

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

F I I [] 5

56457

CAET Review
Jul 17 2000

JUL 14 2000

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

56457

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;

564
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

56457
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).

56457

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,

56457

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

56457

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*.

56457

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.



F-1-(-) - (5)

84

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

CAFT RECEIVED
MAY 19 2000

07/14/2000 11:19 7689329161

MWTC SUPPLY

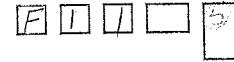
PAGE 01

43986



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

CAFT RECEIVED
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 43% 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

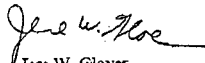
The Office of Advocacy recognizes the importance of protecting the environment, conserving our national forests, and preserving the natural beauty of the area. However, there is also a significant public interest in allowing access to natural resources in order to preserve our economic base. The potential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

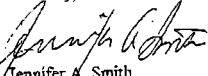
Thank you for the opportunity to comment on this proposal. If you have any questions, please feel free to contact us. Please place a copy of these comments in the record.

Sincerely,



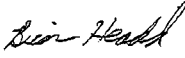
Jere W. Glover
Chief Counsel
Office of Advocacy

Sincerely,



Jennifer A. Smith
Assistant Chief Counsel
for Economic Regulation &
International Trade

Sincerely,



Brian Headd
Economist

Cc: Charles Rawls



BISHOP TRIBAL COUNCIL

44672

44672



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

E-Mail mervin@telis.org

T T 3 5

29958

K I C

13987

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:

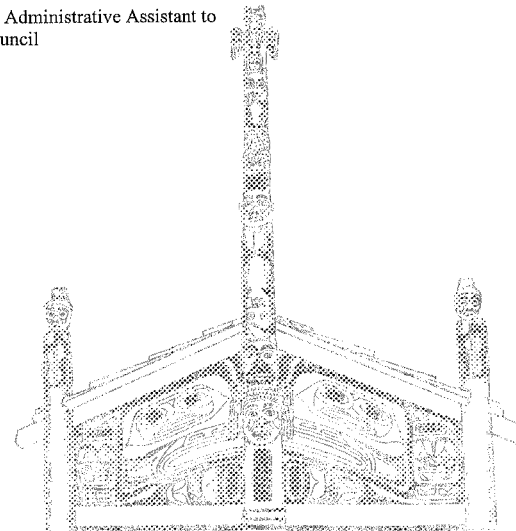
At a duly convened meeting on July 10, 2000, Ketchikan Indian Corporation Tribal Council authorized the submission of the attached Position Statement regarding the roadless.

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

13987

13987

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

06-21-2000 07:42

541 273 6496

JELD-WEN

P.01/02

06-21-2000 07:43

541 273 6496

JELD-WEN

10116



The Klamath Tribes

P.O. Box 436
Chiloquin, Oregon 97624
Telephone (541) 783-2219
Fax (541) 783-2029
800-524-9787

7 7 2 5

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

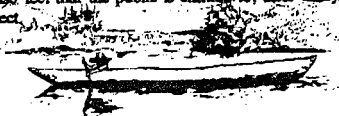
Dear Secretary Glickman:

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

10116

19309

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



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

07/17/2000 15:05 FAX

003

19309

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.

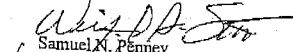
07/17/2000 15:05 FAX

004

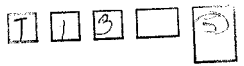
19309

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

43977



43977

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

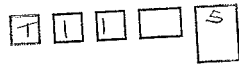
to the public (the cost of building and maintaining the road was greater than the amount received for the timber). We believe that the greater value of the land lies in its ability to provide fish and wildlife habitat.

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



44005

5

44005

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.

44005

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.

44005

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

44005

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

7

44005

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

8

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.

44005

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.

44005

44005

◆ 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.

44005

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.

JUL. 14. 2000 2:18PM

7 2 7 13

NO. 443 P. 2/3

JUL. 14. 2000 2:18PM

NO. 443 P. 3/3

43972

43972

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.

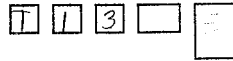
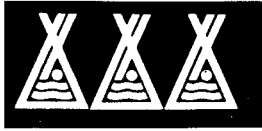
Larry A. Weibman
Sitka Tribe of Alaska - Tribal Chairman

Attest:

Doreen J. ...
Sitka Tribe of Alaska - Tribal Secretary

CAFT RECEIVED

JUL 17 2000



43550

43550

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

C:\WINDOWS\TEMP\roadlessproposedrule.wpd

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.

