

110TH CONGRESS  
2D SESSION

# H. R. 6189

To require the Secretary of Agriculture to conduct a “Charter Forest” demonstration project on all National Forest System lands in the State of Colorado in order to combat insect infestation, improve forest health, reduce the threat of wildfire, protect biological diversity, and enhance the social sustainability and economic productivity of the lands.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2008

Mr. TANCREDO introduced the following bill; which was referred to the  
Committee on Natural Resources

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## A BILL

To require the Secretary of Agriculture to conduct a “Charter Forest” demonstration project on all National Forest System lands in the State of Colorado in order to combat insect infestation, improve forest health, reduce the threat of wildfire, protect biological diversity, and enhance the social sustainability and economic productivity of the lands.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Colorado Charter Forest Act of 2008”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Charter forest demonstration project for National Forest System lands in Colorado.
- Sec. 4. Independent scientific review and monitoring.
- Sec. 5. Community management council.
- Sec. 6. Relation to National Environmental Policy Act of 1969.
- Sec. 7. Predecisional review process for demonstration project.
- Sec. 8. Stewardship contracting authority.
- Sec. 9. Retention and use of receipts.
- Sec. 10. Authorization of appropriations; offset.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) The terms “Charter Forest demonstration  
 6 project” and “demonstration project” mean the  
 7 demonstration project required by this Act for cov-  
 8 ered National Forest System lands in the State of  
 9 Colorado.

10 (2) The terms “community management coun-  
 11 cil” and “council” mean the community manage-  
 12 ment council appointed under section 5.

13 (3) The term “covered National Forest System  
 14 lands” means the National Forest System lands in  
 15 the State of Colorado.

16 (4) The terms “independent scientific panel”  
 17 and “panel” mean the panel assembled by the Sec-  
 18 retary under section 4.

1           (5) The term “Secretary” means the Secretary  
2           of Agriculture, acting through the Chief of the For-  
3           est Service.

4 **SEC. 3. CHARTER FOREST DEMONSTRATION PROJECT FOR**  
5                           **NATIONAL FOREST SYSTEM LANDS IN COLO-**  
6                           **RADO.**

7           (a) DEMONSTRATION PROJECT REQUIRED.—The  
8           Secretary of Agriculture, acting through the Chief of the  
9           Forest Service, shall conduct a demonstration project for  
10          National Forest System lands in the State of Colorado for  
11          the purpose of increasing community involvement in deci-  
12          sionmaking regarding the management of the covered Na-  
13          tional Forest System lands and evaluating various meth-  
14          ods, described in this Act, to improve the management and  
15          health of the covered National Forest System lands. The  
16          demonstration project shall be known as the “Charter  
17          Forest demonstration project”.

18          (b) COMMENCEMENT OF DEMONSTRATION  
19          PROJECT.—The Secretary shall commence the demonstra-  
20          tion project as soon as practicable after the submission  
21          of the initial report of the independent scientific panel  
22          under section 4.

23          (c) DURATION.—The Secretary shall terminate the  
24          demonstration project at the end of the 10-year period be-

1 ginning on the date the demonstration project is com-  
2 menced under subsection (b).

3 (d) **RELATION TO OTHER NATIONAL FOREST SYS-**  
4 **TEM LAWS.**—Except as provided in this Act, during the  
5 term of the demonstration project, the Secretary shall con-  
6 tinue to manage the covered National Forest System lands  
7 under all of the laws and regulations governing occupancy,  
8 use, and management of the National Forest System.

9 **SEC. 4. INDEPENDENT SCIENTIFIC REVIEW AND MONI-**  
10 **TORING.**

11 (a) **REVIEW OF ECOLOGICAL, SOCIAL, AND ECO-**  
12 **NOMIC SUSTAINABILITY.**—

13 (1) **INITIAL REVIEW.**—The Secretary shall as-  
14 semble an independent scientific panel to conduct an  
15 assessment, using accepted measures and indicators,  
16 of the ecological, social, and economic sustainability  
17 of the covered National Forest System lands, taking  
18 into consideration such factors as forest health, sus-  
19 ceptibility to catastrophic fire, susceptibility to insect  
20 infestation, biological diversity, and economic pro-  
21 ductivity of the covered National Forest System  
22 lands.

