

Introduction

The letters in this volume were submitted by Federal, State and local agencies, and elected officials.¹ Letters from Federal agencies and federally recognized Tribes are listed first. Letters from State and local agencies and officials are organized by State as shown in the table of contents. Government agencies or elected officials in 33 States submitted comments. If we did not receive any letters from agencies or elected officials in a particular State, that State is not listed in the table of contents. Letters from members of Congress are included in their respective States. All attachments submitted with these letters are included, unless limited by format or excessive length.

¹ Section 102(C) of the National Environmental Policy Act of 1969, as amended, requires that “... comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality, and to the public...” The Forest Service Environmental Policy and Procedures Handbook (FSH 1909.15, 24.1 (3)) states that “As a minimum, include in an appendix of a final EIS copies of all comments received on the draft EIS from Federal, State, and local agencies and elected officials.”



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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CAET Review
Jul 17 2000

JUL 14 2000

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

USDA Forest Service
Attention: CAET, Roadless Areas Proposed DEIS/Rule
Scott Conroy, Project Director
P.O. Box 221090
Salt Lake City, UT 84122

Dear Mr. Conroy:

Pursuant to our responsibilities under the National Policy Act (NEPA) and section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the U.S. Department of Agriculture, Forest Service (USFS) Draft Environmental Impact Statement (DEIS) on Roadless Area Conservation and the accompanying proposed Rule at 36 CFR Part 294, Special Areas; Roadless Area Conservation. Our comments are organized to provide an overview of the issues, highlighting areas where EPA has concerns, as well as detailed information for your consideration as the USFS prepares the Final Roadless Area Conservation EIS (FEIS) and Rule.

The DEIS and proposed rulemaking are in response to the strong public sentiment voiced on protecting roadless areas and the associated benefits associated with these areas found in our National Forests. This effort was initiated by the President's October 13, 1999, memorandum to the Secretary of Agriculture directing the USFS to "...develop, and propose for public comment, regulations to provide appropriate long-term protection for most or all of these currently inventoried *roadless* areas and to determine whether such protection is warranted for smaller *roadless* areas not yet inventoried."

EPA commends the USFS for its monumental efforts to solicit input from the public and explain the impacts of this undertaking. Its efforts with outreach and supplying access to the DEIS and proposed rule, supporting documents, public meetings and outreach to the relevant federal agencies are unprecedented.

The DEIS presents four alternatives, including an agency preferred alternative, and is accompanied by a proposed rule. Alternative 1, the No Action alternative, supports current practices concerning activities in inventoried roadless areas. Alternative 2, the preferred

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alternative, prohibits road construction and reconstruction in the unroaded portions of inventoried roadless areas. Alternative 3 prohibits road construction, reconstruction, and timber harvest (except for stewardship purposes) in the unroaded portions of inventoried roadless areas and Alternative 4, the maximum protection alternative, is the same as Alternative 3, but with no exceptions for any timber harvest. In addition, four separate alternatives are presented to address the Tongass National Forest (Tongass), which may warrant other approaches. These four alternatives range from the no action alternative which supports current practices to prohibiting road construction and reconstruction in specified inventoried roadless areas in the Tongass.

The proposed rule offers a two pronged approach to conserve roadless areas. The proposed rule would prohibit new road construction and reconstruction in the unroaded portions of inventoried roadless areas and use local planning procedures to ensure consideration of roadless values and characteristics in other roadless areas not covered by the prohibitions.

EPA is especially interested in this DEIS and proposed rule because 80 percent of the nation's rivers originate in the national forests and, consequently, this rulemaking may have significant impact on water quality. This rule could greatly increase the protection to ground and surface water resources which are directly related to the status of riparian and aquatic habitats, wildlife habitat, biological diversity, forest health and other benefits derived from roadless areas found on the national forests and grasslands. EPA supports this rulemaking, one of several recent efforts the USFS has undertaken to address road management on its lands. The proposed rule intends to identify and stop activities with the greatest likelihood of degrading the desirable qualities of inventoried roadless areas at the national level and ensure that "roadless character" qualities of inventoried and other unroaded areas are identified and considered during local forest planning efforts.

Although EPA supports the proposed rulemaking effort, based on our review of it and the supporting DEIS, we wish to raise several environmental concerns. While it is important to recognize that the rule's purpose has been developed in the context of overall multiple-use objectives, the multiple use mandate does not fully justify a prohibition limited only to road building. EPA suggests that the FEIS more fully discuss the rationale for why other uses that can be expected to degrade the desirable environmental qualities of inventoried roadless areas were not included in the proposed prohibitions. For example, other uses such as recreation, timber production and mining have clearly led to significant environmental degradation in the past and should be further addressed in the FEIS.

The FEIS should also disclose to the public the uncertainty in using procedures implemented at the local level versus prohibitions issued at the national level to provide environmental protection to these areas. While the "one size does not fit all" concept has merit and local decision making is necessary to address the unique needs of local areas, EPA has concerns that some areas may not receive the environmental protection they need.

Because the determination to revise or amend a forest plan is based on a variety of factors and time lines, EPA suggests that the application of procedures as provided for in section 294.14 be revised to include a project-by-project review when the project meets a "significance criterion". EPA recognizes that a project-by-project review of all actions would be unduly burdensome;

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however, those proposed actions with the potential to have significant impacts should be reviewed.

Finally, EPA does not believe the DEIS gives adequate support for excluding coverage of the proposed rule to the Tongass and our detailed comments provide additional information on this issue.

Based on our review EPA has assigned a rating of EC-2 (Environmental Concerns, Insufficient Information) to the preferred alternative. EPA appreciates the opportunity to submit comments on the DEIS and proposed rule and commends the USFS for orchestrating extensive sessions for early interagency cooperation in the scoping and development stages of the process. EPA welcomes the chance to continue working with the USFS as it completes the FEIS and final rule. If I can provide additional explanation of our comments please contact me at (202) 564-2400 or Elaine Suriano of my staff at (202) 564-7162.

Sincerely,



Anne Norton Miller
Acting Director
Office of Federal Activities

Enclosure

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DETAILED COMMENTS ON THE DEIS AND PROPOSED RULE

DEIS

Purpose and Need

EPA strongly agrees with the underlying purpose and need for national direction on roadless area conservation, and we offer the following comments for your consideration. The purpose presented on page S-4 is three-fold, whereas the purpose stated on page 1-10 is only two-fold; the FEIS should reconcile this inconsistency. Second, the purpose stated on page A-26 of the proposed rule is further condensed and less specific than the purpose stated on pages 1-10 or S-4. EPA recommends that the FEIS and final rule use the same language to describe the purpose of this action, preferably the language used on page S-4.

Alternatives

EPA highlighted several issues related to the alternatives in our December 21, 1999, comment letter on the Notice of Intent for this DEIS and proposed rule. These included the range of alternatives and their analysis, and adequate explanation on implementing the selected alternative. While the DEIS offers a range of alternatives, EPA believes that this range should have been broader and more inclusive of other uses in an attempt to more fully comply with the direction provided in the President's October 19, 1999, memorandum.

EPA believes that Alternative 3-Procedure D (3-D) provides additional environmental advantages over the preferred alternative including: 1) providing significant protection for inventoried roadless areas while still accommodating harvest of small diameter trees where necessary to address fire and fuels issues; 2) reducing the likelihood that smaller roadless areas will be impacted pending the completion of transportation and access plans as described in the proposed USFS Transportation Policy; and 3) ensuring that appropriate protections are applied to the Tongass. In addition, we suggest that the FEIS consider confining Off Highway Vehicles (OHVs) only to roads and trails that have been specifically designated for that purpose following analysis pursuant to NEPA.

EPA has environmental concerns with the range of Tongass alternatives presented and offers the following modification based on alternatives considered in the DEIS. We view this as a "win-win" alternative, achieved by adding several mitigation measures.

EPA recommends that the FEIS consider in detail an alternative that: 1) applies the national prohibitions (Alternative 2, 3 or 4) and national procedures (Alternative B, C or D) to the Tongass; and 2) mitigates the social and economic impacts on the communities in Southeast Alaska pursuant to 40 CFR 1502.14(f). We believe that this latter objective can be accomplished through a combination of adjustments to the Tongass Land Management Plan (TLMP) and a financial and technical assistance package for the affected communities (e.g., under the auspices of the Southeast Alaska Community Economic Revitalization Team).

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For example, the Record of Decision (ROD) could include the Tongass in the roadless area conservation rule and direct the Alaska Regional Forester or the Tongass Forest Supervisor to amend or revise the TLMP to offset some of the effects of the final rule on the Tongass timber program. Specifically, the ROD could direct the responsible official to consider the following adjustments to the TLMP:

1. Seek to maintain the total land suitable for timber production at 576,000 acres as set forth in the April 1999 TLMP ROD. To the extent practical and appropriate, reallocate those suitable acres by changing Land Use Designations (LUDs) in inventoried roadless areas from timber to non-timber LUDs, and in roaded areas from non-timber to timber LUDs.
2. Where necessary to meet the objective of #1 above, and where appropriate and consistent with other management objectives, recapture some of the young growth that was removed from the suitable timber base in the revised forest plan. The Tongass harvested roughly 400,000 acres of timber from 1954 to 1999. Approximately 140,000 acres of young growth remain in the suitable timber base; the other roughly 260,000 acres of young growth were removed from the timber base due to riparian buffers, beach and estuary buffers, old growth reserves, etc. It would certainly be inappropriate to place all of these acres back in the timber base (e.g., riparian buffers). However, if the Tongass is included in the Roadless Area Conservation Rule, it may be appropriate to recapture some of those acres (e.g., young growth within beach buffers and old growth reserves) in order to maintain the current suitable timber base. While this would have no effect on the timber volume harvested in the short term, in the long term it would expedite the transition from harvesting old growth to harvesting young growth. It would also enable the Tongass to use "timber dollars" to thin these young growth stands, which in the absence of an alternative funding source will continue to suffer from neglect.
3. Where necessary to meet the market demand for timber from the Tongass, consistent with the Tongass Timber Reform Act, adjust certain standards and guidelines that restrict timber harvest. For example, consider adjusting the 200-year rotation that was adopted in the 1999 TLMP ROD. The intent of the 200-year rotation is to reduce impacts to deer winter range and deer habitat capability by reducing the rate of timber harvest in developed areas (1999 TLMP ROD, page 29). Unfortunately, one of the unintended consequences of the 200-year rotation is that, in order to meet market demand and the ASQ, it increases the rate of entry into undeveloped areas (i.e., inventoried roadless areas and other unroaded areas). This explains, in part, why under the no action alternative (T1), roughly 90% of the total timber-related road construction on the Tongass National Forest, and roughly two thirds of the total 5-year timber volume offered by the Tongass National Forest is projected to come from inventoried roadless areas (DEIS, Tables S-3, and page 3-232). However, if the Tongass is included in the roadless rule, then the prohibitions and procedures may substantially reduce, if not eliminate, the need for the 200-year rotation.
4. Adjust the Allowable Sale Quantity (ASQ), including the Non-Interchangeable Components (NIC I and NIC II), in response to #1 through #3 above and to better reflect projected market demand over the planning cycle.

EPA believes an alternative based on the above proposal is more environmentally protective,

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more socially desirable and more economically efficient than the proposed action and preferred alternative presented in the DEIS. In the absence of developing or selecting such an alternative, EPA recommends selecting alternative 3D, without exempting the Tongass.

Should the USFS select the preferred alternative as presented, EPA believes the FEIS should address the following issues. The proposed rule would establish protection of "unroaded areas in inventoried roadless areas" on all National Forests except the Tongass. The protections sought by the President for roadless areas on the Tongass would rely on the Forest Service's planning process exclusively. It should be noted the USFS proposed rules to revise the existing planning process are currently under review and it is uncertain when and what the Forest Service planning process will be once finalized. Because the rulemaking process and the USFS planning process are distinctively different, particularly in their final products, EPA suggests that the FEIS include a discussion of protecting roadless areas on the Tongass by rule versus by the revisions to the forest plans via the planning process. It should be disclosed to the public that the rule has a certain degree of "permanence" that is not the same as a forest plan. Forest plans are currently required to be reviewed and revised every 10 years, and the proposed revisions to the Forest Service planning regulations indicate that forest planning will be less structured in the future. Because of the present and proposed nature of forest planning, issues regarding protecting roadless areas can be revisited as part of a forest plan amendment or revision. Although rules can be revised, there is no requirement to do so periodically; therefore, the protection they offer is more predictable over a long time period. Consequently, areas protected by the prohibitions have a more certain likelihood of receiving the long-term protection that the President expressed, while there is no mechanism to ensure long-term protection of roadless areas on the Tongass. EPA suggests that the FEIS address the potentially different levels of long-term protection that would be applied to the Tongass and the rest of the National Forest System under the preferred alternative.

Page S-7 lists four exceptions from prohibitions. As they are stated in very broad terms EPA suggests that the FEIS cite a few examples, especially for exemptions three and four. These are intended to provide specific examples of actual situations and disclose the potential scope of such actions.

Proposed Rule

294.10 Purpose

EPA suggests that the final rule include language clarifying the intent and purpose statement to help guide the implementation of the rule. As currently worded, the proposed purpose statement is less specific than the purpose stated on page S-4 of the DEIS. EPA recommends that the FEIS and final rule include the same language to describe the purpose of this action, preferably the language used on page S-4.

294.11 Definitions

Inventoried roadless areas

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The proposed definition of inventoried roadless areas is confusing. The first sentence implies that inventoried roadless areas may include designated areas such as Wilderness. However, the second sentence refers to the maps contained in Volume 2 of the DEIS, which display inventoried roadless areas and designated areas (such as Wilderness, Wilderness Study Areas, Wild and Scenic Rivers, National Recreation Areas, National Monuments, and other special designations) as mutually exclusive categories of National Forest System lands. Adding to this confusion, Volume 2 shows recommended Wilderness as inventoried roadless areas but places Wilderness Study Areas in with designated areas. This approach is counterintuitive and may result in situations where administratively designated inventoried roadless areas are subject to a higher level of protection than some Congressionally designated areas.

For example, Wilderness Study Areas that are not recommended in the future for Wilderness designation but are instead allocated to a prescription that allows roads would not benefit from the prohibitions under the roadless area conservation rule. Yet these areas that may otherwise "fall through the cracks" represent some of the best opportunities to respond to the underlying purpose and need of this action.

Therefore, EPA recommends: 1) clarifying the definition of inventoried roadless areas to explicitly include designated areas (or at a minimum, roadless designated areas of 5,000 acres or more); and 2) adding "inventoried roadless areas" in front of "Designated Areas" in each legend of every map in Volume 2. Alternatively, we recommend the following:

1. define *designated areas* in Section 294.11;
2. add *designated areas* to the title of Section 294.12 and add a new paragraph to this section to clarify that the prohibitions also apply to *designated areas*; and
3. add new paragraph to Section 294.13 to clarify that the procedures also apply to *designated areas*.

A third option, in the interest of plain English and practicality, would be to replace *inventoried roadless areas* and *unroaded area* with *large roadless area* and *small roadless area*, respectively (with the threshold between the two set at 5,000 acres or 1,000 acres, as appropriate). Subsequent decisions would be based on actual on-the-ground conditions instead of on whether an area is inventoried or designated as roadless.

Road maintenance.

Consider adding "...or to prevent or correct environmental problems" to the end of the proposed definition.

Road reconstruction.

Consider adding "...or to prevent or correct environmental problems" to the proposed definitions of *realignment*, *improvement* and *rebuilding*.

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Unroaded area.

Insert "(other than an inventoried roadless area)" between "Any area" and "... without..."

The final rule should include definitions for *trails*, *primitive and semi-primitive non-motorized*, and *semi-primitive motorized* classes of dispersed recreation.

294.12 - Exemptions

It is not explicitly stated in the rule that once an emergency that created the need for building a road is over the road should be closed and the area restored to the previous condition. EPA suggests including an additional provision - "(e) - roads constructed for an emergency purpose under b(1), (2), and (3) are to be removed once they are no longer needed for the initial emergency purpose and the area will be restored to the natural condition."

EPA appreciates the change made from scoping comments in paragraph (a) that the prohibition applies to both classified and unclassified roads, including temporary roads.

Delete paragraph (c), application to the Tongass.

294.13 - Consideration of Roadless Area Conservation During Plan Revision

EPA has environmental concerns with leaving the choice of method of selection or delineation of unroaded areas for evaluation under 294.13(b)(2) entirely to the responsible official. The final rule should provide a list of methods that are accepted nationally to promote consistency.

Delete paragraph (e), related to the Tongass.



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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ROCKY MOUNTAIN, DENVER
633 17TH ST.
DENVER, COLORADO 80202-3690

May 15, 2000

USDA Forest Service-CAET
Post Office Box 221090
Attention: Roadless Areas Proposed Rule
Salt Lake City, UT 84122

Dear Sirs:

The Department of Housing and Urban Development (HUD) has reviewed the Draft Environmental Impact Statement (DEIS) for the Roadless Area Conservation Proposed Rule with consideration of the areas of responsibility assigned to HUD.

This review considered the impact of the proposed rule on housing and community development within the states of Montana, Utah and Wyoming that are part of our office's area of responsibility. We find your transmittal adequate for our purposes since there is no significant adverse impact on HUD assisted housing and community development activities in proximity to the areas covered by the proposed rule.

If I may be of further assistance to you, please contact me at (303) 672-5285, extension 1305.

Sincerely,

Howard S. Kutzler
Regional Environmental Officer
Office of the Secretary's Representative

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MWTC SUPPLY

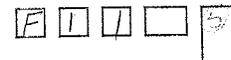
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UNITED STATES MARINE CORPS
MARINE CORPS MOUNTAIN WARFARE TRAINING CENTER
BRIDGEPORT CA 93517-6501

IN REPLY REFER TO:
5090
ENV/04
14 Jul 00



USDA Forest Service - CAET
Attention: Roadless Area Conservation Proposed Rule
P.O. Box 221090
Salt Lake City, UT 84122

Gentlemen:

Thank you for the opportunity to provide written comments on the Forest Service's proposed Roadless Area Conservation rule. As a long-time user of the Humboldt-Toiyabe National Forest, the Marine Corps Mountain Warfare Training Center (MWTC) has several concerns with the proposed rule.

First, the web based maps of inventoried roadless areas you provided lack sufficient detail to conclusively compare them to roads and trails MWTC uses. We request a more detailed map be provided as well as sufficient time to review it. From the available map, we have determined that some roads are missing from your inventory. Please add the following former roads as shown on the attached map:

1. From Summit Meadows to Lost Cannon Creek.
2. From Grouse Meadows to Mill Canyon Road.
3. From Grouse Meadows to Chris Flat.
4. From the Grouse Meadow Road to the gaging station on HWY 395.

The MWTC requires continued access to this area of forest to conduct training per public law 100-693 of November 18, 1988. We recommend that District Rangers retain the authority to authorize or prohibit specific roads for the proper management and use of National Forest System lands. These decisions are based on appropriate environmental documentation and public participation. Local control is needed to fairly address existing uses of existing roads, whether classified or unclassified.

My point of contact for this matter is Mr. Kendall Yargus at 760-932-7761 ext. 332.

Sincerely,

J. H. NEAL
Lieutenant, CEC, USN
By direction

Encl: Annotated Forest Visitor/Travel Map, Toiyabe National Forest, Bridgeport Ranger District, California, 1994

Copy to:
MCB Camp Pendleton AC/S ES
Bridgeport Ranger District

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MAY 17 2000

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials



United States Department of Agriculture

Natural Resources Conservation Service

Caribbean Area PO Box 364868 San Juan, PR 00936-4868

14635

F I I I I 5 yes

June 28, 2000

USDA Forest Service-CAET P. O. Box 221090 Salt Lake City, Utah 84122

Dear Sir or Madam:

SUBJECT: Roadless Areas Proposed Rules

After an extensive review of the Draft Environmental Impact Statement (DEIS) for the proposed rules to conserve roadless areas within the national forests, we do not have any comments to make, since the proposed rules are for the benefit of the ecosystems of such areas.