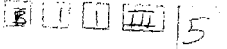
Sincerely,

Brad Nye
Off-Reservation Habitat Policy Advisor

cc: Tribal Council
Robert A. Brunoe, General Manager, Department of Natural Resources

C:\WINDOWS\TEMP\roadlessproposedrule.wpd

25585


 Kootznoowoo, Incorporated
 U.S. Forest Service Roadless Area Testimony
 Angoon, Alaska
 June 29, 2000

RECEIVED

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.

43553

43553

43553

CAFT RECEIVED

Statement of Senator Mike Crapo JUL 17 2000
Regarding the draft Roadless Area Conservation Initiative

Idaho has the largest amount of National Forest System land in the lower forty-eight states. Obviously, we will be greatly affected by the President's proposed roadless initiative. As such, it is vital that all Idahoans make their feelings known to the Administration regarding the proposed rule.

Clearly, we have a responsibility to preserve, protect, and enhance our national forests. However, highly centralized government regulation is not the best way to achieve these goals. Such regulation too frequently places the myriad environmental, recreational, and resource values of our public lands in direct opposition to one another. While we can all agree that the inherent value of roadless areas need to be preserved, what is at issue in this roadless rule is not protection of our forests, rather it is the public process for making these decisions. The intent of the rule is laudable; however, how it is implemented and how it is derived is of great concern to me. I do not subscribe to the Administration's approach of a top-down decree to protect roadless areas. Local land managers, in concert with interested parties, are best able to determine how to protect these areas—not Washington bureaucrats.

Proper and effective stewardship of our public lands will arise not from federal dictates, such as the roadless directive, but from locally-led collaboration among public land managers and the people who enjoy and depend on public lands. I am confident that such community-based discussions can produce consensus-based solutions that respect public access, multiple uses, and the environment by building on the knowledge that local communities have about the public lands that literally comprise their backyards.

However, beyond my concern about big government decision-making, I am concerned that this proposal will not allow for adequate, informed public participation. The Forest Service is in the midst of a number of rule-makings that will impact, or be impacted by, the roadless rule. How will the roadless rule interact with the proposed road management policy, with the strategic plan, and other regional plans? Without this information, how can the public be asked to make meaningful comments? Additionally, it is my understanding that a number of people have requested copies of the Draft Environmental Impact Statement, and have not received it. How can the public be asked to comment on the rule when many have not yet received copies of the proposed rule? The broad scope of this rule requires that the public is given adequate time to both review the rule and comment on its merits.

I expressed concern during the initial scoping process that the Administration did not allow enough time for the public to comment on its proposal. While I reiterate my concern that the public was not allowed to play enough of a role in developing the alternatives, I am extremely concerned that the Administration will not allow enough

time for the public to review and comment on its proposed DEIS. This rule should not be forced through for the sake of political expediency at the risk of harming both the public process and the health of our forests. It is important that Idahoans, and all Americans, have the opportunity to understand the details of the proposal, including specific affected areas and potential restrictions.

Given this philosophy, I hope that all Idahoans will continue to play a role throughout this process. The serious implications of this rule for Idaho's forests and the communities that rely on them for their recreation and livelihood necessitate that the process is carried out in a responsible manner. This includes allowing adequate opportunity for the affected public to provide meaningful comments on the proposed rule. This requires that Idahoans make their concerns known and that these concerns are listened to by the Forest Service. Anything short of this will make the process and the product a target for criticism and provide additional grounds for arguments that the Administration did not give enough consideration to regional concerns. This would be a disservice to the Forest Service, the citizens of the Idaho, and the forests.



DIRK KEMPTHORNE
GOVERNOR

AL LANCE
ATTORNEY GENERAL

18645
V 2 1 1 6
6 2 1 6
6 2 1 6

July 14, 2000

Dr. Michael P. Dombeck
Chief
United States Forest Service
Via: USDA Forest Service CAET
Attention: Roadless Area Proposed Rule
P.O. Box 22190
Salt Lake City, UT 84122

RE: Forest Service Roadless Area Conservation Draft
Environmental Impact Statement (DEIS) CAET RECEIVED
JUL 17 2000

Dear Chief Dombeck:

Enclosed please find a copy of the State of Idaho's written comments on the Roadless Proposal Draft Environmental Impact Statement (DEIS).

