

Idaho Roadless Commission

Meeting Notes
November 29-30, 2011
Boise, Idaho

Attendees:

Commission Members: Jim Caswell, Chair; Dale Harris, vice-Chair; Tom Bowman, Blaine County Commissioner; Bill Higgins, Idaho Forest Group; Scott Stouder, Trout Unlimited; Dan Dinning, Boundary County Commissioner; Patty Perry, Kootenai Tribe of Idaho; Jim Riley, Riley and Associates; Robert Cope, Lemhi County Commissioner; Alan Prouty, Simplot; Jonathan Oppenheimer, Idaho Conservation League; Brad Gilbert, recreation user; Rick Johnson, Idaho Conservation League; Alex Irby, Konkolville Lumber

Others: Mitch Silvers, Sen. Crapo; Bob Maynard

Forest Service: Harv Forsgren, R4 Regional Forester, Jane Cottrell, R1 Deputy Regional Forester, Joan Dickerson, Idaho Roadless Coordinator R1 & R4; Kim Smolt, R1 NEPA, Appeals and Litigation Specialist, Mary Farnsworth, Idaho Panhandle National Forest Supervisor; Linda Clark, IPNF Forest Planner;

General Business

Commission Members

New commission members need to be sure they have submitted their Application for appointment. A letter of “official appointment” should be received from the Governor’s Office. Also members should turn in their travel vouchers for reimbursement. The following are members of the commission – once they complete their paperwork.

Table 1. List of commission members

Category	Executive Order categories	Represented by
1a	Participated as a member of RACNAC	Jim Riley – Riley and Associates, LLC
1b	Developed outdoor recreation, off highway vehicle users, or commercial recreation activities	Brad Gilbert
1c	Energy or mineral development interests	Alan Prouty- JR Simplot Co
1d	Commercial timber industry	Bill Higgins- Idaho Forest Group Alex Irby- Knonkville Lumber Co
1e	Federal grazing permit or other federal land use permits	
2a	Nationally, regionally, or locally recognized environmental organization	Dale Harris – Great Burn & Clearwater Basin Commission Rick Johnson – Idaho Conservation League (national perspective) Jonathon Oppenheimer – Idaho Conservation League (local perspective)
2b	Dispersed recreational activities	
2c	Archeological and historical interest	
2d	Nationally or regionally recognized wildlife or	Jerry Bullock – Safari Club ¹

Category	Executive Order categories	Represented by
	sportsmen's interest group	Scott Stouder – Trout Unlimited
3a	Hold state elected office or their designee	
3b	Hold county or local elected office	Tom Bowman-Blaine County commissioner Bob Cope-Lemhi County Commissioner Dan Dinning-Boundary County Commissioner
3c	American Indian Tribe within Idaho	Patty Perry-Kootenai Tribe of Idaho
3d	Public at large	Jim Caswell

¹ Jerry Bullock has decided that he does not want to participate –therefore this slot is empty.

Training

The first outreach and training for Forest Service employees was presented on Idaho Panhandle National Forest on Nov 17, 2011 with positive feedback. A session is planned for Boise National Forest on Jan 11th and the Salmon-Challis Jan. 19th. Current county commissioners should be invited to attend these sessions, as well as members of the commission. In addition, the commission should schedule a presentation to Idaho Public Lands Committee.

Protocols

Chair and vice Chair propose no alternates and no proxy for commission meeting attendance. Play or pass. Members should provide suggested edits to Jim and Dale for their consideration. Some suggestions included:

- If a member knows they will be absent for a meeting, allow member to review materials and provide written comment for the meeting.
- Allow for a member to call in, instead of being there in person. This should only be as a last resort, not the norm.

Jim and Dale will at a minimum make edits to the following sections of the protocol document:

- Section on forming consensus
- Removing Tom Perry from the protocol since Tom no longer works for the State
- Removing the section on facilitation
- Editing the section on Chair to match the executive order
- Removing or editing the section on alternates

Once the edits are made they will send out to the commission for review and comment.

Chair/Vice Chair

The executive order states that vacancies in the chair or vice chair shall be filled by majority vote of the commission at the next commission meeting.

Decision. Jim Caswell was reaffirmed as Commission Chair; Dale Harris as Commission Vice Chair. Original vote occurred at the last meeting.

Other business items

Chair and Vice chair propose:

- Creating a web page for IRR commission, as part of existing OSC site.
- Creating an IRR letterhead

- Preparing an Annual Report

Commission agreed to these items and the Chair/vice Chair will proceed.

