

Meeting Summary
Roadless Area Conservation National Advisory Committee
November 18-19, 2008
U. S. Forest Service Yates Building, Washington, DC

Participants

Committee Members Present:

- Darin Bird – Utah Department of Natural Resources
- Adena Cook – Blue Ribbon Coalition
- Robert Cope – County Commissioner Lemhi ID
- 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
- Ray Vaughan – WildLaw

Committee Members Absent:

- Jeff Eisenberg – National Cattlemen’s Beef Association
- Chris Wood – Trout Unlimited (*suspended his involvement on the Committee due to his participation on the Obama USDA transition team*)

U.S. Forest Service

- Rick Cables, Regional Forester, Region 2, USFS
- Jessica Call, RACNAC Coordinator, USFS
- Richard Cook, DFO, Deputy Director EMC, USFS
- Tony Dixon, Deputy Regional Forester, Region 2, USFS
- Joel Holtrop, Deputy Chief NFS
- Kathy Kurtz, Colorado Roadless Rule Team Leader, USFS
- Abigail Kimbell, Chief, USFS
- Mark Rey, Under Secretary, NRE
- Julie Schaefer, Social Scientist, Strategic Planning, Region 2, USFS
- Trey C. Schillie, Ecosystem Services Specialist, Region 2, USFS
- Melissa Simpson, Assistant Undersecretary, NRE
- Bill Supulski, Roadless Area Conservation Coordinator, USFS

Colorado

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

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Facilitators:

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

Committee Agreements

Advice to Secretary of U.S. Department of Agriculture

The RACNAC agreed to submit the following consensus advice to the Secretary of the U.S. Department of Agriculture:

- Road building exception for grazing: Remove the provision that allows road building for grazing activities from the rule.
- Ski areas: Place the following language in section 294.36 subparagraph D of the rule “The removal of acres allocated for ski areas from roadless inventory pursuant to this subpart are not subject to reconsideration, revision, or rescission in subsequent project decisions or land management plan amendments or revisions undertaken pursuant to 36 CFR part 219.”

Clarify and clean up the language in the FEIS and the Final Rule to make it consistent with respect to (1) how the ski industry package is described and (2) how the agency characterizes what is permissible or not in the future with respect to any ski area lands that are roadless.

- Road building for water and utility conveyances: Add the following clarification to the rule: “Need is defined as there is no technically or economically feasible alternative or the avoidance alternatives are significantly more environmentally damaging.”

Identify the Regional Forester as decision maker.

- Additional protections for 1.26 million acres: Acknowledge that codification of protection of these acres should be considered, but the DEIS has an insufficient opportunity for public comment to accommodate consideration of the following hybrid alternative. The Rule should provide interim protection by prohibiting changes to management categories “a” and “b” on approximately 1.26 million acres pending a subsequent rulemaking process to determine whether to codify protection. Changes will require rulemaking.

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For the North Fork Valley in the Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG), the Colorado Roadless Area (CRA) boundary should be the same as the boundary included in the Colorado petition. The boundaries will be reviewed during the forest plan update. This prescription does not affect the exception for coal mining.

- Management of specific acreage included or excluded from CRA inventory: Acknowledge the State Division of Wildlife (DOW) and USFS concerns about the analysis that led to excluding 520,000 acres (exclude ski areas and North Fork Valley coal areas) from the CRA proposed rule, and advise interim protections and prohibitions consistent with the 2001 Rule (excepting approved projects on substantially altered acres), until subsequent state and USFS analysis and public notice and comment and final determination (no longer than 6 months) as to which areas have roadless characteristics.

Advise that all acreage in question (the 520,000 IRA acres excluded from the CRA inventory and the additional 309,000 acres included in the CRA inventory) be examined simultaneously under the process described above.

- Change clause: Add a 60-day public comment period for any proposed changes.
- Changes to CRA inventory: The Chief may add to, remove from, or modify the designations listed in 36 CFR 294.38 (USFS to confirm this section number) based on changed circumstances or public need and shall provide at least 60 days' public notice and comment for any future modifications or revisions to the Colorado Roadless Rule only through a state-specific rulemaking process.

Advise that there be a trigger for rulemaking where changes to inventory or upgrades in protective status identify additional acres for roadless area protection.

