

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

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

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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

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

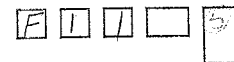
PAGE 01

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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

NOT 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

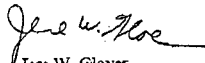
The Office of Advocacy recognizes the importance of protecting the environment, conserving our national forests, and preserving the natural beauty of the area. However, there is also a significant public interest in allowing access to natural resources in order to preserve our economic base. The potential 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.

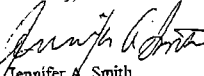
Thank you for the opportunity to comment on this proposal. If you have any questions, please feel free to contact us. Please place a copy of these comments in the record.

Sincerely,



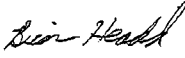
Jere W. Glover
Chief Counsel
Office of Advocacy

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
PHONE (760) 873-3584 • FAX (760) 873-4143

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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:

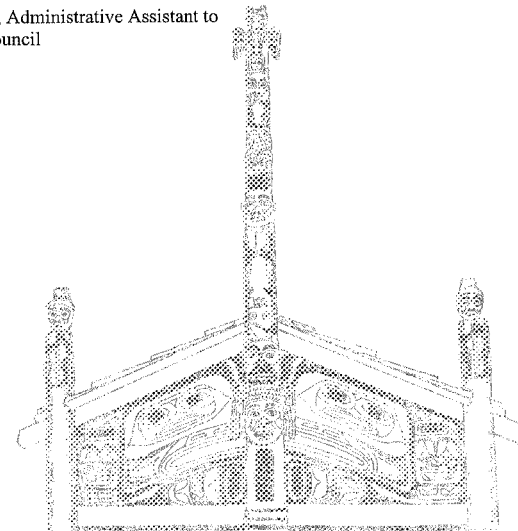
At a duly convened meeting on July 10, 2000, Ketchikan Indian Corporation Tribal Council authorized the submission of the attached Position Statement regarding the roadless.

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.

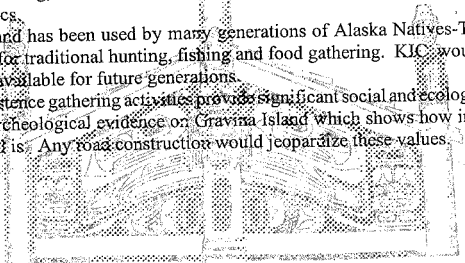
Merle Hawkins

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

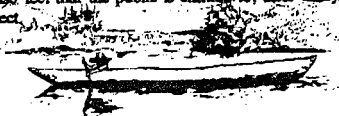
Dear Secretary Glickman:

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.

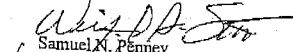
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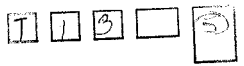
The Tribe appreciates the opportunity to comment on the proposed rule. We look forward to conducting formal consultation on the rule as the process goes forward to address the concerns discussed above. If you have any questions regarding these comments, please feel free to contact Rick Eichstaedt in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

Sincerely,


Samuel M. Penney
Chairman

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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

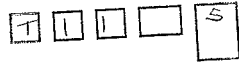
to the public (the cost of building and maintaining the road was greater than the amount received for the timber). We believe that the greater value of the land lies in its ability to provide fish and wildlife habitat.

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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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.

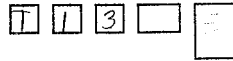
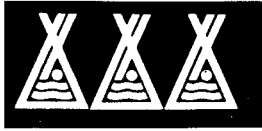
Larry A. Weibman
Sitka Tribe of Alaska - Tribal Chairman

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.

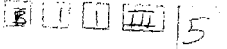
Sincerely,

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.



DEPARTMENT OF AGRICULTURE
STATE OF NEW MEXICO

Box 30005, Dept. 3189
Las Cruces, New Mexico 88003-8005
Telephone (505) 646-3007

Gary Johnson
Governor

Frank A. DuBois
Secretary

July 11, 2000



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

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Dear Sir or Madame:

The following comments address the U.S. Forest Service's (FS) Roadless Area Conservation Proposed Rule and Draft Environmental Impact Statement (DEIS).

Wilderness

In table 2-2 under Impacts to Designated or Potential Wilderness for the preferred alternative the following information is provided:

Maintaining inventoried roadless areas would sustain a low level of threat to wilderness values and protect land between Wilderness areas and developed land. Opportunities for recreation that require remote characteristics, but are of a less restrictive nature than wilderness, would be maintained.

The quote above implies inventoried roadless areas will provide a buffer between developed land and Wilderness. This is a violation of FS policy, Forest Service Manual (FSM) 2320.3 states:

Because wilderness does not exist in a vacuum, consider activities on both sides of wilderness boundaries during planning and articulate management goals and the blending of diverse resources in forest plans. **Do not maintain buffer strips of undeveloped wildland to provide an informal extension of wilderness.** Do not maintain internal buffer zones that degrade wilderness values. Use the recreation opportunity spectrum (FSM 2310) as a tool to plan adjacent land management. [emphasis added]

FSM 2320.3 could also be violated by creating an informal extension of wilderness, if inventoried roadless and other unroaded areas are managed ". . . to sustain their roadless characteristics, they are still the reservoir for future designated wilderness areas." Wilderness area management is more restrictive in the type of activities allowed. The New Mexico Department of Agriculture

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(NMDA) believes if inventoried roadless areas are managed to promote wilderness characteristics there will be further restrictions placed on livestock permittees and leasees of public land.

Litigation

The amount of litigation should not be used to justify this rule. NMDA requests the FS provide the citations for the volumes of appeals and litigation referenced in the following statement:

(1-4) "These inventoried roadless and other unroaded areas are currently managed using the forest planning process. On many national forests and grasslands, roadless area management was the single largest point of conflict in the adoption of land and resource management plans (also referred to as forest plans). Controversy continues today accompanying virtually every proposal to harvest timber and build roads in roadless areas. The volume of appeals and litigation over the last 20 years illustrates the importance that many Americans attach to these remaining unroaded lands."

NMDA believes litigation should never replace science based natural resource management. Many times litigation is filed by a few not-for-profit, special interest groups.

Amount of Miles Prohibited

The following statements found throughout the DEIS substantiate the premise that this rule serves no purpose.

(3-12) "Of the 54.3 million inventoried roadless acres considered in this DEIS, approximately 20.5 million acres would remain roadless (except for valid existing rights, etc.) because their existing forest plan prohibits road construction . . . Of the 33.8 million acres, 2.8 million acres have already been roaded over the past 20 years. If this trend continues, it would likely be at the same rate or less than what has taken place in these areas over the past 20 years (less than 0.5 percent per year)." In the future "this rate of development is likely to be even less."

The above statement indicates that 38 percent of the inventoried roadless area acres are already covered by forest plans that prohibit road construction. The other 62 percent is expected to be roaded at a rate of less than 0.5 percent per year.

In the DEIS it is difficult to decipher the estimated miles of road to be constructed or reconstructed over the next five years. The following quotes in the Effects of Prohibition Alternatives, under Alternative 1 - No Action, are found two paragraphs apart:

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(3-16) Approximately 300 miles of road construction and reconstruction is planned in inventoried roadless areas over the next 5 years.

(3-17) It is estimated that approximately 1,444 miles of permanent and temporary roads will be constructed or reconstructed in inventoried roadless areas over the next 5 years."

The 300 miles in the first quote amounts to 60 miles of road construction and reconstruction per year. In the second quote the 1,444 miles indicates 644 miles are to be constructed or reconstructed in Alaska over the next five years. The remaining 800 miles, or 160 miles per year would be constructed outside of Alaska.

In Chapter 3, Fire Suppression, the 800 miles of road construction and reconstruction in inventoried roadless areas appear to be confirmed by the following passage:

(3-156) The road prohibition would affect approximately 800 miles of road outside of Alaska within a land area that encompasses nearly 34 million acres.

If the 800 miles is correct, only 160 miles per year will be constructed in 34 million acres. This 160 miles per year of road will be constructed in an area approximately the size of Wisconsin.

To add to the confusion, Chapter 3, Road Construction, declares:

(3-198) Of the 638 miles of roads planned for non-timber projects, up to 270 miles may be prohibited by Alternatives 2 through 4. The remaining 368 miles would not be prohibited because of valid existing rights.

Using the miles of road in the above passage, only 270 miles of road construction and reconstruction would be prohibited. It is not clear over what period of time the 638 miles of road is projected to be constructed. NMDA requests clarification of this passage by providing a projected time period. Furthermore, NMDA requests the actual estimated number of miles to be constructed or reconstructed in inventoried roadless areas be provided nationally, by region, and by forest. Regardless of the clarification, NMDA believes this proposed rule and DEIS are a waste of time and money based on the insignificant amount of road construction that will be prohibited. As such, NMDA requests this proposed rule be withdrawn, and the money that would have been spent continuing this process be used to reduce the road maintenance backlog.

Population Density

As the population and the demand for recreation continues to increase in New Mexico, the potential for conflict between recreationists and livestock permittees will also increase.