Litigation update

- On **January 29, 2011, the United States District Court for the District of Idaho upheld USDA's 2006 adoption of the Idaho Roadless Rule**. The Court found the FWS did not violate the ESA in preparing the Biological Opinion. The Court also found that the Forest Service did not violate NEPA in relying on the Biological Opinion or in preparing the FEIS and ROD approving the Idaho Roadless Rule.
- **In May 2011 Plaintiffs appealed the case to the 9th Circuit Court of appeals**. Briefing was on hold until the 10th Circuit Court of appeals ruled on *Wyoming v USDA* in October (2001 Roadless Rule challenge in which the 10th Circuit Court affirmed the 2001 Rule). Briefings will begin in January 2012 and will be completed by May.

David Hensley is legal representation for State of Idaho. 9th circuit venue is Seattle.

One of the issues with the case was in relation to the endangered species act claims. Specifically plaintiffs claim the FWS relied on a "promise" letter from the IPNF Forest Supervisor not to propose activities in roadless areas that would adversely affect grizzly bears until the Motorized Access Amendment was completed. The Access Amendment was released last week and is consistent with IRR.

Project Proposals and updates

(see individual project briefing papers for more details)

Kootenai and Idaho Panhandle Zone Forest Plan Revision (KIPZ)

General Concerns and topics for discussion

- 1) Terminology in Idaho Roadless Rule and Forest Service Forest Plan language is not consistent, e.g. Wild Land Recreation vs. Recommended Wilderness
- 2) Idaho Rule is more specific while FP language is more general. May confuse public about access.
- 3) Do Forest Plan alternatives all have to be compliant with Idaho Rule
- 4) Forest Service has discretion to select an alternative for a Forest Plan that changes the rule. Concurrent rulemaking would be necessary if this were to happen.

Revision process for IPNF Forest Plan of 1987 has been underway for several years, predating the Idaho Roadless Rule. 41 of IPNF's roadless areas are entirely in Idaho, seven roadless areas are also partially in Washington or Montana. The Proposed Action (Alternative B) in the Draft EIS for the new Forest Plan is compatible with IRR themes. Rule direction will be an appendix to the Forest Plan.

The National Forest Management Act requires a maximum and minimum alternative and the consideration of "recommended wilderness" when writing or revising forest plans. The Grandmother Mountain "Wilderness Study Areas" was designated by Congress. This land was previously BLM land and the bill that transferred the land to NFS required the Wilderness Study designation to remain.

Alternatives were developed to address different amounts of recommended wilderness based on the NFMA and NEPA requirements for a range of alternatives, and wilderness consideration. The management direction in Alternatives B and D align with the IRR. Alternative C would recommend more lands as wilderness; therefore some lands would be more restrictive than the IRR.

The agency (Chief and Regional Foresters) have agreed that if Alternative C were selected, or any alternative that was inconsistent with the rule then the rule would need to be modified in accordance with 36 CFR 294.27(b). The process for this change amounts to the chief asking for public comment for 45 days, considering the comments, and making a decision.

A concern was voiced from members that the rulemaking was meant to avoid having any further discussion about roadless themes and avoid changes a revised forest plan might bring. They didn't want this Forest-by Forest argument, and some members think it is inappropriate to consider any alternative that contains something inconsistent with IRR. The Forest Service responded that alternatives respond to public issues and comment, and are required by NEPA and NFMA. Other members agree that potential modification of Roadless Management Boundaries is necessary to be consistent with specific NFMA direction. It was also voiced that the discussion is theoretical, because an alternative that changes any characteristic of Idaho roadless areas is not identified as the preferred alternative by the Forest Service for the IPNF.

Public comment on the IPNF revised plan DEIS will be accepted in January 2012, and the commission will provide input. Regional Forester Harv Forsgren expressed his desire for input from the Commission.

Decision/recommendation: Jonathan and Cope will draft a letter to IPNF about the DEIS, to be approved by the commission electronically and by teleconference before sending. The letter should address two things:

1. Pleased that the Proposed Action and Alternative D is consistent with the rule.
2. If an alternative that is inconsistent with the rule is selected then rule-making should occur to make the plan and rule align. Rule-making should be completed before an alternative that is inconsistent with the rule is implemented.

Based on feedback on the draft meeting notes it appears the entire commission did not agree to the following statement. Therefore we will discuss whether or not the letter will include the following on the teleconference.

3. Consideration of alternatives that are inconsistent with the rule, including the assessment that an alternative for a differing set of lands for recommended wilderness is unnecessary to comply with NFMA and that such alternative should not be considered in detail.