The State of Idaho is in a unique position to attest to the impacts of the proposed roadless area conservation rules. The Forest Service proposed to prohibit road construction on 46 million acres of inventoried roadless areas. Over nine million of those acres, or one in five, lie within Idaho. Indeed, of the 50 States, Idaho contains the greatest number of acres which will be affected by the proposed rules. Idaho is also the State with the highest percentage of inventoried roadless areas. Seventeen percent of Idaho's lands lie within inventoried roadless areas, nearly triple that of the next-nearest state. Accordingly, we urge that you give proper and significant weight to the enclosed comments from the most impacted state in the nation, Idaho.

Idaho has asked for an extension of the sixty-day DEIS comment period. You will recall that during the scoping phase, Idaho asked for a similar extension of time to comment. We did not receive a response from your agency. The Conference of Western Attorneys General (CWAG) also requested an extension of the scoping comment period, but did not receive a response until June of 2000, over five months after the scoping period ended. The CWAG recently made a similar request for the DEIS comment period. Idaho urges an extension be granted for review and comment on the DEIS.

Dr. Michael P. Dombeck
July 14, 2000
Page 2

18645

Idaho has also asked for maps and mapping criteria for all National Forests in Idaho through the Freedom of Information Act (FOIA). We have not received a response from your office. This is the second time during the Roadless Proposal process that the Forest Service has failed to comply with its FOIA regulations relative to a request from Idaho. Accordingly, the State of Idaho's comments are once again based on an evaluation of incomplete information conducted within a compressed timeframe.

We are deeply troubled that your agency has not provided accurate maps of the land that will be shut down by this proposal. Accurate maps of all inventoried areas are not available. There are *no maps* of the uninventoried areas. United States District Court Judge Edward J. Lodge warned the Forest Service that public review and comment will "hardly be meaningful" without these maps. It is beyond question, both as a matter of common sense and law, that a proposal impacting land management and use must begin with a map showing *what land* will be impacted. At a minimum, this process should proceed no further until such basic information is made available for public review and comment.

President Clinton hailed this proposal as one of the biggest National Environmental Policy Act (NEPA) proposals of all time. Idaho agrees that this is a massive proposal, but it will have potentially devastating impact on public schools and the children, as well as local economies. The Idaho Department of Lands has estimated lost income to public schools in Idaho will reach \$163 million over the first 30 years. The impact on our children and the lack of basic information are the two best reasons you have to take this "historic" proposal off the fast track and out of election year gamesmanship. One of the biggest NEPA proposals of all time must be put to a test of public review and comment of equally historic magnitude.

We look forward to your response to our concerns.

Very truly yours,

DIRK KEMPTHORNE
Governor
State of Idaho

ALAN G. LANCE
Attorney General
State of Idaho

Enclosure

cc: Senator Larry Craig
Senator Mike Crapo
Representative Helen Chenoweth-Hage
Representative Mike Simpson

COMMENTS

to:

Forest Service Roadless Area Conservation
Draft Environmental Impact Statement

Submitted on behalf of the

STATE OF IDAHO

by:

Governor Dirk Kempthorne
Attorney General Alan G. Lance

18645

18645

enough about the proposed action to identify most of the affected parties, and to present a coherent proposal and a suggested initial list of environmental issues and alternatives." CEQ, General Counsel Scoping Guidance at App. M-4. Certainly, this guideline was violated. Many parties have commented that the NOI was poorly written and incoherent, and did not provide accurate guidance as to the true nature of the proposed actions described therein.

The CEQ guidelines also suggest that the agency "should put together a brief information packet consisting of a description of the proposal, an initial list of impacts and alternatives, maps, drawings, and any other material or references that can help the interested public to understand what is being proposed." *Id.* The "purpose of the information is to enable participants to make an intelligent contribution to scoping the EIS." *Id.* at App. M-4 and M-5. Development of the information packet is supposed to occur before issuance of the NOI. *Id.* at App. M-6. Here, it did not. The Forest Service never developed, or at least did not make available to the State of Idaho (hereinafter "State"), the suggested information packet. Indeed, aside from the NOI, the State was not able to obtain any further details on the proposal until the public scoping meetings hosted by each national forest within Idaho. But even these meetings did not provide sufficient information to allow preparation of meaningful comments, and what little information was provided came too late to be of use. Of the ten scoping meetings held within Idaho, all were held less than twelve business days before the deadline for submitting scoping comments, and some were held only three business days before the comment deadline. Thus, while the NOI purported to establish a sixty day period for public comments, the reality was that the State's opportunity to provide comprehensive comments relating to the impact of the proposed rules on state lands and other state interests was less than a week, and even then the information was woefully incomplete.