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(3-127) "Historically dispersed recreation followed roads built for timber or fire prevention. As use became heavy and demand for amenities increased, some areas became suitable for developed sites. This resulted in wide dispersion of small to medium sized developed sites. This option will no longer be available in inventoried roadless areas. All future increased developed recreation demand will be met and concentrated in areas already available for development." This prohibition will effectively concentrate more recreationists in a smaller area, and increase the potential for conflict. As such, NMDA requests the FS withdraw this proposed rule or provide measures, in an amended DEIS, that will serve to mitigate the potential conflict between recreationists and livestock permittees.

The recreation pressure will also increase on private land that serves as base property for livestock grazing permits. There will be conflict between the private landowners, ranchers, and the public who assume they have the right to recreate anywhere in a national forest. NMDA requests the FS withdraw this proposed rule or prepare an amended DEIS that addresses measures to mitigate the conflict between private land inholdings and recreationists.

Range Condition

NMDA requests the FS provide citations that substantiate the statement that a prohibition on road construction and reconstruction in inventoried roadless areas "... would have a positive effect on range condition by reducing the potential for introducing non-native invasive species."

Fuel Reduction

NMDA is concerned the prohibitions on road construction and reconstruction in inventoried roadless areas could potentially have a negative impact on rural citizens and their communities. This potential impact would result from an inability to reduce fuel loads in inventoried roadless areas classified as having a moderate to high risk of catastrophic fire. In addition to prohibiting access, the proposed rule will substantially increase the cost of fuel reduction. In New Mexico, 1,122,000 acres (74 percent) of the inventoried roadless areas are in the moderate to high risk categories. If these areas at moderate to high risk for catastrophic fire are not treated, NMDA believes there is a potential for the loss of livestock and human life. A catastrophic fire would consume the forage required to sustain permitted livestock. The permittee would have to lease alternative pastureland to provide forage or sell his surviving livestock. To avert catastrophic fire, fire prevention through fuel reduction should be given a high priority. When moderate and high fuel loads are reduced, and fire is reintroduced into the National Forest System, less money will be needed for fire suppression.

Region 3 also deviates from the national trend in the size of fires that occur in inventoried roadless areas. (3-157) "Specific analysis of the fire occurrence data indicates that larger fires occur in inventoried roadless areas in ... Region 3 (Arizona and New Mexico)." The reason

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provided in the DEIS for the occurrence of larger fires in Region 3 was due to classifying fires in inventoried roadless areas as low priority. This reason conflicts with the data presented in table 3-34 indicating that in Region 3 there is little difference between fire size outside inventoried roadless areas (6,417 acres) and inside inventoried roadless areas (5,174 acres). Table 3-34 also indicates the size of human caused fires inside inventoried roadless areas (11,333 acres) are almost twice the size of human caused fires outside inventoried roadless areas (6,692 acres). With the strict application of FS policy to extinguishing human caused fire more quickly, human caused fires should consume smaller acreage. When only a small amount (3 percent) of fires in Region 3 occur in inventoried roadless areas and human caused fires are almost twice the size, there appears to be other factors influencing the fire size. NMDA asserts that with 74 percent of the inventoried roadless areas potentially needing fuel reduction treatments, and the larger fire size, this prohibition will have a negative impact on rural livestock producers and their communities.

If this rule is enacted, NMDA requests the rule be changed in the following manner. In § 294.12 (b) a provision that will allow road construction in inventoried roadless areas for fuel reduction when there is a moderate to high risk for catastrophic fire.

Proposed Rule

This proposed rule contradicts the proposed policy in FSM 7703.1, "Make road construction and reconstruction decisions locally, with public involvement and based on thorough analysis considering the latest scientific information on the adverse effects of roads on ecosystems." NMDA believes road construction and reconstruction decisions, in any part of a National Forest System that is not a designated wilderness, should be made at the forest level. As such, the proposed rule should be withdrawn to continue to allow inventoried roadless area decisions to be made at the forest level.


NMDA believes road construction and reconstruction in inventoried roadless areas should be addressed at the forest level. A general prohibition on road building in inventoried roadless areas is a one shoe fits all approach to management. Enactment of this rule will remove one of the tools land managers are able to employ when managing national forests using adaptive management. Furthermore, the DEIS does not adequately address the impact of this prohibition on the livestock permittees and leases and local communities in and around national forests. The DEIS should conform to the Council on Environmental Quality National Environmental Policy Act regulations, which require comprehensive, detailed analyses of the listed factors (ecological, aesthetic, historic, cultural, economic, social, and health), and should not only identify the economic impacts (direct, indirect, and cumulative), of all the alternatives, but it should also quantify these impacts.

In addition to the impacts to permittees and local communities, this rule will only affect as much as 160 miles, or as little as 60 miles, per year in inventoried roadless areas. Based on the

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information presented in this letter, NMDA requests the rule be withdrawn and an amended DEIS be prepared and submitted for further public review that addresses the issues presented herein. As stated by all the stakeholders present for a planning meeting for the Burro Mountains in southern New Mexico, "the Burro Mountains need to be managed for multiple use." In other words, access needs to be provided for all activities in the National Forest System. As such, NMDA requests the FS base national forest management decisions on a rigorous analysis of multiple use needs.

Sincerely,



Frank A. DuBois

FAD/rjw/gad

07/17/00 MON 18:29 FAX 505 827 7801

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July 14, 2000

USDA Forest Service-CAET
Post Office Box 221090
Attention: Roadless Areas Proposed Rule
Salt Lake City, Utah 84122Re: Forest Service Roadless Area Conservation Draft Environmental Impact Statement.
NMGF Doc. No. 7094

Dear Sirs:

The New Mexico Department of Game and Fish has reviewed the U.S. Forest Service (USFS) Roadless Area Conservation Draft Environmental Impact Statement (DEIS). The USFS is proposing to prohibit road construction within inventoried roadless areas (IRAs) within National Forest System (NFS) lands, unless roads are needed in these areas for public health and safety, reserved or outstanding rights, or other specified reasons.

ALTERNATIVES

Alternative 1: No Action; no roading prohibitions in inventoried roadless areas (IRAs) other than those currently existing in Forest Plans.

Alternative 2 (Proposed Action and Preferred Alternative): Prohibit road construction and reconstruction within unroaded portions of IRAs. This alternative would still allow timber harvest.

Alternative 3: Prohibit road construction, reconstruction, and all timber harvest except for stewardship purposes within unroaded portions of IRAs.

Alternative 4: Prohibit road construction, reconstruction, and all timber harvest within unroaded portions of IRAs.

BACKGROUND

Using the 1979 Roadless Area Review and Evaluation (RARE II) inventory, the USFS has identified 54.3 million acres of IRAs in the United States. Road building is currently not allowed in 20.5 million of these 54.3 million acres. Road building is allowed in the remaining 33.8 million acres of IRAs affected by this initiative. Within the total 54.3 million acres of IRAs, an estimated 2.8 million acres have been roaded since they were inventoried. These portions of IRAs that have been roaded since they were inventoried are not proposed for roadless protection under this initiative.

There are 2,832 IRAs in the U.S., comprising 28% of all NFS lands, and representing approximately 2% of the total land base of the United States. Although the majority of these are

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greater than 5,000 acres in size, 20% are smaller. These smaller areas are generally the remaining portions of larger RARE II areas that were not designated as Wilderness, or parcels identified under a different set of criteria mandated by the Eastern Wilderness Act of 1975.

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Without instituting the roading prohibitions proposed by this initiative, the USFS estimates that approximately 1,444 miles of roads would be constructed in IRAs over the next five years. An estimated 2.8 million acres have been roaded and developed to varying degrees during the past 20 years in areas where current land use allows road construction. Should an action alternative not be implemented, the USFS estimates that road construction and timber harvest in IRAs would continue at a rate similar to that experienced over the past 20 years. At this rate, about 5-10% of current IRAs, or 3 to 6 million acres, may have new roads within the next 20 years (p. 3-9).

Several standard exemptions to the road prohibitions would apply equally to all of the action alternatives. The proposed rule states that the responsible official may authorize road construction or reconstruction in any inventoried roadless area when the following criteria are met:

- A road is needed to protect public health and safety in cases of imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property;
- 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;
- A road is needed pursuant to reserved or outstanding rights or as provided for by statute or treaty; or
- Road realignment is needed to prevent irreparable resource damage by an existing road that is deemed essential for access, management, or public health and safety, and where such damage cannot be corrected by maintenance.

Page 3-23 states that the implementation of Alternative 2 or Alternative 3, which allow timber harvest for stewardship reasons, would enable managers to use mechanical thinning, prescribed fire, or other means to treat insect and disease outbreaks and reduce the risk of catastrophic wildfire. Implementation of Alternative 3 would completely prohibit timber harvest, and would limit managers' options for fuel treatments in high-risk areas.