Another letter will be written to send to R1 and R4 Foresters regarding forest plan alternatives that are inconsistent with IRR.

Orogrande Fuels – Nez Perce Nat. Forest

Update from Terry Nevus and Rachel Young via VTC. Fuel reduction project was scoped with the public in September and the Forest received 11 letters. The Environmental Assessment (EA) is expected out in early summer 2012. The project proposal includes a temporary road constructed in a roadless area to treat fuels. An alternative is being considered for no road construction. Orogrande is a community identified at risk in the *Federal Register*.

Decision/recommendations: Next meeting should include a field trip to this site. The commission would appreciate if the public comment period on the EA could overlap with the field trip. It was requested that the community protection zone (CPZ) be added to the map.

Selway Winter Range Improvement Project – Clearwater NF.

Project entails cutting brush (not trees) with chainsaws where there is reasonable access from existing trails system. The Rule does not apply to this project but members are interested and would like to be kept apprised.

Decision/recommendation: Even though the rule does not apply, the commission would like to be apprised of these types of activities. The Forest Service should include this project on their list of projects in roadless areas.

Western States land Exchange – Salmon-Challis NF

590 acres of FS lands in roadless (100,000 acres) would be traded for about 500-600 acres of high public value parcels in four locations. Purpose is to allow Thompson Creek molybdenum mine to expand to the north and south to increase operations. Lands to the east and west of the existing mine begin to encroach on riparian habitat and so are not desirable. Lands that would be gained provide critical habitat for salmon, steelhead and /or bull trout. Roadless area acres in question are uplands with no fish habitat.

To alter the boundary of the roadless area, it would require a modification to the rule after 45-day public comment period. The rule does not apply to land exchanges. However because a land exchange would result in a change to the boundary it would require a modification to the rule. The MOU between the Forest Service and the State states “Develop a mutually agreeable process for advising the Forest Service on proposed corrections and modifications to Idaho Roadless Areas subject to limitations and process requirements of the Idaho Roadless Rule.”

R4 will continue to work on the appraisals and analyses. NEPA process has not started.

Decision/recommendations: The commission discussed whether or not they should provide input on the land exchange and determined that since it would require a modification to the rule that there was a place for their input. Based on this understanding, the commission would like the agency to explore the following and present at the next meeting if not before:

- Can the mining company’s objectives be met without including the roadless area?
- What authority does the mining company have to expand on to NFS land without the exchange (I.e., 1872 mining law)?
- What are the values of the respective properties?
- What are the plans for the acquired roadless acres?
- What is the character of the Livingston Claims? (This is the parcel in the Sawtooth National Recreation Area).
- Are there other options to not include the roadless parcel?
- Are there other lands with roadless characteristics that could be acquired so there is “no net loss”?

If possible, the Forest Service should be ready to provide information in response to these questions by January 19 as Joan and Jim will be in Challis for a forest presentation and would be able to talk to Ranger Martinsen. The results of the discussion with the forest and the information provided will be shared with all commission members.

Liberal Willow HFRA project – Sawtooth NF

Project involves falling beetle-infested and dwarf mistletoe-infected Douglas-fir trees, followed by prescribed burning. Three roadless areas would be affected, mostly with the Primitive management theme. EA should be published in January 2012. Since this is a Healthy Forests Restoration Act project the EA will be out for Objection. Once the objection process is completed then a decision will be issued.

Decision/recommendations: Commission advises providing an option to remove felled trees, if possible, or at least documenting why it is not feasible to remove the felled trees.

Dairy Syncline land exchange – Caribou NF

Development of the Dairy Syncline phosphate mine would include a tailings pond on land presently owned by BLM and about 600 acres of the Huckleberry Roadless (general forest theme). Topography for the tailings site is flat and avoids wetlands. Soils are presently being analyzed for suitability. Mineral regulations preclude the tailings pond to be located on National Forest System (NFS) land therefore the existing NFS roadless lands would be exchanged for a section (640 acres) of Simplot land adjacent to Sage Creek roadless area, and could then become part of that federal roadless area. Notice and comment by the Chief (rule modification) would be required prior to completing the exchange. Exchange hinges upon sale of the BLM section for the main body of the pond.

An alternative is being considered to pipe the tailings about 12 miles to a site in Smokey canyon owned by Simplot, which may prove to be of inadequate size. However, this alternative may not be considered in detail. A Notice of Intent to prepare an EIS has been published in the Federal Register. The draft EIS is projected for March 2013. The ROD would be signed by both FS and BLM.