Should you have any questions, please contact Felix A. Latorre, Water Resources Planning Specialist at (787) 766-5206, Ext. 234.

Sincerely,

JUAN A. MARTINEZ Director

COPIES RECEIVED JUL 06 2000

Aug-17-2000 14:49 From-FOREST SERVICE--Roadless Team

T-204 P.002/002 F-382



U.S. SMALL BUSINESS ADMINISTRATION WASHINGTON, D.C. 20416

OFFICE OF CHIEF COUNSEL FOR ADVOCACY

JUL 17 2000

VIA ELECTRONIC & REGULAR MAIL

Hilda Diaz-Soltero Associate Chief United States Department of Agriculture Forest Service Washington, DC Email: roadlessdeis@fs.fed.us

Dear Ms. Diaz-Soltero:

As stated in previous correspondence on this issue, the Office of Advocacy of the U.S. Small Business Administration (SBA) was established by Congress under Pub. L. No. 94-305 to represent the views of small business before federal agencies and Congress. Advocacy is also required by §612(a) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) to monitor agency compliance with the RFA. In that Advocacy is an independent office within SBA, the comments provided are solely those of the Office of Advocacy and do not necessarily reflect the views of SBA.

A Brief Review of RFA Compliance Requirements

Initial Regulatory Flexibility Analysis

The RFA requires agencies to consider the impact that a proposed rulemaking will have on small entities. If the proposal is expected to have a significant impact on a substantial number of small entities, the agency is required to prepare an initial regulatory flexibility analysis (IRFA) describing the reasons the action is being considered; a succinct statement of the objectives of, and legal basis for the proposal; the estimated number and types of small entities to which the proposed rule will apply; the projected reporting, recordkeeping, and other compliance requirements, including an estimate of the small

entities subject to the requirements and the professional skills necessary to comply; all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and the significant alternatives that accomplish the stated objectives of the of the statutes and that minimize any significant economic impact of the proposed rule on small entities. 5 U.S.C § 603. The analysis or a summary of the analysis must be published with the proposal for public comment.

Final Regulatory Flexibility Analysis

When an agency issues any final rule, it must prepare a final regulatory flexibility analysis (FRFA) when a rule will have a significant economic impact on a substantial number of small entities. The FRFA must discuss the comments received, the alternatives considered and the rationale for the final rule. Specifically, each FRFA must contain a succinct statement of the need for and objectives of the rule; a summary of the significant issues raised by public comments in response to the IRFA; a summary of the agency's assessment of such issues and a statement of any changes made in the proposed rule as a result of such comments; a description and an estimate of the number of small businesses to which the rule will apply or an explanation of why no such estimate is available; a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the types of professional skills necessary for the preparation of the report or record; and a description of the steps the agency has taken to minimize the significant economic impacts on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy and legal reasons for selecting the alternative adopted in the final rule, and the reasons for rejecting each of the other significant alternatives. In complying with the provisions of section 603 and 604 of the RFA, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable. 5 U.S.C. § 607.

Certification in Lieu of a Regulatory Flexibility Analysis

If the proposed or final rulemaking is not expected to have a significant economic impact on a substantial number of small entities, 5 USC §605 of the RFA allows an agency to certify a rule, in lieu of preparing an IRFA or FRFA. If the head of the agency makes such a certification, the agency shall publish such a certification in the Federal Register at the time of the publication of the general notice of proposed or final rulemaking for the rule along with a statement providing the factual basis for the certification. See 5 U.S.C. §605(b).

The Proposed Rulemaking

Because of the nature of this rule, the Office of Advocacy consistently maintained in its pre-proposal comments to the Forest Service (FS) that certification was inappropriate from a public policy standpoint. On May 10, 2000, FS published a proposed rule in the *Federal Register*, Vol. 65, No. 91, p.30276 on *Special Areas; Roadless Area Conservation*. The purpose of the proposal is to protect the environmental resources in

national forests by prohibiting road construction and reconstruction in most inventoried roadless areas of the National Forest System and require the evaluation of roadless area characteristics in the context of overall multiple-use objectives during land and resource management plan revisions. The intent of the rulemaking is to provide lasting protection in the context of multiple use management for inventoried roadless areas and other unroaded areas within the National Forest System. Id.

Prior to the proposal, the Office of Advocacy worked with FS in an effort to assist FS with RFA compliance. Throughout the process, FS has maintained that it believed that the proposed rulemaking would not have a significant economic impact on a substantial number of small businesses. FS has also contended that the proposed rule does not directly regulate small entities and, therefore, an IRFA was not necessary. Nevertheless, FS prepared an Initial Regulatory Flexibility Analysis (IRFA) at Advocacy's request. Because FS did not have sufficient economic information to prepare a complete IRFA, Advocacy advised FS to include a list of questions in the IRFA to solicit from the public information on the economic impacts of the proposal. FS complied with this request also.¹ See, Fed. Reg. at 30285-30286.

FS Should Abandon Its Assertion that the Rule Does Have a Direct Impact on Small Entities

As stated above, FS has consistently asserted that a regulatory flexibility analysis is not required since the proposal does not have a direct impact on small entities. It is Advocacy's understanding that the basis of the assertion is that the proposal establishes procedures, and nothing more, to be followed in local forest planning processes. Local FS offices will maintain the authority to determine the actual forest plan; hence national FS is not directly regulating small entities. Consequently, a regulatory flexibility analysis is not required.

Advocacy acknowledges that there is case law that states that the RFA only requires an agency to perform a regulatory flexibility analysis of small entity impacts when a rule directly regulates them. However, Advocacy asserts that the cases are inapplicable to FS' proposal. If anything, the case law and the facts support a finding that the impact of the proposal is indeed direct, not indirect.

The primary case on the consideration of direct versus indirect impacts for RFA purposes in promulgating regulations is Mid-Tex Electric Co-op Inc. v. F.E.R.C., 249 U.S. App. D.C. 64, 773 F.2d 327 (1985). In Mid-Tex Electric Co-op Inc. v. F.E.R.C., FERC ruled that electric utility companies could include in their rate bases amounts equal to 50% of their investments in construction work in progress (CWIP). In promulgating the rule, FERC certified that the rule would not have a significant economic impact on a substantial number of small entities. The basis of the certification was that virtually all of the utilities did not

¹ Usually, the Office of Advocacy does not publicize its interaction with an agency during the prior to the proposal of a rule. However, since Forest Service has agreed to release communications that it had with the Office of Advocacy to House Committee on Small Business, Subcommittee on Rural Enterprises, Business Opportunities, and Special Programs, the communications are now part of the public record.

fall within the meaning of the term small entities as defined by the RFA. Plaintiffs argued that FERC's certification was insufficient because it should have considered the impact on wholesale customers of the utilities as well as the regulated utilities. The court dismissed the plaintiffs' argument and concluded that an agency may certify that no RFA analysis is necessary when it determines that the rule will not have a significant economic impact on a substantial number of small entities that are not subject to the requirements of the rule. *Id.* at 64.

The US Court of Appeals for the District of Columbia applied the holding of the *Mid-Tex* case in *American Trucking Associations, Inc. v. U.S. E.P.A.*, 175 F.3d 1027, 336 U.S.App.D.C. 16 (D.C.Cir., May 14, 1999) (hereinafter ATA). In the ATA case, EPA established a primary national ambient air quality standards (NAAQS) for ozone and particulate matter. At the time of the rulemaking, EPA certified the rule pursuant to 5 USC § 605(h). The basis of the certification was that EPA had concluded that small entities were not subject to the rule because the NAAQS regulated small entities indirectly through the state implementation plans (SIPs). *Id.* Although the Court remanded the rule to the agency, the Court found that EPA had complied with the requirements of the RFA. Specifically, the Court found that since the States, not EPA, had the direct authority to impose the burden on small entities, EPA's regulation did not directly impact small entities. The Court also found that since the states would have broad discretion in obtaining compliance with the NAAQS, small entities were only indirectly affected by the standards. *Id.*

In *Mid-Tex*, compliance with FERC's regulation by the utilities would have a ripple effect on customers of the small utilities. There were several unknown factors in the decisionmaking process that were beyond FERC's control like whether utility companies had investments, the number of investments, costs of the investments, the decision of what would be recouped, who would the utilities pass the investment costs onto, etc. In this instance, FS is the ultimate decision-maker and its decisions will have a direct effect on known small entities that have profited from multiple use of FS' lands in the past or which planned to profit from the resources in the future.

Likewise, this matter is distinguishable from the ATA case. Unlike the ATA case, where EPA was setting standards for the States to implement under state regulatory authority, FS is developing a framework for the local/regional FS offices to use in adopting multiple use plans for national forests. The fact that it is a local office of FS versus the national office of FS is inconsequential. In either event, FS will implement the rule, not a third party entity. Regardless of where the office is located, FS is making the ultimate decision of whether a road will or will not be constructed. The proposed rule clearly states that roads may not be constructed or reconstructed in the unroaded portions of inventoried areas of the National Forest System unless the road is needed for public safety, for environmental response or restoration, for outstanding rights or interests protected by statute or treaty, or to prevent irreparable resource damage. See, Section 294.12, *Fed. Reg.*, p. 30288.

Direct Impacts on Small Entities

Moreover, small entities will be directly affected as a result of FS' decisions. The word "direct" is defined as "to regulate the activities or course of action thereof; stemming immediately from a source, cause, or reason; operating without agency or step..."² Small entities that already operate in national forests will have their operations seriously curtailed. (FS recognizes that the majority of these entities are small.) These and others, like the construction companies that build the roads, may have developed their business plans based on expectations of continued access and as a result of previously published FS plans. These impacts need to be evaluated. FS has some data already that would allow it to do so. For example, according to Tables 4 and 6 of the IRFA, the proposal estimates that there will be a 45% reduction in forest harvest in the Manti-Lasal National Forest alone in Utah. Other forests, such as Dixie (Utah) and Shoshone (Wyoming) will experience reductions in harvest that exceed 20%. In Montana, the Helena Forest will experience a reduction in total harvest volume of 12%. In those same areas of the country, FS controls more than 50% of the forested land base.³ For example, FS controls 52.3% of forested land in Montana; 66.6% of the land in Wyoming; and 68.5% of the forested land in Utah.⁴ Considering the vast amount of area owned by the FS, moving to or procuring from another location to harvest or process natural resources may be unrealistic or a short term solution. The end result of this proposal may be the ultimate demise of small businesses and small governmental jurisdictions that rely on the resources.

Advocacy recognizes that there is a substantial public policy interest in maintaining the natural beauty of the national forests and protecting the environmental resources found in the national forests. However, just these few examples indicate that the overall impact of this initiative could be economically devastating to many small businesses. The high percentage of reduction, combined with the fact that FS owns such a high percentage of the land in some areas, indicates that this rule may have a direct economic effect that cannot be recouped at other locations by the small entities that rely on them. Since the FS has some data, and will receive additional data from the comment period, it is not plausible for FS to continue to maintain that the proposal will not have a direct effect on small entities.⁵

² The Merriam Webster Dictionary.

³ Testimony of Mr. Frank Giatics, President of Independent Forest Product Association, before The House of Representatives Subcommittee on Rural Enterprises, Business Opportunities, and Special Business Programs, Tuesday, July 11, 2000, pp. 9-10.

⁴ *Id.*
⁵ Advocacy notes that FS may be arguing that the RFA does not apply because the use of FS property for harvesting natural resources is a future activity that may or may not occur, depending on the decision of the forest planners. While this argument may have some validity, it is not necessarily convincing. Some of the land that is being placed off limits by the initiative was originally targeted for resource harvesting. As a result of this rule, forest planners will not be able to allow the original tentative multiple use plans to be implemented. Small entities may have relied on the original plans in making business decisions. This issue should be addressed.

Information Provided By the Public Must Be Addressed in the FRFA

At the time of the proposal, FS asserted that they could not perform a complete IRFA because it lacked sufficient economic information about the economic impacts on the industry. Because its information was insufficient, FS provided a list of questions in an attempt to obtain the necessary information from the public. In reviewing the comments from the public, Advocacy hopes that FS will give full consideration to the information provided by the industry in response to FS' solicitation for additional information and perform an analysis that reflects 1) the impact on small entities that had access to resources that will have limited or no access after the rulemaking; 2) the impact of the regulation on small entities that were relying on future activities that will not occur as a result of the regulation; and 3) the impact of the regulation on activities outside of the FS lands (i.e. small communities).

Since our comments are being submitted prior to the close of the comment period, we cannot comment on the full scope of the information that FS may receive from the public regarding the economic impacts of this rule. However, we have received some information from the industry about potential impacts. The early information received indicates that the impact may in fact be significant. For example, representatives of the timber industry, which FS acknowledges is primarily dominated by small businesses, assert that FS controls 73.3% of the saw timber in Montana; 80.8% of the saw timber in Wyoming; and 85.4% of the timber volume in Utah.⁶ In the IRFA, FS asserts that the reduction in harvest as a result of this rule could range from 1 to 8% depending on the location.⁷ Fed. Reg. at 30286. Considering the high dependence on FS timber in certain areas, a 1 to 8% reduction could be economically significant. If not, FS needs to provide data showing why it is not economically significant to support its conclusion in the FRFA.

Moreover, the mining industry has indicated that the proposal disallows mining on 43 million acres of federal land. It asserts that more than \$7 trillion dollars of coal and metal resources will be placed off limits by the proposed rule.⁸ If this is not correct, then FS must explain why these resources will still be available and the approximate costs of obtaining access to the resources in areas where road construction and reconstruction is prohibited.

Economic effects such as these cannot be ignored. These early numbers indicate that the impact may indeed be significant. FS needs to explain why they are not significant and provide this information to the public. On the other hand, if the analysis indicates that the impact is indeed significant, Advocacy asserts that FS must fully address this in the FRFA and possibly repropose the rule.

⁶ *Id.*

⁷ On the surface, the percentages in the IRFA summary appear to be inconsistent with the tables found in the IRFA. FS needs to explain the inconsistencies found in the documents.

⁸ Testimony of Laura Skuter, Northwest mining Association

Alternatives Provided By Public Must be Given Full Consideration

The RFA requires an agency to consider alternatives to the proposal and provide a statement of the factual, policy and legal reasons for selecting the alternative adopted. 5 USC §605. If a reasonable alternative is provided from a member of the public, the agency must give it its full consideration. In its testimony before the House Subcommittee on Rural Enterprises, Business Opportunities, and Special Small Business Problems, the Northwest Mining Association suggested the alternative of allowing temporary roads, on an as needed basis, with either natural or affirmative reclamation. While Advocacy acknowledges that it is not an expert in forest planning, this seems like an alternative in allows harvesting of natural resources while assuring that the forests are not permanently damaged or irreparably harmed. At least the mitigating impacts of this alternative should be carefully analyzed.

Northwest Mining's suggestion is only one of what may be several strong alternatives offered by the public as a less burdensome solution to the problem. Failure to fully address alternatives that may provide a workable solution to the problem may violate the RFA and raise questions as to whether the agency actions were arbitrary and capricious. If challenged, a court may find that FS' treatment of alternatives was insufficient.

In addition, Advocacy believes that FS should require local FS planners to require local FS planners to perform an RFA analysis in drafting future forest plans that implement this rulemaking to assure that the implementation minimizes the economic impact while achieving the goal of preserving the environment. RFA compliance will provide the public with information necessary to participate fully in the rulemaking process and possibly provide suggestions as to ways that may make implementation less costly.

Conclusion

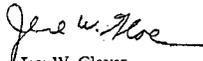
The Office of Advocacy recognizes the importance of protecting the environment, conserving our national forests, and preserving the natural beauty of the area. However, there is also a significant public interest in allowing access to natural resources in order to preserve our economic base. The potential economic impact of this proposal on small businesses and small communities could be devastating. Prior to implementing such a rule, FS should make every attempt to understand fully the economic impact of its actions and to find less burdensome or mitigating alternatives. In the alternative, it should explain fully why these alternatives will not help FS achieve its environmental objectives. As Advocacy has stated on several occasions, the requirements of the RFA are not intended to prevent an agency from fulfilling its statutory mandate. Rather, it is intended to assure that the economic impacts are fairly weighed and considered in the regulatory decision making process.

The public has an interest in knowing the potential economic impact of a particular proposed regulation. As the court stated when remanding a rule to the agency in *Northwest Mining v. Babbitt*, "While recognizing the public interest in preserving the environment, the Court also recognizes the public interest in preserving the rights of parties which are

affected by government regulation to be adequately informed when their interests are at stake and to participate in the regulatory process as directed by Congress." *Supra* at 13. Providing the public with a complete economic analysis that fully discloses the potential impact of the action and considers less burdensome alternatives not only complies with the requirements of the RFA, it also complies with the basic tenets of sound public policy that balance conflicting interests.

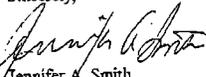
Thank you for the opportunity to comment on this proposal. If you have any questions, please feel free to contact us. Please place a copy of these comments in the record.

Sincerely,



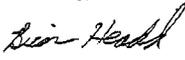
Jere W. Glover
Chief Counsel
Office of Advocacy

Sincerely,



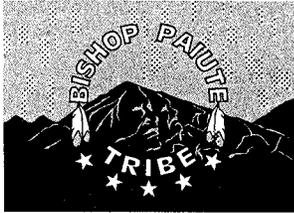
Jennifer A. Smith
Assistant Chief Counsel
for Economic Regulation &
International Trade

Sincerely,



Brian Headd
Economist

Cc: Charles Rawls



BISHOP TRIBAL COUNCIL

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CAET RECEIVED
JUL 13 2000

March 15, 2000

Jeff Bailey, Supervisor
Inyo National Forest
Bishop, CA 93514

Dear Jeff:

The Bishop Tribal Council appreciates the opportunity to respond to the Notice of Intent to prepare an EIS protecting roadless areas.

The Bishop Tribal Council appreciates the efforts of the US Forest Service to protect and manage and the natural resources and cultural sites now under their management. These resources and sites remain intrinsic to our people's cultural and religious beliefs and customs. We believe that the unique trust responsibility the Forest Service has to the Indian people unquestionably includes providing access at any time to areas and sites that are of cultural and religious significance to us. As you know, the remains of our ancestors and the evidence of their existence are sacred to us, as are the natural resources that to this day provide for our sustenance and cultural and spiritual needs. So, while we offer our comments on protecting roadless areas, we do so with the understanding that the Forest Service will continue to work with our Tribe to ensure our unrestricted access to and use of the natural resources and sites throughout our ancestral homelands.

The Bishop Tribal Council believes that it is extremely important that the US Forest Service live up to its trust responsibility to protect tribes' rights regarding freedom of religion. This trust responsibility cannot be separated from issues of access.

We support a plan throughout the forest (not just in roadless areas) that includes no new road construction anywhere in the Inyo National forest. Most importantly, we believe there should be no new roads within a perimeter of three to five miles of known cultural sites. If road construction must occur, it should occur only in areas that are already highly impacted by unregulated human encroachment. In addition, existing roads should be closed where there is evidence of environmental and / or cultural site degradation has occurred or is occurring.

Our specific concerns regarding the EIS protecting roadless areas relate primarily to the large number of acres involved and our desire to maintain access for our Elders so that we may preserve our cultural and spiritual traditions.

In California, a vast acreage is considered roadless. Any of these areas may include important cultural and spiritual areas. The Bishop Paiute Tribal Council is concerned that access to these cultural and spiritual areas be maintained for our people. Our Elders are the keepers of our

traditions. Many are unable to walk long distances. The only way we can continue our traditions and teach our young people about them is by having our Elders take us to these important places. Our most knowledgeable Elders are frail and are not able to travel long distances by foot. Any plan governing the management of roadless areas must maintain access to spiritual and cultural sites for traditional purposes.