The DEIS abstract states that the proposed action would prohibit road construction and reconstruction in inventoried roadless areas. Based on the language defining the action alternatives, however, we assume this is a misstatement, and should read "...prohibit road construction and reconstruction in unroaded portions of inventoried roadless areas..." to be consistent with the language of the action alternatives and the intent of this initiative. Page S-6 defines three different types of roadless areas:

1. **Inventoried roadless areas.** These areas were identified using various forest planning and assessment processes including the 1979 Roadless Area Review and Evaluation (RARE) inventories. The criteria used for RARE I and RARE II allowed the presence of roads in areas that would later be considered for Wilderness designation under some circumstances (Forest Service Handbook 1909.12,7). Therefore, some "inventoried roadless areas" contain these pre-inventory roads.

This potential preexistence of roads within IRAs explains the statements in the abstract and elsewhere in the DEIS that the proposed action (and the other action alternatives) would "...prohibit road construction and reconstruction within unroaded portions of inventoried roadless

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areas...". This statement appears to be a direct contradiction to a roadless condition, which would not allow for "reconstruction" of a road.

2. **Unroaded portions of inventoried roadless areas.** After the inventories were completed, some IRAs were managed using prescriptions that allowed road construction. While many inventoried roadless areas remain "roadless", others have been roaded to varying degrees. The prohibitions and procedures would apply only to those portions of IRAs that have not been roaded since the area was inventoried.
3. **Unroaded areas.** Unroaded areas are those without the presence of **classified roads** (emphasis ours), which are of a size and configuration sufficient to protect the inherent characteristics associated with their unroaded condition. These areas have not been inventoried.

The definition for "Road" in the glossary of the DEIS defines "Classified Roads" as "roads within National Forest System lands planned or managed for motor vehicle access including state roads, county roads, private roads, permitted roads, and Forest Service roads (36 CFR 212.1).

"Unclassified Roads" are defined as "roads not intended to be part of, and not managed as part of, the forest transportation system such as temporary roads, unplanned roads, off-road vehicle tracks, and abandoned travelways (36 CFR 212.1)." The fact that "unroaded" is synonymous with "no classified roads", and that there is a potential for unclassified roads to occur in "inventoried roadless areas", "unroaded portions of inventoried roadless areas", and "unroaded areas" is unclear in the DEIS, and needs clarification and emphasis throughout the document.

Another major contradiction occurs on page S-1, which states that no roads or trails would be closed because of these prohibitions. This statement should be changed to state that no "classified" roads would be closed because of these prohibitions.

POTENTIALLY AFFECTED FOREST LANDS IN NEW MEXICO

New Mexico contains approximately 1.5 million acres of IRAs, which consists of 351,000 acres of IRA lands that are not currently protected from additional roading, and slightly more than one million acres of IRA lands that are currently protected from additional roading by existing Forest Plans. The table below identifies 1) IRA acreage in New Mexico by Forest that is not currently protected from additional roading; and 2) IRA in New Mexico by Forest that is protected from additional roading by current Forest Plans.

FOREST	IRA CURRENTLY NOT PROTECTED	IRA CURRENTLY PROTECTED
CARSON	4,000 ACRES	17,000 ACRES
CIBOLA	86,000 ACRES	261,000 ACRES
GILIA	49,000 ACRES	635,000 ACRES
LINCOLN	158,000 ACRES	0 ACRES
SANTA FE	54,000 ACRES	238,000 ACRES

Total IRA lands in New Mexico represent 16% of all NFS lands in New Mexico, and 19% of all non-designated lands in New Mexico. Non-designated lands include designated wilderness, wilderness study areas, wild and scenic rivers, and other special designations. IRAs in New Mexico with prescriptions that currently allow roading that would be protected under this initiative represents 3.7% of all NFS lands in New Mexico, and 4.4% of all non-designated NFS lands in New Mexico.

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The most recent information the Department has regarding road mileages on National Forests in New Mexico is from the late-1980s, and was gathered from discussions with USFS personnel. At that time, the Lincoln National Forest identified 3047 miles of existing roads, with 2098 miles of roads open; the Gila National Forest identified 6044 miles of existing roads, with 5665 miles of roads open; the Cibola National Forest identified 4995 miles of existing roads, with 253 miles closed; the Carson National Forest identified 3587 miles of open road; and the Santa Fe National Forest identified 3750 estimated miles of existing road (3 July 1991 NMGF memo).

Discussions with USFS personnel in 1991 suggested that as much as 25,000 miles of roads may have existed on all National Forest lands in New Mexico at that time, and regardless of road closure efforts, it is likely that no net loss of roads occurred due to additional road construction or illegal road creation (1 July 1991 NMGF memo). Although the Forest and Rangeland Renewable Resources Planning Act of 1974 requires that temporary roads be closed and revegetated after use, Forest roads are generally difficult to close and maintain as closed, especially when Forests are managed as "Open Unless Closed", such as the Carson National Forest (18 Feb. 1997 NMGF memo).

Thirty years ago four-wheel drive vehicles (4X4s) were uncommon, snowmobiles and all terrain vehicles (ATVs) were rare to non-existent, and fewer miles of forest roads existed. Today, many more people use the National Forests for recreational purposes, 4X4s are abundant, snowmobiles and ATVs are common, and a dense network of Forest roads exists. Studies demonstrate the effects of increased motorized off-road traffic on wildlife. For example, Dorrance et al. (1975) found that home-range size and daily movement of white-tailed deer increased with increasing snowmobile activity in Minnesota. Yarnoloy (1988) found that mule deer experimentally harassed by ATVs produced fewer offspring the following year. Also, excessive motorized vehicle activity encouraged by extensive road systems degrades the quality of experience for many public-lands users such as hunters, fishermen and nonconsumptive wildlife users.

PURPOSE AND NEED FOR ACTION

I. Maintenance

The USFS currently maintains and administers approximately 386,000 miles of roads on NFS lands. Page 3-13 states that at the conclusion of World War Two, a large portion of the total Forest Service Transportation System (approximately 100,000 miles) was constructed primarily for fire and conservation activities. After 1946, and until approximately the mid to late 1980s, the majority of the 386,000 miles of roads on NFS lands were constructed for logging activities. Average costs to build roads for harvesting timber range from \$50,000 to \$60,000 per mile, while average reconstruction costs range from \$8,000 to \$16,000 per mile (p. S-40). The USFS has an \$8.4 billion maintenance and construction backlog, and budget allocations have averaged less than 20% of the funds needed to do annual maintenance. Each mile of road added to the road system competes for limited road maintenance funding. On average, the need is approximately \$1,500 per mile annually for maintenance. In fiscal year (FY) 2000, the Forest Service received less than 20% of the funding needed to maintain its existing road infrastructure (USDA Forest Service 1999h). Each year's unmet maintenance needs increase the backlog as roads deteriorate and the cost of repairs continues to increase. Page 3-17 states that the USFS estimates that approximately 1,444 miles of permanent and temporary roads will be constructed or reconstructed in IRAs over the next 5 years." Page S-4 states that the lack of maintenance exacerbates the effects of roads on the environment and has led many people within and outside of the USFS to question the logic of building new roads when the agency is unable to manage and maintain the existing road system.

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II. Maintaining Quality Recreational Opportunities

Page 3-175 states that in December 1999, the Theodore Roosevelt Conservation Alliance, composed of member organizations such as the Rocky Mountain Elk Foundation, the Mule Deer Foundation and Trout Unlimited, conducted a survey of 600 hunters and anglers to solicit their opinions regarding road management in existing roadless areas of NFS lands (TRCA 1999). The survey found that 86% of anglers and 83% of hunters surveyed support a policy to prevent future road building in roadless areas. These hunters and anglers highly valued many attributes of unroaded NFS lands, including the habitat they provide for endangered species, the protection of water quality, and the opportunity to hunt, fish and experience solitude in remote places with few roads and people.

We conducted a literature search to determine the effects of additional roading on hunting opportunities and game species. We present below a sample of findings from studies on road effects on deer and elk, primarily conducted in the 1970s:

- Rost and Bailey (1979) found that deer and elk avoided roads, with deer exhibiting a stronger avoidance response than did elk.
- Berry and Overly (1976) found that roads reduce big game use of adjacent habitat from the road edge to over 0.5 miles away.
- Bancroft (1990) revealed the widespread illegal practice of road hunting in Arizona using decoy deer and elk. Eleven of 19 archery elk and deer hunters and 41 of 53 firearms hunters committed violations by attempting illegal take after observing a decoy from their vehicle.
- Basile and Lonner (1979) found that travel restrictions on roads appeared to increase the capability of the area to hold elk in Montana.
- Black et al. (1976) found that closure of roads provided improved hunting success.
- Irwin and Peek (1979) found that road closures allowed elk to remain longer in preferred areas.
- Johnson (1977) discussed road closures in the Tres Piedras area in New Mexico during big game season with general public acceptance and increased elk harvest.
- Leege (1976) found that logging and road-building activity along major migration routes changed the winter distribution of elk.
- Leptich and Zager (1991) reported that no bull elk in highly roaded areas in Montana lived more than 5.5 years, and only 5% lived to maturity. Closing roads extended the age structure of the bull population to 7.5 years, and 16% of the bull population consisted of mature animals. One result of road construction is the decreased capacity of the habitat to support elk from decreased habitat effectiveness. Loss of habitat effectiveness can be at least partially reversed by road closures.
- Lyon (1979) found that elk in Montana avoided habitat adjacent to open forest roads, and that road construction creates habitat loss that increases impacts to elk as road densities increase.
- Lyon and Vasile (1980) found that an expanding network of logging roads made elk more vulnerable to hunters and harassment, and higher road densities caused a reduction in the length and quality of the hunting season, loss of habitat, overharvest, and population decline.
- Sundstrom and Norberg (1972) found that activities associated with roads in Montana can reduce the quality and quantity of elk hunting opportunities available in an area.
- Thiessen (1976) found that elk occurred in greater densities in roadless area compared to roaded areas. Hunter success was higher in roadless areas compared to roaded areas in Unit 39 in west central Idaho.
- Wray (1990) found that logging roads made nearby elk herds more vulnerable to human interference year-round, not just during hunting season.