- Interplay between forest plans and the Rule: Add to subpart D in scope and applicability section of the preamble: "can be more restrictive but not inconsistent with the rule."

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Additionally, advise state to examine and include, as necessary, language in the rule to ensure that exemptions under this rule will not be categorically extinguished under future forest plan revisions and amendments.

- Road building for hazardous fuel treatments for community protection: Advise adapting the Idaho model to Colorado needs, giving clear reasons for any changes. Note that there is strong support on the RACNAC for the specific Idaho language, and the further from this model Colorado goes, the more questionable the support will be. Outside the CPZ, apply a significant risk test and have a RAC-like multi-stakeholder collaborative process to determine projects that may be approved.

Define the community protection zone (CPZ) as defined by HFRA as the wildland urban interface (WUI) (ii).

Clarify: Beyond WUI but within area identified by CWPP as a priority.

- Actionable definition of roadless area characteristics. Advise adoption of the complete definition of roadless characteristics from the Colorado Roadless Area Review Task Force, “enumeration of these resources and features does not constitute legal standard or cause....the list shall be used as guidance and context for decisions about management of Roadless areas”

Additional Meeting Highlights

Welcoming Remarks and Introductions:

Greg Schaefer, RACNAC Co-Chair, welcomed the Committee. Kathleen Rutherford, Meridian Institute, reviewed the ground rules and agenda. Undersecretary Mark Rey welcomed the committee and thanked participants for their continued work on the Colorado Roadless Rule.

Presentation from the State of Colorado and the USFS:

Mike King, Deputy Director of the Colorado Department of Natural Resources, provided an update on the Colorado Roadless Rule development since the last RACNAC meeting. He noted that he has appreciated the work of the RACNAC to date in helping to further refine and clarify the agreements reached by the Colorado Roadless Task Force. The State believes that further tightening the rule and making it

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more protective, and clarifying the limited exceptions, will put Colorado in a position to have a successful rule.

The State has eliminated from the proposed Rule the exception for building roads associated with grazing, which had caused significant concern from some constituents. The understanding reached with the Colorado Cattlemen's Association is that specific uses (e.g. motorized access for spot fence repairs, taking care of sick animals, maintenance of stock ponds) allowed under the status quo will still be allowed under the Colorado Roadless Rule with permission from the Regional Forester.

The road building hierarchy that was proposed by the state of Colorado and favorably reviewed by the RACNAC at the October 9th meeting has now been added to the Roadless Rule as it applies to water and utility conveyances. The hierarchy requires that road building should be a last alternative when considering any activity allowed under the Rule.

The State would still like input from the RACNAC on hazardous fuels reduction in Colorado and the best method to achieve that. The Colorado Roadless Task Force intended to provide some flexibility in limited circumstances outside the WUI and we would like to find a way to provide for that in a way that makes all constituents comfortable with it.

The State has now limited the exceptions for tree cutting for wildlife habitat purposes to threatened and endangered species only and has eliminated the exception for tree cutting to benefit plant species. The State is hoping to limit fuels treatment for trees with disease and insect infestation to the exception used for hazardous fuels.

For oil and gas pipelines the State proposes, as the RACNAC recommended, requiring pipelines to go around roadless areas unless doing so would create adverse environmental impacts. The State is still working closely with the USFS to determine the best method to address the 67,000 acres of existing oil and gas gap leases. In the future, all oil and gas leases will be done without roads and will be subject to provisions similar to the 2001 Roadless Area Conservation Rule.

Tony Dixon, Deputy Regional Forester for Region 2, noted that the State and USFS are working to figure out how to address some concerns about approximately 520,000 acres of IRAs that were not included in the CRA inventory. Commentary from the public and

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DOW raised concerns that some of these acres carry roadless values and should be placed in the CRA inventory. The State and USFS are considering adding the acres to the CRA and request RACNAC advice on how to address the review and potential inclusion of these lands. Lastly, the State and USFS decided to remove the 8200 acres of ski area lands from the Rule.

Comments from the Chief:

USFS Chief Abigail Kimbell noted that what the RACNAC has accomplished for the state of Idaho and is on the brink of accomplishing for the state of Colorado is of huge importance to the USFS and the nation. It is tremendous to be able to resolve decades-long conflicts over land management. The management of roadless and roaded areas for watershed protection is crucial in Colorado, and the work of the RACNAC to provide for sensible future management of these lands will be important.