The lack of any meaningful scoping opportunities led Idaho to file suit in federal district court to enjoin the NEPA process and allow time for meaningful participation by the State. Idaho's action was ultimately dismissed because the district court decided the matter would not be ripe for adjudication until completion of the EIS. Nonetheless, the district court was clearly skeptical as to whether the Forest Service had complied with NEPA requirements:

As stewards of the federal funds being expended to complete the NEPA process on the proposed action, the Forest Service should make every effort to ensure that the process is properly implemented with reasonable time frames to allow meaningful participation by the public. It appears at least arguable to this Court that the Forest Service may be inviting error

1. Rush to Judgment:

In its rush to meet politically-mandated deadlines, the Forest Service has trampled both the letter and the spirit of the National Environmental Policy Act.

From the start, the Roadless Protection Initiative has been a rushed affair. On October 13, 1999, President Clinton directed the Secretary of Agriculture 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 any smaller 'roadless' areas not yet inventoried." Just six days later, on October 19, 1999, the Forest Service caused the NOI to be published in the Federal Register. In a letter to Forest Service staff dated October 28, 1999, Forest Service Chief Michael Dombeck, without explanation, directed his staff to expedite the procedures required by the National Environmental Policy Act (NEPA), authorizing them to "take whatever executive actions are necessary" to complete the draft environmental impact statement (DEIS) by March 2000, and warning them that "[w]e cannot afford to waste a single day." Dombeck also noted that "this effort will require a major dedication of human and financial resources," and that "other important work may be delayed as a result." *Id.* at 3.

The process was error-ridden from the start, beginning with the Forest Service's decision to ignore the scoping guidelines published by the Council on Environmental Quality (CEQ). The guidelines warn against initiating scoping "until the agency knows

and a necessary review of its action by ignoring the objections of the Plaintiffs for a meaningful scoping process.

A central purpose of the NEPA process is to provide full disclosure of relevant information to allow meaningful public debate and oversight. When the areas contemplated to be roadless are not defined or shown by way of maps or otherwise illustrated, one does not have to be learned in the law to determine the public's participation will hardly be "meaningful." The State's concerns over access to and management of its endowment and state forest lands that may be surrounded by national forest land are legitimate concerns of state and local governments and its citizens.

The sheer magnitude of this governmental action involving 40 to 60 million acres nationwide that precipitated 500,000 comments in sixty days is the best evidence the Forest Service should proceed with caution. Time is not of the essence on an issue that has been studied for over 30 years. The public needs to be informed to meaningfully participate. An argument suggesting the Court is required to give due deference to agency action and expertise is likely to ring hollow unless the Forest Service does what it says it will do and that is give due consideration to new comments and issues that may be raised both during the draft EIS comment period as well as at the time the final EIS is issued.

State of Idaho v. United States Forest Service, Case No. CV99-611, slip op. at 10-11 (Dist. Idaho February 18, 2000).

Despite the court's admonishment, the Forest Service has rushed the preparation of the DEIS and has artificially truncated the time available for the State and the public to analyze the DEIS and provide comments thereto. The result has been a shallow mockery of the NEPA process that omits public input critical to a reasoned discussion of the potential impacts of the proposed actions.

2. Federalism:

The Forest Service has failed to provide the States opportunities for meaningful input into the decision-making process.