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III. Ecological

The DEIS lists five ecological benefits provided by prohibiting additional road construction in inventoried roadless areas. These are:

1. **Protection of overall watershed health.** Page 3-47 states that IRAs support a diversity of aquatic habitats and communities. Without the disturbances caused by roads and associated activities, stream channel characteristics, such as channel and floodplain configuration, substrate embeddedness, riparian condition, amount and distribution of woody debris, stream flow, and temperature regime, are less likely to be altered (Furniss et al. 1991). Illegal introduction and excessive harvest of fish species are also less likely to occur in these areas due to lack of easy access. Page 3-23 states that the timing of water runoff can change as roads and related drainage structures intercept, collect, and divert water. These factors can accelerate water delivery to the stream; therefore, more water becomes storm runoff, increasing the potential for runoff peaks to occur earlier, be of greater magnitude, and recede quicker than in unroaded watersheds (Wemple et al. 1996). Page 3-36 discusses the relationship between roads and mass wasting (landslides), and the adverse effects on aquatic habitats. While mass wasting is a natural process in some regions, extensive research in the West has closely linked land management practices, primarily roading and timber harvest, with accelerated incidence of mass wasting by several orders of magnitude (Swanston 1974, Anderson et al. 1976, Swanston and Swanston 1976, Sidle et al. 1985, Swanston 1991). All of these watershed effects can have direct impacts on salmonid fish species and their habitats (Furniss et al. 1991).
2. **Maintenance of water and soil quality.** Page 3-22 states that roads have long been recognized as the primary human-caused source of soil and water disturbances in forested environments (Patric 1976, Egan et al. 1996). Page 3-22 also states that generation of sediment within timber harvest units is most strongly related to roading and associated facilities needed to remove the trees, rather than to the act of cutting the trees (Anderson et al. 1976). The New Mexico Water Quality Control Commission states "Almost 1,204 miles of New Mexico's waters have been assessed and determined to fully support all designated uses. The majority of these waters are in wilderness areas or in watersheds protected from anthropogenic impacts" (NMWQCC 2000). Degraded water and soil quality from roading adversely affect salmonid fish species and their habitats (Furniss et al. 1991).
3. **Conservation of habitat important to wildlife by reducing the potential for fragmentation, degradation and human disturbance.** Reed et al. (1996) found that roads added to forest fragmentation more than clearcuts by dissecting large patches into smaller pieces and by converting forest interior habitat into edge habitat. Edge habitat created by roads was 1.54-1.98 times the edge habitat created by clearcuts. Page 3-56 of the DEIS states that the total landscape area affected by clearcuts and roads was 2.5-3.5 times the actual area occupied by these disturbances. Over the past 50 years, landscapes have been appreciably impacted from fragmentation caused by road construction and clearcutting (Harris 1984, Saunders et al. 1991, Noss and Csuti 1994, Forman and Alexander 1998). Loss of large trees, snags, and logs in areas adjacent to roads through commercial harvest or firewood cutting has had adverse effects on snag and cavity dependent birds and mammals (Hann et al. 1997). Roads facilitate poaching of many large animals such as caribou, pronghorn, mountain goat, bighorn sheep, wolf and grizzly bear (Cole et al. 1997, Dood et al. 1985, Knight et al. 1988, McLellan and Shackleton 1988, Mech 1970, Stelfox 1971, Yoakum 1978).
4. **Protection of stream and lake habitat for fish and other aquatic species, conserving habitat for numerous threatened, endangered and sensitive plant and animal species.** Page 3-78 states that waters within IRAs have been shown to function as biological strongholds and refuges for many species of fish. Some of these headwaters may now play a relatively greater role in supporting viable populations of aquatic species, due to cumulative degradation and loss of downstream aquatic habitats. Lee et al. (1997) demonstrated a

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negative correlation between increasing road densities and viable native bull, redband, and Yellowstone and westslope cutthroat trout populations in the Columbia River Basin. Page 1-1 states that additional information from studies in the Columbia River Basin, an area that encompasses 144 million acres, 7 states and 35 National Forests, found that over 70% of 91 wildlife species analyzed were negatively affected by roads (Wisdom et al 2000). Findlay and Bourdages (2000) found that evidence is accumulating that road construction may result in significant loss of biological diversity at both local and regional scales due to 1) restricted movement of species between local populations; 2) increased mortality; 3) habitat fragmentation and edge effects; 4) invasion by exotic species; and 5) increased human access to wildlife habitats, all of which are expected to increase local extinction rates or decrease local recolonization rates. Table 3-17 on page 3-93 states that in the Forest Service's Southwestern Region 3, 57% of Threatened, Endangered and Proposed species under the federal Endangered Species Act, and 54% of Forest Service Sensitive species are dependent on habitat within or affected by IRAs. We have attached the table "Wildlife of Concern on USFS lands in New Mexico" (BISON-M 2000), which lists over 150 New Mexico taxa that are state or federally listed as Threatened, Endangered, Proposed or Sensitive. These species may be impacted by additional roading in National Forests in New Mexico due to increased human disturbance and/or habitat alteration.

5. **Maintaining area resilience to invasion by non-native species.** Page 3-88 states that roads serve as a means of dispersal for many non-native invasive plant species, with seed or plant parts inadvertently transported into previously unaffected areas. Ground disturbance associated with roads and other road-related activities provides additional opportunities for establishment of invasive non-native plant species (Parendes and Jones 2000). Page 3-88 also states that with regard to implementing the No Action Alternative, continued roading poses the greatest risk for increased spread of non-native invasive species due to the disturbance associated with roads. Continued roading would allow a corresponding increase in the adverse ecological effects associated with establishment of invasive species, such as habitat alteration, replacement of native species, and alteration of ecosystem processes.

DEPARTMENT ANALYSIS OF ROAD EFFECTS TO WILDLIFE AND HABITATS

We conducted our own literature review based in part on these ecological factors to further analyze the effects of roads on wildlife and wildlife habitats. We attempted to limit our search to reports that would be directly applicable to an expanded National Forest road network by 1) selecting only papers that explicitly identified a direct causal relationship between roads or increased road densities and adverse impacts on wildlife and habitats; and 2) generally excluding research that primarily studied the effects of paved highways on wildlife. We did not include a significant number of papers that identified the impacts logging on wildlife and habitats if roads were not specifically mentioned, even though the association between roads and logging is clear. Below we provide supporting citations from our literature search documenting the negative impacts of roads on wildlife and habitats:

- 1) Landscape scale adverse impacts of roads to fishes and other aquatic species' population viability and aquatic habitats from 1) declining watershed health and function from increased erosion, sedimentation and altered chemical composition that degrade water quality; 2) bridge and culvert alteration of stream channels, floodplains and wetlands morphology and function; and 3) altered runoff quantities, timing and patterns: [8, 9, 11, 17, 27, 28, 29, 35, 36, 40, 45, 46, 50, 55, 56, 58, 62, 79, 80, 83, 84, 87, 88, 89, 91, 102, 103, 108, 110, 115, 118, 126, 133, 134, 142, 143, 153, 154].
- 2) Adverse impacts of roads on aquatic and terrestrial habitats from fragmentation or disruption of dispersal and migration corridors: [31, 23, 33, 35, 37, 39, 48, 54, 57, 61, 103, 106, 107, 109, 134, 139, 145, 150, 152].