Thank you for your consideration of these issues. We hope to discuss them with you at our next regularly scheduled meeting.

Sincerely,

M Bengochia
Monty Bengochia, Chair
Bishop Tribal Council

PAIUTE PROFESSIONAL BUILDING • 50 TU SU LANE • BISHOP, CA 93514
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Confederated Tribes of Grand Ronde
Natural Resources Department
P.O. Box 10
Grand Ronde, Oregon 97347
Contact: Cliff Adams (503) 879-2375

Ketchikan Indian Corporation
2960 Tongass Avenue
Ketchikan, Alaska 99901
(907) 225-5158
Fax (907) 247-0429

USDA Forest Service - CAET

T T T 5

July 14, 2000

The Fish and Wildlife Committee and the Timber Committee of the Confederated Tribes of Grand Ronde are offering comments regarding the "Roadless Area Conservation Proposed Rule".

The Tribal Committees are requesting that the following items be considered when adopting the Rule:

- 1. Recreation within the Roadless areas continue to be allowed
- 2. The existing roads be maintained and not closed to allow public access
- 1. Rules and policies regarding management and any restrictions in the Roadless Area be decided at the local level
- 2. Continue to acknowledge the rights and historical uses of The Native American Tribes in the proposed Roadless Areas
- 1. Continue to consult with The Native American Tribes regarding any future proposals or decisions other than what has been proposed as the preferred alternative for the "Roadless Area Conservation Proposed Rule".

USDA Forest Service - CAET
Attn: Roadless Area Conservation Proposed Rule
P.O. Box 221090
Salt Lake City, UT 84122

FACT RECEIVED
JUL 17 2000

Dear Sirs:

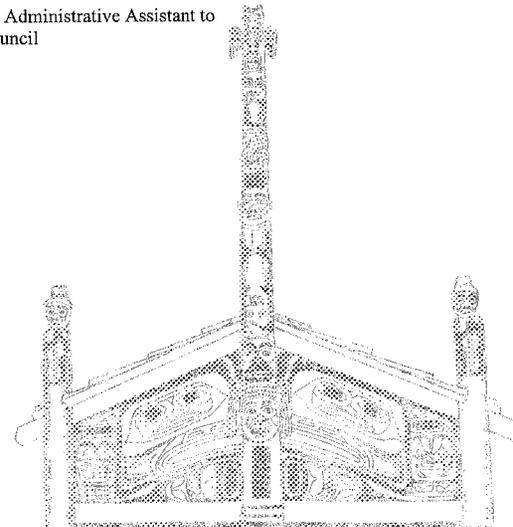
At a duly convened meeting on July 10, 2000, Ketchikan Indian Corporation Tribal Council authorized the submission of the attached Position Statement regarding the roadless.

If you have any questions, please feel free to contact me at: (907) 225-5158.

Sincerely,

Cheryl Haven, Administrative Assistant to
KIC Tribal Council

Enclosure



KIC

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Ketchikan Indian Corporation

2960 Tongass Avenue
Ketchikan, Alaska 99901
(907) 225-5158
Fax (907) 247-0429

Testimony for the Roadless issue
Discovery Center
6:00 p.m.

Position Statement

submitted by Merle Hawkins, Tribal Council and Subsistence Committee Chair

KIC Tribal Council would like to see Gravina Island remain a roadless area for the following reasons:

- ◆ Historically, and currently it is still is used by Alaska Native people from the Ketchikan area for subsistence fishing, gathering and hunting.
- ◆ The Saxman people use it and they have Rural status.
- ◆ This is traditional land of the Tongass Tribe, and although they are not federally recognized IRA Tribe, I represent them as an IRA Tribal Council. A respected Tongass Tribal leader, Esther Shea, said during the March 2000 Traditional Ecological Knowledge Conference, Co-hosted by Ketchikan Indian Corporation and the U.S. Forest Service: "We may not own the land anymore, but in our hearts it's ours." Her words are etched in our hearts.

The Forest Service is proposing a timber sale on Gravina Island with a proposal for road building in several alternatives. KIC opposes **any** road building on Gravina Islands public lands.

I recently met with other land holders of Gravina - DNR, Forest Service, Ketchikan Gateway Borough, Fish and Wildlife etc., for discussions of the following concerns:

- ◆ We are concerned that if roads are built on Gravina that the State DNR will again reopen the roads and clear cut all of their land on Gravina.
- ◆ The Forest Service would like to open the lands up for recreational use also. They cannot afford to maintain the roads they have now, let alone assume the maintenance burden on additional roads.
- ◆ All of the proposed or possible activities would jeopardize the subsistence areas on Gravina, especially Bostwick inlet.
- ◆ Gravina Island is a pristine environment and needs to be protected from road building, timber harvesting, recreation or other activities that would alter its current roadless characteristics.
- ◆ Gravina Island has been used by many generations of Alaska Natives-Tlingit, Haida and Tsimshian, for traditional hunting, fishing and food gathering. KIC would like to see that this area is available for future generations.
- ◆ These subsistence gathering activities provide significant social and ecological values. There is a lot of archeological evidence on Gravina Island which shows how important this area was and still is. Any road construction would jeopardize these values.

The Forest Service proposed action, under the roadless alternatives, would be to evaluate the quality and importance of roadless characteristics. KIC does not feel that the Forest Service is qualified to do this. A conflict of inherent extent as they have the responsibility to provide a certain amount of timber for market demand within the Tongass National Forest. The same circumstance exists with recreational areas; the pressure for people in Ketchikan to provide more recreational areas, but Alaska is special because of its historical access by canoe or boat, and unique due to all the islands.

- ◆ The Forest Service protects public lands on Gravina with multiple use objectives.
- ◆ If Gravina is opened up for recreation, you cannot protect the island's public land.
- ◆ Multiple use objectives would not work.
- ◆ Leaving that decision up to a local Tongass Ranger does not make sense as we get a new one about every three to five years and they do not know the local people.
- ◆ By the time they (new Rangers) acquire some of this knowledge they get transferred and the people suffer from their decision. Building roads on Gravina to Boswick would be mismanagement, timber harvest, road building and recreational use are not compatible with subsistence.
- ◆ KIC's position is that any timber harvest, road access, or recreational use on Gravina would have a detrimental environmental impact on the subsistence resources of the Island and waters.
- ◆ KIC opposes any timber harvest and/or any recreational use or development on Gravina Island.
- ◆ KIC supports Alternative # 4, 4D with full Tongass inclusion, **no road building on the**

Tongass.

Merle Hawkins

Signed: Merle Hawkins, KIC Tribal Council

and Subsistence Committee Chair

July 13, 2000

Date

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The Klamath Tribes

P.O. Box 436
Chiloquin, Oregon 97624
Telephone (541) 783-2219
Fax (541) 783-2029
800-524-9787

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CAET RECEIVED

JUN 29 2000

June 19, 2000

The Honorable Dan Glickman
Secretary of Agriculture
United State Department of Agriculture, Room 213-A
14th Street and Independence Avenue, SW
Washington, D.C. 20250

Dear Secretary Glickman:

As Chairman of the Klamath Tribes, an organization within Klamath County that has a major concern with establishing and maintaining a diversified and viable economic base within the Klamath Basin, I have been asked to comment upon the impact of the President's Roadless Plan (64 Federal Register 56306, October 19, 1999), particularly as it may impact the Pelican Butte Ski project under consideration in the Winema National Forest and, ultimately, the Klamath Tribes Economic self Sufficiency Plan, currently in the final stages of preparation for the Secretary of the Interior and the Congress. Without the benefit of having all the data needed yet, it does appear that this project, if successfully implemented, will have a significant positive financial impact on the Tribes' Economic Self Sufficiency Plan.

Without being able at this time, due in large part to the unavailability of the final EIS and other economic data, to address whether the Tribes will ultimately support or not support the project based upon its environmental, Tribal cultural and economic impacts, we strongly feel that, given the potential impacts to the entire community, this project should be provided a "grandfather" clause exemption to complete its EIS process and presentation to the Basin community for their consideration.

Several factors argue strongly for this exemption. First, this project has been under review and development by the Forest Service, the City of Klamath Falls, and private developers for over thirty years. It has always been a part of the regional economic development industrial diversification plan of a devastated timber dependent community. It needs resolution.

Second, the developer undertook the project at the invitation of the Forest Service under its Winema National Forest Plan, agreeing to prepare and write an Environmental Impact Statement under NEPA requirements. Given the years and \$3.75 million spent in good faith on a project under the previous rules, we feel that the research, feasibility and environmental impact analysis should be completed and placed before the public for their information. We also feel that the public is entitled to, after thirty years to render their position on the project.



D. Glickman, U.S. Sec of Ag., June 16, 2000
Page 2

Finally, the Tribes and I, personally, have spent a great amount of time and energy participating in six different community committees evaluating this project. We feel that there is a responsibility to the great number of hours and effort that many of our community leaders have put into this project over the years.

No organization or peoples in the Klamath Basin is more concerned with the environment and the protection of the forest that the Klamath Tribes and we are committed to the restoration and preservation of all lands and resources that are currently or will ever be under our jurisdiction. This position does include the recognition of the need for the Tribes and the general community to have a protected, multi-use forest for the benefit of all. In order to be able to determine which projects are beneficial and needed or not, we do need to have these project processes completed.

Sincerely,

Allen Foreman
Tribal Chairman
The Klamath Tribes

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D. Glickman, U.S. Sec. of Ag., June 16, 2000
Page 2

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Sincerely,



Allen Foreman
Tribal Chairman
The Klamath Tribes



Nez Perce

TRIBAL EXECUTIVE COMMITTEE
P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

July 14, 2000

USDA Forest Service - CAET
P.O. Box 221090
Attention: Roadless Areas Proposed Rule
Salt Lake City, Utah 84122

RE: Roadless Areas Proposed Rules

Dear Madam or Sir:

The Nez Perce Tribe appreciates the opportunity to comment on the Roadless Area Conservation Proposed Rule and Draft Environmental Impact Statement (DEIS). The Tribe recognizes and appreciates the enormous effort put forth by the Forest Service in developing these important protection measures for the Nation's valuable roadless areas.

The Nez Perce Tribe strongly supports the Roadless Area Conservation Proposed Rule. We believe that this rule represents a positive step forward to protect the lands the Forest Service has been assigned to protect and manage.

By virtue of the Treaty of 1855, the Nez Perce Tribe maintains treaty-reserved rights to hunt, fish, gather, and pasture cattle and horses within "open and unclaimed lands." These treaty lands include vast areas encompassed in the National Forests of northeastern Oregon, southwestern Washington, and Idaho. The Tribe believes that the protections provided for by this rule would be consistent with the treaty and trust responsibilities of the United States to preserve, protect, and enhance tribal treaty rights and treaty-reserved resources.

Further, this rule appears to be consistent with the salmon recovery plan adopted by four of the Columbia River treaty Tribes, including the Nez Perce Tribe. *Wy-Kan-Ush-Mi Wa-Kish-Wit: Spirit of the Salmon* calls for, amongst other actions, a decrease in roaded miles in managed watersheds, as well as improved drainage and decreased sediment delivery from roads that will not be obliterated or relocated.

It is critical that the Forest Service recognize and consider how this proposed rule would integrate with the federal government's salmon and steelhead recovery efforts for the Columbia River basin. The Conservation of Columbia Basin Fish or "All-H Paper" produced by a number

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of federal agencies, including the Forest Service, calls for a number of habitat measures to restore imperiled fisheries. The Forest Service and other federal agencies must recognize the importance of the measures called for in the proposed rule to these efforts, especially if the federal government fails to take decisive action to restore salmon and steelhead such as Snake River dam drawdown.

In addition to these general comments, the Tribe has the following specific comments:

1. The proposed rule provides that roads may be constructed or reconstructed if "[a] road is necessary pursuant to reserved or outstanding rights as provided for by statute or treaty." This exception should be revised to explicitly state that road construction and reconstruction may occur to ensure exercise of tribal treaty-reserved rights.
2. The proposed rule provides that roads may be constructed or reconstructed if "[a] road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or to conduct a natural resource restoration action under CERCLA, section 311 of the Clean Water Act, or the Oil Pollution Act." In addition, roads may be constructed or reconstructed if "needed to protect public health and safety ... that, without intervention, would cause the loss of life or property." These sections should be revised, expanded, or clarified to allow road construction and reconstruction to protect the habitat of endangered or threatened species from an imminent threat of flood, fire, or other catastrophic event that would cause the destruction of the species or of critical habitat.
3. Pages 4-2 and 4-3 of the Draft Environmental Impact Statement (Volume 1) describes tribal consultation. This section describes how "Forest Service field line officers were directed to personally initiate contact with all potentially impacted tribal leaders." While such contacts were made and detailed presentations were made about the proposed rule, the local Forest Service staff had no authority to conduct a meaningful consultation on the rule or its impacts to the Tribe. Executive Order 13084 provides that each "agency shall have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." According to the President's April 29, 1994 memorandum regarding Government-to-Government Relations with Native American Tribal Governments, federal agencies "shall assess the impacts of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that Tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities." Consultation is the formal process of negotiation, cooperation, and mutual decision-making that ultimately leads to the development of a decision, not just a process or a means to an end. Consultation does not mean notifying the Tribe that an action will occur, requesting comments on that prospective action, and then proceeding with the action. In this scenario the decision is not affected. As such, the Tribe requests that appropriate staff be directed to conduct meaningful consultation with the Tribe on the further development of the proposed rule.

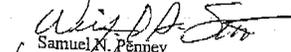
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The Tribe appreciates the opportunity to comment on the proposed rule. We look forward to conducting formal consultation on the rule as the process goes forward to address the concerns discussed above. If you have any questions regarding these comments, please feel free to contact Rick Eichstaedt in the Office of Legal Counsel (208-843-7355). Thank you.

Sincerely,


Samuel M. Penney
Chairman

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T I B [] []

DATE: July 17, 2000

TO: USDA Forest Service

FROM: Sally Nickelson
Wildlife Program Coordinator
Point No Point Treaty Tribes

RE: DEIS Roadless Areas Proposal

I am the Wildlife Program Coordinator for the four Point No Point Treaty Tribes (which include the Skokomish, Port Gamble S'Klallam, Jamestown S'Klallam and Lower Elwha Klallam Tribes) located on the Olympic Peninsula in Washington State. These four tribes strongly support the proposal in the DEIS to maintain current roadless areas in perpetuity. We support protecting all roadless areas, regardless of size and/or whether they have been inventoried. Even small patches of the late-successional habitat found in roadless areas can provide essential habitat and refugia for many species.

Our four tribes retained off-reservation fishing, hunting and gathering rights when they signed their treaty in 1855. Tribal members use Forest Service land for hunting, gathering and spiritual purposes. In addition, upstream land use practices on Forest Service ownership greatly influence fish habitat downstream. High road density, and concomitant road failure, has been a primary cause of fish habitat destruction and decline in salmon populations on the Olympic Peninsula.

Elk is a species of great cultural importance to these four tribes. Unfortunately, during the past 10 years, elk populations on the Olympic Peninsula have declined rapidly, in part due to overharvest because of easy access on the extremely dense road network on both Forest Service and private industrial timberland. In many areas on the Peninsula, road density is 6 miles of road for every square mile of habitat. This high road density increases the vulnerability of wildlife species to both legal and illegal hunting to a point where many local populations can no longer maintain themselves. The Point No Point Tribes closed two Game Management Units to tribal elk hunting in the past decade because of population declines. One of these, the Skokomish Game Management Unit, contains a culturally important herd that ranges along the South Fork Skokomish River. The upper reaches of this river contains one of the proposed roadless areas, which can serve as a refuge for the elk during hunting season, when seasons are reopened.

In addition, roadless areas generally contain older trees, and can provide old growth habitat for species dependent on late successional forest, including the federally listed Northern Spotted Owl and Marbled Murrelet. The Tribes support completely protecting all remaining late successional habitat (not only from road building, but also from other destructive uses such as helicopter logging, grazing, mining, and ATV use). Some culturally important plant species are found primarily in old growth stands, and many of these stands have spiritual significance.

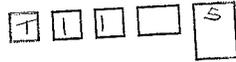
Our tribes disagree with previous federal policy of subsidizing private timber companies by building and maintaining roads so that the private companies could log public land. This was usually done at a fiscal loss

to the public (the cost of building and maintaining the road was greater than the amount received for the timber). We believe that the greater value of the land lies in its ability to provide fish and wildlife habitat.

Our tribes urge the Forest Service to completely protect the few remaining roadless areas on their ownership in perpetuity. Unfortunately, most of these roadless areas occur at high elevation in very steep terrain, which is marginal habitat for most wildlife species. In addition to protecting already roadless areas, we suggest that the Forest Service reduce road density in the more productive low elevation stands to protect both wildlife species and fish habitat. Maintaining tribal access to Forest Service land for treaty hunting and gathering is critical. However, a balance must be achieved between reasonable and dispersed access and reducing road density to decrease vulnerability of game species to hunting and poaching. We believe that scarce dollars should be spent in decommissioning many roads and upgrading the remaining ones to current standards, not in building new roads.

Thank you for the opportunity to comment on this important proposal.

Sincerely,
Sally Nickelson
Wildlife Program Coordinator
Point No Point Treaty Tribes
7999 NE Salish Lane
Kingston, WA 98346
360-297-6540



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13 July, 2000

USDA Forest Service
 Attention: Roadless Area NOI
 Box 221090
 Salt Lake City, UT 84122

Subject: Roadless Initiative --- Proposed Rule and DEIS

To Whom It May Concern:

Sealaska Corporation appreciates the opportunity to respond to the Forest Service Roadless Area Conservation Draft Environmental Impact Statement, dated May 2000. This EIS results from the proposal by the Forest Service to review the National Forest System Roadless Areas Initiative as published in Federal Register/Vol. 64, No. 201/ Tuesday, October 19, 1999 (p56306-56307).

Sealaska Corporation, the Regional Native Corporation for Southeast Alaska, was created under the Alaska Native Claims Settlement Act (ANCSA) of 1971. Sealaska represents 16,000 shareholders whose heritage derives from Tlingit, Haida and Tsimshian Native tribes of Southeast Alaska. The economy of Southeast Alaska is dominated by the Tongass National Forest, largely because it surrounds all of our towns and villages.

Sealaska has determined that the Proposed Rule is inappropriate as a National policy; and specifically, should not be applied to the Tongass and Chugach National Forests. The basis for our determination is set forth in the following sections.

JUL 17 2000

On behalf of Sealaska Corporation, thank you for the opportunity to provide our comments regarding the proposed National Forest System Roadless Areas review. Sealaska reserves the right to provide additional comments should the deadline be extended.

Sincerely yours,

SEALASKA CORPORATION

Robert W. Loescher
 President and Chief Executive Officer

CC: The Honorable President Bill Clinton
 Lynn Cutler, Deputy Assistant to the President
 George Frampton, Council on Environmental Quality
 The Honorable Governor Tony Knowles
 The Honorable Senator Stevens
 The Honorable Senator Murkowski
 The Honorable Congressman Young
 S.E. State Senators and Representatives
 Alaska Speaker of the House
 Alaska President of the Senate
 SE Alaska Communities
 SE Alaska ANCSA Village and Urban Corporations
 ANCSA Regional Corporations
 Alaska Municipal League
 S.E. Conference
 Jack Phelps, Alaska Forest Association
 Resource Development Council
 Alaska Miners Association
 Rick Cables, Regional Forester
 TNF District Rangers
 Ed Thomas, Tlingit & Haida Central Council
 Jacqueline Martin, ANS Grand President
 Sam Jackson, ANB Grand President
 Rick Harris
 Chris McNeil
 Ross Soboleff
 Budd Simpson
 Alan Mintz
 Gregg Renkes

GENERAL COMMENTS

By delaying a decision on the exclusion or inclusion of the Tongass until 2004, the Forest Service will stop all investment in new manufacturing caused by uncertainty in the future timber supply. Delaying a review of the Tongass National Forest for inclusion effective 2004 is self-fulfilling in terms of assuring that demand for Forest Service timber will continue to diminish. The forest products industry is actively reconfiguring itself to utilize Forest Service timber from the Tongass National Forest at current supply levels. Active projects include veneer mills, ethanol manufacturing from wood wastes, and sawmill reconfiguration to fully utilize timber expected to be offered in stumpage sales. By placing the Tongass NF into a review category in 2004, the government is effectively closing the door on any opportunities to create a viable industry for the benefit of many communities. No company can be expected to pursue opportunities if there is a real risk that stumpage volume will not be available in as little as a few years.

