

Meeting Summary
Roadless Area Conservation National Advisory Committee
June 13-14, 2007
Yates Building, U.S. Forest Service, Washington, DC

Participants

Committee Members Present

- Darin Bird – Utah Department of Natural Resources
- Adena Cook – Blue Ribbon Coalition
- Robert Cope – County Commissioner Lemhi ID
- Jeff Eisenberg – National Cattlemen’s Beef Association
- Paul Hansen – The Nature Conservancy
- Dale Harris, RACNAC Co-Chair – Montana Wilderness Association
- Geraldine Link – National Ski Areas Association
- Jim Riley – Intermountain Forest Association
- Greg Schaefer, RACNAC Co-Chair – National Mining Association and Arch Coal
- Todd Schulke – Center for Biological Diversity
- Denny Scott – Carpenters Union
- Chris Wood – Trout Unlimited

Committee Members Absent

- Ray Vaughan – WildLaw

U.S. Forest Service

- Gail Kimbell, Chief USFS
- Mark Rey, Under Secretary NRE
- Richard Cook, DFO, Deputy Director EMC, USFS
- Jessica Call, RACNAC Coordinator, USFS
- Bill Supulski, Roadless Area Conservation Coordinator, USFS
- Rick Cables, Regional Forester, Rocky Mountain Region
- Sharon Friedman, Strategic Planning Director, Rocky Mountain Region

Colorado State

- Harris Sherman, Director Colorado Department of Natural Resources
- Mike King, Deputy Director Colorado Department of Natural Resources

Colorado Roadless Area Review Task Force

- John Swartout, Great Outdoors Colorado
- Melanie Mills, Colorado Ski Country USA
- Steve Smith, The Wilderness Society

Facilitators

- Kathleen Rutherford, Kearns & West
- Janet Thomson, Kearns & West

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Committee Agreements

Colorado Petition Review

The RACNAC will recommend to the Secretary of Agriculture that the Colorado Roadless Petition, submitted under the Administrative Procedures Act, move forward into rulemaking. The Committee made a number of proposed recommendations for Colorado to consider as it moves into rulemaking, including the following:

- Interim protections: Recommend the use of current and up-to-date USFS maps of Roadless areas to ensure accuracy and the application of the most up-to-date information available. This is consistent with the inventory section of the petition which emphasizes adjustment of Inventoried Roadless Area (IRA) boundaries to include corrections or more accurate information.
- Construction of temporary roads for Community Wildfire Protection Plans: Recommend giving priority to the consideration of all other access options before consideration for temporary roads. Recognizing the high importance of community protection, treatments should be designed to protect communities while also maintaining Roadless area values and characteristics to the extent practicable. Roaded areas adjacent to communities would receive a higher consideration in prioritizing for treatment than backcountry areas not adjacent to communities.
- Construction of temporary roads for grazing: Recognizing the high importance of maintaining a viable ranching industry in CO, access should be designed to support this goal while also maintaining Roadless area values and characteristics to the extent practicable. Support Colorado's clarification that "with regard to current or future grazing allotment, and utility and water conveyance structures, roads can be constructed only where consistent with the forest plans and where there are no other reasonable alternatives. Such roads will be subject to the requirements outlined in the Petition for roads constructed pursuant to paragraph (b) of the Petition."
- Construction of temporary roads for utility and water conveyance structures: Recommend providing temporary road access for "repair or replacement" of utility and water conveyance structures rather than for "construction."
- Ski areas: In the context of the rulemaking, recommend clarifying the ski area portion of the rule to include:
 1. Limiting the requirement for wildlife evaluation to road building activities in these areas;
 2. Providing DNR and DOW the opportunity to participate as cooperating agencies, but not require them to do so in every situation; and
 3. Requiring that the impacts to the environment resulting from road building activities within these areas be limited to the minimum impact that satisfies the purpose and need of the project.
- Cutting, sale, or removal of timber for forest health treatments: Recommend clarification that this section of the petition (pages 11-12) emphasizes community wildfire protection. Recommend adding the following language to tree cutting section (1)(i): "maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the

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risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period.”