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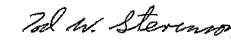
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- 3) Adverse impacts of roads to terrestrial wildlife species from mortality (from roadkill, road construction, increased illegal take, etc.): [3, 4, 16, 19, 23, 24, 25, 31, 33, 35, 51, 60, 61, 68, 71, 74, 76, 77, 78, 86, 94, 117, 121, 129, 130, 134, 148, 149, 151, 156].
 - 4) Adverse impacts of roads to terrestrial wildlife species by altering reproductive behavior or affecting reproductive success (other categories of effects in this review can also affect reproductive success): [2, 32, 33, 61, 92, 96, 134, 149, 158].
 - 5) Adverse impacts of roads to terrestrial wildlife species by 1) reducing or eliminating habitat effectiveness from road presence and associated human disturbance; or 2) significantly altering habitat use by avoidance of areas previously used (beyond a temporary habituation response): [4, 5, 7, 12, 13, 14, 15, 18, 19, 22, 26, 29, 33, 42, 49, 53, 59, 63, 64, 65, 66, 67, 68, 70, 72, 81, 85, 94, 98, 99, 100, 105, 109, 111, 112, 113, 114, 120, 122, 127, 131, 132, 134, 137, 138, 147, 149, 156, 157].
 - 6) Adverse impacts of roads on terrestrial and aquatic wildlife and habitats by acting as dispersal mechanisms for non-native and invasive species. Nonindigenous species are thought to be the second major cause (habitat loss being the first) for the listing of all threatened and endangered species in the United States (Belsky and Gelbard 2000): [33, 34, 38, 41, 47, 73, 75, 82, 95, 134, 135, 140, 141, 144, 155]. The preponderance of literature demonstrates adverse impacts of increased road densities on game, nongame, and terrestrial and aquatic habitats.

In closing, the Department recognizes the importance of roads for implementing management activities and providing reasonable access for hunters, anglers and other Forest users. A growing body of scientific literature however, identifies the potential adverse impacts of roads on fish, wildlife and aquatic and terrestrial habitats, and clearly identifies the need for large contiguous tracts of unfragmented habitats to maintain wildlife population viability. We strongly recommend, however, that should any of the action alternatives be implemented, the USFS continue to emphasize ecosystem restoration thinning projects that restore natural stand conditions to reduce the potential for catastrophic wildfires, and allow adaptive management flexibility in the case of emergency environmental conditions. New Mexico is currently experiencing the worst fire season in its history. Dense timber stands with high accumulations of ladder fuels have created an increased frequency of unnatural stand-replacing wildfires that are detrimental to human and wildlife populations, and aquatic and terrestrial habitats.

We appreciate the opportunity to comment on this DEIS. Should you have any questions, contact Mark Watson, Habitat Specialist, of my staff at (505) 827-1210, or [m.watson@state.nm.us].

Sincerely



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USDA Forest Service-CAET

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July 14, 2000

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USDA Forest Service-CAET

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July 14, 2000

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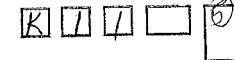
SUSAN GRIFFIN
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JOHN D. SNYDER
SHERIFF - P. O. BOX 467
(505) 533-6222

LILLIE LANEY
PROBATE JUDGE

STATE OF NEW MEXICO

CATRON COUNTY
RESERVE, NEW MEXICO 87830



June 26, 2000

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JOHN HAND
COMMISSIONER DISTRICT NO. 1

CARL B. LIVINGSTON
COMMISSIONER DISTRICT NO. 2

AUGGIE O. SHELLHORN
COMMISSIONER DISTRICT NO. 3

COMMISSION OFFICE
P. O. BOX 507 - (505) 533-6423
FAX (505) 533-6433

Hearing Officer
Gila National Forest
Silver City, NM

RE: Roadless Policy EIS

Dear Sir:

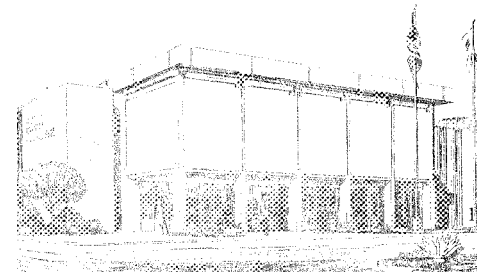
Thank you for the opportunity to provide comment on the roadless policy EIS. The following list the issues and concerns that are expressed by the Catron County Commission representing the 2,564 residents of Catron County.

Issue #1. The USFS does not have jurisdiction on all roads in the national forest system.

Concern:

RS 2477 is a statute adopted in 1866 to facilitate the settlement of the West by encouraging the development of a system of roads and trails. The name "RS 2477" is an abbreviation of "Revised Statute 2477." That name, in turn, comes from the placement of the original law in a reorganized version of the U.S. Code.

RS 2477 is a very short law, consisting of only one sentence. It states, in its entirety, that "the right of way for the construction of highways across public lands not otherwise reserved for public purposes is hereby granted." That right-of-way is a legitimate property right, and, consequently, carries with it a bundle of associated rights, including the right to maintain the roads and upgrade them under certain circumstances.



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Once the grant was made, the federal government's interest in the land actually containing the right of way became that of the servient estate. That means that its rights as owner of the underlying land are still protected against undue or unnecessary damage, but it cannot interfere with the owner of the right-of-way exercising its bundle of rights.

These property rights are held on behalf of the public, usually by the counties. In accepting the property right-of-way, the local governmental unit also accepted a legal obligation (and the consequent legal liability) to maintain those rights-of-way to ensure safe passage by the public.

RS 2477 was a self-executing law, meaning that when the requirements of the law were met, the property right was automatically conveyed from the federal government to the county. Indeed, there was never even a requirement that the county inform the federal government when it accepted the grant of a particular right-of-way. The specific actions which local governments took in accepting the grant vary from state to state and have been determined by each state's law.

In New Mexico, the Territorial Legislature did this in 1905 by enacting Section 67-2-1 NMSA, 1978 Compilation. At that time the legislature knew the federal government was going to reserve the public lands in 1906 and thereby create federal lands, closing them to homesteading and assuming control over the roads. As a consequence of the 1905 territorial act the USFS cannot close New Mexico roads that predate the 1906 reservation of public lands to the federal government. Other State laws can also determine characteristics such as the width of the right of way.

RS 2477 was repealed in 1976 by a law establishing a more comprehensive resource management framework for the Bureau of Land Management, the Federal Land Management and Policy Act, commonly referred to as "FLPMA." However, FLPMA specifically and clearly stated that all existing 2477 rights of way were not affected by the repeal of RS 2477 and remained valid. It contained in its Title V a new mechanism for granting rights-of-way from 1976 to the present.

So, while no new grants were made after 1976, all of those made prior to that time were still valid property rights of the counties.

The federal land management agency cannot determine whether the claim is valid or not except for its administrative purposes. Under our Constitution, only the courts can do that. Much of the recent controversy surrounding the 2477 issue has been sparked by draft regulations issued by the U.S. Department of Interior which local governments and others claim try to exceed the authority of the Executive Branch under the Constitution as well as suffering from a number of other serious shortcomings as well.

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If, based on the documentation the county provides, a federal agency recognizes the validity of a 2477 right of way claim, then it is bound by the right of the local governmental unit to exercise its bundle of rights. If it does not recognize the validity, then the right-of-way holder can still exercise its right. Where a dispute cannot be resolved, the issue goes to federal court for a decision.

Counties can abandon 2477 rights-of-way, but usually must go through formal procedures specified in state law to do so. The lack of maintenance of the road over a right-of-way has no bearing on the continuing validity of the right-of-way. One of the bundle of rights of the local governmental unit is to maintain a safe right-of-way and even to upgrade it within limits.

Issue #2 Determination of Easement by Necessity.

Concern:

The federal courts have recognized that the easement by necessity doctrine, whereby a grantor cannot landlock his grantee, applies to the federal government. In other words, no seller, including Uncle Sam, can deny a right-of-way to his purchaser. *Leo Sheep Co. v. US*, 440 US 668, 679 (1979) and *4 Powell on Real Property*, § 34.07 (rev.ed., 1997)

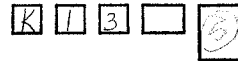
In fact, 36 CFR § 251.114 (f)(1) requires a federal officer issuing a special use permit to ensure that the inholder "has demonstrated a lack of any existing right of access available by deed or under State or federal law", which is, of course, an official recognition of the doctrine.

In *US v. Jenks*, No. 96-2106, the Tenth Circuit Court of Appeals acknowledged that pre-existing rights to access defeat the requirement for special use permits for road easements and that even without pre-existing rights of access, an inholder has statutory right to an easement from the government, with reasonable terms and conditions, under 16 USC § 3210(a).

However, if an inholder can demonstrate that his right-of-way is a public road under Section 67-2-1, NMSA, 1978 Comp., (which, as you know, is New Mexico's RS 2477 acceptance) then a special use permit is not required or even allowed to be issued, under the above quoted statute's State law exemption.

Each inholder must decide himself whether it is cheaper and easier to submit and pay for a special use permit or to resist and prove to the government agents that he has no legal requirement of one.

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Issue #3: Administration of the forest.

Concern:

Catron County has great concern about the USFS to manage the forest with the current road system. Limiting the number of roads for the management of the forest will only reduce management capabilities and cause a further decline in forest health.

Issue #4 Administration of forest permits.