The Forest Service concludes that the proposed rule "will not have any substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of

18645

government." DEIS at A-24. Therefore, the agency concludes that "no further assessment on federalism implications is necessary at this time." *Id.*

18645

How the Forest Service could reach such a conclusion is beyond comprehension. A land-management agency cannot fundamentally change the management directives for untold millions of acres of land, with unavoidable consequences for forest health, without impacting both adjacent state lands and state sovereign concerns. Indeed, this very principle has recently been embodied in the proposed changes to the Planning Rules. The Forest Service would be well-advised to heed its own words:

In every sector of the country, the Forest Service is just one important agency among many important governmental and private entities and land ownerships. Some of these agencies have statutory authority affected by the national forests and their resources. Other agencies, governments, corporations, and citizens manage land in and around the national forests and grasslands. Still others have a keen interest in the national forests and can affect the way the public views Forest Service action. Sustainability of watersheds and other natural areas in which national forests and grasslands are located will inevitably depend upon activities on nearby federal lands, tribal lands, and state lands, and private lands and on the actions and attitudes of a wide variety of agencies, governments, and citizens. . . . The planning process, therefore, must be outward-looking. It must have the goal of understanding the broader landscape in which the national forests lie. And, it must strive to achieve the highest ideals in managing public lands within the context of how people, businesses, and governments will conserve, regulate, and use lands within and around the national forests and grasslands.

.....
Planning proceeds from start to finish in close cooperation with state, tribal, and local governments. Success in achieving goals for the national forests and grasslands may depend upon decisions made by other jurisdictions.

National Forest System Land and Resource Management Planning; Proposed Rule, 64 Fed. Reg. 54,074, 54,096-97 (October 5, 1999).

Unfortunately, the Forest Service's actions during the Roadless Protection Initiative effort suggest that the agency's lofty goal of closer cooperation with state governments remains an unfulfilled promise. Instead of making a special effort to seek state input and to utilize state expertise in natural resource management, the Forest Service has actively sought to thwart state input.

18645

The Forest Service's shabby treatment of the States cannot be justified. The States have special interests in the management of the national forests. Indeed, the States are the Forest Service's partners in management of the public lands. It has been repeatedly recognized that States retain civil and criminal jurisdiction over federal lands, subject only to Congress' power to pass preemptive legislation pursuant to the Property Clause. *California Coastal Commission v. Granite Rock Co.*, 480 U.S. 572, 580-81 (1987); *Wilson v. Cook*, 327 U.S. 474, 487 (1946). State authority over natural resources on federal lands manifests itself in various ways. For example, it has been recognized that "[u]nquestionably the States have broad trustee and police powers over wild animals within their jurisdictions." *Kleppe v. New Mexico*, 426 U.S. 529, 545 (1976). States may tax timber and other resources extracted from national forests. *Wilson v. Cook*, 327 U.S. 474 (1946). States can impose environmental regulations on mining operations on national forest lands. *California Coastal Commission*, 480 U.S. at 592-93. States regulate the appropriation and use of water resources within national forests, both by individuals and, in many instances, by the Forest Service itself. *United States v. New Mexico*, 438 U.S. 696 (1978).

In addition to their sovereign interests in natural resources management, many States, such as Idaho, own significant amounts of lands either within or immediately adjacent to the national forests. For example, each state owns the beds and banks of all navigable waters within the national forests, giving them a unique interest not only in actual uses of the waterways, but also in management activities on adjacent national forest lands that may affect such waterways. Many States also own significant amounts of forest uplands. For example, Idaho owns 2,367,000 acres of school endowment lands, the proceeds of which are dedicated to the support of public schools. Many of Idaho's school endowment lands are adjacent to national forest lands, and at least 54,000 acres of Idaho's school endowment lands are dependent on national forest lands for access. Because Idaho's school endowment lands and national forest lands exist in close proximity, any action that negatively affects forest health on national forest lands necessarily impacts the health of Idaho's school endowment lands. Insect outbreaks and catastrophic wildfires do not respect boundary lines.

The principle that the States should be heavily involved in the preparation of regulations affecting the environment of the national forests is embodied in federal statutes and regulations. NEPA requires consultation with "State . . . agencies . . . which are authorized to develop and enforce environmental standards . . ." *California v. Block*, 690 F.2d 753, 776 (9th Cir. 1982)(quoting 42 U.S.C. § 4332(2)(C)). NEPA also provides that its provisions do not "in any way affect the specific statutory obligations of any Federal agency . . . to coordinate or consult with any other Federal or State agency . . ."

State of Idaho Comments: Page 5 of 23.

