

Roadless Area Conservation National Advisory Committee

Committee Members

December 5, 2008

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

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

Dear Mr. Secretary:

The Roadless Area Conservation National Advisory Committee (RACNAC) is pleased to offer advice to you regarding the proposed Colorado Roadless Rule relative to the National Forest System Inventoried Roadless Areas that lie within the boundaries of the State of Colorado.

We wish to acknowledge once again the personal contributions of Governor Ritter's staff, especially Deputy Director for the Colorado Department of Natural Resources Mike King, in working with the RACNAC so closely on the issues involved in this proposed rule. The Committee also appreciates the significant time and effort made by Forest Service personnel in development of this proposed Rule and in working with the RACNAC's members.

After months of meetings and discussion regarding the proposed Colorado Roadless Area petition, the RACNAC has been able to reach consensus in a number of areas covered by the petition. Please note, however, that Chris Wood has suspended himself from the RACNAC because of his involvement with the Obama Administration Transition Team. Mr. Wood was therefore not involved in forming these recommendations on the proposed Colorado Roadless Rule.

The recommendations involve a number of complex issues raised by the petition and members of the Colorado Task Force that worked to develop it. To differentiate clearly the RACNAC consensus recommendations from general discussion in this letter, the consensus recommendations in this letter are in bold and underlined type.

Road Building Exception for Grazing

There was considerable controversy surrounding the proposed exception for grazing

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activities. The RACNAC reached the consensus conclusion to advise the Forest Service to **remove the provision that allows road building for grazing activities from the rule.**

Ski Areas

Permitted ski areas and their relation to Colorado Roadless Areas are integral parts of the proposed rule. The RACNAC advises the following:

- **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 in the future with respect to any ski area lands that are roadless.**

Road Building for Water and Utility Conveyances

Another area that the RACNAC felt lacked clarity was the section dealing with water and utility conveyances. The Committee agreed:

- **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

At present, there are approximately 1.26 million acres of Colorado Roadless Areas in Forest Service management categories “a” and “b”. These areas currently have more stringent protection under these management categories than the proposed rule provides.

The RACNAC advises:

- **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.**
- **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

The State and Forest Service asked the RACNAC's advice on questions which arose after publication of the proposed rule over changes in the roadless lands inventory. The proposed rule updates that inventory based on new information which added approximately 309,000 acres to the roadless inventory and removed approximately 520,000 acres. The State and Forest Service reported information raising issues about those inventory changes and public and State interest in further examination of the inventory.

The RACNAC discussed this issue at length, including discussion of specific options to (1) completing re-inventories as part of the ongoing forest plan process, (2) including the lands in question under the final rule for further analysis, and (3) setting an administrative process parallel to the rule for further analysis while protecting the status quo of the lands in question. The RACNAC did not agree specifically to any of these options, but did agree to the following recommendations if an additional analysis of the inventory was to proceed commensurate with the final rule.

- **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

The RACNAC advises: **Add a 60-day public comment period for any proposed changes.**

Changes to the CRA Inventory

Additionally, in order to provide methods for adding or removing acreage from the Colorado Roadless Areas inventory, the committee recommends:

- **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.**

Interplay Between Forest Plans and the Rule

There has been considerable confusion and debate in regard to the relationship between the potential conflicts between the Colorado proposed rule and standards in forest plans. The RACNAC generally agreed this would be important to clarify and advises consideration of the following:

- **Add to subpart D in scope and applicability section of the preamble: “can be more restrictive but not inconsistent with the rule.”**
- **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

Community protection from wildfire is a highly important issue in Colorado. The RACNAC was invited by the State and the Forest Service to provide advice on how to address concerns that the draft Colorado Rule language was too open ended by relying solely on Community Wildfire Protection Plans (CWPPs) as the mechanism for qualifying exemptions.

The RACNAC advises:

- **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 community protection zone (CPZ), apply a significant risk test and have a RAC-like multi-stakeholder collaborative process to determine projects that may be approved.**
- **Define the CPZ as defined by HFRA as the wildland urban interface (WUI) (2).**
- **Clarify: Beyond WUI but within area identified by CWPP as a priority.**

Actionable Definition of Roadless Area Characteristics

The RACNAC advises the **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.”**

Conclusion

The RACNAC observes that abundant opportunities exist to address forest health concerns and mitigate the effects of climate change outside of Colorado'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.

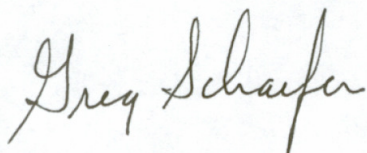
If there is any delay in getting the Colorado Roadless Rule finalized, the RACNAC would like to reserve the opportunity to meet again and assist the Forest Service and the State with further work on the Rule.

Thank you for your consideration of our advice and recommendations on the draft Colorado Rule. Please do not hesitate to contact us if we can be of further assistance to you with this effort.

On behalf of the RACNAC,



Dale R. Harris
RACNAC Co-Chair



Greg Schaefer
RACNAC Co-Chair

Cc: The Honorable Bill Ritter, Governor of Colorado
Undersecretary Mark Rey, USDA
Abigail Kimbell, Chief, USFS
Richard Cook, DFO, USFS
RACNAC Members