Concern:

Catron County is concerned that the current holders of permits will not be allowed to meet the conditions of the granted permit. In this case then the permittee will lose that permit and it will resort back to the Forest Service. This direction was attempted in the Gila National Forest in the Glenwood Ranger District. The district attempted to close a number of roads under an old Environmental Assessment done 10 years ago. After review of the roads by the Catron County Commission a number were found to lead to stock pens, livestock and wildlife waters, recreational areas and other high use areas in the forest. After this was pointed out the Glenwood district took back the proposal.

Please enter these issues and concerns into the record on behalf of Catron County, NM.

Submitted,

Adam Polley
Catron County Manager



"Adam Polley"
<polleya@gilanet.com>

07/16/00 03:54 PM

To: <roadlessdeis@fs.fed.us>
cc:
Subject: roadless 00

Catron County Commission

P.O. Box 507

Reserve, New Mexico 87830

505 533 6423

USDA Forest Service-CAET

Attn: Roadless

PO Box 221090

Salt Lake City, UT 84122

roadlessdeis@fs.fed.us

July 14, 2000

Dear Sir:

Reference Federal Register dated May 10, 2000 pertaining to Special Areas; Roadless Area Conservation and the document identified as a Draft Environment Impact Statement (EIS) dated May 2000.

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We request that this action be halted and Environmental Impact Statements be prepared for each national forest. The objective and issues are to complex to adequately include everything that should be included in one document.

We are opposed to any action that does not meet the full requirements of NEPA.

The Congressional Act and Regulations which establish the requirements for an Environment Impact Statement are the National Environmental Policy Act of 1969 (NEPA) as amended and the Council on Environmental Quality Regulations (CEQ Reg) for Implementing the Procedural Provisions of the National Environmental Policy Act. These two documents are not identified as the documents governing the process for the proposed action. NEPA is mentioned in parts of the documents but not defined or listed as a reference.

The proposal does not meet the purposes of the National Environmental Policy Act (NEPA) as defined in the Act.

- 1) To declare a national policy which will encourage productive and enjoyable harmony between man and his environment.
- 2) To promote efforts which will prevent or eliminate damage to the environment and biosphere and simulate the health and welfare of man.

CEQ Reg Paragraph 1502.23 Cost-Benefit analysis requires that "If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aide in evaluating the environmental consequences." No economic or cost-benefit analysis is included in the draft EIS. The proposed action will have a huge economic impact.

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If action is not halted as requested above, we request at least a 120-180 day extension to the comment period. We have not had enough time to review the complex document and prepare comments. This is not near sufficient time to adequately complete this task.

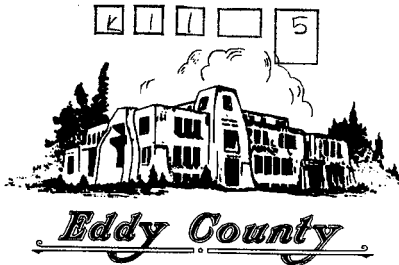
Sincerely,

/s/ Adam Polley

Catron County Manager

**Eddy County
Board of Commissioners**

Glenn Collier, Chairman
Julius Doubrava
Laurie Kincaid
Lucky Briggs
Ray Camp



Eddy County Manager
Steve Massey

101 W. Greene St., Suite 225
Carlsbad, New Mexico 88220
Phone (505) 887-9511
Fax (505) 887-1039

June 20, 2000

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

To Whom It May Concern:

First, the road management and transportation system policy cannot be implemented under current forest planning regulations. It is premature to promulgate new direction and policy that are dependent on changes that are not definite and that cannot be implemented pursuant to current forest planning regulations.

We believe the proposed forest planning regulations must be final before the road management and transportation system policy can be considered for public comment and proceed through rulemaking. The relationship of the proposed road management is clearly one of absolute dependence and violation of current forest service regulations.

We believe these proposed policies and regulations create conflict on roadless area regulations and will expose the agency to certain legal challenge.

The roadless proposal along with all of your key actions changes congressional mandates of the forest service from multiple use and sustainable yields to something you have never defined, ecological sustainability. Your goal states of ecological sustainability of pre-European settlement conditions. The agency has not defined what it is and will be impossible to achieve. This will create non-management of millions of acres of forest lands which puts industries of recreation, timber, forage, oil, gas and mineral access in total jeopardy.

The draft proposal on roadless areas and other proposals such as the unified federal policy for watersheds violate the Organic Act and the Multiple Use Sustained Yield Act. The proposals assume that various statutes require that ecological sustainability be the dominant consideration for all national forests, sustained yield of various goods and services derived from the forests cannot be achieved without first achieving ecological

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sustainability. To be supportable, these assumptions would require significant legal, scientific, and economic data. The Forest Service has submitted no full blown data on economics or true science.

Inventoried roadless areas comprise over 54 million acres or 28 percent of national forest system, but what you do not mention are the millions of acres of land shut down because of the spotted owl or other endangered species, which conflicts with the data in the roadless proposal, on social and economic indicators for industry, individuals, and state and local government. For state and local government tax base this data should be entered for the true economic losses, which would in turn change your economic numbers dramatically.

The pseudo-science of ecological sustainability and roadless areas should be omitted and state forestry and universities should be included in peer review science in the state where effected not a one size fits all policy from Washington D.C.

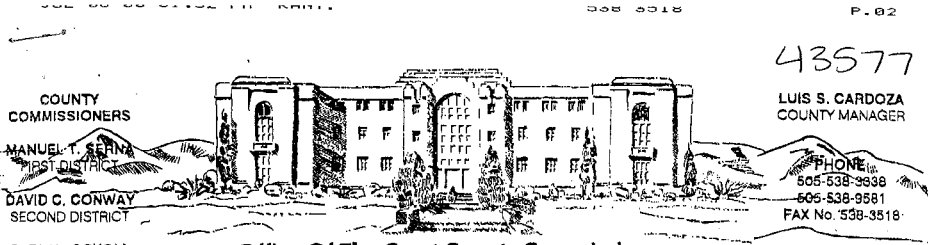
The last paragraph on local involvement on page 3-209 states that it will have no effect on the local process itself, the next sentence states you would narrow the scope of what is to be decided on locally, which is it? Current regulations guarantee state and local governments a number of provisions to ensure they are notified and participate in Forest Service planning limiting the collaborative process for land use planning to ecological topics violates the Organic Act, MUSYA, NEPA and NFMA.

We appreciate the opportunity to comment on this proposed draft.

Sincerely,

EDDY COUNTY BOARD OF COMMISSIONERS

Laurie Kincaid
Commissioner District 3



COUNTY COMMISSIONERS

MANUEL T. SERNA
FIRST DISTRICT

DAVID C. CONWAY
SECOND DISTRICT

CARL W. SCHOLL
THIRD DISTRICT

43577

LUIS S. CARDOZA
COUNTY MANAGER

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505-538-9581
FAX No. 538-3518

Office Of The Grant County Commissioners
P. O. Box 898
Silver City, New Mexico 88062

BY FAX: (202) 205-1765

July 6, 2000

K I T S

USDA Forest Service - CAET
ATTN: Chief Mike Dombeck
P.O. Box 96090
Washington D.C. 20250-6090

JUL 10 10 02 AM '00
LETTER RECEIVED
JUL 14 2000

Re: Roadless Areas NOI

Dear Chief Dombeck:

Last year the Executive Branch of government proposed to promulgate a two-part rule to protect roadless areas. As stated in my letter to you dated December 22, 1999, the proposed rule is fatally flawed as it applies to the State of New Mexico. The proposal should be withdrawn or the State of New Mexico should be excluded. Specifically, the proposal conflicts with Public Law 96-550 enacted by the 96th Congress on December 19, 1980. It invalidates the existing Gila National Forest Land Management Plan as well as other forest land management plans in the State of New Mexico and the legislation which required these plans (i.e. - Forest and Rangeland Renewable Resource Planning Act of 1974 as amended by the National Forest Management Act of 1976).

Public Law 96-550 specifically states in Section 104(c): "Unless expressly authorized by Congress, the Secretary shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of New Mexico...". Public Law 96-550 also states in Section 104(b)(3) that "...areas in the State of New Mexico reviewed in such Final Environmental Statement and not designated as wilderness, or wilderness study by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans." Section 101(2): "...insure that certain other National Forest System lands in New Mexico be promptly available for non-wilderness uses including but not limited to, campground and other recreational site development, timber harvesting, intensive range management, mineral development, and watershed and

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vegetation manipulation." As of the date of this letter, the initial Gila National Forest Land Management Plan has not been revised and I would submit that other initial forest plans in the State of New Mexico have not been revised as well. The Congressional record relating to the passage of Public Law 96-550 is clear as to the intent of Congress to designate specific areas to wilderness, study specific areas for their suitability as wilderness and to return all the roadless areas not involved in the two preceding categories for non-wilderness uses and put off further consideration for roadless area management plans. Your roadless area proposal as it relates to the State of New Mexico is fatally flawed and an insult to the Congress of the United States and should be immediately withdrawn.

In order to protect the National Forest values discussed in your proposal, action should be taken on the wilderness study areas that were specified in Public Law 96-550 and the recommendations contained in the first phase forest land management plans pertaining to wilderness study areas.

