

Roadless Area Conservation National Advisory Committee

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May 30, 2008

The Honorable Edward Schafer
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue SW
Mail Stop Code: 0108, Room 217E
Washington, DC 20250-0108

Re: Advice of the RACNAC on the State of Idaho's draft Idaho Roadless Rule which will use the Administrative Procedures Act to supersede the Forest Service Roadless Area Conservation Rule of 2001.

Dear Mr. Secretary:

The Roadless Area Conservation National Advisory Committee (RACNAC) is pleased to offer advice regarding the implementation of the Idaho Roadless Rule that will use the Administrative Procedures Act (APA) to supersede the Forest Service Roadless Area Conservation Rule of 2001 relative to the National Forest System Inventoried Roadless Areas that lie within the boundaries of the State of Idaho.

We wish to acknowledge once again the personal contributions of now Lieutenant Governor Risch and Governor Otters' legal counsel Tom Perry and David Hensley, in presenting and clarifying the proposed Idaho draft rule at our meeting in Washington D.C., on January 16 and 17, 2008. Since that initial meeting and through out the 90-day public comment period, Mr. Perry and Mr. Hensley have provided expert counsel at the three additional RACNAC meetings that continued to focus solely on the proposed Idaho APA Rule and draft environmental impact statement (DEIS).

After lengthy discussion and debate, consensus among the RACNAC committee members was reached in certain portions of Idaho's proposed rule. Almost all of our discussions and recommendations apply to the proposed rule's "Backcountry Restoration" theme. Our recommendations attempt to resolve then Governor Risch's November 2006 stated intent that an Idaho roadless rule provide equal or better protection for Backcountry/Restoration lands than the 2001 Roadless Rule, with the State's simultaneous request for management flexibility in reducing risks to communities in the aforementioned theme. The committee unanimously agreed that management flexibility for protecting communities from fire is important, and proposed the following:

That a community protection zone (CPZ) be established using elements of the geographic definition in the Healthy Forests Restoration Act (HFRA) standards for Wildland-Urban Interface lands. This would include:

- An area extending ½ mile from the boundary of an at-risk community;

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- An area within 1 ½ miles of the boundary of an at-risk community, including any land that has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community; or has a geographic feature that aids in creating an effective fire break, such as a road or ridge top;

Within the geographic CPZ zone, temporary roads should be permitted only when

- A project or treatment cannot be reasonably accomplished without such a road, and there are no other reasonable alternatives.
- Such treatments are consistent with existing forest plans.

Outside the geographically defined CPZ, treatments in backcountry restoration areas could also be permitted. The committee believes that these projects should also be designed to explicitly address the risk that wildland fire could have to a community and/or the maintenance of a water supply system. A common set of criteria should be used in the determination of this risk. This determination should be based on specific ecological conditions and individual ecosystems. The ecological conditions should include, but not be limited to, elements listed in “Protecting People and Natural Resources: A Cohesive Fuels Treatment Strategy¹”. These projects should be in areas identified by communities as a high priority, and will have higher standards and procedural requirements than projects inside the CPZ. Such standards include the following:

1. A positive determination of how the project balances protection of roadless area values and characteristics with community protection.
2. The project should focus largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and maximize the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands.
3. Temporary roads would be permitted only when the project cannot be reasonably accomplished without such a road and there are not other reasonable alternatives.

In any project where a temporary road is permitted within a roadless area, the committee recommends temporary roads be:

- made available only for the intended use;
- constructed with verifiable funding mechanisms to reclaim after the use period (e.g., project proponents bond for closure of roads);
- limited in the period of use;
- required to have a reclamation plan before road building;
- required to have engineering standards to minimize environmental effects; and
- reviewed by the State Implementation Commission (recommended in the December 19, 2006 letter from the RACNAC to the Secretary) and approved by the Regional Forester. The committee felt strongly that this review should be done.

¹ The 60-page report, *Protecting People and Natural Resources: A Cohesive Fuels Treatment Strategy* (www.fireplan.gov), outlines a coordinated approach to fuels treatment adopted by the five major federal land management agencies: Department of Interior’s Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service and National Park Service; and USDA’s Forest Service.

Regarding forest health treatments in the Backcountry/Restoration theme areas outside the CPZ that do not involve the construction of temporary roads, the RACNAC agreed to recommend but not be limited to the exceptions listed in CFR 294.13(b)(1), stating that forest health treatments in the backcountry are allowable when the objective is

- to improve threatened, endangered, proposed, or sensitive species habitat, or
- to maintain or restore the characteristics of ecosystem composition, structure and function, or
- to reduce the risk of uncharacteristic wildfire effects.

The same Healthy Forest Restoration Act large tree retention standards referenced above would apply for these projects.

The RACNAC also recommends additional procedural requirements to such projects, including:

- review of projects by State Implementation Commission (with a RAC-like structure, as recommended in the December 19, 2006 letter from the RACNAC to the Secretary), and
- approval from the Regional Forester.

With respect to Road Building for Forest Health Treatments Outside CPZs, the RACNAC discussed what provisions, if any, should be allowed for road building for forest health treatments outside CPZs to maintain or improve one or more roadless area characteristics over time. As a starting point, all members agreed that the exceptions listed for road building in CFR 294.12(b) of the 2001 Roadless Rule should apply.

There was lengthy discussion regarding non-Federal lands without structures and public lands with private structures. The RACNAC recommends that the Forest Service analyze the potential scope of these issues and address them in the final EIS.

Regarding ski areas, the committee recommends that the rule explicitly state that road construction or reconstruction and tree removal associated with ongoing implementation of long-term ski area, special use authorizations including areas inside ski area special use permit boundaries and areas addressed in a ski area's master development plan, are not prohibited.

With respect to the proposed change clause, the committee recommends using a National Environmental Policy Act (NEPA)-like determination of significance explanation in the preamble. Further, the committee recommends adding a 30-day period for public notice and comment on all changes. This period can then be used to help determine the degree of significance of proposed changes. In those cases deemed significant, the committee recommends either an increase to the 30-day comment period or the provision of a mechanism to request such an extension.

The committee was unable to reach full consensus on the following issues: building temporary roads for forest health treatments outside of the CPZ, protections afforded to non Federal lands outside of the CPZ, phosphate mining in Southeastern Idaho and hazardous fuels reduction treatments along evacuation routes for at-risk communities. Please refer to the attached January 26, February 20, April 1, and April 25, 2008 RACNAC meeting summaries for a complete discussion of the issues and interests and points of differences between committee members.

If requested, the RACNAC is willing to provide further comment and advice on the Idaho rule. Thank you for your consideration of our advice and recommendations on the draft Idaho rule. Please do not hesitate to contact us if we can be of further assistance to you with this effort.

On behalf of the RACNAC,

Handwritten signature of Dale R. Harris in blue ink.

Dale Harris
RACNAC Co-Chair

Handwritten signature of Greg Schaefer in blue ink.

Greg Schaefer
RACNAC Co-Chair

Cc: Idaho Governor Butch Otter
Idaho Lieutenant Governor Jim Risch
Undersecretary Mark Rey, USDA
Abigail Kimbell, Chief, USFS
Richard Cook, DFO, USFS
RACNAC Members

Enclosures: RACNAC 2008 Meeting Summaries