If the Tongass National Forest (TNF) is included in the Proposed Rule no roadless areas should be designated without first conducting a detailed analysis of alternatives. This analysis must be very broad to identify all impacts such designations may have on the people that reside within the TNF. This analysis must go beyond the biological analysis and include analysis on subsistence, cultural, social, economic, job and family sustainability that will be affected by such designations. Further, the analysis must evaluate the result of any site specific designation on the ability of the TNF to meet other Federal obligations made to the State of Alaska and Alaska Natives through prior laws and land agreements regarding land and resource allocations from the TNF. Specific agreements, geographic areas and communities that should be included in the analysis are described in further detail in the following sections.

DETAILED COMMENTS

1. The Proposed Rule recommends a categorical elimination of road construction in roadless areas. This proposal is contrary to Federal law and recommendations of the "Committee of Scientists" (COS). The

scope of analysis and alternatives must rectify these obvious conflicts with National forest policy and laws and recommendations of the COS.

- ◆ The Proposed Rule eliminates all road construction and designates roadless areas on the National Forests which is against the law. The National Forest Management Act (NFMA) establishes a process for forest planning, including new roadless management policy, when the agency proposes significant changes to a forest plan. Development and implementation of a new roadless management policy will constitute a significant and major plan amendment because it will affect the classification and use of resources on millions of acres of forestland.

Under NFMA, a plan amendment which results in a significant change in a plan must undergo the same land management planning process that is used for original and revised plans including, but not limited to, the preparation of an environmental impact statement (EIS) in accordance with NEPA. The proposed Roadless Initiative NEPA-EIS is not consistent with the NFMA because the changes being proposed are not being done in the same manner as the plan itself was developed. In this case, a plan is developed by the Forest Supervisors using the NEPA process as the decision making process for meeting NFMA planning requirements (36 CFR 219.1 et seq). Hence a proposed amendment must follow the same process as the original plan including plan amendment occurring at the forest level.

- ◆ The Proposed Plan does not respond to the Report of the Committee of Scientists (COS) 1999. The COS recommends that the planning process consider a broad range of values, uses, products, and services. The process should be democratic, open and accessible with a large degree of public participation representing all stakeholders. It should be oriented to local areas with the highest level of approval being the Regional Forester. It should fit the organization, communication, and decision-making styles of the community; and should work to reduce the negative economic and social impacts of land-use changes.

The procedure by which the Administration is identifying areas for roadless designation accomplishes none of these recommendations. Alternatives must be included that meet the COS recommendations as described above.

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2. The Proposed Rule proposes to establish the criteria that must be used “through the forest planning process” to protect roadless areas. The scope of analysis overtly emphasizes biological protections and fails to consider the impacts of roadless designations on sustainability of affected communities, school funding and families that are dependent on National Forests for their livelihoods. The EIS alternatives analysis should include the following:

- ◆ Require that forest planning, including roadless designations, be done at the forest and local (community) level.
- ◆ Include authorities such that the roadless area designations can be vacated to manage for desired habitat characteristics, and provide reasonable road access if insect, disease, and fire outbreaks pose a risk to National forest and adjoining private and non-Federal public lands.
- ◆ The report of the Committee of Scientists (COS) finds the less populated areas of the west will suffer substantial economic and social dislocations due to their low economic and social resiliency. Practically all of the communities in Southeast Alaska have such low resiliency. The further designation of roadless areas on national forests would be devastating to those living in that region. For the reasons described by the COS, the criteria for designating roadless areas must be expanded to include specific requirements that ensure school funding and jobs are protected and that the resources on the national forests will be available to maintain sustainable communities and families. Consequently, the alternatives analysis must include options that preclude roadless designation (both inventoried and un-inventoried) if the areas being considered have resources that would contribute to the economic and social welfare of nearby communities. Alternatives must include preclusion of roadless designations if the affected communities meet one or more of the following criteria:
 1. Have a seasonally adjusted unemployment rate that is 5% above the average for the State.
 2. Have an average per student expenditure that is less than the average per student expenditure for the State.
 3. Have more than a 30% minority population.

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4. Have a per-capita income that is less than 10% of the average per-capita income for the State.
5. Requires road access across roadless areas for community infrastructure including municipal drinking water supply, development of hydroelectric power sources and access to regional road and transportation systems.
6. If roadless areas are designated and, subsequently, the community fails to meet the above benchmarks, the roadless areas can be rescinded as a plan amendment.

3 Federal laws preclude the inclusion of the Tongass National Forest and Chugach National Forest in the “Roadless Initiative”. Before either forest can be included under the Proposed Rule, conclusive legal authority to include these forests must be proven. The basis of excluding these forests follows:

- ◆ The temporary roadless suspension correctly exempts the Tongass and Chugach National Forest from the Roadless Initiative. That suspension should be made permanent due to the applicable Federal laws governing land designations in both forests. The legal basis for exclusion includes:
 1. Designation of additional roadless areas would violate the Alaska National Interest Land Conservation Act (ANILCA). ANILCA prohibits: (1) Forest Service studies that contemplate the establishment of additional conservation, recreation, or similar units; (2) the withdrawal of more than 5,000 acres of land, in aggregate, without Congress’s approval, and (3) the review of roadless areas of national forest lands in Alaska for the purpose of evaluating their suitability as wilderness.
 2. Under ANILCA § 1326, the Forest Service is prohibited from (1) using the plan amendment process, the moratorium, or any other process to conduct additional studies of public lands in Alaska, the single purpose of which is to set aside roadless areas from further development; and (2) withdrawing lands in excess of 5,000 acres in aggregate, without Congressional approval.
 3. ANILCA § 1326(b) prohibits the executive branch from studying federal lands in Alaska for the single purpose of considering

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whether to establish "a conservation system unit, national recreation area, national conservation area, or for related similar purposes." Unless authorized under ANILCA (16 USC § 3213(b)) or by Congress, the Forest Service is prohibited from studying any roadless areas during a plan amendment process, much less the administrative appeal process, if the purpose is to establish a conservation unit, recreation area, conservation area or any other unit serving related or similar purposes.

4. Congress expressly stated that the conservation areas established under ANILCA were sufficient protection "for the national interest in the scenic, natural, cultural, and environmental values on the public lands in Alaska." (15 USC § 3101(d)).
- ◆ In addition to the authorities that exclude both the Tongass and Chugach National Forest from any roadless initiatives, including this Proposed Rule. The following legal authorities further exclude the Tongass National Forest from further consideration:
 1. No regulatory or statutory process exists for the Forest Service to unilaterally change the revised TLMP during the appeal process or otherwise. Any determinations that the Forest Service attempts to make during the TLMP appeal process must be limited to correcting what the Forest Service agrees were legal errors in the TLMP planning process. Any other changes (including changes to the Tongass roadless area policy) must be pursued as a plan amendment through the appropriate forest planning regulations.
 2. In the Tongass Timber Reform Act (Public Law 101-626; (TTRA)), Congress addressed wilderness issues (16 USC 539(d)). The wilderness clauses dealt with designating wilderness areas, additions to areas, and certain roadless managed areas. There are no clauses stating that there shall be no more wilderness or roadless areas, because Congress foreclosed the creation of more such areas since it has reserved for itself the determination of wilderness and roadless areas per ANILCA and TTRA.
 3. The TTRA Title I-Forest Management Provisions; Sec. 101 amends Sec. 705(a) of ANILCA to read: "(a) Subject to appropriations, other applicable law, and the requirements of the

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National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle."

- ◆ Under the Tongass Land Management Plan Record of Decision (1999) the Forest Service has established an allowable sale quantity (ASQ) of 187 mmbf. However, the application of the roadless initiative would substantively reduce the ASQ to about 50 million board feet. This volume will not meet the needs of local industry, and will have extensive negative effects on the Southeast Alaska regional economy. If the Tongass is included, the alternatives analysis must ensure that the roadless action will not preclude the Secretary from meeting the provisions of Title I, Section 101 of TTRA and preclude the Forest Service performing under its own forest management plan.
- 4. If the Tongass National Forest is included in the Proposed Rule, no areas should be designated until the scope of the analysis and alternatives are prepared that consider all impacts such designations may have on the people that reside within the TNF. The scope of analysis and alternatives should include the following:**
- ◆ The Tongass contains over 15 million acres of land. Over 6 million acres are placed in national monuments and wilderness areas. An additional 728, 000 acres are legislated Land Use Designation II (un-roaded) areas. Another 7.14 million acres prohibit road construction/reconstruction. About 1.5 million acres (10%) are left for development activities. Given the extensive ecological protections that already exist, the alternatives analysis, before concluding that additional roadless areas should be designated, must first conclusively prove that the current land allocations and management practices fail to provide clean-water, biological diversity, wildlife habitat, forest health, dispersed recreation and other public benefits.
 - ◆ The Roadless Initiative must not supersede or abrogate the rights of Alaska Natives to achieve their entitlements granted under the 1971

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Alaska Native Claims Settlement Act (ANCSA). The final rules must include unimpeded exercise of land selection rights and authority to use Native land and land selection entitlements to exchange for other for public land that may include roadless areas.

- ◆ The Forest Service must analyze the social and economic effects for each community in Southeast Alaska before designating roadless areas. Further, the alternatives analysis must be done on a local and a regional basis to quantify the cumulative effects, and to demonstrate that economy of scale industries can be sustained. There are numerous Southeast Alaska rural communities, whose residents are predominately Alaska Natives, who rely on the timber industry for a substantial portion of the economic activity necessary to assure community viability. Reductions in Forest Service timber sales as a result of the Proposed Rule will negatively effect the economic well being of these communities. The alternatives analysis must identify "realistic economic alternatives" that assure that these communities retain current or improved levels of economic and social viability.

Communities in Southeast Alaska, that must be included in individual social-economic studies include but are not limited to: Annette, Ketchikan, Hydaburg, Craig, Klawock, Hollis, Kasaan, Thorne Bay, Naukati, Coffman Cove, Whale Pass, Calder mine, Point Baker, Port Protection, Laboucher Bay, Meyers Chuck, Edna Bay, Cape Pole, Rowan Bay, Kake, Petersburg, Kupreanof, Wrangell, Sitka, Baranof Warm Springs, Tenakee Springs, Hoonah, Excursion Inlet, Gustavus, Juneau, Elfin Cove, Pelican, Skagway, Haines, and Klukwan. Most of these communities have been identified as having low resiliency.

- ◆ Southeast Alaska is developing an integrated regional transportation and energy system. Each community is improving their essential community infrastructure (e.g. municipal water supplies, and transportation infrastructure). Before any roadless designations occur, the analysis of effects and alternatives must be prepared that affect these major initiatives. Specific areas for analysis and alternatives development include:
- ◆ The State of Alaska is revising its regional ferry/road system to allow more efficient and economical travel throughout Southeast Alaska.

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Access must be preserved for the State's regional ferry/road transportation system.

1. On Prince of Wales Island, communities that are connected, or may be connected in the future by roads and powerlines include: Hydaburg, Klawock, Craig, Hollis, Kasaan, Thorne Bay, Naukati, Coffman Cove, Whale Pass, Calder mine, Laboucher Bay, Point Baker, and Port Protection. In addition, hydroelectric sites in the higher elevations of Prince of Wales Island need to be identified in order to eventually replace or supplement electric demands in these communities.
2. The current road access between Cape Pole and Edna Bay must be preserved. In addition, a hydroelectric facility servicing those communities may be feasible in the Mount Holbrook area on Koskiusko Island.
3. There must be a road corridor and power line corridor between Kake, Kupreanof and Petersburg to be developed when future economics make the project feasible.
4. Sitka must be allowed to have a road corridor to Rodman Bay on Peril Straits for potentially more efficient ferry access.
5. Although not warranted at the present time, there must be provisions for a future road and electrical intertie between Hoonah and Tenakee Springs.
6. Allowances must be made for a power line easement between Juneau, Greens Creek mine, and Hoonah.
7. Road access from Skagway and Haines to Juneau needs to be preserved along both shorelines of Lynn Canal so that the best access to Juneau can be preserved. In case the Taku River road becomes more viable, a road corridor must be included in any transportation plan.
8. In the future, Rowan Bay may find a source for hydroelectric power to replace diesel generation. The best sources probably are in the watersheds along the ridge that fronts onto Chatham Straits.

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◆ The DEIS does not present a balanced picture of characteristics attributed to roadless areas compared to roaded areas.

1. By utilizing current road building standards little or no foreign material is introduced into the riverine environment. Water is not degraded. In the Tongass National Forest and the rest of Southeast Alaska, best management practices (BMPs) dictate that roads be located and constructed so that pollutants do not reach streams. Roads systems are designed to avoid oversteep slopes. Full bench and-hauling are required on lesser slopes over a defined steepness. In many instances bridges are designed and constructed with abutments that are above stream banks. These and similar BMPs result in maining a high quality riverine environment. A reasonable amount of timber harvest is appropriate for every national forest in the United States. In the case of the Tongass NF, the Forest Service administratively has vastly exceeded reserving areas in a roadless category for the alleged protection of scenery, biodiversity, sustaining populations of indicator species, protection of salmon habitat, etc. This has resulted in much more land being reserved to a roadless category than is necessary to protect these non-commodity characteristics in every part of the national forest.
2. Development is not necessarily antagonistic to other values. In the Pacific Northwest, including Alaska, the modification of stream riparian areas, using methods such as partial timber harvest, has resulted in providing more food for invertebrates, which are the animals that initiate the food cycle that results in more food for fish. In addition, different species of anadromous fish prefer different kinds of in-stream habitat. Stream access allows fishery biologists to manage the habitat for the most desirable species. Forest Service and other scientists are discovering that secondary benefits can have a neutral effect or even positively accrue to stream productivity (Gregory et al¹, Martin², Murphy and Koski³, Murphy and Hall⁴, Murphy and Meehan⁵, Wipfli⁶).

¹ Gregory, S.V. et al. 1987. Influence of forest practices on aquatic production. Pp 233-255, In Salo and Cundy editors, Streamside Management, Forestry and Fishery Interactions Univ. Washington, Seattle.

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3. The DEIS has failed to adequately explain the many benefits that users enjoy due to the availability of Forest Service roads. The Forest Service has published reports that show that roads are being used with increased frequency by many citizens. Should road building be substantially restrained in the future, the impact on roaded areas will be very substantial. A great majority of the public demands easier access to enjoy the great outdoors compared to the very few who can afford to recreate in roadless areas. More, not less, area is needed to provide for multiple uses including recreation for people who prefer to drive, access for hunters, fishermen and subsistence gatherers, mineral exploration and development, and timber harvest. The final EIS must recognize the need for a different balance providing more favor for those who want the easier access.

In an October 12, 1999 letter, from Governor Tony Knowles to Mr. George Frampton, Chair, Council on Environmental Quality, Governor Knowles enumerated reasons why the Tongass National Forest should not be included. In that letter he stated that the TLMP process must be allowed to proceed, that "It would be an outrage because we were assured previously that the Tongass would not be included in this review...". "A change now in that course and direction would constitute a doublecross of the citizens of the State of Alaska." Sealaska fully supports the Governor's position that ANILCA and TTRA defined those areas in the Tongass National Forest that should be roadless. Those areas that shall be maintained for economic development including timber harvest, road construction, and mineral development.

² Martin, D.J., M.E. Robinson and R.A. Grotfendts 1998. The effectiveness of riparian buffer zones for protection of salmonid habitat in Alaska coastal streams. A Report for Sealaska Corporation, Juneau, Alaska. 85 pp.

³ Murphy, M.L. and K.V. Koski 1989. Input and depletion of woody debris in Alaska streams and implications for streamside management. North American Jour. Fish. Mgt. 9(4): 427-436.

⁴ Murphy, M.L. and J.D. Hall 1981. Varied effects of clear-cut logging on predators and their habitat in small streams of the Cascade Mountains, Oregon. Can. Jour. Fish. Aquat. Sci. 38: 137-145.

⁵ Murphy, M.L. and W.R. Meehan 1991. Stream ecosystems. American Fish. Soc. Spec. Publ. 19: 17-46.

⁶ Wipfli, M.S. 1997. Terrestrial invertebrates as salmonid prey and nitrogen sources in streams: contrasting old-growth and young-growth riparian forests in southeastern Alaska. Can J. Fish. Aquat. Sci. 54: 1259-1269.

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NO. 443 P. 2/3

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NO. 443 P. 3/3

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Sitka Tribe of Alaska

Tribal Government Sitka, Alaska

Tribal Resolution 00-25

A Resolution of the Sitka Tribe of Alaska opposing inclusion of the Tongass National Forest in the U.S. Forest Service National Roadless Initiative Policy Review & Supporting Alternative T-1

- WHEREAS,** the Sitka Tribe of Alaska is a federally recognized tribal government responsible for the health, safety, welfare, and cultural preservation of over 3,000 tribal citizens residing in Sitka, Alaska; and
- WHEREAS,** Section 708 of the Alaska National Interest Lands Conservation Act of 1980 resolved roadless issues in a compromise bill establishing over 5,000,000 acres in 14 acres as Wilderness on the Tongass National Forest and the Tongass Timber Reform Act of 1990 added over 1,000,000 in additional Wilderness designations to maintain their wildland characteristics; and
- WHEREAS,** the Record of Decision signed by Undersecretary on the Revised Tongass Land Use Management Plan notes that the Tongass National Forest would be exempt from the roadless moratorium as the newly revised plan had the benefit of considerable science and public involvement in the 12 year revision process for the Forest Plan; and
- WHEREAS,** the Tongass National Forest is comprised of approximately 17,000,000 acres, of which 90% is currently un-roaded and approximately 50% of the current Tongass National Forest timber base would become included in the acres proposed for the Roadless Initiative; and
- WHEREAS,** the Tongass National Forest is essential in bringing in stability and certainty to the economy of SE Alaska, providing jobs for many families dependent on such stability and inclusion in the Roadless Initiative would cause economic harm to the region; and
- WHEREAS,** the implementation of the Roadless Initiative to the Tongass National Forest would greatly diminish access to all natural resources and may eliminate opportunities for the construction of future - transportation and utility corridors throughout SE Alaska.

NOW THEREFORE BE IT RESOLVED, by the Sitka Tribe of Alaska strongly opposes the inclusion of the Tongass National Forest in the "Roadless Initiative" that the Sitka Tribe of Alaska supports Alternative T-1, further that the Sitka Tribe of Alaska supports the current Land Management Plan.

BE IT FURTHER RESOLVED, that the Sitka Tribe of Alaska opposes any unilateral actions to modify the Record of Decision as such actions are contrary to proper resource planning and circumvents the public planning process as mandated by the National Forest Management Act.

CERTIFICATION

The foregoing Resolution was adopted at a duly called and convened meeting of the council of the Sitka Tribe of Alaska held on July 13, 2000, at which a quorum was present, by a vote of 4 IN FAVOR, 1 AGAINST, AND 3 ABSENT.