23 (2) **SUBMISSION OF RESULTS.**—Not later than  
24 one year after the date of the enactment of this Act,  
25 the panel shall submit to the Secretary and Congress

1 a report containing the results of the assessment  
2 conducted under this subsection.

3 (b) SUBSEQUENT MONITORING OF DEMONSTRATION  
4 PROJECT.—

5 (1) MONITORING PLAN.—The panel shall pre-  
6 pare a monitoring plan to be used to track the im-  
7 plementation of the charter forest demonstration  
8 project.

9 (2) REVISED REVIEW.—At the end of the first  
10 five years of the demonstration project and upon the  
11 completion of the demonstration project, the panel  
12 shall revise the assessment conducted under sub-  
13 section (a) and resubmit it to the Secretary and to  
14 Congress.

15 (3) EFFECTS OF CHARTER PROJECT.—Using  
16 the information collected from the monitoring plan,  
17 the panel shall include in each revised assessment an  
18 evaluation of the positive and negative impacts of  
19 the demonstration project on changes in the ecologi-  
20 cal, social, and economic sustainability and suscepti-  
21 bility to insect infestation and catastrophic wildfire  
22 of the covered National Forest System lands.

23 **SEC. 5. COMMUNITY MANAGEMENT COUNCIL.**

24 (a) ESTABLISHMENT AND PURPOSES.—The Sec-  
25 retary shall establish a community management council as

1 part of the charter forest demonstration project for the  
2 purpose of—

3           (1) advising the Secretary and the supervisor of  
4 the covered National Forest System lands on the  
5 broad array of environmental, economic, and social  
6 issues related to the management, occupancy, and  
7 use of the covered National Forest System lands;

8           (2) assisting in the development of binding pri-  
9 orities for management activities, including haz-  
10 ardous fuels reduction, watershed protection, dis-  
11 ease, insect and invasive species treatment and con-  
12 trol; and

13           (3) assisting the Secretary in the development  
14 of the “charter” and consideration of proposed  
15 projects and activities under section 6.

16       (b) APPOINTMENT AND MEMBERS.—The council  
17 shall consist of 13 members, appointed by the Secretary  
18 as follows:

19           (1) Five members appointed from nominations  
20 provided by the Governor of Colorado.

21           (2) Four members appointed from nominations  
22 provided by the senior Senator from Colorado.

23           (3) Four members appointed from nominations  
24 provided by the junior Senator from Colorado.

1           (c) QUALIFICATIONS.—The members of the council  
2 should be appointed from communities in close proximity  
3 to the covered National Forest System lands and rep-  
4 resent a broad range of interests, including conservation  
5 interests, forestry experts, commodity and forest products  
6 interests, experts in the field of energy development, and  
7 the interests of county and municipal governments in the  
8 area. Members should have a demonstrated ability to con-  
9 structively work toward beneficial solutions with a diverse  
10 range of interests on complex land management issues.

11           (d) REGIONAL FORESTER.—The Forest Service Re-  
12 gional Forester responsible for Colorado shall serve as an  
13 ex officio member of the council.

14           (e) VACANCIES.—Vacancies on the council shall be  
15 filled in the same manner as the original appointment.

16           (f) COMPENSATION.—Members of the council who are  
17 not Federal employees shall serve without compensation.

18           (g) OTHER COUNCIL AUTHORITIES AND REQUIRE-  
19 MENTS.—

20               (1) STAFF ASSISTANCE.—The council may re-  
21 quest the Secretary to provide staff assistance to the  
22 council from Federal employees under the jurisdic-  
23 tion of the Secretary.

24               (2) MEETINGS.—All meetings of the council  
25 shall be announced at least one week in advance in

1 a local newspaper of record and shall be open to the  
2 public.

3 (3) RECORDS.—The council shall maintain  
4 records of the meetings of the council and make the  
5 records available for public inspection.

6 (4) RELATION TO OTHER LAW.—The council  
7 shall be exempt from the provisions of the Federal  
8 Advisory Committee Act (5 U.S.C. App.).