Chief Kimbell thanked the RACNAC members with plaques and bronzed pinecones for their service. The RACNAC thanked Chief Kimbell for all her support since she has been in office.

Discussion: Road Building Exception for Grazing:

The RACNAC supports the State's decision to eliminate the exception for building roads associated with grazing. The State reached an understanding with the Colorado Cattlemen's Association that specific uses (e.g. motorized access for spot fence repairs, taking care of sick animals, maintenance of stock ponds) allowed under the status quo would still be allowed under the Colorado Roadless Rule with permission from the regional forester. The group debated whether to add the following clause into either the rule or the preamble but could not reach consensus on the matter: "Note that nothing in this rule should bar current or future permittees from using motorized access necessary to maintain or develop improvements for current or future grazing permits or for emergency access to allotments. Examples of emergencies include but are not limited to, fire, rescue of sick or injured livestock, and emergency feeding or watering of livestock."

Discussion: Ski Areas:

The RACNAC affirmed that the text developed in the October 9th meeting should be included as advice to the Secretary. The RACNAC will advise that USFS place the following language in section 294.36 subparagraph D of the Rule: "The removal of acres allocated for ski areas from roadless inventory pursuant to this subpart are not subject

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to reconsideration, revision, or rescission in subsequent project decisions or land management plan amendments or revisions undertaken pursuant to 36 CFR part 219.” There remains an outstanding request to the USFS to comment on whether this language is best suited to the Rule itself or the Preamble.

The RACNAC held a brief discussion on how to characterize the remaining edits requested by the ski industry. The RACNAC agreed to recommend that USFS clarify and clean up the language in the FEIS and the Final Rule to make it consistent with respect to (1) how the ski industry package is described and (2) how the agency characterizes what is permissible or not in the future with respect to any ski area lands that are roadless.

Discussion: Road Building for Water and Utility Conveyances:

The RACNAC agreed to carry forward their decision from the October 9th meeting that, for road building for water and utility conveyances, the decision-maker should be the Regional Forester. Additionally, the following should be added to the rule: “Need is defined as there is no technically or economically feasible alternative or the avoidance alternatives are significantly more environmentally damaging.”

The RACNAC held additional discussions about whether or not this exemption should apply to only current or also future water and utility conveyances. The State understands that, although not a unanimous recommendation, the Colorado Roadless Task Force had envisioned this provision to apply to future conveyances; the State would like to preserve that exception in order to be in keeping with the Task Force intent. The State has received mostly positive feedback over this provision, with some pockets of heartburn over the allowance for future conveyances.

The RACNAC discussed the degree to which the advice should include flexibility for the State regarding water conveyances considering that Colorado is a headwater state. Some who had been concerned about the allowance for future water conveyances were more willing to accept that provision in light of the RACNAC advice to consider codifying greater protections for the 1.26 million acres of “a” and “b” designated lands.

The road building hierarchy that was proposed by the state of Colorado and favorably reviewed by the RACNAC at the October 9th meeting has now been added to the Roadless Rule applicable to all roadbuilding circumstances, including water and utility

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conveyances. The hierarchy requires that road building should be a last alternative when considering any activity allowed under the Rule.

Discussion: Additional Protections for 1.26 Million Acres:

While the Idaho Roadless Rule guaranteed greater protection than the 2001 Roadless Area Conservation Rule for approximately 35% of the roadless areas in the state, the draft Colorado Roadless Rule has no equivalent protection. Some feel that the rule as drafted is not a fair, balanced rule. The DEIS for the Colorado Rule identifies approximately 1.26 million acres of CRAs as having forest plan management categories that are more restrictive than the 2001 Roadless Rule. The DEIS labels these more restrictive management categories as “A” and “B”. The RACNAC discussed the possibility of making the A and B management categories permanent, which would guarantee that 31% of the CRAs receive greater protections than the 2001 Rule.