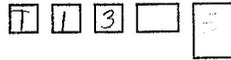
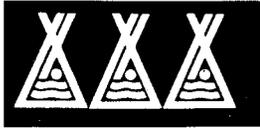
Larry A. Weisman
Sitka Tribe of Alaska - Tribal Chairman

Attest:

Doreen Jones
Sitka Tribe of Alaska - Tribal Secretary

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JUL 17 2000



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THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

NATURAL RESOURCES DEPARTMENT
P.O. Box C, Warm Springs, Oregon 97761

July 17, 2000

USDA Forest Service
Box 221090
Salt Lake City, Utah 97701

RE: Roadless DEIS/Proposed Rule

Dear Sirs:

The Confederated Tribes of the Warm Springs Reservation of Oregon ("CTWSRO") are pleased that the proposed roadless area rule protects unroaded portions of inventoried roadless areas from further road construction. As the DEIS recognizes, protection of these areas is critical to the health of our ecosystems, including fish, wildlife, and native plant populations. Although the proposed rule takes some solid first steps toward protecting remaining areas, it doesn't go far enough. We ask that you address the following concerns when making your final decision on roadless area protection:

1. We are disappointed that the proposed rule fails to go further and prohibit logging, mining, ORV use, and other detrimental uses in the unroaded portions of inventoried roadless areas. There are sufficient opportunities for these uses in roaded areas. Conversely, there are few areas that have not been degraded by these activities. The latter is particularly true for areas that support anadromous fish within CTWSRO ceded lands (see ICBEMP designation of A1 watersheds in Oregon).
2. Given the poor forest health conditions in the Columbia Basin (and presumably elsewhere), we are disappointed that uninventoried roadless areas receive no protection under the rule. The DEIS recognizes that unroaded and unlogged areas comprise our best remaining ecosystems. These areas generally offer little commercial harvest potential (hence their unroaded condition) are in no need of "stewardship" or other types of treatment. You should reconsider extending automatic protection to roadless areas larger than 1000 acres. (See *Wj-Kan-Ush-Mi Wa-Kish-Wit (Spirit of the Salmon)*, The Columbia River Anadromous Fish Restoration Plan of the Nez Perce, Umatilla, Warm

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Springs and Yakama Tribes (CRITFC, 1995), calling for cessation of logging, mining, and road construction in all roadless areas ≥ 1000 acres).

At a minimum, the rule should direct local units to immediately determine the suitability of uninventoried roadless areas for the protections given inventoried roadless areas. Putting off this analysis until forest plan revision is a mistake. Forest planning is a long process, and given current administrative burdens (ICBEMP implementation, ESA consultations, etc.) it is highly unlikely that forest plans will be revised in the foreseeable future. If analysis of these areas is put off until the next forest planning cycle, it is imperative that these areas receive interim protection through project-by-project analysis of roadless characteristics (procedural alternative D).

3. The proposed rule should offer some protection to inventoried and uninventoried roadless areas in the Tongass National Forest. While we understand the arguments in favor of a transition period, we strongly recommend providing interim protection for these areas. The DEIS states that "the Forest's] high degree of overall ecosystem health is largely due to the quantity and quality of its inventoried roadless areas" and 98% of southeast Alaska's fish runs originate on the Tongass. If so, and if many Tongass timber sales go unsold because of lack of demand, why not give some interim protection to the Forest's inventoried roadless areas? The DEIS statement that project-by-project analysis doesn't provide the appropriate scale for roadless analysis is puzzling; in reality, the lack of a project-by-project analysis ensures the forest will be unable to analyze roadless values at the appropriate scale because ad-hoc interim decisions will have compromised many roadless areas.

In summary, we commend the Forest Service for recognizing the value of roadless areas and undertaking this effort to protect the few remaining roadless areas in our national forests. Given the unquestioned importance of these areas, we urge you to reconsider providing stronger substantive and procedural protections for both inventoried and uninventoried areas, and for the Tongass National Forest.

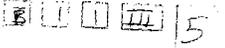
Sincerely,

Brad Nye
Off-Reservation Habitat Policy Advisor

cc: Tribal Council
Robert A. Brunoe, General Manager, Department of Natural Resources

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 Kootznoowoo, Incorporated
 U.S. Forest Service Roadless Area Testimony
 Angoon, Alaska
 June 29, 2000

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JUL 13 2000

Comments of Carlton Smith, CEO Kootznoowoo, Incorporated.

Kootznoowoo, Incorporated is the for profit Village Corporation for Angoon created pursuant to the terms of the Alaska Native Claims Settlement Act (ANCSA) for the benefit of the Alaska Native People of Angoon. Kootznoowoo represents over 900 shareholders plus an estimated 1000 additional family members.

Kootznoowoo owns approximately 32,000 acres of land conveyed as a result of the terms of ANCSA, the Alaska National Interest Lands Conservation Act (ANILCA) and through private acquisitions. Kootznoowoo also has access, development and traditional use rights to lands located within the Kootznoowoo Wilderness in the Admiralty Island National Monument, as well as the right to select additional land on Prince of Wales and Chichagof Island.

The lands Kootznoowoo owns are located throughout Southeast Alaska. These include approximately 21,000 acres on Southern Prince of Wales Island, 8000 acres in the Mitchell Bay, Kanalku Bay and Favorite Bay areas of the Kootznoowoo Wilderness; and, 3500 acres of land on the Angoon Peninsula and Killisnoo Island, along with a couple of hundred acres of private acquisitions, within the boundaries of the Admiralty Island National Monument and Kootznoowoo Wilderness.

In addition, Kootznoowoo has hydro power development rights, which it intends to exercise, to 14,500 acres of land in the Kootznoowoo Wilderness. And, Kootznoowoo has co-management rights to thousands of acres in Mitchell, Kanalku and Favorite Bays and their environs, pursuant to section 506 of ANILCA.

All of these lands and rights were conveyed to Kootznoowoo in recognition of the historical aboriginal ownership, rights, and uses by the Tlingit People of Angoon. And, to help provide for their current and future subsistence, cultural, employment, economic and social needs.

After consideration of these rights, and the needs of its Shareholders and their families; and, after careful consideration of the Roadless Areas Proposal; and, after consultation with Sealaska Corporation, Kootznoowoo, Incorporated encourages the Forest Service to abandon the idea of imposing the Roadless Areas in the Tongass and Chugach National Forests.

The reasons for our objections to this proposal are many, but we will speak to a few key points.

1. The Administration's Roadless Area Proposal will violate the terms and conditions of ANCSA, ANILCA and the Alaska Statehood Act. All of these acts provide for access to ANCSA lands and Alaska's isolated communities. They were enacted by Congress after long and careful deliberations and they cannot be overturned or have their purpose defeated by unilateral administrative fiat.

In summary, Kootznoowoo encourages the Forest Service to discard the Roadless Area Proposal for Alaska and return to professional multiple use forest land planning. There are many existing laws, regulations and plans that protect and manage the environment. The Roadless Area Proposal is not the way to achieve ecosystem protection.

On behalf of Kootznoowoo and its family of Shareholders, thank you for this opportunity to address this important issue and thank you for considering these comments.

DIANA DeGETTE
1st District, Colorado
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DISTRICT OFFICE:
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303-844-4988
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E-mail: degette@mail.house.gov



Congress of the United States
House of Representatives
Washington, DC 20515-0601

Statement Of
The Honorable Diana DeGette
Regarding
United States Forest Service's Proposal on National Forest System
Roadless Areas
June 22, 2000

6395
COMMERCE COMMITTEE
SUBCOMMITTEE ON HEALTH
AND ENVIRONMENT
SUBCOMMITTEE ON FINANCE AND
HAZARDOUS MATERIALS
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

FILE No. 380 07-17 '00 13:20 ID:
SCOTT McINNIS
3D DISTRICT, COLORADO
COMMITTEE ON WAYS AND MEANS

Congress of the United States
House of Representatives
Washington, DC 20515-0603

19291 PAGE 2

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FAX: 303-844-4996

CAET RECEIVED

JUN 26 2000

July 13, 2000

USDA Forest Service, CAET
Attention: Roadless Areas Proposed Rule
P.O. Box 221090
Salt Lake City, Utah 84122

Re: Roadless Area Proposed Rule Comments

Roadless areas in our National Forests exist as some of the last remaining crown jewels left on American public lands. The fact that there are areas still left where humans have not placed their permanent footprint is amazing considering our nation's rapid population and economic growth. For years these areas remained untouched by humans, some inaccessible, others forgotten except by a select few. With this Administration's proposed plan on Roadless Areas we are setting aside a savings plan for our children while providing important ecological sanctuaries for wildlife and intact ecosystems.

I would like to commend the Forest Service and the Clinton Administration for proposing to preserve these areas and express my wholehearted support of their efforts. This proposal has the potential to impact about four million acres of National Forest Land in Colorado. Moreover, it directly impacts 250,000 acres of forest land which is included in my Colorado Wilderness Act of 1999, which proposes to set aside 1.4 million pristine acres of Bureau of Land Management and Forest Service land across Colorado.

While I am pleased the Forest Service has the vision to undergo this effort, I am concerned the Forest Service's preferred alternative will not be protective enough of roadless areas in our National Forests. To ensure our nations' last remaining forested lands are protected for future generations I urge the Forest Service to extend the strongest protection to the greatest amount of roadless land, particularly roadless areas greater than 1,000 acres. These areas should be protected from all road construction and reconstruction, commercial and non-commercial logging, mining, and off-road motorized recreation vehicles. I also urge that strong interim protections for any uninventoried roadless areas be applied. Additionally, the Tongass National Forest in Alaska should be added to the road-building ban to guarantee that all National Forests will be protected. We are now in the unique position to apply strong conditions that ensure all these areas remain wild and roadless while preventing them from being further impaired.

I would like to thank the Forest Service for conducting an inclusive and comprehensive public comment process. As the Forest Service knows, there are many users of the forest and a wide range of opinions on how our public lands should be managed. It is vital that all voices and concerns are heard. I trust the Forest Service will continue to be open and flexible in the preparation of the final environmental impact statement for the roadless protection plan. Thank you for the opportunity to provide comments on this process and I look forward to the final implementation of this plan to provide long-lasting protection for our national forests.

Thank you for the opportunity to comment on the Proposed Rule for the Roadless Areas Initiative. Given the complexity and extent of the recently released draft environmental impact statement (DEIS) and proposed regulations, I plan to address several issues regarding the deficiencies in both the authority for the proposed action to protect roadless areas within the National Forest System as well as the Forest Service's other major national policy initiatives that we have been forced to address in the past six months. The remainder of my official comments on the Proposed Rule are directed to the specifics contained within the DEIS and the proposed regulations to protect roadless areas within the National Forest System.

Deficiencies of Law and Process

The United States Constitution provides Congress with the power to set policy, unless specifically delegated to the Executive Branch, through authority for regulations and similar actions. The Roadless Areas Initiative is a policy initiative. While the Executive Branch has specific authority to accomplish internal reforms through Executive Orders, the Executive Branch does not have the inherent power to make policy, thus rendering this initiative invalid.

As you are aware, this is the Forest Service's fifth major national policy initiative in six months, including the proposed planning regulations and the road management and transportation system regulations. While these proposals and policies have been released separately, they seem to be different parts of the same basic policy initiative. Despite this interrelationship, the Forest Service has failed to explain how the various proposals interrelate, and more importantly what their cumulative impact on

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the National Forest System and on the communities that rely upon them will be.

As such, I see no need for urgency in the process tied to the DEIS and the Proposed Rule for the Roadless Areas Initiative. Given the broad-reaching nature of this proposal, the confusion associated with the Forest Service's recent series of national policy initiatives and the large-scale social, economic and environmental impacts to the communities and people who utilize and reside near our forest lands, it would be appropriate for the Forest Service to ensure the public is adequately represented in this process through an additional 120 days for individuals to meaningfully comment on the Proposed Rule.

Finally, I would like to briefly mention the Forest Service's inappropriate tendency in the recent past to solicit assistance outside the NEPA process, as well as full participation from a select few in the environmental community in developing both the direction as well as the specifics in many of the agency's latest policy initiatives. This disregard for any balance in the advice solicited is evidence of both the pretextual nature of the Initiative as well as the Proposed Rule, and a lack of interest in and concern for the adverse consequences to other forest users.

Comments on DEIS and Proposed Rule

At the outset, it is important to note that the Proposed Rule may affect some fifty million acres of public land. These areas fall disproportionately west of the continental divide, with some four million acres falling in the State of Colorado alone. The proposal, beginning with the original Notice of Intent and ending with the close of this comment period, has been open to public scrutiny for only nine short months. The idea that an initiative of this magnitude could possibly be expected to draw significant and meaningful public input in the span of less than one year, when one considers that individual forest plans affecting only a few hundred thousand acres are reviewed and revised over intervals frequently lasting nearly a decade, is naive at best, disingenuous at worst, and possibly a violation of the NEPA process.

The broad-brush approach taken by the USDA in its crafting of the rule is wrought with deficiencies. The biological, social, and economic differences of each forest lend themselves to a more localized planning method. Individual plans governing land, resource, and travel management are clearly better set by local forest managers and communities. The proposed rule recognizes the ability of local communities and planners in identifying unroaded areas, and their importance to the surrounding population. Why would it not be reasonable to assume that these same planners can effectively protect roadless areas in the absence of an inflexible, top-down federal mandate?

The proposed rule also fails to adequately recognize the importance of, and logistical challenges associated with vegetation management. Certain forest units may be experiencing extremely dry conditions, requiring road construction or reconstruction to remove timber and manage for fuel reductions in areas that are potentially vulnerable to forest fires as a preventative measure. Still other units may be afflicted with pine beetle infestations resulting from a blow-down, or an outbreak of root disease that would require road construction to prevent these potential threats to public and private property from spreading. Threats of this nature are hardly unique to any single forest, and each must be provided with the flexibility to address these unfortunate hazards should they present themselves. Officials and communities should not be put in the complacent position of being compelled to wait until a catastrophic fire, insect epidemic, or circulation of a root disease is already well underway before they are permitted to react. Local communities, as a matter of fundamental fairness, must be given this flexibility.

The costs of the preferred alternative are also of great concern to me. Individual forest plans themselves can take five to ten years to complete. If the proposed rule is adopted, those plans which were recently adopted may be scrapped, mandating the process be revisited in compliance with the new rule. Incurring the costs of duplicating the planning process would be fiscally irresponsible.

Additionally, it is my opinion that the proposed rule will have a negative effect on rural economies. Tourism dollars generated by responsible recreationalists may dwindle as more and more areas are locked-up under the rule. The effects of the preferred alternative on communities that depend heavily on the timber industry will be crippling. The town of Olathe, in western Colorado, for instance, will be one of those hardest hit by the rule.

As an aside, I must express my distaste for the broad generalizations of loggers and mill workers contained in the DEIS (pp. 3-189 - 3-190). I found these remarks insensitive, offensive, and grossly unfair. Frankly, I do not believe including them was necessary.

In conclusion, I must reiterate my opposition to the proposed rule. I am deeply troubled by the rule in many respects: The usurpation of Congressional authority on such a sweeping policy scheme, the indifference displayed by the administration for the people and communities who would be most affected by the preferred alternative, the failure of the

proposal to evaluate allowing individual forest plans to address these issues, and the haste with which the proposal was rushed through the process are of particular concern. I would urge that the proposal be withdrawn, and suggest that in the future such sweeping policy undertakings come not from the executive branch, but from Congress, the body with whom the power to do so lies.

Sincerely,

Scott McInnis
Member of Congress

STATE OF COLORADO

OFFICE OF THE EXECUTIVE DIRECTOR

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, Colorado 80203
Phone: (303) 866-3311
TDD: (303) 866-3543
Fax: (303) 866-2115

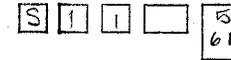
17269
July 10, 2000



DEPARTMENT OF
NATURAL
RESOURCES

Bill Owens
Governor
Greg E. Walcher
Executive Director

Chief Mike Dombeck
USDA Forest Service -- CAET
Post Office Box 221090
Salt Lake City, Utah 84122
Attention: Roadless Areas Proposed Rules



RECEIVED

JUL 17 2000

Dear Chief Dombeck:

The Colorado Department of Natural Resources appreciates this opportunity to comment on the Forest Service's Draft Environmental Impact Statement (DEIS) concerning roadless area conservation.

The DEIS accurately identifies outstanding values we associate with inventoried roadless areas. Such values include critical habitat for rare plants and animals, diverse communities of native species and vital sources of clean drinking water. Beyond such tangible benefits, inventoried roadless areas offer islands of recreation, peace and solitude, a value that becomes more elusive as we lose open space to development with each passing year. In addition to the values identified by the DEIS, national forests also produce staple products which form the basis of our economy and the livelihood of many rural communities. For these reasons, conservation and responsible management of inventoried roadless lands is not just good public policy, it is absolutely necessary to preserving the quality of human life and the integrity of our natural environment.

As noted in the DEIS, the nation's inventoried roadless areas comprise over 54 million acres -- 28% of the National Forest System. These lands are as diverse as America itself. Perhaps as a consequence of this diversity, there is no consensus about how best to manage such lands, or even if one comprehensive management plan is appropriate for all lands within the roadless system. For example, the point has been made that the Forest Service's traditional manner of revising forest management plans -- on a forest-by-forest basis -- has historically yielded productive solutions and may be more suitable to account for differences between forests than a system-wide plan. In other words, while there is substantial agreement on the goals articulated by the DEIS, it is also true that reasonable people have different perspectives on how best to achieve them.

In weighing these perspectives, the state of Colorado must engage in a massive inquiry to determine the impacts of proposed alternatives. This includes, but is not limited to, digesting the DEIS and its appendices, weighing impacts on state activities (such as wildlife management), soliciting input from citizens who use the affected areas for various purposes (from resource production to recreation), determining economic impacts on rural communities and the state as a whole, quantifying impacts to state school trust inholdings (the value of

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Chief Mike Dombeck
July 10, 2000
Page Two

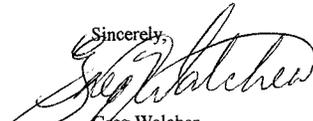
which could be diminished or destroyed without access through forest lands), and considering impacts to forest health across the state of Colorado.¹

Each of these considerations is important and involves multiple layers of complexity. Although we have made an effort to account for the impacts of given alternatives, it is simply impossible for any state to provide detailed and substantial comments in the time frame established in the DEIS. Moreover, the task of gathering data has been complicated by the fact that the DEIS leaves out important information, most significantly, detailed maps of affected areas. In the absence of specific information, the state must either recreate it from other sources or make decisions without the benefit of relevant data.

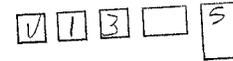
We commend the Forest Service's statements about the importance of having a public process before selecting an alternative. However, for such a process to have real value, the public must have an adequate opportunity to review and consider the actual impacts of proposed alternatives. Without such an opportunity, the credibility of the process is compromised, and any final decision will be subject to legitimate criticism.

Specifically, we feel the comment period should be extended to reflect the magnitude of the decision and the amount of information to be considered. In the case of the White River National Forest management plan -- which affected an area of less than 2.3 million acres -- the comment period was 270 days (90-day initial period plus a 180-day extension). In the case of the DEIS -- which affects roughly 2% of the total landbase of the United States (including 4.3 million acres in Colorado) -- the comment period is only 60 days. Extending this period will allow for more informed citizen commentary, and will give the state of Colorado an opportunity to collect the necessary data to provide meaningful input. We therefore request that the comment period be extended by an additional 180 days.

Thank you for your consideration.

Sincerely,

Greg Walcher,
Executive Director

¹ The latter has become an area of special concern in recent weeks, as wildfires have consumed tens of thousands of acres of forest land across Colorado. Without access, fireproofing forests and fighting fires becomes a more difficult -- if not impossible -- task, potentially jeopardizing the homes of many Coloradans. Additionally, access is critical to mitigate mountain pine beetle infestation. For example, in the East Fork of Grand County's Troublesome Creek, an inventoried roadless area, beetles have killed 6,000 trees in 1999, up from 500 in 1998.