9 **SEC. 6. RELATION TO NATIONAL ENVIRONMENTAL POLICY**

10 **ACT OF 1969.**

11 (a) CHARTER.—

12 (1) PREPARATION.—Not later than 60 days  
13 after the appointment of all of the members to the  
14 community management council, the Secretary shall  
15 begin to develop a “Charter” for the covered Na-  
16 tional Forest System lands, notwithstanding the re-  
17 quirements of the National Environmental Policy  
18 Act of 1969 (42 U.S.C. 4321 et seq.).

19 (2) ROLE OF COUNCIL.—The Secretary shall  
20 prepare the Charter and any amendment thereto,  
21 with the advice and cooperation of the council.

22 (b) CONTENT.—The Charter for the demonstration  
23 project shall address the following:

24 (1) Land and resource management goals and  
25 objectives for the covered National Forest System



1 lands, including desired landscape conditions and  
2 management outcomes and outputs, to be realized  
3 during the term of the demonstration project, and at  
4 various intervals thereof.

5 (2) Standards and guidelines for achieving the  
6 land and resource management goals and objectives.

7 (3) A monitoring plan to ensure that project  
8 level activities are consistent with the land and re-  
9 source management goals and objectives and related  
10 standards and guidelines.

11 (c) LEGAL REQUIREMENTS.—Upon establishment,  
12 the Secretary shall carry out only those projects and ac-  
13 tivities on the covered National Forest System lands that  
14 are consistent with the requirements of this Act and the  
15 Charter.

16 (d) ADOPTION.—The Charter shall be considered as  
17 operative upon the approval of the Secretary and the ma-  
18 jority of the members of the council.

19 (e) EFFECT OF ADOPTION.—

20 (1) CONSISTENT PROJECTS AND ACTIVITIES.—

21 If the Secretary determines that a proposed project  
22 or activity under the demonstration project is con-  
23 sistent with the requirements of this Act and the  
24 Charter, the Secretary shall not be required to do  
25 additional analysis under the National Environ-

1 mental Policy Act of 1969 with regard to the project  
2 or activity notwithstanding other regulations, poli-  
3 cies, and other administrative directives.

4 (2) INCONSISTENT PROJECTS AND ACTIVI-  
5 TIES.—If the Secretary determines that a proposed  
6 project or activity under the demonstration project is  
7 not consistent with the requirements of this Act and  
8 the Charter, the Secretary may not approve the pro-  
9 posed project or activity unless—

10 (A) the project or activity is revised so as  
11 to be compatible with the Charter; or

12 (B) the Charter is amended, by the Sec-  
13 retary and a majority of the members of the  
14 council, so that the project or activity is com-  
15 patible with the charter.

16 (f) CHALLENGE.—

17 (1) AUTHORITY TO FILE.—If an individual or  
18 entity that meets the standing requirements nec-  
19 essary to challenge a determination of the Secretary  
20 under subsection (e) disagrees with the Secretary's  
21 determination regarding the compatibility of a  
22 project or activity with the Charter, the person may  
23 file a predecisional objection under section 7 with  
24 the Secretary.

1           (2) RESPONSE.—If the Secretary, after con-  
2           sultation with the council, agrees with the appellant  
3           that the project or activity is not compatible with  
4           the Charter, the Secretary may not conduct the  
5           project or activity unless—

6                   (A) the project or activity is revised, as  
7                   provided in subsection (e)(2)(A); or

8                   (B) the Charter is amended, as provided in  
9                   subsection (e)(2)(B).

10 **SEC. 7. PREDECISIONAL REVIEW PROCESS FOR DEM-**  
11 **ONSTRATION PROJECT.**

12           (a) IN GENERAL.—The Secretary shall promulgate  
13           rules to establish a predecisional review process that would  
14           be used during the term of Charter forest demonstration  
15           project in connection with site-specific projects for the cov-  
16           ered National Forest System lands.

17           (b) REQUIRED ELEMENTS OF PREDECISIONAL RE-  
18           VIEW.—

19                   (1) NOTICE.—The rules required by subsection  
20           (a) shall provide for notice of a proposed decision  
21           and an opportunity to request review before a final  
22           decision on a site-specific project is made.