The State and USFS expressed concern that the codification of these protections for the 1.26 million acres has not been open to public comment. The RACNAC discussed whether a supplemental EIS would be an appropriate mechanism to handle this concern but determined that the current analysis does not require a need for a supplemental EIS, only for additional public comment. The RACNAC discussed whether to advise the State and USFS to conduct the public comment prior to issuing the rule. The RACNAC agreed to recommend that the State and USFS consider codifying protection of the 1.26 million acres but, in the meantime, provide additional protection by prohibiting changes to management categories “a” and “b” in forest plans, pending a subsequent rulemaking process to determine whether to codify protection. Any changes will require a rulemaking.

To alleviate concerns about the inclusion or exclusion of coal areas, the RACNAC agreed to advise that for the North Fork Valley in the Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG), the Colorado Roadless Area (CRA) boundary should be the same as the boundary included in the Colorado petition. The boundaries should be reviewed during the forest plan update and the prescription should not affect the exception for coal mining.

Discussion: Management of Specific Acreage Included or Excluded from CRA Inventory:

The State and USFS noted that they share concerns about the precision of the assessment that carved 520,000 acres of IRA’s out of the CRA inventory. Significant

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public comment and State DOW point to acreage within those areas that have Roadless characteristics (and therefore should be included in the CRA inventory). The State expressed concern that not including the acres in the CRA inventory after significant public comment to do so is problematic, and that they are more comfortable erring on the side of including the acreage in the CRA inventory and thereby protecting that acreage from changes which might disqualify them from future inclusion.

Committee discussion turned on how best to resolve this conundrum of an analysis that concludes these acres lack Roadless characteristics and criticism that the analysis was insufficient and therefore its conclusions flawed. The RACNAC debated two issues: 1) how to evaluate the 520,000 acres to determine whether or not they should be included in the CRA inventory, and 2) whether to include the 520,000 acres in the CRA inventory while the evaluation process is occurring. The RACNAC defined three options for resolving these issues: 1) recommend promulgation of the rule be delayed until the acres could be re-analyzed, 2) creating a special category of lands within the Colorado Roadless Rule that mandates 2001 Roadless Rule protections for these 520,000 acres until additional analysis occurs, or 3) creating a separate type of interim protection similar to Colorado Roadless Rule protections be put in place while the analysis occurs. Concern was expressed that extending interim protections would prevent currently permitted activities that are underway from continuing.

To resolve this discussion, the RACNAC agreed to provide the following advice to the USDA:

Acknowledging the State DOW and USFS concerns about the analysis that led to excluding these 520,000 acres, (exclude ski areas and the north fork valley), advise interim protections and prohibitions, consistent with the 2001 rule (excepting approved projects on substantially altered acres) until subsequent state and USFS analysis, and public notice and comment, and final determination (timeframe no longer than 6 months) as to which areas have Roadless characteristics.

The RACNAC additionally discussed how to handle the 309,000 acres that were not IRAs but had been included in the CRA inventory. There was no significant public comment about these acres, although one coal company noted that a portion of the 309,000 is on top of an active coal mine. The RACNAC suggested that for the purpose of thoroughness and consistency, the acreage be reviewed in the same process described above for the 520,000 acres.

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Discussion: Change Clause:

After a brief discussion, the RACNAC agreed to advise a 60-day public comment period for any proposed changes to the rule. This is consistent both with the advice given on the Idaho Roadless Rule and with what the State would prefer.

The RACNAC further discussed whether or not to provide advice on what constitutes a significant change. The State had requested including the language from the original petition with the addition of a provision for public comment. No further advice was proposed.

Discussion: Changes to CRA Inventory:

The RACNAC held a brief discussion on how future changes to the CRA inventory should be handled. The USFS expressed interest in having changes to the inventory designations at the highest level possible. Therefore the RACNAC agreed to recommend that the Chief may add to, remove from, or modify the designations listed in 36 CFR 294.38 (USFS to confirm this section number) based on changed circumstances or public need and shall provide at least 60 days' public notice and comment for any future modifications or revisions to the Colorado Roadless Rule only through a state-specific rulemaking process.

There was additional concern that if forest plans make changes to either the inventoried acres or the protective status of certain areas that are not recognized in the rule, then certain lands may wind up in a regulatory limbo (i.e., areas are identified as roadless in forest plans, or have a change in protective status in forest plans, but those changes are not reflected in the Colorado Roadless Rule). Therefore the RACNAC agreed to advise that there be a trigger for rulemaking where changes to inventory or upgrades in protective status identify additional acres for roadless area protection.

