation and shall be linked to the participatory re-
12 search efforts directed in this Act.

13 (g) OVERSIGHT COMMITTEE.—

14 (1) ESTABLISHMENT.—The Secretary con-
15 cerned shall establish a national oversight committee
16 to provide independent scientific and socio-economic
17 monitoring of the pilot projects and activities carried
18 out at the pilot project sites.

19 (2) MEMBERSHIP.—The national oversight
20 committee shall be set up under the auspices of the
21 National Academy of Sciences and shall consist of
22 five members who are scientists with expertise in
23 evaluating the biological, ecological, hydrogeological,
24 and socioeconomic components of the pilot projects.

1 (3) ACCOUNTABILITY.—The oversight com-
2 mittee shall conduct independent scientific and
3 socio-economic monitoring under subsection (f) and
4 submit reports to Congress on the short- and long-
5 term results of the pilot project. Specifically, the re-
6 ports should evaluate improvements in forest diver-
7 sity, soil stability, reduction of fire risk, and local
8 economic indicators.

9 (h) REPORTS OF FEDERAL LAND FOREST COMMU-
10 NITY.—The Federal land forest community that applied
11 for the designation of an approved pilot project site shall
12 submit to the national oversight committee two reports re-
13 garding the results of the pilot project for that pilot
14 project site. An initial report shall be submitted at the
15 halfway point of their pilot project and a final report shall
16 be submitted at the end of their pilot project.

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