18645

42 U.S.C. § 4334. One such obligation is embodied in 16 U.S.C. § 1612, which provides as follows:

In exercising his authorities under [the National Forest Management Act] and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

16 U.S.C. § 1612(a).

Under the NEPA and the National Forest Management Act (NFMA), the Forest Service is required to consult with the State in the formulation of standards, criteria and guidelines for management of national forest lands. Regulations promulgated by the CEQ require that the lead agency shall . . . [invite] the participation of affected Federal, State, and local agencies . . ." 40 C.F.R. 1501.7(a). Indeed, only recently the CEQ wrote a letter "to urge agencies to more actively solicit in the future the participation of state, tribal and local governments as 'cooperating agencies' in implementing the environmental impact statement process . . ." George T. Frampton, Jr., Memorandum of July 28, 1999, re: *Designation of Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act*.

In defiance of its statutory obligations, the Forest Service has made no special effort to involve the States in the Roadless Protection Initiative. For example, at public scoping meetings, the State of Idaho, which represents the collective interests of over one million citizens, was given three minutes to comment on a proposal that directly impacts over 9 million acres of national forest lands within Idaho, and indirectly impacts countless additional acres of lands both within and without Idaho's national forests. Three minutes was the measure of the State's opportunity for "meaningful participation."

The Forest Service's failure to coordinate or consult with the States was also reflected in its treatment of the written comments submitted by the States. In the analysis of written comments by the Content Analysis Enterprise Team (CAET), no special effort was made to break-out the comments of the States. . . . Rather, comments by state representatives were lumped together with all other comments. Many of the concerns expressed by the States are not even reflected in the summary of comments. For example, Idaho and many other states expressed specific concerns about the impact of the proposed rules on management of state school endowment lands. Yet there is not a single mention of school endowment lands in either the summary of comments or the DEIS.

State of Idaho Comments: Page 6 of 23.

And, in the preparations leading up to issuance of the NOI, the Forest Service made no effort to involve the States, choosing instead to work secretly with special interest groups that would further the agency's political agenda. The Forest Service and the public would have been better served if the Forest Service had sought the input of a broad spectrum of interests and extended the States the same courtesy it extended to a few select special interest groups.

18645

3. Forest Health:

The preferred alternatives will have dire and unacceptable consequences for forest health, especially in the interior West.

Since the inception of the United States Forest Service, fire suppression has been a primary goal of the agency. The success of the Forest Service's fire suppression efforts is widely touted, and rightfully so. An unintended and ironic consequence of the agency's efforts, however, has been fundamental changes in both forest composition and structure that have placed forests in the interior West at a greatly increased risk of catastrophic wildfire. The effects have been exacerbated by the agency's failure to actively and correctly manage national forest lands. Sparse stands of fire-resistant species have been displaced with dense stands of fire-susceptible species which, as forest health declines, die off and form fire ladders that create favorable conditions for fast-spreading, catastrophic wildfires that result in wide-spread destruction. Many of the lands at high risk of future catastrophic wildfires are located in the lower-elevation forests of the interior West historically dominated by ponderosa pine.

The recent Cerro Grande fire in Los Alamos, New Mexico, is but the latest example of the impending crisis. Idaho has itself suffered a number of large, catastrophic fires in recent years, exacerbated by the lack of access to many portions of Idaho national



forests for fuels management and fire suppression. The recent Boise Foothills Fire, pictured here, is an example of what Idaho will be subjected to in future years if the Forest Service's misguided roadless area "protection" policies are adopted.

18645

In 1999, the General Accounting Office (GAO), at the request of the House Subcommittee on Forests and Forest Health, reviewed forest health issues on national forests of the interior West. The result was GAO Report 99-65, entitled *Western National Forests: A Cohesive Strategy Is Needed to Address Catastrophic Wildfire Threats* (hereinafter GAO Report 99-65). According to GAO Report 99-65, the Forest Service in 1997 announced the goal of resolving the problem of uncontrollable, catastrophic wildfires on national forests by the end of fiscal year 2015. The report noted that after declining for 75 years, the average number of acres burned by wildfires on national forests began to rise in the last decade. This rise in the number of acres burned annually is confirmed in Figure 3-26 of the DEIS. The Report also concludes that in future years, more acreage will be burned on an annual basis unless the Forest Service moves aggressively to reduce accumulated fuels. The GAO's conclusions are acknowledged in the DEIS at 3-150.