Discussion: Interplay between Forest Plans and the Rule:

The RACNAC agreed to carry forward the advice formulated at the October 9th meeting which proposes that USFS add the following phrase to subpart D in the scope and applicability section of the preamble and relates to existing and future forest plan amendments and revisions: "can be more restrictive but not inconsistent with the rule." Concern was expressed that this language does not sufficiently guard against the potential for forest plans to completely preclude the ability to apply exemptions in the Colorado Roadless Rule. The State clarified that the exemptions listed in the rule are for consideration but do not constitute rights, and that they would like to preserve the

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option that certain forest plans may create more restrictive policies where necessary, for example in instances of habitat protection for species.

It was suggested that the committee recommend using the language from the Idaho Roadless Rule regarding the interplay between forest plans and the rule. However, the committee generally agreed that the Idaho language was not appropriate because the Colorado Rule is not set up in the form of management themes as is the Idaho Rule. The Committee concluded that they would advise the State to examine and include, as necessary, language in the rule to ensure that exemptions under this rule would not be categorically extinguished under future forest plan revisions and amendments.

Discussion: Road building for Hazardous Fuel Treatments for Community Protection:

At the request of the State, the RACNAC discussed ways to set sideboards on road building for hazardous fuel treatments for purposes of community protection in areas covered by Community Wildfire Protection Plans (CWPPs). The USFS distributed its current proposed text, based on the Idaho Roadless Rule model. The RACNAC discussed the degrees to which this text and the underlying model were similar to and different from the Idaho model, and concluded that additional text regarding the definition of WUIs, a significant risk test, and a multi-stakeholder collaborative process to review proposed projects outside of the WUI, should be added. The RACNAC advised that the USFS and State provide clear reasons for any changes from the Idaho model. To further underscore the degree to which fidelity to the hard won Idaho model and language was important, the Committee requested that it be expressly noted that there is strong support on the RACNAC for the specific Idaho language; the further from this model Colorado goes, the more questionable the support will be.

Discussion: Actionable Definition of Roadless Area Characteristics.

In past meetings and public comment it has been noted that the draft Colorado Rule, as currently written, does not provide an actionable definition of roadless area characteristics. The State expressed their interest in maintaining that language because it was agreed to by the Colorado Roadless Areas Review Task Force. A member of the Colorado Roadless Task Force noted that, while the text in the draft Colorado Rule was agreed to by the Task Force, there was a second balancing sentence added to the Task Force recommendation that stated that the list of roadless area characteristics should be used as guidance and context for decisions about the management of roadless areas. While the RACNAC agreed that the addition of language would not necessarily prevent

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litigation, they also agreed to advise that the USFS adopt a complete definition of roadless area characteristics that includes both phrases from the Colorado Roadless Task Force.

Committee Discussion on Prescribing Levels of NEPA for Road Building:

The RACNAC discussed whether or not it would be appropriate to prescribe a specific level of NEPA analysis for different categories of roads that may be built. In the interest of providing assurances to those who were concerned that this new category of roads would not be abused, the State had explored the option of providing a higher NEPA standard for long-term temporary roads. Proposals to address this included advising that the rule include a rebuttable presumption that an EIS is required for development of long-term temporary roads. This would functionally act similarly to the current process, in that either an EA or EIS must be completed, but it assumes that a higher level of review should be conducted. Another alternative explored was to let NEPA work on its own and not prescribe a specific level of NEPA for road building. No consensus was reached on this issue.

Future Discussion on Other Related Topics:

The Committee generally agreed to have further conversation via email to address the following proposal made by several Committee members:

“Abundant opportunities exist to address forest health concerns and mitigate the effects of climate change outside of CO’s roadless areas. A viable forest products industry will be important to conducting necessary treatments. Concurrent with advancing roadless area protections, we recommend the state and federal government develop new approaches to increase management activities that focus on restoring forest function, diversity, and productivity outside Inventoried Roadless Areas. We are confident such an approach will yield not only healthier forests, but also more wood fiber, jobs, and community well-being in a manner that is environmentally sustainable and responsible, and also sufficient to attract new and sustainable business investments in forest stewardship.”