- Road development and other activities associated with coal exploration and development: Recommend considering an emphasis on minimizing road building. Clarify that a typical NEPA process will be associated with permitting process.
- Construction of temporary roads for public health: Consider adding “safety” to the public health exception. Clarify the definition of a “potential” catastrophic event, particularly what a potential threat to natural resource value means. If this exception might result in large landscape scale forest health treatments, sideboards would be useful.
- Additional items: Consider examining IRAs and their importance for fish and wildlife in light of climate change studies. Consider utilizing a collaborative RAC-like model for rule development/implementation/monitoring.

The Committee will draft a letter to the Secretary of Agriculture conveying these recommendations. Todd Schulke and Geraldine Link will compose the first draft of this letter for review by other Committee members.

Additional Meeting Highlights

Welcoming Remarks and Introductions

Dale Harris, RACNAC Co-Chair, welcomed the Committee and members of the public. Kathleen Rutherford, Kearns & West, reviewed the agenda and ground rules.

Litigation and Legislation Update

Undersecretary Mark Rey provided an update on Roadless rule litigation. The U.S. Forest Service (USFS) has filed a Notice of Intent to appeal Judge Laporte’s decision in California. The briefing schedule has not yet been established. In Wyoming, the district court denied Wyoming’s Section 60(b) motion to reinstate the injunction on the basis that the court lacked jurisdiction to do so. The briefing schedule for Wyoming’s re-filing of the original action has been set and will carry into the early fall. Judge Brimmer will likely produce the same ruling as he did previously, which will result in the case moving up to the 10th circuit court. Lastly, North Dakota has settled its case and all parties have agreed to a course of action.

Bill Supulski noted that there is legislation in both the House and Senate regarding Roadless area conservation. Senator Cantwell (WA) resubmitted language identical to that from the 109th Congress. Eighteen senators have cosigned on S.1478. Representative Inslee (WA) has submitted a bill that essentially codifies the 2001 Roadless Area Conservation Rule. There are 140 cosponsors on H.R.2516.

Update on Idaho Rulemaking

Bill Supulski provided an update on the Idaho rulemaking process. So far, the USFS and State of Idaho have received over 45,000 comments on the Notice of Intent. There will be a ninety-day comment period on the Draft Environmental Impact Statement (DEIS) and the proposed rule. Public meetings will be conducted for review and input on these documents. At least one such meeting will be held in Washington DC, to which the RACNAC will be invited to attend. The

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USFS has been working cooperatively with the State on the environmental analysis and transformation of the petition into rule language. The current version of the draft proposed rule provides more flexibility in General Forest and Backcountry designations and generally seeks stronger protections in Wildland/Recreation, Special Areas, and Primitive management categories. While permissive in some areas, the amount of actual change on the ground is anticipated to be small by both the USFS and the State. The amount of anticipated change will be disclosed in the DEIS.

State of Colorado Presentation

Harris Sherman, Director of the Colorado Department of Natural Resources, provided a presentation on the Colorado Roadless petition. The Colorado Roadless Areas Review Task Force was created by Senate Bill 243 to provide recommendations to the Governor on how the state should proceed towards rulemaking. A thirteen-member bipartisan group with broad perspectives on Roadless issues was convened. The Task Force held nine meetings in the field (with at least one meeting held in a community adjacent to each national forest in Colorado) and then conducted an extensive deliberative process, taking approximately fifteen months overall. This process, in addition to the collection of written public input, provided an opportunity for Colorado to receive a wide scope of public input. The final Colorado Roadless petition was submitted to Governor Owens in September 2006 and forwarded to the U.S. Department of Agriculture (USDA) in November 2006. After the change in administration, Governor Ritter submitted the “2007 Petition” to the USDA on March 20, 2007, which largely adopted the 2006 Petition with some modifications.

The Colorado petition proposes revising the Roadless inventory maps to correct any inaccuracies and remove areas that have become roaded since the RARE II inventory or have been designated as Wilderness and Special Areas. While 4.4 million acres are covered under the 2001 Roadless Area Conservation Rule, the Colorado petition contemplates protection for approximately 4.1 million acres of National Forest land.

The Colorado petition seeks to conserve Roadless area values and characteristics, as well as to protect human health and safety and provide sufficient flexibility to reduce hazardous fuels, restore essential wildlife habitat, and provide reasonable access to existing facilities and public and private property.

The Colorado petition removes approximately 10,000 acres of ski areas from the Roadless inventory. Those areas developed for downhill skiing must be consistent with NEPA and the Colorado Department of Natural Resources and Colorado Department of Wildlife must be cooperating agencies to review future developments for these ski areas.