Aside from the conflicts with Public Law 96-550, the proposed rule violates numerous provisions of existing domestic law, including but not limited to, the Multiple Use and Sustained Yield Act of 1960, Public Law 86-517, 74 Stat. 215; the Wilderness Act of 1964, Public Law 88-577, 79 Stat. 890; the National Environmental Policy Act of 1969, 83 Stat. 852; and the Federal Land Policy and Management Act of 1976, Public Law 94-579, 90 Stat. 2743.

The generalized prescription and withdrawal of 54 million acres, more or less, could adversely impact the environment by causing further impairments to proper conservation management, and would cause significant economic, social, political, and cultural impacts which are not addressed and, for all intents and purposes, cannot be addressed in such a broad and sweeping fashion as suggested in the proposal.

Sincerely,

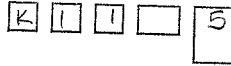
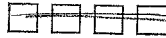
Carl W. Scholl
Carl W. Scholl, Chairman
Grant County Commission

MTS/hkl

cc: Grant County Commissioners
Senator Ben D. Altamirano
Senator Jeff Bingaman
Senator Pate V. Domenici
Governor Gary Johnson
U.S. Representative Joseph R. Skean
U.S. Forest Service

2

State of New Mexico
HIDALGO COUNTY
300 S. SHAKESPEARE
Lordsburg, New Mexico 88045



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JUL 17 2000

July 11, 2000

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

Dear Sirs:

Please consider these our official comments regarding Roadless Area Conservation Proposed Rule. Alternative 1 is the only proposal that appears reasonable. We oppose the other alternatives for the following reasons:

The Roadless Conservation Plan contains four alternatives that allocate lands without respect or compliance with existing Forest Plans, on-going Forest Plan Revisions or the administrative and legal process of Forest Planning, NEPA or the Regulatory Flexibility Act.

Due to the substance and the number of comments received, the Forest Service should allow time for public comment when the new Planning Regulations are published.

The Forest Service should not finalize any other policy proposals until the new Planning Regulations are final.

Forest Health is identified as a Potential Cost of implementation of the Roadless Plan. Fuel loading and fire risk, as well as Forest Health, are not adequately analyzed in the DEIS.

The cost of implementation of the Roadless Plan is grossly understated and ignores examples of disastrous non-management and inaccessibility for fire prevention and protection, as we experienced in the recent fires in New Mexico.

The Forest Service has refused every reasonable request from Senators, Representatives, Governors, & County Commissioners seeking Cooperating Agency Status to participate and assess impacts of the Roadless Plan. We believe this has occurred because the Forest Service

The Southwest Gateway To The Land Of Enchantment

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does not want the true economic impacts of the Roadless Plan to be addressed.

As the Forest Service shuts down multiple use of the National Forests under the new Roadless Rule, the economies of rural areas will be devastated by the Plan.

The Roadless Conservation Plan circumvents the administrative and legal process because the present administration has been unduly influenced by environmental groups and have made political deals to create defacto wilderness areas as proposed by Wildlands Project proponents.

Congress must, by law, vote to designate new Wilderness Areas. The Roadless Plan illegally designates Wilderness Areas in all National Forests. This violates the federal Wilderness Act and individual states' Wilderness Area designation statutes.

The Plan has been developed by a handful of extreme environmental groups, and has become a political campaign unsupported by sound science.

Last summer, and again this summer, the Sky Island Alliance, an affiliate organization of the Wildlands Project, hosted a gathering of radical environmentalists that support the Wildlands Project. Their objective was to map our county for "roadless areas", specifically, in the portion of the Coronado Forest located in Hidalgo County. This "mapping" did not include most "roads" used by the public. Only roads that were maintained on a regular basis by the county, or Forest Service were considered "roads". As a result of these mapping efforts 75 to 80% of so called "roadless areas" are in fact areas with roads. Roads that many local residents use on a fairly regular basis for a wide variety of purposes, including recreation.

These mapping sessions have been held all over the Western states by similar groups who support the Wildlands Project. Their "findings" were then turned over to the Forest Service to justify "roadless areas". This has resulted in a new set of standards for road classification. However, the "science" used in their mapping scheme does not provide a true picture of "roadless areas".

As a result, the access of millions of Americans will be limited to public lands based on this "roadless" criteria. Disabled, elderly and young Americans will have limited access to enjoy our Forests.

The Forest Service states that driving in the National Forests has increased dramatically over the last ten years. This proposal will diminish the tourism access for millions of Americans.

The local economic impact of the Roadless Plan, especially in states where the Forest Service controls millions of acres of lands, has not been analyzed adequately.

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In conclusion, it is essential and, ultimately beneficial to the public, that the Forest Service work with community-based, local governments (i.e. counties, cities and tribal governments) to identify forest roads that need to be built, improved, maintained or decommissioned. Our county stands ready to assist in this endeavor.

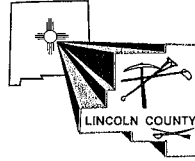
Many counties, including our own, have in place the mechanisms through which the Forest Service could work more effectively to identify essential and nonessential roads. Our Public Land Advisory Committee currently works with other federal agencies on similar issues. We would appreciate the same cooperation from the Forest Service.

Thank you for your time and consideration in this matter.

Sincerely,

[Signature]
Acting Chairman

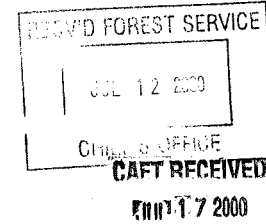
Lloyd Payne, Chairman
Hidalgo County Commission



County of Lincoln
Post Office Box 711 • Carrizozo, New Mexico 88301-0711 • (505) 648-2385

July 6, 2000

Mr. Mike Dombeck
Chief, U. S. Forest Service
U.S. Department of Agriculture
P.O. Box 96090
Washington, DC 20090-6090



Dear Chief Dombeck:

Thank you for this opportunity to comment on the "Roadless Initiative". First, the road management and transportation system policy cannot be implemented under current forest planning regulations. It is premature to promulgate new direction and policy that are dependent on changes that are not definite and that cannot be implemented pursuant to current forest planning regulations.

We believe the proposed forest planning regulations must be final before the road management and transportation system policy can be considered for public comment and proceed through rule making. The relationship of the proposed road management is clearly one of absolute dependence and violation of current forest service regulations.

We believe these proposed policies and regulations create conflict on roadless area regulations and will expose the agency to certain legal challenge.

The roadless proposal along with all of your key actions change congressional mandates of the Forest Service from multiple use and sustainable yields to something you have never defined - ecological sustainability. Your goal states ecological sustainability of pre-European settlement conditions which your agency has not defined and therefore is impossible to achieve. This will create non-management (which is totally unacceptable) of millions of acres of Forest lands which puts industries of recreation, timber, forage, oil, gas and mineral access in total jeopardy. Not to mention, the enormous fire hazards which will be multiplied a thousandfold for lack of maintenance.

The draft proposal on roadless areas and other proposals such as the unified federal policy for watersheds violate the Organic Act and the Multiple Use Sustained Yield Act.

ASSESSOR / 648-2306
P.O. Box 38

CLERK / 648-2394
P.O. Box 338

SHERIFF / 648-2342
P.O. Box 278

TREASURER / 648-2397
P.O. Box 709

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JUL 17 2000
COUNTY OF SIERRA

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BOARD OF SIERRA COUNTY COMMISSIONERS
100 NORTH DATE STREET, SUITE 5
TRUTH OR CONSEQUENCES, NEW MEXICO 87901
PHONE (505) 894-6215 FAX (505) 894-9548

July 11, 2000

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

The proposals assume that various statutes require that ecological sustainability be the dominant consideration for all national forests. Sustained yield of various goods and services derived from the forests cannot be achieved without first achieving ecological sustainability. To be supportable, these assumptions would require significant legal, scientific, and economic data. The Forest Service has submitted no full blown data on economics or true science.

Inventoried roadless areas comprise over 54 million acres or 28 percent of the national forest systems but what you do not mention are the millions of acres of land shut down because of the Spotted Owl or other endangered species which conflicts with the data in the roadless proposal on social and economic indicators for industry, individuals and the state and local government tax base. This data should be entered for the true economic losses, which would in turn change your economic numbers dramatically.

The pseudo-science of ecological sustainability and roadless areas should be omitted, and state forestry and universities should be included in peer review science in the state where effected - not a one-size-fits-all policy from Washington, D.C.

The last paragraph on local involvement on page 3-209 states that it will have no effect on the local process itself. The next sentence states you would narrow the scope of what is to be decided on locally. Which is it???

Current regulations guarantee state and local governments a number of provisions to ensure they are notified and participate in forest service planning. Limiting the collaborative process for land use planning to ecological topics violates the Organic Act, MUSYA, NEPA AND NFMA..

Why does the U.S. Forest Service not have to comply with the Americans with Disabilities Act like all private businesses and other government agencies do. A lot of people will be shut out of a lot of Public Land if all these roads are closed.