Memo to Next Administration:

The RACNAC will prepare a memo for the next administration with regard to the Committee’s work and potential interest in providing future advice to the U.S. Forest Service. No further discussion on this matter was held.

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Conclusion:

Mike King and Rick Cables, Regional Forester for Region 2, sincerely thanked the RACNAC members for their work and value added to regarding the Colorado petition and rulemaking process. Tony Dixon additionally thanked all the USFS staff who worked on the development of the Colorado Roadless Rule.

Public Comment:

The following oral public comment was offered to the Committee regarding the proposed Colorado roadless rule:

- David Nickum (Trout Unlimited). I am concerned that instead of starting from a vantage point where we are preserving roadless areas and accommodating management, we have been considering management activities first and preserving roadless areas secondly. One example is that in the 8200 acres of ski areas that are being removed from the roadless inventory there is a population of federally-listed greenback cutthroat trout. Please take another look at ski areas for this reason; I am uncomfortable with precluding the possibility in the future of making adjustments to these areas. I also want to make sure that we are including language in the rule indicating that roadless characteristics can help guide management decisions. When considering other exemptions in the rule we need to ensure that we are protecting roadless characteristics.
- Robin Nicholoff (Western Slope Environmental Resource Council). I have worked for much of the last 38 years on forest planning. My comments are limited to the North Fork Valley roadless areas. Our organization spent a good deal of time working out an agreement with two of the three North Fork Valley coal companies whereby the roadless areas would be maintained intact and the coal companies would be allowed to expand their operations into those areas, provided that the expansion would be limited to lands contiguous to coal companies' existing operations and restored when mining operations were complete. This language did not make it from the Colorado Roadless Task Force into the petition and I would like to see that clarification recommended by the RACNAC.
- Ryan Bidwell (Colorado Wild). My organization represents 800 citizens in Colorado. I hope the RACNAC, the State, and USFS will take the time to do this rule right. I want to primarily speak about community fire protection. The map I

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have handed out shows the status of CWPPs in Colorado. I am deeply concerned about the fact that the draft Colorado rule relies on these CWPPs as part of the exemption for timber cutting and temporary road building to protect communities. Many of these CWPPs include entire counties, many have no prioritizations, others are vague, and others can be altered easily. I encourage a more stringent use of the ½ mile buffer to prioritize effective community wildfire protection in Colorado. Regarding the ski area exemption, it is inappropriate to tie the hands of future managers should conditions change in the future; there should be the ability to reconsider the status of those acres.

- Andrea Robinson (Western Colorado Congress). I am a naturalist. I worked for the National Park Service as an interpreter and botanist and for the USFS as a timber marker on the Uncompahgre National Forest. I live in a national forest area which is a biological treasure trove. Because of the elevation of the GMUG there is a biologically rich and unique system of aspen clones threatened by decline. Energy extraction in the area may be the straw that breaks the camel's back. Ultimately the land will be crisscrossed by pipelines which will then open more lands for development. If you recommend No Surface Occupancy (NSO) stipulations for gap leases, make sure they are non-waiveable. If the gap leases are developed with no associated road building, the proposed rule would still allow pipeline development which indicates more road building and development. I encourage you to use the strongest language possible to protected roadless areas with respect to gap leases.

- Pete Kolhbenschlag (Pew Environment Group). Some of the discussion here indicates that the issues have not yet been properly vetted, such as the question over how to handle the 520,000 acres, 309,000 acres, and the 1.26 million acres. These lands should be thoroughly analyzed before the rule is promulgated. Regarding the inventory, we believe there should be a public process associated with removing acres. On the GMUG, some of the acres were left out because of their non-suitability for wilderness management, which has nothing to do with roadless characteristics on the ground. The inventory is very challengeable as it currently stands. The proper thing to do is add the acreage back into the inventory and then go through a process to determine which lands belong. We have about 100 pages of commentary on the inventory regarding lands that should be included. Additionally, the proposed rule should be a basement for protection, allowing for current and future land use plans to set higher

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protective standards. Lastly, we are concerned that roadless area characteristics have no legal effect on the proposed rule and are in fact specifically exempted from having a legal effect. These characteristics should be emphasized in any discussion about roadless areas.