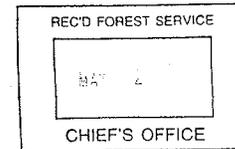


Capitol: (303) 866-2318
E-mail: mike.feeley@state.co.us

DATE RECEIVED
JUN 08 2000

April 24, 2000

Chief Michael Dombeck
U.S. Forest Service
Post Office Box 96090
Washington, DC 20090



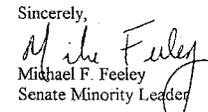
Dear Chief Dombeck:

I am writing to urge you to adopt a policy that will protect all national forests roadless areas in Colorado and nationwide. As a public official of Jefferson County, I know that the citizens I represent value roadless areas as refuges for wildlife, places for recreation and spiritual renewal, and as a key contributor to Colorado's economic health.

Colorado has 14 million acres of national forest within its borders, of which at least five million acres are roadless. Unfortunately, road building, off-road motorized recreation, mining, logging, and other harmful activities threaten to ruin our remaining wild roadless lands. The Bushy Creek, Morrison Creek, and South Fork Roadless Areas on the Routt are threatened by logging. The remaining roadless areas on the Grand Mesa National Forest -- the Salt Creek and Priest Mountain Roadless Areas -- are threatened by pending timber sales. The White River National Forest also faces problems caused by motorized use. In 1998, The Colorado Division of Wildlife recommended that motorized vehicles be prohibited in roadless areas, because of their importance for wildlife.

National forest roadless areas provide many ecological, social, and economic benefits. They provide important habitat for fish and wildlife in Colorado, including the recently reintroduced lynx, the cutthroat trout, the mountain plover and other imperiled species as well as species of recreational, commercial, and cultural value. Regarding Colorado's economy, roadless areas provide abundant recreational opportunities, including hunting, fishing, hiking, camping, horseback-riding, rafting and wildlife-watching.

Again, I urge you to adopt the comprehensive policy that protects all roadless areas in all national forests. Even small roadless areas between 1,000 acres to 5,000 acres should not be excluded. I feel this is a necessary step to preserving our remaining, wild heritage forests.

Sincerely,

Michael F. Feeley
Senate Minority Leader
MFF:hh

Received in FS/CCU
Initial: KH
Control No: 4153939



1 3 5

19214

19214



"Diane Hoppe"
<dhoppe@kci.net>
07/12/00 11:17 PM

To: <roadlessdeis@fs.fed.us>
cc:
Subject: Comment letter

July 13, 2000

USDA Forest Service - CAET

Attn: Roadless Areas Proposed Rule

P.O. Box 221090

Salt Lake City, UT 84122

Dear Sirs:

As a State Representative, and a member of the Colorado House of Representatives Agriculture, Livestock and Natural Resources Committee, I wish to offer the following comments on the proposed rule regarding national forest roadless areas.

I do not support a blanket prohibition on all road construction in all roadless areas for the following reasons:

- *Process* - Decisions about management of roadless areas should be made as part of the forest planning process, not as part of a politically motivated top-down directive from Washington, D.C. Many Colorado citizens, including myself, participated in the forest planning process on the Routt, Arapaho/Roosevelt, Rio Grande and White River National Forests to develop the existing Forest Plans. I am especially disturbed that a portion of the decisions in those forest plans are now proposed for replacement by this new process that doesn't consider any of the on-the-ground or local issues associated with management of roadless areas. The forest planning process that includes input from local citizens should *not* be circumvented!
- *Access* - I am concerned that the Roadless Proposal is part of a broad national strategy designed to reduce access to and management of the national forests. As you are aware, we in Colorado have again recently suffered disastrous consequences of catastrophic wildfires due in part to lack of management of the National Forests. Without adequate roads our ability to combat out of control wildfires is severely hampered.

- *Cost* - Our State is already paying a heavy price for the lack of proper management on the national forests. Colorado citizens pay much of the cost of fighting fires, and cleaning up water quality problems resulting from the subsequent flooding that follows wildfires. Colorado communities and families dependent on the forest products industries will suffer loss of income, quality of life and funding for school districts. Colorado will suffer loss of wildlife habitat and as well as our opportunity to enjoy green, healthy forests when insects and disease take over from lack of management. The national forests in our state are for the most part over mature, too dense, and plagued by disease. The Roadless Proposal only contributes to those problems.
- *Multiple use* - Multiple use laws and objectives cannot be met by imposing the Roadless Proposal. The existing laws should be adhered to or should be changed by Congress, but should not be circumvented by executive authority!

It is my request that the rule be withdrawn in its entirety! The only acceptable alternative is Alternative 1 - the No Action Alternative.

I also request that you analyze the following items and make that analysis available for public review and comment prior to making a final decision on this proposal:

- Update an inventory and map of each of the "unroaded portion of inventoried Roadless Areas" in the National Forests in Colorado.
- The number of suitable acres in each Roadless Area in the Colorado National Forests, the long-term reduction in ASQ that would result from the Forest Service's inability to manage those Roadless Areas, and the social and economic impacts of that reduction in long-term ASQ.
- The ecological impacts that would result from the Forest Service's inability to manage each of the Roadless Areas in the Colorado National Forests, including the current and projected potential for catastrophic wildfires, and the current and projected potential for mortality from insects and diseases for each Roadless Area. This analysis should include the Roadless Areas themselves, as well as adjacent national forest lands, other public lands, and private lands.
- An Alternative that would allow the use of temporary roads for forest management access needs.
- A detailed accounting of the purported \$8.4 billion road maintenance "backlog" including how that figure was determined, what items are included in that figure, and a comparison of the Forest Service's request for Road Maintenance funding and the Congressional Appropriations for Road Maintenance for the past five years.
- An assessment of the Cumulative Impacts of the other major rulemakings proposed by the Forest Service.

Thank you for this opportunity to comment.

Sincerely,

Diane Hoppe
State Representative

19214



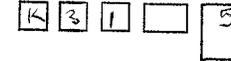
17266
DELTA COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
COUNTY COURTHOUSE - 501 PALMER STREET - SUITE 227 - DELTA - COLORADO - 81416
PHONE: (970) 874-2100 FAX: (970) 874-2114

Dist. 1: Jim D. Ventrello - Dist. 2: Donna R. Ferganchick - Dist. 3: Ted H. Hayden

July 10, 2000

USDA Forest Service
CAET
Attn: Roadless
P.O. Box 221090
Salt Lake City, UT 84122



PAET RECEIVED
JUL 17 2000

Re: Roadless Initiative

Gentlemen:

The Board of Delta County Commissioners is strongly opposed to the Roadless Initiative. This Initiative would impact thousands of acres in Delta County. One of our biggest concerns is the way it was developed without up-front local input.

This initiative could severely impact the economy in Delta County due to the following:

Water Resources: Access and development of water resources for municipalities and agriculture in the County will be negatively impacted.

Timber Industry: Lack of roads in areas where timber sales would occur would hurt the timber industry. The Forest Service has been successful in creating a healthier forest by cleaning out selected areas for timber sales, thus reducing the overgrowth which creates fuel for forest fires. This could not be done if roads were prohibited in these areas. Use of helicopters in this area for this type of project is not a viable option for the small local loggers.

Coal Industry: The West Elk Coal Company would be severely impacted if they couldn't build roads to continue their exploration and construction of facilities for their mining operations. They have a lease for the land they are mining. We would ask that this land be excluded from the initiative to allow this mine to continue operations.

Again the Board would like to express its strong opposition to this initiative.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
DELTA COUNTY

By:
Ted H. Hayden, Chairman

Donna R. Ferganchick, Vice-Chairman

Jim D. Ventrello, Member

BCC:csc

K 1 3 5

19118

06/22/00 THU 14:17 FAX 970 677 2815

DOLORES CO. COMMISSIONER

6381 001



"Jim Ventrello"
<jventrello@deltacou
nty.com>
07/05/00 11:22 AM
To: <roadlessdeis@fs.fed.us>
cc:
Subject: comment

Sir or Ma'am:

I am opposed to the roadless initiative as presented. There was no meaningful local input prior to the plan being released for public comment. The post-plan hearings should have been held prior to the plan being put together.

Stripping planning \$ from the regions in order to do the EIS was also a poor decision in my mind. The forest plan revision on our local forest has been held up for many years already and this delayed it more. Many of the issues in the roadless initiative could have been dealt with in that process, where there is a lot of public input from many sides of the issue.

Many of the "roadless" areas are roaded. The areas in Delta County contain structures for municipal watersheds, irrigation companies, grazing improvements and low-sulfur coal leases.

The West Elk Mine in Gunnison County has mining leases that are almost entirely contained in one of the identified areas. Coal mining is vital to the economy of Delta County and this area should be excluded or at the very least a waiver for coal mining allowed.

In this fire season, forest health also becomes a concern. Many of the areas around here have heavy fuel loads. The timber industry is a viable partner to restoring forest health. The local industry is made up of small operations. Helicopter logging is not something that they can afford. The local industry has worked well in partnership with the Forest Service to come up with creative solutions to forest health needs.

Finally, many of the travel management plans on local forests have done an excellent job of directing the public away from environmentally sensitive areas. We don't need more regulations to address environmental issues, we need to better use the tools we already have.

Sincerely yours,
Jim D. Ventrello
Delta County Commissioner
Delta, Colorado



Somewhere special ...

K 1 2 5

Board of County Commissioners

P O Box 608
Dove Creek, CO 81324

Phone: (970) 677 2383 Fax: (970) 677-2815

June 21, 2000

USDA Forest Service CAET
Attn: Roadless Area Proposed Rule
Fax 877 703-2494

The Board of County Commissioners request your consideration that any lands in Dolores County that are declared a National Monument, roadless, or wilderness study area or any area taken out of production for any reason receive payment at a rate of \$2.00 per acre per year tied to inflation in future years.

Of a total of 689,285 acres within Dolores County 422,240 are Federal Public Land and 3,520 are State Public Land. This represents a tremendous amount of acreage removed from production of mining, timber industry, utilities that are direct revenue to the County.

We understand balanced budgets (better than most Congressman), but this is not a pork barrel project but survival for rural counties.

Sincerely,
Board of County Commissioners
LeRoy Gore
LeRoy Gore, Chairman

CAET RECEIVED

JUN 26 2000

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

OFFICE OF THE
BOARD OF COMMISSIONERS
(970) 328-8605
FAX (970) 328-7207
TDD (970) 328-8797
Email: Eagleco@vail.net
http://www.eagle-county.com



EAGLE COUNTY, COLORADO

15908
FACT RECEIVED
JUN 17 2000

TOM C. STONE
JOHNETTE PHILLIPS
MICHAEL L. GALLAGHER

July 6, 2000

K 3 1 5

USDA Forest Service-CAET
Attention: Roadless Areas Proposed Rule
P.O. Box 221090
Salt Lake City, Utah 84122

To Whom It May Concern:

The Eagle Board of County Commissioners would like to take the opportunity to comment on the USDA proposed Roadless Rule. This rule will have significant impact upon Eagle County with some 300,000 acres of 'inventoried roadless areas' occurring within the County boundaries and an additional 100,000 acres in the Frying Pan and Flat Tops areas that are accessible from Eagle County. The WRNF staff have not calculated the extent of 'other roadless areas' within the Forest. Our recommendations on this rule include:

- Recommend that the WRNF be exempt from the 294.12 (a) portion of this proposed rule in a similar manner that the Tongass NF has been exempted in 294.12 (c).
- Recommend that the WR Forest Service staff be required to revisit the considerations of roadless area conservation criteria listed within 294.13 (a) (1-9) during the development of its final management prescriptions for the WRNF specifically as they relate sections 294.13 (b) (1) and (2). This recommendation is similar to 294.13 (e) defining requirements of the Tongass.
- Recommend that a moratorium on road construction and reconstruction within inventoried roadless areas of the WRNF continue in place (see 64 FR 7290) until such time that Forest Service staff can achieve adoption of the LRMP which fully incorporates items within 294.13.
- Recommend that this roadless characteristics conservation planning process be carried out in a collaborative manner that includes:
 - a) surveys of the public on their prioritization of social and ecological values to be preserved; that in turn, informs which inventoried and other roadless areas shall receive which level of protection;
 - b) includes a final travel management plan that identifies the optimization strategy for the road network and lists the priority order in which roads will be closed and decommissioned;

1

- c) includes a final budget which provides financial resource that is responsive to the needs of the WRNF including but not limited to noxious weed control.

Summary of concerns:

We do not support a one size fits all strategy for the management of the inventoried and other roadless areas within the National Forest System. We believe that each Forest, in collaboration with the public, can identify those roadless lands which should be prioritized for protection. Just as the proposed rule has confidence in the local decision-makers to effectively protect the other roadless lands and their social and ecological characteristics within each Forest, so the Forest Service Administration should have confidence that the inventoried roadless areas will be protected in a like manner. This is especially true for the WRNF. It is our belief that the draft Land and Resource Management Plan for the WRNF has already substantially taken the issues identified in 294.13 (a) (1-9) into consideration. We believe the draft plan has demonstrated a roadless conservation ethic throughout its proposed LRMP alternatives. These issues are presented in detail in the body of this letter. A summary of the most important findings is presented here.

1) The WRNF draft management plan already provides sufficient, or near sufficient, protection of roadless areas and their social and ecological values. This is achieved by the following management direction for the Forest:

- a. Roadless Areas are already protected by Management Area Prescriptions and ROS Classifications.
- b. Travel Management prescriptions & infrastructure allocations limit Road building impacts to the Forest and roadless areas.
- c. Travel Management prescriptions limit environmental impacts of roads and vehicles due to prohibition of off road vehicle travel and closure of over 50% of the road network.

2) The proposed roadless rule may contain negative, though inadvertent, impacts upon the ability of the WRNF staff to achieve desired conditions on the Forest. The proposed rule:

- a. May adversely impact wildlife habitat and intensive vegetation management objectives of the plan related to the Forest's historic range of variability;
- b. May adversely impact the ability to manage for Forest health issues related to insect infestations and disease;
- c. May adversely impact the ability to manage the Forest for fuel reductions (due in part to fire suppression activities over the past century) and catastrophic fire prevention.

3) Inadequate financial resources are a greater threat to the ecological integrity of the Forest than road building in inventoried roadless areas:

- a. Inadequate financial resources are a greater contributor to the spread of noxious weeds on the WRNF than road building activities in inventoried roadless areas;
- b. The people of Eagle County and the region desire optimum multiple use with ecosystem management and protection for the Forest which cannot be achieved on a \$5/ac budget.

4) Cost/Benefit impact assessments:

- a. The Benefits of this rule are overstated for the WRNF since the Draft plan substantially

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- b. achieves the intent of the proposed rule and allows for little road building in roadless areas. Liabilities are understated for the WRNF since the proposed rule may adversely impact the ability of the USFS to implement the Plan's intensive ecosystem management objectives.
- c. The Transaction Costs of this rule are inaccurate for the WRNF since the local decision making and public review efforts have been performed.
- d. The Federalism impacts are understated for the WRNF, because implementation of this rule will short circuit extensive local efforts by USFS staff and the public to find a solution to Forest management, creating a mockery of the public hearing process and FS planning efforts.

Greater detail regarding these aforementioned issues are presented in the attachment which draws information from the draft White River National Forest Plan.

Thank you for your consideration.

Sincerely,
EAGLE BOARD OF COUNTY COMMISSIONERS

Tom C. Stone
Tom C. Stone
Chairman

Johnette Phillips
Johnette Phillips
Commissioner

Michael L. Gallagher
Michael L. Gallagher
Commissioner

Attachment: Detailed Analysis of Concerns

BOCC/ac

ATTACHMENT - List of concerns:

1. Roadless Areas are protected by Management Area Prescriptions and ROS Classifications

Management Area Allocations and Infrastructure Prescriptions The White River NF LRMP identifies the uses allowed within each management prescription. Road building is prohibited within category one lands. Road building is severely restricted to essential purposes in category two management area lands. And motor vehicle use and road construction are severely limited in category three lands. The table below identifies that the sum of category one, two and three management area allocations (R+RR+RM) range from 75% to 117% of the total roadless area plus wilderness lands on the Forest. The average allocation for categories 1-3 on the WRNF is 93.2%. This value indicates that road building activity will be prohibited or limited to essential purposes for almost the entire extent of the roadless areas of the WRNF. Most alternatives thus allocate sufficient MA land uses to protect roadless area characteristics.

WHITE RIVER NATIONAL FOREST SUPPLEMENTAL TABLE 1
MANAGEMENT AREA ALLOCATIONS AND RECREATION OPPORTUNITY SPECTRUM

MANAGEMENT AREA LEGEND	B	C	D	E	F	I
Total area of Road Building Prohibition	828,500	1,052,200	900,900	985,700	785,500	1,382,100
Total area of Road Building Severe Restriction	14,300	107,500	147,000	79,300	92,400	156,700
Total area of Motorized Use Severe Restriction	104,900	77,900	73,700	87,500	23,100	70,900
Roadless, Restricted Roads, Restricted Motor	947,700	1,237,600	1,121,600	1,152,500	901,000	1,609,700
Wilderness plus Inventories Roadless Areas	1,347,800	1,348,000	1,348,000	1,348,000	1,348,100	1,347,900
Inventoried Roadless Area about 600,000 ac						

Ratio R+RR+RM to Wilderness+ Roadless 91.78% 97.18% 90.36% 87.69% 74.48% 117.44%

Source: White River National Forest DEIS summary tables, 1999

Road building Prohibited = Management Areas 1.11, 1.12, 1.13, 1.2, 1.31, 1.32, 1.41

Road building severely restricted = Management Areas 1.5, 2.1, 2.2;

Motorized vehicles severely restricted = Management Areas 3.1, 3.21, 3.32, 3.4, 3.55

Recreation Opportunity Spectrum (ROS) The discussion of the proposed rule (A-14) notes that "inventoried roadless and other unroaded areas are characterized mainly by primitive, semi-primitive non-motorized, and semi-primitive motorized (ROS) classes". The table below displays the allocation of lands to these three roadless type classes. Note that the sum of the acreage allocated to these ROS classes is 130% of the area associated with inventoried roadless areas and designated wilderness in the least conservation oriented Alternative. The preferred Alternative allocates 2.18 million acres to primitive and semi primitive ROS classes. This is fully 157% greater than wilderness and inventoried roadless lands on the WRNF at 1.35 million acres. All alternatives thus allocate more than sufficient lands to protect roadless area characteristics. The specific management areas are identified in the table notes below.

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WHITE RIVER NATIONAL FOREST SUPPLEMENTAL TABLE 1
MANAGEMENT AREA ALLOCATIONS AND RECREATION OPPORTUNITY SPECTRUM

MANAGEMENT AREA LEGEND	B	C	D	E	F	I
Wilderness plus Inventories Roadless Areas	1,347,800	1,348,000	1,348,000	1,348,000	1,348,100	1,347,900
Inventoried Roadless Area about 600,000 ac						
Ratio R+RR+RM to Wilderness+ Roadless	91.78%	97.18%	90.36%	87.69%	74.48%	117.44%
ROS Semi Primitive Motorized	631,000	722,000	900,000	839,000	746,000	520,000
ROS Semi Primitive Non-Motorized	489,000	485,000	421,000	372,000	263,000	645,000
ROS Primitive	748,000	825,000	797,000	810,000	741,000	938,000
Low Intensity ROS Primitive & Semi Primitive	1,868,000	2,032,000	2,118,000	2,021,000	1,750,000	2,103,000
Ratio ROS P+SPNM + SPM to Wild.+ Road.	138.60%	150.74%	157.12%	149.93%	129.81%	156.02%
Total Area White River National Forest	2,282,500	2,281,900	2,282,200	2,282,200	2,282,300	2,281,400
Source: White River National Forest DEIS summary tables, 1999						
Note: P=Primitive; SPNM=semi-primitive non motorized; SPM=semi primitive motorized						

2. Travel Management prescriptions & infrastructure allocations limit Road building impacts

The major premise of the roadless initiative is that there exists a great threat to roadless areas and their most significant characteristics due to new road building and road reconstruction. While this may be true at the national level, we do not believe that this represents an accurate picture for the WRNF.