Decision/recommendations: Provide update at next meeting.

- Are there options for no exchange?
- Can the material be piped to Smokey Canyon or some other location?

Table Mountain Whitebark Pine Protection – Caribou-Targhee NF

Project proposes to remove vegetation around surviving whitebark pine trees, using a small crew wielding chain saws on 1,500 acres in the Mt Jefferson roadless Backcountry/Restoration and Primitive themes. Due to small size and scattered nature of the material, it is not viable for commercial removal, especially by helicopter.

Decision/recommendations: Commission would like to see consideration of providing an option to remove merchantable material documented in the Decision Memo and if rejected, the reason for rejecting that option.

Project is supported by the commission, and it comports with the Rule.

Upper North Fork Project – Salmon Challis NF

Project includes hazardous fuels reduction in a CPZ with a commercial component and 2.8 miles of temporary road construction in roadless near the Highway 93 corridor. The theme is Backcountry/Restoration. Interdisciplinary Team has received scoping comments and is developing an alternative that does not include any temporary road construction. A draft EIS is being written, and is expected in March 2012.

Committee members discussed what “road decommissioning” means. 36 CFR 212.1 defines road decommissioning as returning the structure to a more natural state. The extent of closing and decommissioning of a road depends on site-specific factors such as topography, climate, soil type,

hydrology and adjacent access and public use patterns. The agency retains some discretion. Appendix O to the Idaho Roadless EIS concerns road decommissioning and includes photographic examples of treated temporary roads. Scrutiny is generally higher for adequate decommissioning of a temporary road in a roadless area. Decommissioning of the temporary road will be a part of the sale contract.

Decision/recommendations: No objections. The Commission should submit a comment letter during the DEIS public comment period. The letter should address consistency with the Idaho Roadless Area and any specific comments on temporary road construction and decommissioning of the road in the roadless area.

Oro Mountain Whitebark Pine Enhancement – Boise NF

Project involves felling small conifers and girdling larger conifers competing with whitebark pine on about 1,500 acres within the Stony Meadows Roadless Area. Roadless management theme is Backcountry/Restoration and Primitive. Area is not in suitable timber base in the Boise Forest Plan, and is generally high elevation -low productivity. There is less than 500 bf/acre; therefore is clearly not feasible for helicopter removal.

Scoping is ready to begin. The analysis is expected to be documented in a Decision Memo.

Decision/recommendations: Commission agrees it is consistent with the Rule and should go forward. The commission noted that Randy Hayman of the Boise NF gave an excellent presentation and would like to see the Oro Mountain briefing paper used as a template for all project briefings.

For modifications to the IRR, what does rule making involve?

The Chief of the Forest Service puts a notice in the Federal Register and accepts comments for 45 days. Comments are considered and a Decision is made. Joan calls this “mini-rulemaking.”

Misc. chat

Committee members would like to be kept informed of events that transpire between formal meetings. The planned letter for the IPNF Forest Plan DEIS will be shared with commission electronically and discussed via teleconference before it is submitted to IPNF. General points of letter:

- Commission doesn't think an alternative for Revision that changes the IRR is appropriate. If one is proposed, rulemaking would be required.
- Encourage choosing an alternative that comports with the IRR.
- Consideration of recommended wilderness is a legal requirement, regardless of the IRR. The new planning rule may approach revising forest plans differently than the 1982 rule.
- The IRR is an administrative process, and not statutory.

The chair asked that the commission consider that there may be some presently unforeseen reason for altering boundaries or themes, and to think about what circumstances might lead to a need for modifications.

Summary and recap

- No public comment was noted for this commission meeting.
- Chair will give notice to governor about projects the Commission has reviewed.
- Jim and Dale will edit the protocols and will submit to the commission for review and comment.

Final Notes

- Next meeting and field trip scheduled in Lewiston and with field trip to Elk City to visit Orogrande Project, **June 28-29, 2012**. Meet in Lewiston on the 28th, with field trip on the 29th.
- Jonathan and Cope will draft a letter on the Idaho Panhandle National Forest plan revision. Committee members are to review and edit. A follow-up call will be scheduled – if possible with VTC connections. Intent is to submit comments during the comment period.
- Need to follow-up on Upper North Fork if EIS comes out in March. Commission desires to have the Governor submit comments on this project during the public comment period.

Next meeting discussion topics:

- Orogrande
- Thompson Mine land exchange update – other options
- Dairy Syncline land exchange update – other options
- Upper North Fork – update