The Colorado petition provided several exceptions for building temporary roads that differ from the 2001 Roadless Area Conservation Rule. These include the construction of temporary roads: where needed for a Community Wildlife Protection Plan (CWPP)/Wildlife Urban Interface (WUI) treatment; for public health in other areas in cases of threat of flood, fire, or other potential catastrophic event that, without intervention, would cause the loss of life, property or

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natural resource values; and to allow for activities associated with coal exploration and development in new leases in the Grand Mesa, Uncompahgre, and Gunnison National Forests (North Fork area).

Additional flexibility is provided for the construction of permanent roads in Roadless areas to: provide access to existing or future grazing allotments to construct and maintain range improvements, or gain access in emergencies such as fire, drought, flood, sick or injured animals, failure of livestock water facilities, or other similar ranching circumstances of an emergency nature; and allow for construction, maintenance and emergency response of utility and water conveyance structures. The petition additionally notes that: all roads built in IRAs would be closed to all motorized vehicles not specifically used for the purpose of the access; non-permanent roads will be emphasized and allowing temporary roads where temporary roads are specified in exceptions; and any temporary road shall be decommissioned and obliterated and the affected landscape restored immediately upon termination of the purpose for the road.

The Colorado petition provides additional exceptions beyond the 2001 Roadless Area Conservation Rule for timber cutting where deemed appropriate for the purpose of wildlife habitat management and improvement for wildlife species, and to reduce the risk of wildfire effects or large scale insect and disease outbreaks, in areas covered by CWPP/WUI.

Colorado requests that the USFS grant cooperating agency status to the Colorado DNR and DOW during rulemaking for projects and planning activities implemented on lands covered by the Colorado Rule. The State additionally provided several clarifications for the rulemaking process:

- With regard to current or future grazing allotments, and utility and water conveyance structures, roads can be constructed only where consistent with the forest plan and where there are no other reasonable alternatives. Such roads will be subject to the requirements outlined in the Petition for roads constructed pursuant to paragraph (b) of the Petition.
- It is the intent of this rule to continue to allow current forms of mechanized access for current and extensions of current permits.

Colorado additionally requested interim protection for Roadless areas to ensure that no activity inconsistent with the 2001 Roadless Rule will be authorized during the time necessary to promulgate the Colorado Rule. The USFS has agreed to provide notice to Colorado regarding any activity causing environmental impacts within IRAs. The USFS will develop a memorandum of understanding (MOU) with the Colorado DNR and DOW to serve as cooperating agencies for those projects that are initiated within IRAs. If the 2001 Rule is overturned, the USFS will execute a memorandum of agreement (MOA) with the State to continue such notification, and to assure, consistent with any subsequent court order, that no activity inconsistent with the 2001 Rule will be authorized without the State's endorsement during the time necessary to promulgate the Colorado rule.

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Lastly, regarding oil and gas leasing, the Colorado rulemaking will protect IRAs through surface occupancy or use constraints. No new temporary roads, permanent roads, road construction or reconstruction (as defined in 36 CFR 294.11) may occur within IRA lands or the lands described.

The RACNAC asked for clarification regarding: which maps would be used during interim protection if the 2001 Roadless Area Conservation Rule were overturned; how the Colorado petition would change the Roadless inventory in the state; what degree of flexibility is provided for forest health treatments; what facilities are envisioned under the “water conveyance structures” road building exception; and what was envisioned the allowance for cutting, sale, or removal of timber for wildlife habitat management and improvement.

Discussion of RACNAC Nomination Process

RACNAC members’ term limits last for two years and will expire on September 12, 2007. Federal Advisory Committee Act (FACA) regulations state that the Secretary of Agriculture may re-appoint existing members to assure continuity. A notice will be placed in the Federal Register to resolicit nominations, providing thirty days for submissions. Committee members wishing to remain on the RACNAC must re-submit applications to the Secretary of Agriculture.

Public Comment:

Public comment was offered to the Committee by:

- Mick Ireland, Mayor of Aspen
- Melanie Mills, Colorado Ski Country USA
- Diana Orf, Colorado Mining Association
- Steve Smith, The Wilderness Society
- Mat Jacobson, Heritage Forest Campaign

Written comments were received by the Colorado Off Highway Vehicle Coalition (COHVCO) and a coalition of 15 environmental groups.