The table below identifies road building activities per year on the WRNF. The range varies from 2.2 miles to 8 miles per year with an average of 4.22 miles across the alternatives. Of this average 1.4 miles are identified for reconstruction leaving 2.84 miles per year of new road building. The average is slightly higher than the preferred alternative D's road building activity. Given the limited funding for the Forest, it would appear that little road building will take place; and thus the OMB benefit assessment likely overstates the benefits of this rule for conserving roadless characteristics. We have requested that FS staff provide us with information as to just how much of this road building activity will occur within inventoried roadless areas... waiting on reply.

Alternative (Exp budget)	B	C	D	E	F	I
Road System Budget	\$914,000	\$1,084,000	\$748,000	\$1,172,000	\$896,000	\$756,000
Road Construction and Reconstruction Activity (experienced budget)						
Annual new construction (recreation)	<0.1	0.1	<0.1	0.8	0.2	<0.1
Annual new construction (timber)	3.7	1	2.6	0.9	6.2	1.2
Rd Reconstruction	1.6	1.4	1.2	1.6	1.6	0.9
Total Rd Construction/yr	5.4	2.5	3.9	3.3	8	2.2
E. Extended Accomplishments for Road Obliteration and Recontouring (Based on Experienced Budget Levels)						
obliterate/recontour roads	416	741	676	600	269	996
Annual road obliteration & recontouring (mi)	14.6	29.5	22.2	34.3	14.5	43
# yrs complete plan obliteration & recontour	29	26	31	18	19	24

The table also displays the level of activity for road decommissioning, obliteration and recontouring. The average level of road decommissioning across alternatives is 26.4 miles per year, slightly below the efforts of the preferred alternative.

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3. Travel Management prescriptions limit environmental impacts of roads and vehicles

The table here identifies that highly significant levels of road closures are recommended in all alternatives for the WRNF. The alternatives average 53.2% of all roads being closed permanently, in large part to protect ecological values, but also due to limited financial resources.

Water Quality Risks due to Travel Management D 3-58												
Alternative	B		C		D		E		F		I	
Roads by Watershed	mi.s	%										
Total Mi. by Alternative	6,056		6,051		6,050		6,031		6,040		6,062	
open all year	2,856	47	2,528	42	2,523	42	2,960	49	2,665	44	2,532	42
closed seasonally	10	0	206	3	121	2	98	2	453	8	40	1
closed permanently	3,190	53	3,317	55	3,406	56	2,973	49	2,922	48	3,490	58

Furthermore, the travel management recommendations call for prohibitions to all off road travel under the preferred Alternative D. Alternative B (no action) in the table below currently allows for 140,000 acres of off road motorized travel and 1.1 million acres of off road mechanized travel. Note that these allowances have been eliminated within the preferred alternative. This proposal has largely been accepted by regional recreational interests. This Travel management strategy will provide significant protection of roadless areas and their characteristics above and beyond the requirements of the proposed roadless rule.

SUMMER AREA TRAVEL MANAGEMENT STRATEGIES, IN ACRES						
Alternative	B	C	D	E	F	I
A -All motorized/mechanized travel restricted to designated routes	279,000	1,355,000	1,524,000	901,000	1,223,000	1,515,000
C - Special travel management areas	<1,000	3,000	0	0	0	0
D - Off-road travel permitted for all motorized/mechanized vehicles, but FSMVs restricted to designated routes from 9/1 through 6/15	34,000	81,000	0	164,000	182,000	0
G - No restrictions to off-road travel	107,000	0	0	0	23,000	0
H - FSMVs restricted to designated routes. Off-road mechanized veh. is permitted	1,104,000	85,000	0	459,000	96,000	9,000

4. Wildlife Habitat Management

"Fewer acres of inventories roadless areas would likely be treated for Forest health purposes. Most moderate and high risk forests in inventoried roadless areas would be given a low priority for treatment, unless there was an imminent threat to public safety, private property, water quality, or threatened and endangered species. The change in the number of acres that potentially would be treated is small (significant in White River) relative to the total acres at risk, but there could be a slight increase in the risk from catastrophic fire or insect and disease from reduced treatment opportunities." (From OMB cost benefit assessment page A-20).

We are concerned that the aforementioned statement may preclude specific ecosystem management objectives for the WRNF on significant portions of the Forest. The preferred alternative recommends a management intensive approach to move the Forest towards its Historic Range of Variability. This is largely in response to a history on the WRNF of fire suppression during most of this century, former resource management practices and to the processes of urbanization adjacent to the Forest. The table here identifies wildlife habitat allocations by alternative.

	B	C	D	E	F	I
MA 1.41 Core Areas	0	0	8,200	0	0	36,800
MA 3.55 Wildlife Corridors	0	0	0	0	0	35,300
MA 5.12 Range Vegetation	309,100	99,900	82,100	5,300	562,800	48,000
MA 5.4 Forested Habitats	150,100	202,700	416,600	63,200	164,800	700
MA 5.41 Elk Winter Range	7,700	92,500	116,000	22,300	133,900	11,222
MA 5.42 Bighorn Sheep	7,700	5,100	33,200	8,500	16,800	35,700
MA 5.43 Elk Habitat	16,000	112,800	186,000	84,000	53,100	36,600
MA 5.45 Forest Carnivores	5,300	41,200	116,800	13,000	40,400	50,900
Sum Wildlife Habitat focus	495,900	554,200	958,900	196,300	971,800	255,222

Urbanization adjacent to the Forest has destroyed large amounts of Elk winter range and habitat. Even so, the WRNF supports the largest elk herd in the nation. The preferred alternative intends to re-establish winter range on the mountain foothills through intensive vegetation management. Note that the preferred alternative and alternative F allocate well over 100,000 acres to elk winter range alone and that Alternative D allocates nearly a million acres to wildlife habitats in total. We are concerned that the proposed rule may inadvertently limit the ability of the FS to implement this program that has been endorsed by most interests during the public hearing process.

The WRNF DEIS states "In some ecosystems intensive management is necessary to restore them to their Historic Range of Variability. The management is usually a combination of prescribed fire and timber harvest treatments". The table below identifies the proposed efforts in vegetation treatments and habitat management under the six alternatives which may be impacted by the proposed rule.

(acres/decade)	B	C	D	E	F	I
even age cut for aspen & lodgepole pine	610 acres	no acres stated	450 acres	180 acres	920 acres	no acres stated
Reforestation activity	40 (30)	10 (5)	30 (20)	10 (5)	70 (45)	10 (10)
Timber Stand Improvement	1,000 (740)	230 (160)	760 (530)	230 (160)	1,620 (1,170)	2,200 (210)
Landscape ac moves toward Desired Condition	8,200 ac/yr	8,100 ac/yr	9,200 ac/yr	6,200 ac/yr	7,600 ac/yr	6,300 ac/yr
Landscape acres influenced by natural disturbances	1,116,000 ac both budgets	1,337,000 ac	1,038,000 ac	1,279,000 ac	860,000 ac	1,563,000 ac
Terrestrial wildlife habitat restored under experienced budget and desired (15yrs)	600 ac/yr	700 ac/yr	800 ac/yr	300 ac/yr	100 ac/yr	300 ac/yr
Riparian Wildlife habitat restored/enhanced (desired)	13,500 ac in 15 yrs	15,000 ac in 15 yrs	16,500 ac in 15 yrs	7,500 ac in 15 yrs	3,000 ac in 15 yrs	7,500 ac in 15 yrs
	22.5 ac/yr	65.0 ac/yr	75.0 ac/yr	45.0 ac/yr	37.5 ac/yr	45.0 ac/yr
	337.5 ac in 15 yrs	975.0 ac in 15 yrs	1,125.0 ac in 15 yrs	675.0 ac in 15 yrs	562.5 ac in 15 yrs	675.0 ac in 15 yrs

Source: DEIS supplemental tables 2 and 3 and (page 2-48 and 2-63)(3-97, 105,107)

5. Timber harvest and Vegetation Management

In the table below, note that in alternative D the ASQ represents only 37 percent of the entire timber sale program quantity under experienced budgets. Under the preferred alternative D, the ASQ would allow 2,100 m cu ft/yr while the total chargeable/non-chargeable quantity would allow 5,660 m cu ft/yr or a variance of 3,560 m cu ft/yr, 170% timber harvest beyond the ASQ. Thus the Plan allows for significant landscape treatments within the Forest that may have positive impacts upon habitat development and HRV ecological processes but which may be adversely affected by the proposed rule.

Chargeable volume offered	B	C	D	E	F	I
ASQ	2,800	1,100	2,100	1,000	4,300	1,300
Personal use fuelwood	1,550	420	1,130	400	2,400	500
Other products (OP)	60	20	40	20	80	20
Other vegetation mgt	690	690	690	690	690	690
Salvage (sal)	1,700	1,700	1,700	1,700	1,700	1,700
TSPQ total	6,800	3,930	5,660	3,810	9,170	4,210
TSPQ total Full	8,590	4,340	7,010	4,330	13,110	4,770

* OP are non-sawtimber from suitable lands - mostly post/poles; OVM = Volume from unsuitable lands to meet other resource objectives.; SAL = Dead and/or dying timber from suitable or unsuitable lands. The table is drawn from page 3-462.

It should be noted that the preferred alternative offers no timber harvests within the Capable and available roadless areas (300,000 acres) that were considered for wilderness recommendations.

6. Insects and disease.

Insects and disease are an important consideration in vegetation management. Outbreaks of mountain pine beetle have been noted in lodgepole pine in Vail Valley, Piney Analysis Areas and in Ponderosa pine on Derby Mesa. The USFS sees stand conditions are such that a major outbreak (like the early 1980s) is likely to occur again in the near future. Dwarf lodgepole pine mistletoe is a significant concern in the Upper Frying pan Watershed and the Piney Analysis Area where 10%-20% of the lodgepole pines are infested at high levels. The spruce beetle is of concern in the Piney Analysis Area with 80% of the 15,000 acres of spruce-fir being at moderate to high risk. Finally, the Armillaria root disease is widely distributed throughout the Forest, with the Four-Mile/Divide Creek in Sopris Ranger District having particularly high levels of sub-alpine fir mortality

7. Fire Management

The ecosystems of the WRNF fall within three fire regimes that describe the frequency, extent and intensity of wildfires. (28% of the Forest has a low intensity fire vegetation with a frequency of less than 50 years, 52% of the Forest has a high intensity fire vegetation with a frequency of 50 to 300 years). Many vegetative communities on the Forest are fire dependent. Suppression of fires in these communities can affect their health, composition and diversity. The history is that fire has been suppressed on the WRNF for nearly a century leading to significant adverse biodiversity impacts and fuel loading resulting in higher potentials for catastrophic wildfires. Strategies for the use of fire in ecosystem management are under development. The Forest is composed of 50% acres with a low fire hazard rating, 21% with a moderate fire hazard rating, and 26% with a high fire hazard rating. The leading resource values at risk from wildfire are intermix lands or urbanizing areas, ski based resorts,

special interest areas and utility corridors where fire is generally not desirable. The table below identifies fire treatment strategies by alternative. 15908

Category	acres	acres	acres	acres	acres	acres
	B	C	D	E	F	I
A Wild land fire not desired	0	25	0	0	15	8
B Fire suppression/fuel reduce	2,000	2,475	2,000	2,250	2,485	1,000
C Fire desirable low mitigation	3,200	3,200	3,500	2,000	750	1,500
D Fire for resource condition	500	500	500	250	500	1,492
Totals	5,700	6,200	6,000	4,500	3,750	4,000

8. Inadequate Financial Resources have a bigger impact upon the spread of noxious weeds in the WRNF than road building.

We believe that the Forest Service has allocated insufficient funds to control the spread of noxious weeds on the WRNF. Noxious weeds are defined as alien plants that aggressively invade or are detrimental to native plant communities. Approximately 89,000 acres of the WRNF are infested with noxious weeds. Noxious weeds reduce productivity, crowd out native plants, displace wildlife species that depend on these plants, disrupt watershed function and nutrient and energy flow. Many resource scientists and land managers consider noxious weeds to be the largest threat to ecological integrity facing wild lands.

The following is a list of the most serious noxious weeds on the Forest accompanied by their annual rate of spread per year: Yellow toadflax 33,265 acres at 15%/yr = 4,990ac/yr; Canadian Thistle 17,220 acres at 25%/yr=4,305ac/yr; Hound's tongue 23,980 acres at 15%/yr=3600 ac/yr; leafy spurge 295 acres at 50%/yr=148 ac/yr; musk thistle 5,660 acres at 10%/yr=566 ac/yr; Russian thistle 1,785 acres at 30%/yr=536 ac/yr; and spotted knapweed 106 acres at 40%/yr=42 ac/yr. The sum of these noxious weeds annual spread yields over 14,000 acres per year. None of the alternatives effectively addresses control of noxious weeds. The leading alternative F₁ treats only 2,250 acres per year. The Noxious weed budget and performance are not stated within the DEIS. (See Page 3-146, 3-149)

9. Impact Assessment

The OMB reviewed this rule and identified that "few of the benefits and costs associated with the proposed rule were quantifiable, and; therefore, many of the costs and benefits are described qualitatively. Although the analysis does not provide a quantitative measure of net benefits, the agency believes the benefits of the rule, as proposed, would outweigh the costs."

Comment: From our perspective, this statement may hold true at the national level. However, we believe that it does not hold true at the Forest level for the White River based upon its unique situation, due to the LRMP update process. The specifics of this perspective have been provided in the preceding analysis.

Prohibiting road construction and reconstruction in all inventoried roadless areas may preclude unique opportunities for managing the Forest within this optimum desired condition.

"Local level analysis cannot easily incorporate the economic effects associated with nationally significant issues. Therefore, the agency believes the aggregate transactions costs (costs associated with the time and effort needed to make decisions) of local level decisions would be much higher than the transaction costs of a national policy, because of the controversy surrounding roadless area management.

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Comment: From our perspective, we have taken the time (9 months) to carry-out the difficult public process to discuss the issues of roadless area protection and management for biodiversity. We have already absorbed these transaction costs. To short circuit this effort with a national rule of one size fits all at this juncture is inappropriate. The political principles of devolution and decentralized collaboration should hold for the WRNF.

The proposed rule is presented as a strategy to "make the tough political decisions" in Washington and to point the finger at road building for timber harvesting as the habit which must be curbed to conserve roadless characteristics and ecological values.

Comment: Reality appears to be different from appearances. We believe that the roadless rule is a strategy that covers up inadequate political leadership to achieve sufficient funding for the optimum multiple use with ecosystem management that is required to achieve desired conditions on the Nation's Forests.

At the end of our public debate on the Draft WRNF Plan, we concluded that the Forest should allow for optimum multiple use within the context of ecosystem management and collaborative planning with local governments and related interest groups. The problems with implementing such a strategy is that the Forest Service does not receive sufficient funding to attain this desired condition. Five dollars per acre per year to manage the fifth most important recreation Forest in the nation will not get the job done. Analysis indicated that to achieve these desired conditions would require a budget at least twice the experienced budget level of the WRNF. Rather than a \$11.7 million budget, the WRNF requires at least \$25 million to achieve optimum multiple use with ecosystem protection.

"The goods and services that could not be produced on the unroaded portions of the inventoried roadless areas without road construction are likely to be produced either on other parts of National Forest System lands, or on other lands. Substitute production could result in adverse environmental effects on these other lands".

Comment: we believe that these adverse impacts are understated, given the lack of professional oversight in harvesting practices on private lands and in developing countries where biodiversity and watershed issues are far more extreme than in the US and at the WRNF. This practice of importing third world resources has vast social and political implications for developing countries that have gone unstated.

MONTEZUMA COUNTY
BOARD OF COUNTY COMMISSIONERS
CAET RECEIVED

Commissioners:
G. Eugene Story
J. Kent Lindsay
Glenn E. Wilson, Jr.

JUN 26 2000

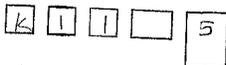
Administrator:
Thomas J. Weaver

May 22, 2000

109 West Main , Room 302
Cortez, Colorado 81321
(970) 565-8317

Planning/Mapping 565-2801
Mike Preston 565-8525
Carla Harper 565-6061

USDA Forest Service CAET
Roadless Areas NOI
P.O. Box 221090
Salt Lake City, UT 84122



Dear Sirs,

We are writing to make comment on the Roadless Initiative DEIS and Management Alternatives. Montezuma County is opposed to the proposed action on the grounds that the social, economic and environmental consequences of this action have not been adequately analyzed and addressed. In particular:

- **Public involvement as legally mandated** for Forest Planning and decision-making processes has been circumvented by this action. Locally, we have been working since 1992 on collaborative stewardship initiatives and community-based forest planning with our Forest and District level offices. The proposed action threatens to undermine the trust and stability that has made these relationships so productive for both community and Agency people. This consequence needs to be analyzed.
- **Section 101 of the National Environmental Policy Act** directs "the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means . . . to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations of Americans." Locally, we have been in the forefront of local-state-federal cooperation in efforts to improve productive harmony based on sound and carefully monitored scientific, economic and public involvement principles. The proposed action fails to use all practicable means to maintain productive harmony. The consequences of this violation of Section 101 of NEPA need to be analyzed.
- **The unique characteristics of each National Forest landscape** can only be properly understood and managed when grounded in site-specific scientific, economic and social information. Such information cannot be adequately gathered, analyzed and verified in a massive one size fits all Washington D.C. initiative. The consequences of failing to base the proposed action on adequate site-specific information, subject to local discussion and verification, need to be analyzed.

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Montezuma County Commission Comments on Roadless NOI, June 22, 2000, Page 2 of 2

- **Forest health and wildfire risk reduction** has been a major focus of collaborative stewardship efforts with the San Juan National Forest. We have learned that responding to forest health and wildfire risk reduction needs requires flexibility, which the blanket prohibitions in the proposed action undermine. The consequences of the proposed action relative to promoting forest health and addressing wildfire risks need to be analyzed.
- **Problems created by Forest Service road engineering standards** are at the root of the vehicle access impacts and maintenance backlog that are being used to justify the proposed action. Local loggers have consistently maintained that there is no need to build high spec roads to harvest wood and perform forest health treatments. The cumulative impact of FS road engineering standards and the proposed action on the wood businesses that are desperately needed to address the forest health and wildfire crisis that is plaguing the west need to be addressed.

In summary we believe that a proper analysis of consequences under NEPA should result in the withdrawal of the proposed alternatives. Any new alternatives that are formulated should be based on the following parameters:

- Management of roadless areas within and outside of RAREII should be addressed through open public involvement in the legally required forest planning processes. Funding which has been diverted to the Roadless Initiative should be restored to support site-specific forest planning efforts.
- Planning efforts should explore all practicable means by which federal, state and local governments can work together to achieve productive harmony as required by Section 101 of NEPA.
- Information should be gathered, verified and discussed through open public involvement processes, which address the unique characteristics of each National Forest and community setting.
- Scientifically based strategies for forest health and reduced wildfire risk should be a prime consideration in the development of roadless policy.
- Road engineering standards should be developed that facilitate properly developed strategies to improve forest health, reduce wildfire risk and allow for easy removal or cost-effective maintenance of roads following treatments.

Please keep us posted on further developments. We request that no final decision be made until these concerns are thoroughly analyzed and publicly discussed and the proposed action is modified accordingly.