We appreciate your perusal of our questions this proposed draft.

Yours truly,

Thomas F. Stewart
Lincoln County Manager

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

RE: Sierra County commission Comments on the U.S. Forest Service Roadless Policy Proposal

Sierra County Commission would like to take this opportunity to comment on the U.S. Forest Service Roadless Policy Proposal Environmental Impact Statement (EIS). Sierra County Commission has serious concerns regarding the Forest Service proposed Roadless Initiative. The national forest in Sierra County already has substantial roadless and wilderness areas. In addition, Sierra County RS 2477 Roads could be in jeopardy unless there is proper Forest Service consultation with the County Commission.

1. Roadless Initiative Results: Over 80% of the National Forest in Sierra County Withdrawn from Multiple Use: The Roadless Area Initiative has been touted as being insignificant on the Gila National Forest in terms of total acres to be withdrawn from multiple use. In fact the Forest Service proposed Roadless designations in Sierra County are significant for several reasons. The national forest roadless/wilderness areas in Sierra County already consume approximately half of the forest in the County. The Roadless Area initiative could withdraw another thirty percent. The net consequences could result in less than 20% of the national forest remaining accessible to multiple use. Sierra County and southern New Mexico is a fast growing region of the southwest. People who live and move into this region utilize the multiple uses of the national forests - the very forests that are proposed to be withdrawn.

2. The Future of Sierra County RS 2477 Roads? A major concern of Sierra County Commission is the RS 2477 Roads that lace the Gila National Forest in Sierra County, including the proposed Roadless areas. The Sierra County RS 2477 Roads are property of the County and its citizens. Yet the County Commission is concerned that the Roadless Initiative would usurp County jurisdiction with the federal government illegally "taking property" that belongs to the County. Sierra County Commission has notified the national forest of its RS 2477 properties on the forest. Yet no proper inventory of the RS 2477 Roads has been done. The County has also requested to be a partner in joint environmental analyses of any forest Service initiatives that could impact Sierra County. The County was not properly notified for early consultation

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What happened to the Community Based Partnership and the Southwest Strategy of early consultation and coordination? When the Forest Service withdraws national forest lands from multiple use, the result is a reduction in the multiple benefits and multiple values and interests to the American public.

The federal administration's Roadless Area Initiative would preclude any future road planning in areas that have not been previously roaded or managed for timber. The impacts would vary greatly, depending on the part of the county involved. The proposed Roadless additions are expansive, and more than doubling the amount of area that will no longer be available for multiple use. Such a significant change in policy for our land use deserves more careful consideration because it will greatly impact the citizens living on or near the national forest.

3. Roadless Initiative – Centralized Planning and Questionable Decision-Making

The County is skeptical of Washington, centralized planning with the attitude they know what is best for our local forests. The County Commission is concerned that the Roadless Area Initiative has not followed the NEPA process through their "fast track" approach, precluding meaningful public involvement and due process. Moreover, the Forest Service did not consider Sierra County Commission's request to jointly conduct the environmental impact statement, nor did they consider Sierra County's Environmental Planning Ordinance and CEQ Regulations, requiring early consultation and coordination.

Furthermore, the Roadless Initiative is not following the regulations of the National Forest Management Act (NFMA) or the Wilderness Act. Many of the national forests are in the process of revising their forest plans. This latest initiative has thwarted the national forest planning process. The Forest Service should wait till the Gila National Forest planning process to consider such a substantial withdrawal of multiple use lands.

It appears that the Roadless Area Initiative is attempting to usurp the authority of the NFMA planning process. NFMA planning is based on the premise that decision-making for local areas should be made with site-specific, scientific information for that particular area. But the Roadless Area Initiative is a "one plan fits all" prescription and lumps 54 million acres nationally together that are obviously quite different, both in physical aspects and in social/cultural dimensions.

This initiative has bypassed scientific analysis. It is ironic the Committee of Scientists just finished making their Roadless Initiative recommendations, and new planning regulations are out for public comment. Suddenly, the Roadless Area Initiative comes from Washington, negating the hard work that has gone into the forest planning process.

4. Impact on Multiple Use

The existing Gila National Forest roads provide a vital service to our citizens and visitors who travel through the national forest by vehicle. The number one recreation activity on

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the Gila National Forest is driving through the forest on dirt roads. It provides the most important recreation activity, driving through the national forest. Families, sportsmen, and a growing retirement and elderly population can only fully enjoy the national forest through vehicle access. (Refer The Forest Service report: *Gila National Forest Recreation Market Study*, by Dr. Alexander J. Thal, Western New Mexico University.

Timber harvests (fuelwood gathering and timber operations) have been a vital part of Sierra County's customs and cultures and economy. The impact of the Roadless Area Initiative has yet to be determined, but its impact on future fuelwood gathering and any timber production could be significant, because it could lock up another 30% of the forest, resulting in less than 20% of the remaining non-wilderness areas left for future timber production in Sierra County. Many of the roads used by woodcutters in the national forest could be excluded from vehicle use.

5. Impact on Forest Health

It is well-established scientific knowledge that the national forests in the southwest are ripe for disease, insect infestation and catastrophic fires. The Forest Service must accelerate their forest management to address these priority forest health problems. This requires intensive management with both natural/set fires and mechanical treatment, especially thinning to significantly reduce disease, insect infestation and over dense tree stands and adequate fire breaks.

The Gila National Forest in Sierra County is also highly susceptible to catastrophic wildfire on the scale of the Los Alamos disaster and the Scott Able fires. Again, the attention and primary responsibility of the Forest Service is to protect watersheds, provide multiple use, fire protection, and *forest management*, rather than spending precious time and financial and natural resources on developing backdoor "national parks", or, "wilderness" set-asides.

These forest health management treatments are critical in order to protect human lives and property and to protect our natural resources, including our watersheds, water quality, wildlife, endangered and threatened species. The Forest Service management infrastructure to accomplish these priorities not only requires financial commitment, studies and administrative processes, but also available road networks that provide access for treatment.

6. Damage to Forest Service Public Relations

The Roadless Area Initiative is very controversial, both inside and outside the Forest Service. It has magnified the conflict between the urban environmental community and other national forest users. The battle lines are drawn. On one side is the federal administration and every environmental organization; on the other, every rural state and its governor, every county board, hunters, ORVers, libertarians, and logging and mining associations.

The Roadless Area issue is steeped in controversy. Why did this come about? The

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decisions that lead to this initiative were not open and transparent. Only one group of forest users was consulted, and the other side was clearly and intentionally locked out of the process. No effort was made by the federal administration to gather consensus or agreement. No effort has been made to consult local Forest Service decision-makers. The local Forest Service staff is caught in the middle. Forest Service employees live in rural communities affected by the Roadless Area Initiative. Because of the way this initiative was handled by the federal administration, the level of distrust toward the Forest Service and its employees has reached an unprecedented level. A little bit of consideration by the Administration for Forest Service-community relations could have gone a long way toward diffusing the heated situation. As it now stands, the damage that has been done to Forest Service public relations and community support may take years to repair and rebuild.

Sierra County Recommendation

Sierra County Commission is asking that a moratorium be placed on the Roadless Initiative. Furthermore, the Commission is requesting that Forest Service involve Sierra County Commission in early consultation in the Gila Forest Planning process, as well as other Forest Service proposals that may significantly impact Sierra County.

Respectfully submitted,
Ralph Gooding
Ralph Gooding, Chairman
Sierra County Commission



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

June 19, 2000

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

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JUN 21 2000

7 7 7 5

Dear USFS:

I write in support of the proposed rule to protect our remaining large roadless areas.

Roadbuilding in National Forests has been a very bad deal for taxpayers. The Forest Service presently has in the neighborhood of 400,000 miles of inventoried roads. Many of those roads are barely used, if at all. The USFS also has an \$8.5 billion maintenance backlog. We cannot take care of the roads we already have. The taxpayers should not be called upon to fund any more roadbuilding in our National Forests.

Albuquerque and central New Mexico face difficult problems of water scarcity. We are going to have draw upon surface water from the Rio Grande. Many of the critical watersheds for the Rio Grande are National Forest roadless areas. Roadbuilding detracts from watershed health. It contributes sedimentation to stream flows, particularly during construction. Unmaintained Forest Service roads contribute heavily to erosion problems. And, roadbuilding may detract from the reservoir capacity of our forests, thus harming the capacity of the land to store and release water on a regular basis.

We should not play games with our watersheds. The conservative approach is to err on the side of caution. Anything that does not contribute to our watershed capabilities particularly the building of more Forest Service roads must be avoided.

The USFS proposal presently only protects areas of 5,000 acres or more. Roadless areas of 1,000 acres equally important to our watershed must also be protected.

Respectfully,
Hess Yntema
Hess Yntema
Albuquerque City Councilor
District 6

CAET RECEIVED

JUN 21 2000

==== THE CITY OF ALBUQUERQUE IS AN EQUAL OPPORTUNITY/REASONABLE ACCOMMODATION EMPLOYER ====