- Ken Neubecker (Trout Unlimited). I was formerly on the Eagle County Planning Commission. Eagle County, as a headwater community, is strongly in favor of roadless protection. It is very important to our local economies, our habitat, and for all the reasons you are aware of. We are concerned about the vague language regarding CWPPs. I was on the Eagle County Planning Committee when we formalized our land use regulations. We were looking at WUIs and prevention of wildlife hazards. If we had known that a county-wide plan and regulations like this would be used as a backdoor to get around the guise of treatment of forest health or fuels reduction we would have taken a different tack in planning. We had not even considered that as an option at the time and we need to make sure that any incursions into roadless areas have to be a last resort.

- Steve Smith (The Wilderness Society). I served on the Colorado Roadless Task Force. We think that the 2001 roadless rule provides the protections and the exceptions that create a good balance to protect the best of roadless areas and still protect livelihoods, communities, and other needs on public lands in the West. The Colorado Task Force used that rule as its starting point and we encourage the RACNAC to continue with that theme. We need to make sure that any accommodations for uses of public lands are secondary to protecting roadless areas. Regarding the hierarchy of road building decisions, we need to make sure there is a solid sequence for consideration of non-roadless alternatives and that continued sequence. We need to stay out of roadless areas as a first priority. Regarding gap leases, we need to ensure that those issued since 2001 are operated in a manner that protects roadless areas (no road building is associated and no surface occupancy). Lastly, one of the Task Force recommendations included the recognition of the importance of roadless characteristics. We had a phrase that noted that the characteristics should guide management decisions. Also, the inventory should not be changed lightly; the current proposal that allows changes based on changed circumstances and public need is an insufficient standard – we need full public participation and full rulemaking.

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- Melinda Kassen (Trout Unlimited). The 2001 Rule provided for no new roads for future water conveyances. The Colorado draft rule significantly expanded that to allow for construction for future conveyances. The previous RACNAC letter said that roads for future conveyances should only exist for repair and replacement, not for construction of structures. I recommend you reiterate that in your recommendation. It was not a consensus from the Task Force. There were 327 written comments, all of which recommended not allowing new roads for water conveyances. There were no written comments in favor of roads for water conveyances, and only one oral comment from Denver Water in favor of the provision. In Colorado you can get a conditional water right anywhere in the state, even in a wilderness area. The way this draft rule is written there is no cutoff. All the red dots on the map I distributed are conditional water rights in roadless areas. This exception is not limited and specific; it is unknown and it goes on forever. You have an opportunity to fix the Bull Mountain situation through this rule. To the extent that Bull Mountain would allow a permanent construction to build a water or utility conveyance or pipeline, you have the ability to change that.

- Deanne Buck (Outdoor Alliance). My group is a coalition of six human-powered recreation groups. The proposed rule did not take into account the impact of the proposed rule on the identity of Colorado. This is a state where people go to recreate. The Outdoor Industry Association did a report showing that the impact of human-powered recreation on the Colorado economy is over \$10 billion annually and employs over 100,000 Coloradoans. This impact was overlooked when industry uses were discussed. I am also concerned that the exceptions seem to lead this rule, rather than having protection lead this rule. I am heartened to hear the possibility of permanently provided greater protection for 1.26 million acres of roadless areas.

- Zeke Williams (Vail Resorts). Thank you all for your hard work. Vail Resorts submitted detailed comments on the rulemaking and we urge USFS to review them. We support alternative 2 and we urge the RACNAC to recommend the USFS to adopt alternative 2 at the conclusion of the process. Alternative 2 protects over 4 million acres in Colorado and removes roadless status for the 8200 acres of permitted ski areas. The lands inside ski area permits are dedicated and allocated to skiing and are based on EISs and special use permits. These are long-term facilities with millions of people state-wide enjoying the high-quality

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U. S. Forest Service Yates Building, Washington, DC

recreation there. Keeping those acres in the roadless areas invites management conflict. Taking them out of roadless areas does not mean they will be developed willy-nilly; it allows the process to work effectively. We urge the committee to ask the USFS to adopt alternative 2 and keep ski area lands out of roadless status.