23                   (2) RIGHT TO REQUEST A PREDECISIONAL RE-  
24           VIEW.—For a period not to exceed 30 days from the  
25           date notice is provided pursuant to paragraph (1),

1 review of a proposed decision may be requested by  
2 any individual or entity, but only if the individual or  
3 entity is resident or domiciled in the State of Colo-  
4 rado.

5 (3) COMPLETION OF REVIEW.—The review of a  
6 request for predecisional review shall be completed  
7 before issuance of a final decision regarding the  
8 project at issue. The review shall be completed with-  
9 in 30 days after the date the request was submitted.

10 (c) EXEMPTION.—The Secretary may exempt any  
11 proposed decision responding to an unexpected or serious  
12 event that would provide relief from hazards threatening  
13 human health, property, and safety, natural resources, for-  
14 est health, or to provide for rehabilitation and recovery  
15 of forest resources, from the predecisional review rules  
16 prescribed under this section.

17 (d) EXHAUSTION OF PREDECISIONAL REVIEW PROC-  
18 ESS.—Notwithstanding any other provision of law, an in-  
19 dividual or entity must exhaust the predecisional review  
20 process before the individual or entity may bring an action  
21 in court challenging a site-specific project under the dem-  
22 onstration project.

23 (e) PRESUMPTION.—In any predecisional review of a  
24 management activity under the demonstration project, the  
25 official or administrative entity responsible for the review

1 or the court with jurisdiction over litigation resulting from  
2 the review shall give deference to the expert judgment of  
3 the Secretary in identifying and interpreting the scientific  
4 data that is the basis for the activity.

5 (f) **RELATION TO FOREST SERVICE DECISION MAK-**  
6 **ING AND APPEALS REFORM.**—Section 322 of the Depart-  
7 ment of the Interior and Related Agencies Appropriations  
8 Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note),  
9 shall not apply to activities conducted under the dem-  
10 onstration project.

11 **SEC. 8. STEWARDSHIP CONTRACTING AUTHORITY.**

12 (a) **USE OF EXISTING DEMONSTRATION AUTHOR-**  
13 **ITY.**—During the term of the Charter forest demonstra-  
14 tion project, the Secretary may enter into stewardship and  
15 end result contracts for the covered National Forest Sys-  
16 tem lands in accordance with section 347 of the Depart-  
17 ment of the Interior and Related Agencies Appropriations  
18 Act, 1999 (as contained in section 101(e) of division A  
19 of Public Law 105–277; 16 U.S.C. 2104 note), to accom-  
20 plish the land management goals specified in subsection  
21 (b) of such section.

22 (b) **ADDITIONAL CONTRACTS.**—The contracts en-  
23 tered into under the authority of subsection (a) shall be  
24 in addition to the stewardship and end result contracts  
25 authorized under such section 347, section 338 of the De-

1 partment of the Interior and Related Agencies Appropria-  
2 tions Act, 2001 (Public Law 106–291; 16 U.S.C. 2104  
3 note), or any other provision of law.

4 **SEC. 9. RETENTION AND USE OF RECEIPTS.**

5 (a) RETENTION.—During the term of the Charter  
6 forest demonstration project, the Secretary shall retain the  
7 monetary proceeds from commercial timber sales, special  
8 use permit fees, and all other receipts derived from the  
9 covered National Forest System lands and any funds ap-  
10 propriated with respect to the covered National Forest  
11 System lands. Such receipts and funds shall not be subject  
12 to overhead assessments.

13 (b) USE.—The Secretary shall use the funds for  
14 projects for the covered National Forest System lands,  
15 with priority placed on projects related to forest health,  
16 insect eradication, environmental restoration, watershed  
17 protection, hazardous fuels reduction, and disease and  
18 invasive species control.

19 (c) ROLE OF COUNCIL.—The Secretary shall consult  
20 with the council in selecting projects under this section.

21 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS; OFFSET.**

22 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
23 authorized to be appropriated to the Secretary \$5,000,000  
24 for each of the fiscal years 2009 through 2019 to imple-  
25 ment this Act.

1           (b) SENSE OF CONGRESS REGARDING OFFSET.—It  
2 is the sense of Congress that, to offset the funds appro-  
3 priated to implement this Act for a fiscal year, the Forest  
4 Service land acquisition budget for that fiscal year should  
5 be reduced by an equal amount.

○