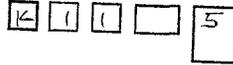
Sincerely,

G. Eugene Story, Chairman
Board of County Commissioners



BOARD OF COUNTY COMMISSIONERS

July 14, 2000



USDA Forest Service – CAET
 Attn: Roadless Areas Proposed Rule
 P.O. Box 221090
 Salt Lake City, UT 84122

CAET RECEIVED
 JUL 17 2000

Dear Sirs:

I offer the following comments on the proposed rule regarding national forest roadless areas.

I do not support a blanket prohibition on all road construction in all roadless areas, but even if that were a policy that I could support, this is not the right process. Decisions about management of roadless areas should be made as part of the forest planning process, not as part of a politically motivated top-down directive from Washington, D.C. The Montrose County Board of County Commissioners actively participated in the development of the forest plan for the Uncompahgre National Forest, and I am very disturbed that a portion of the decision in that forest plan are now proposed for replacement by this new process that doesn't consider any of the on-the-ground or local issues associated with management of roadless areas on the Uncompahgre National Forest.

I am very concerned that the Roadless Proposal is part of a broad national strategy designed to reduce access to and management of the national forests. I believe that changing any part of the decisions made in the forest plan for the Uncompahgre National Forest plan with a top-down directive from Washington, D.C. is wrong. Finally, I also believe that the proposed requirements for additional analysis and decisions about as yet undefined "unroaded" areas will create more opportunities for environmental extremists to disrupt the management of the Uncompahgre National Forest, and will be unnecessarily contentious and counter-productive.

The Montrose County Board of County Commissioners has passed a resolution concerning R.S. 2477 regarding roadless areas in the Uncompahgre National Forest (Resolution is attached).

Therefore, I request that you withdraw the rule in its entirety.

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However, if the Forest Service proceeds with this process, of the alternatives presented in the DEIS, the only acceptable alternative is Alternative 1 – the No Action Alternative. The time and place to analyze and make decisions about Roadless Areas in the forest planning process, not as part of a politically motivated top-down decision from Washington, D.C. Prior to making a final decision on this proposal, I request that you analyze the following items and make that analysis available for public review and comment:

- Updated inventory and map of each of the "unroaded portion of inventoried Roadless Areas" on the Uncompahgre National Forest.
- The number of suitable acres in each Roadless Area on the Uncompahgre National Forest, the long-term reduction in ASQ that would result from the Forest Service's inability to manage those Roadless Areas, and the social and economic impacts of that reduction in long-term ASQ.
- The ecological impacts that would result from the Forest Service's inability to manage each of the Roadless areas on the Uncompahgre National Forest, including the current and projected potential for catastrophic wildfires, and the current and projected potential for mortality from insects and diseases for each Roadless Area. This analysis should include the Roadless Areas themselves, as well as adjacent national forest lands, other public lands, and private lands.
- An Alternative that would allow the use of temporary roads for forest management access needs.
- A detailed accounting of the purported \$8.4 billion road maintenance "backlog" including how that figure was determined, what items are included in that figure, and a comparison of the Forest Service's request for Road Maintenance funding and the Congressional Appropriations for Road Maintenance for the past five years.
- An assessment of the Cumulative Impacts of the other major rulemakings proposed by the Forest Service.

Thank you for this opportunity to comment.

Sincerely,

David A. Ubell
 Montrose County Commissioner
 District #2

Attachment

15715

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A RESOLUTION OF THE MONTROSE COUNTY BOARD OF COUNTY COMMISSIONERS CONCERNING R.S. 2477 RIGHTS OF WAY AND THE UNCOMPAHGRE NATIONAL FOREST TRAVEL PLAN, MONTROSE COUNTY, COLORADO

WHEREAS, the United States Congress granted the right-of-way for the construction of highways over public lands, not reserved for public uses in Section 8 of the Mining Act of 1866, reenacted and recodified as Revised Statutes 2477 (R.S. 2477), 43 U.S.C. 932; and

WHEREAS, the United States Congress intended to promote the settlement of the western United States by granting rights-of-way for the construction of highways; and

WHEREAS, Montrose County, Colorado, is the owner of highway rights-of-way accepted pursuant to the grant offered under R.S. 2477; and

WHEREAS, the County accepted the grant offered under R.S. 2477 through public use, County construction or maintenance of the rights-of-way or other action establishing the County's intent to accept the offer contained in R.S. 2477; and

WHEREAS, the County and the public relied upon the terms of the offer, as established by the common law of statutory construction, federal regulations since at least 1938, federal statements of policy, and numerous rulings of state and federal courts which have addressed the terms of the offer contained in R.S. 2477, in accepting and administering the granted rights-of-way; and

WHEREAS, these rights-of-way are essential to the County's transportation and public access systems the public has relied on and continues to rely on them since prior to October 21, 1976; and

WHEREAS, state, county and local health, search and rescue, resource management, fire protection and law enforcement personnel rely on these access routes to carry out important public functions; and

WHEREAS, public access to routes of travel are essential to the economic, social and political well-being of the communities within the County; and

WHEREAS, these rights-of-way are important to the free flow of commerce in the United States; and

WHEREAS, the existence of a highway establishes a presumption that the highway has continued in use in its present location since the land over which it is built was public land not reserved for public use; and

WHEREAS, the majority of lands within Montrose County currently fall within the jurisdiction of Federal Land Management Agencies; and

WHEREAS, the United States is the owner of the servient estate traversed by rights-of-way accepted by the County pursuant to the grant offered in R.S. 2477; and

WHEREAS, the regulatory powers of the United States are limited by the obligation to honor valid existing rights, including the rights-of-way accepted pursuant to the grant offered under R.S. 2477; and

WHEREAS, other property owners may have succeeded the United States as owner of the servient estate traversed by rights-of-way accepted by the County pursuant to the grant offered in R.S. 2477 and the rights of those property owners in the servient estate is limited by the obligation to honor the rights-of-way accepted by the public pursuant to the grant offered under R.S. 2477; and

WHEREAS, the County is, and has been since its creation, responsible under state law to provide a safe transportation system for the traveling public and to support the local economy, custom and culture; and

WHEREAS, the County's right, title and interest in these rights-of-way includes the right to perform any and all construction and maintenance which is reasonable and necessary for safe passage for the uses established prior to the repeal of R.S. 2477 or the reservation of the lands for public use, as those uses may increase over time, based upon currently-applicable safety standards, including, at a minimum, the existing disturbed area occupied by the rights-of-way and associated improvements; and

WHEREAS, the rights-of-way accepted pursuant to the grant offered under R.S. 2477 have not been vacated or waived except where formal procedures provided under state law have been followed; and

WHEREAS, the United States Department of Agriculture, Forest Service, Grand Mesa, Uncompahgre and Gunnison National Forests has issued the Uncompahgre National Forest Plan Record of Decision and Final Environmental Impact Statement, and

WHEREAS, the proposed actions contained within these documents will have significant effects upon highway rights-of-way accepted pursuant to the grant offered under R.S. 2477 and located within lands administered by the Forest Service within Montrose County, and

WHEREAS, the County has previously requested that the U.S. Forest Service resolve the issue of R.S. 2477 rights-of-way on lands administered by the Forest Service within Montrose County prior to issuing the above mentioned documents; and

WHEREAS, the U.S. Forest Service failed to address these concerns prior to issuing the above mentioned documents; and

WHEREAS, it is the policy of the County to ensure that all rights-of-way accepted pursuant to the grant offered under R.S. 2477 be retained in perpetuity for the use and benefit of the public;

NOW, THEREFORE, BE IT RESOLVED, as follows:

A. DEFINITIONS

As used in this resolution:

"Acceptance," "acceptance of a right-of-way for the construction of a highway over public lands, not reserved for public uses," or "accepted," means one or more of the following acts prior to October 21, 1976, by the County or person with the intention of creating a public highway over public lands:

Construction or maintenance of a highway; inclusion of the right-of-way in a state, county, or municipal road system, plat, description, or other map of public roads within the county;

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expenditure of any public funds on the highway; execution of a memorandum of understanding or other agreement with any other public or private entity or an agency of the federal government that recognizes the right or obligation of the County to construct or maintain the highway or a portion of the highway; or use by the public for the period required by Colorado State Statute; or any other act consistent with state or federal law indicating acceptance of a right-of-way.

"**Construction**" means any physical act of readying a highway for use by the public according to the available or intended mode of transportation, including, foot, horse, vehicle or other mode. "Construction" includes removing vegetation, moving obstructions, including rocks, boulders, and outcroppings, filling low spots, maintenance over several years, creation of an identifiable route by use over time, and other similar activities.

"**Highway**" means: any road, street, trail, or other access or way that is open to the public to come and go at will, without regard to how or by whom the way was constructed or maintained; and appurtenant land and structures including road drainage ditches, back and front slopes, cut and fill slopes, turnouts, rest areas, and other areas that facilitate use of the highway by the public. "Highway" includes pedestrian trails, horse paths, livestock trails, wagon roads, jeep trails, logging roads, homestead roads, mine-to-market roads, alleys, tunnels, bridges, and all other ways and their attendant access for maintenance.

"**Maintenance**" means any physical act of upkeep of a highway or repair of wear or damage whether from natural or other causes.

"**Public lands not reserved for public uses**" means any federal lands open to entry or location.

"**R.S. 2477 right-of-way**" or "**right-of-way**" means a right-of-way for a highway constructed in this County on public lands not reserved for public uses and accepted by the County prior to October 21, 1976.

B. ACCEPTANCE

1. The County hereby finds that the rights-of-way illustrated in EXHIBIT A were accepted as public highways across public lands prior to October 21, 1976:
2. The failure to include any right-of-way in EXHIBIT A is not intended as evidence that said right-of-way was not accepted pursuant to R.S. 2477. The identification of R.S. 2477 rights-of-way in EXHIBIT A may be amended from time to time as evidence establishing the perfection of any R.S. 2477 right-of-way becomes available.
3. The County shall not be deemed to consent or have consented to the exchange of any R.S. 2477 right-of-way unless a formal written resolution specifically so stating has been passed at a duly called public meeting of the County Commission. No employee or agent of the County has been given authority to vacate, waive or exchange any R.S. 2477 right-of-way and any prior action by any employee or agent purporting to take any such action was void when taken, unless in the case of exchange, later ratified by formal written resolution as provided herein, or in the case of vacation or waiver, action has been taken in accordance with the procedures defined in State Statute, in which case the right-of-way reverts to the state. Where an R.S. 2477 right-of-way has

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been perfected through public use, the failure by the County to conduct mechanical maintenance of said right-of-way shall not affect in any way the status of said right-of-way as a highway accepted by the public pursuant to R.S. 2477. The omission of any right-of-way from any plat, description, or map of county roads or highways, whether required by state law or otherwise, shall not be deemed a failure to accept the grant offered under R.S. 2477.

C. VACATION

Vacation of any R.S. 2477 right-of-way shall take place only in accordance with the procedures specified in CRS Sec. 43-2-301-303.

D. SCOPE OF RIGHT-OF-WAY

1. The scope of the R.S. 2477 right-of-way is that which is reasonable and necessary to ensure safe travel for all uses that occurred before October 21, 1976.
2. The scope of the R.S. 2477 right-of-way includes the right to widen the highway as necessary to accommodate the increased travel associated with all uses that occurred before October 21, 1976, up to, where applicable, improving a highway to two lanes so travelers can safely pass each other.

E. ROAD CONSTRUCTION AND MAINTENANCE STANDARDS

1. Unless otherwise established by formal action taken by the County Commission, the width of an R.S. 2477 right-of-way used for vehicular travel may not be less than the setback standards for wilderness boundaries along existing roads as described in Bureau of Land Management Manual H-8560-1, Management of Designated Wilderness Areas, dated July 27, 1988, as follows:
 - high standard paved highways shall be 300 feet from the centerline;
 - high standard logging roads shall be 100 feet from the centerline;
 - low standard logging, jeep, maintenance, dirt roads used for right-of-way, or similar roads shall be 30 feet from the centerline.
2. Standards of safety and convenience, as established by the Colorado Department of Transportation (CDOT) Design guide will guide construction and maintenance activities on R.S. 2477 rights-of-way as follows:
 - for two-wheel drive roads that are either paved or graveled, AASHTO standards, as adopted by CDOT and/or Montrose County Road Standards as may be adopted from time to time by the Board of County Commissioners, apply.
 - for all other two-wheel drive roads, safety will be based upon considerations of (a) the current condition of the right-of-way, (b) the type of vehicles which use the route, (c) foreseeable future needs, and (d) the location/condition of the servient estate.
 - for four-wheel drive roads, horse paths, and foot trails, maintenance will proceed in accordance with historical practice as needed and as determined by the Board of County Commissioners..

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- 3. The County shall design and conduct construction and maintenance activities so as to minimize impacts on adjacent lands, consistent with applicable safety standards.
- 4. The County shall perform maintenance pursuant to applicable state law in accordance with its discretion; no notice to the servient estate owner is required prior to performance of such maintenance.
- 5. Construction within the scope of the right-of-way which will result in significant new disturbance of adjacent land will be preceded by notice to the adjacent landowner, who may comment on any design feature or construction method which the landowner believes exceeds the scope of the County's right-of-way.
- 6. The County Sheriff is hereby authorized to take any action necessary to prevent unreasonable interference with the County's exercise of its rights by the owner of the servient estate.

F. PUBLIC COMMENT:

- 1. It is in the best interests of the County and the public that facts and legal issues relevant to the County's management of its rights-of-way accepted under R.S. 2477 be raised in a timely manner and it is a fundamental principle of due process and fairness that any person having knowledge relevant to such facts or issues bring them to the attention of the County.
- 2. Inclusion of any proposed action on the agenda for a duly called public meeting of the County Commission shall be deemed notice to the public for all purposes under this resolution.
- 3. Any factual or legal issue not brought to the attention of the County by presentation at the public meeting where action is proposed or authorized to be taken or by written comments filed within five days of said meeting shall be deemed waived by any party in later proceedings, whether in a court of law or otherwise.

DATED THIS ___ DAY OF _____, 2000.

By _____
Chairman
Board of County Commissioners

Attest:

County Clerk

13985

RIO GRANDE COUNTY
BOARD OF COUNTY COMMISSIONERS

925 6th St., Room 207
Del Norte, Colorado
81132
(719) 657-2744
Fax (719) 657-2514

4 1 1 5 July 13, 2000

PAID RECEIVED
JUL 17 2000

BOARD OF
COMMISSIONERS
Vern Rominger
Chairman

USFS CAET
P. O. Box 221090
Attention: Roadless Area Proposed Rule
Salt Lake City, UT 84122

Robert Schaefer
Commissioner
Handy Brown
Commissioner

RE: National Forest System Road Management and Transportation System
Proposed Rulemaking and Notice, 65 Federal Register 11676-93 (March 3,
2000)

Gentlemen:

ADMINISTRATOR
Suzanne L. Benton

Rio Grande County Board of County Commissioners submits the following
comments on the proposed roadless initiative:

Rio Grande County Commissioners believes the proposed roadless initiative
overrides Congressional intent for multiple use management of public lands
and attempts to side step existing laws governing management of public lands.
**Rio Grande County Commissioners hereby request the roadless proposal
be immediately withdrawn.**

Sufficient procedures are already in place within the framework of the
National Forest Management Act and the Wilderness Act allowing national
forest managers to protect roadless attributes when appropriately designated
by forest plans. The new proposed rules prescribing management of roadless
areas will severely limit forest supervisors in applying necessary resource
management actions. The roadless proposal bypasses Congress and creates de
facto wilderness by prohibiting road building. There are specific laws
allowing multiple use of public land unless Congress has specifically declared
wilderness. The USDA Forest Service must return to its original mission of
multiple use of public lands.

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Timber management remains one of the primary purposes for establishing and managing each national forest. Timber management also is the only viable tool which provides the means to enhance forest health, protect wildlife habitat, improve forage, increase water flow, and provide the variety of forest age classes and distribution necessary to preserve long-term recreational benefits.

Rio Grande County relies heavily on timber production and sales. Each year the available timber from the National Forest is reducing. We currently have only one major lumber mill left and they are transporting lumber in from other states. Over 75 percent of the county's land is held by the Federal Government. The continuation of wilderness and roadless designations will in the very near future eliminate this industry in our County.

So far this year, the State of Colorado and New Mexico have had several major wildfires some started by "Controlled Burns". Why burn when good forest management would allow for thinning of trees which would product a revenue for the Federal Government and provide needed building materials?

Furthermore, the American people demand road access for recreational enjoyment. If the roadless proposal is not withdrawn, then the "No Action" alternative is the only plausible choice. Sufficient analysis has not been performed to concisely portray the effects of this proposal. Adequate maps must be provided along with the analysis. The maps provided in the current DEIS are inadequate to identify roadless areas or un-roaded un-inventoried lands. Maps and text provided in the DESI do not adequately identify wilderness areas, so the public is not informed about the true nature of the environment. All alternatives except "No Action" prohibit road construction. This is a direct violation of the National Environmental Policy Act (NEPA) which REQUIRES a broad range of alternatives should be considered. We request the Forest Services, at a minimum, prepare a new DESI with an appropriate range of alternatives and adequate environmental information on each roadless area.

We request that the Final EIS should describe each inventoried roadless area, and for each inventoried roadless area describe what specific characteristics the Forest Service wants to protect, any current or potential fire or insect and disease risks, and how the roadless proposal would change forest plan direction. We request the same level of analysis and discussion be performed as was done in the Forest Plans to consider alternatives. Losses to rural economics should be adequately addressed.

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For a small rural county like Rio Grande County, local healthy economies depend on diversity, including livestock grazing, tourism, and logging. The roadless proposal will reduce economic diversity. A healthy forest promotes tourism, recreation, and supports a wide variety of wildlife habitat. Roadless areas are prone over time to be increasingly susceptible to insects, disease and fire. Only proper forest management can reduce this threat.

Sincerely,


Vern Rominger
Chairman of the Board

JD/slb

29471
Divide Volunteer Fire Department



P.O. Box 401
Divide, CO 80814
(719) 687-8773

CAET RECEIVED
JUL 10 2000

Chief - G. David
(719) 687-0411
(719) 687-2500 Fax Direct
gdavid@rmi.net

Dep. Chief - W. Mercer
(719) 687-8563
wmercerc@worldnet.att.net

Captain (Fire) - J. Fulcher
(719) 686-9632

Captain (Medical) - A. Mosser
(719) 687-5406
amosser@csu.org

Lieutenant (Fire) - W. Grisewood
(719) 687-8829

Lieutenant (Rescue) - T. O'Connor
(719) 687-7287
tomesconor@hotmail.com

Lieutenant (Medical) - T. Tebo
(719) 687-5919
ttebo12639@aol.com

Lieutenant (Transport) - P. Barnes
(719) 687-8580

Lieutenant (Comm) - V. Renter
(719) 687-6959
vrenter@earthlink.net

Sec/Treas/PIO - A. Collins
(719) 686-0023
bcwwife@earthlink.net

July 3, 2000

USDA Forest Service - CAET
Attn: Roadless Area Conservation Proposal
P.O. Box 221090
Salt Lake City, UT 84122

Dear Sir:

As Chief of a volunteer fire department which has primary initial responsibility for suppressing wildfires within the portions of Pike National Forest covered by our fire protection district, I am strongly opposed to the adoption of the Clinton-Gore Roadless Rule. My volunteers are the first line of defense against wildfires, and we rely heavily on established roads and trails to reach the scene of a fire quickly.

Our portion of Pike National Forest also includes one of a dozen or so designated State OHV motorized recreation areas. If this designated OHV area remains open, but tens of millions of acres of forest land are closed to motorized public recreation by the adoption of this rule, these designated OHV areas will become extremely crowded. This overcrowding would result in dramatic increases in accident and injury rates.

Even if the OHV area is closed, we still must respond to assist hikers, hunters, and fishermen who need emergency medical care. Access to these patients will be severely compromised by adoption of this rule.

Sincerely,

Gregory P. David
Fire Chief