- Joel Webster (Theodore Roosevelt Conservation Partnership). I have been involved with you on the Idaho rule and my organization was very happy with the resolution of the Idaho Roadless Rule. It was a good, balanced rule, and we have the opportunity to do something similar here. However, the way things stand right now we are concerned that will not happen. This draft rule is not a compromise in our eyes at this point. The draft Colorado rule started from the 2001 rule and completely weakened from there. The additional protection of 1.26 million acres is a real opportunity to create a true compromise and makes it easier to swallow some of the other exceptions. We also have concerns about road building for water and utility conveyances. The road-building decision tree helps but we should find a way to limit the construction to specific areas. We appreciate the work on grazing. We think putting the 520,000 acres back in the inventory makes a lot of sense. Dealing with gap leases is important, and managing oil and gas leases consistent with the 2001 rule makes sense. We are at the table to work on the rule with you.

- Rob Vandermark (Pew Environment Group). My concern with the rulemaking is regarding the fundamentals of why we are engaging. We are trying to figure out ways to conserve roadless areas, and this rule is designed to allow more exceptions than conservation. Nowhere in the Colorado rule is there mandatory language that requires activities to maintain or conserve roadless area values. This is very different from the 2001 rule and from how the Idaho rule was done. Additionally, I have concern about the lack of a legal standard for roadless area characteristics. The core of why we are protecting roadless values is not reflected in the language in the rule. Regarding tree cutting for WUIs and CWPPs there is not limited, specific language. The intent of the governor is not met with this language. The language as it is may invite legal challenges. Colorado should use the language from the Idaho rule. Additionally, we have major concerns about the oil and gas gap leases. We supplied a memo to the RACNAC regarding this issue last week and have suggested language. Lastly, we feel that the rule should require a full NEPA analysis of long term temporary roads. We also want

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to ensure that there is no rush to finish this rule. There is no timetable except for political motivations, and we want to get this rule right. We are discouraged that this may be the last RACNAC meeting on the Colorado petition because the RACNAC adds great value to the process.

- Melanie Mills (Colorado Ski Country USA). I was a member of the Colorado Roadless Task Force. I support removing ski areas from Colorado Roadless Areas. Regarding the Wolf Creek issue that was raised, it is not addressed in the DEIS. Our view is that the NEPA process is the appropriate place to address impacts from removing these areas from the roadless inventory, once projects are proposed. We support finalizing the Colorado rule and do not think we need additional time to do so. We are intrigued by and supportive of the review of an additional 1.26 million acres as part of a separate process where those acres are looked at as part of a robust public process.
- Doug Young (District Policy Director for Congressman Mark Udall). As a member of the Colorado Roadless Task Force, I want to remind you about a conversation we had regarding interim protection. We attempted to suggest interim protections, directing the USFS to hold off on doing anything by way of building roads or cutting trees in IRAs until we could get this rule in place. We failed in voting for that. Part of why that might have been is that the interim protection concept would have defaulted to the 2001 rule, and some people may have been uncomfortable with that. You might think about putting the 520,000 acres in an interim protection that provides for status quo, with no road building or tree cutting unless there is a directive in the case of extraordinary emergency circumstances if approved by the regional forester or the chief.
- Brian Martin (Colorado Mountain Club). We urge the RACNAC not to push for a final decision but to continue to flesh out the new ideas that have come up at this meeting. I want to mention the importance of the process used to make changes to the roadless inventory. Through the implementation of the travel management rule we are finding that as forests are pulling out their maps there are a lot of roads that have not been grounded in NEPA or solid long-term management that are making their way onto the maps. These then become official system roads, where they were previously illegal, and they are now pushing into roadless areas. Forests are already fixing the boundaries to exclude areas where these roads occur. We are concerned that this may constitute a

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“changed circumstance” as is being described in the Colorado roadless rule, and we caution against using this as a way to redraw boundaries.

Written comment letters were submitted by:

- Boulder County Board of Commissioners
- Colorado’s Forest Legacy
- Colorado Mining Association
- Colorado Wild
- Earthjustice
- La Plata County Commissioner Wallace White
- Pew Environment Group
- Pitkin County Commissioner Dorothea Farris
- Trout Unlimited, Backcountry Hunters and Anglers, Theodore Roosevelt Conservation Partnership
- Jill Vienhage