The GAO further noted that the "window of opportunity" for taking management action to address the problem of catastrophic wildfires was only about 10-25 years. The GAO concluded that a cohesive strategy had to be developed and implemented to address the problem of fuel reduction. The Forest Service, in its comments to the GAO Report, accepted "the recommendations of the report regarding the development of a cohesive strategy for reducing and maintaining accumulated fuels on national forests of the interior West at acceptable levels." GAO Report 99-65 at 50.

In light of the Forest Service's acknowledged need for a cohesive fuel reduction strategy, the present proposal to immediately implement a comprehensive ban on management options that may require road construction within uninventoried roadless areas is premature. As noted in the GAO report, in order to effectively reduce accumulated fuels, emphasis must be shifted to the removal of the smaller trees and brush that dominate many modern forest stands. Such fuel management can be a net environmental benefit: as noted in the DEIS, reduction of "accumulated fuels in ponderosa pine forests in the Intermountain West may conserve local biodiversity by: increasing the survival of large, old growth pines following wildland fires; reducing mortality from moisture stress; reducing insect and disease outbreaks in stressed stands; restoring fire dependent herbs and shrubs; and restoring the historical fire regime." DEIS at 3-58 and 3-59. Because the materials removed are often of reduced commercial value, one of the primary factors determining whether such removal will occur are the costs associated with gaining access to the area where the work is to be performed. It is axiomatic that the implementation of rules foreclosing roaded access to those stands in need of treatment will result in less acres being treated for fuel reduction. By foreclosing management options that may be the only cost-effective method of reducing fuels in

18645

many areas of the national forests, the proposed rule poses an unacceptable risk to the people and resources of the interior West.

Unfortunately, the DEIS, by focusing its analysis on the potential for catastrophic wildfires within inventoried roadless areas, woefully understates the actual impact of the proposed actions. As noted in the DEIS, the majority of inventoried roadless areas in the intermountain West are higher-elevation forest types. DEIS at 3-66. By nature, such areas are less susceptible to catastrophic wildfire. Thus, the statistics cited in the DEIS tend to show the impact of the proposed actions in their most favorable light. But, the DEIS totally ignores the increased risk of catastrophic wildfire posed by the so-called procedural alternatives which are intended to restrict access to smaller unroaded areas that are currently uninventoried. It is easy to determine that the majority of the areas potentially subject to restrictions under the procedural alternatives are lower-elevation, denser forests, that are far more susceptible to catastrophic wildfires than existing roadless areas. The procedural alternatives will restrict the available means of entering such areas, and make the cost of vegetation removal prohibitive, thereby ensuring that such areas remain at risk of catastrophic wildfires. Such risk is further exacerbated by the proposed Road Management Strategy, 65 Fed. Reg. 11,676 (March 3, 2000), which by emphasizing decommissioning of roads, will result in further restrictions and render removal of excess vegetation economically impossible. Such affects are partially acknowledged in the DEIS:

Final implementation of the proposed procedures . . . would also cause some unavoidable adverse effects if local responsible officials further reduce road construction and timber harvesting in those additional manageable areas covered by the procedures. This reduction could potentially further reduce the number of acres treated for forest health and fuels management.

DEIS at 3-243. This one-paragraph summary, however, does nothing to inform decision-makers of the potential impacts of the proposed actions. For example, the decision-maker has no way to assess the possible number of acres that would be subjected to catastrophic wildfires as a result of the reduced number of acres treated for forest health and fuels management. The decision-maker is also not informed that such effects may be exacerbated by the fact that many "unroaded" areas are in lower-elevation, denser forests that are already at increased risk of catastrophic wildfire. The decision-maker is also not informed that connected actions may result in the decommissioning of forest roads, further reducing access to lower-elevation forests for purposes of fuel management and fires suppression.

State of Idaho Comments: Page 9 of 23.

18645

The draft DEIS attempts to mitigate concerns over the potential impact of the proposed action on management actions needed to prevent catastrophic wildfires by noting that proposed Section 294.12(b)(1) allows roads to be constructed in unroaded areas where "needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property." But, the DEIS fails to note that under other proposed rules, road construction in both roadless and unroaded areas requires the preparation of an environmental impact statement, a requirement that will remain in place until a road analysis is incorporated into the applicable forest plan. *National Forest System Road Management and Transportation System; Proposed Rule and Notices*, 65 Fed. Reg. 11,676, 11691 (March 3, 2000). Given the time necessary to prepare a DEIS, it is unlikely that roads could be built in time to address an imminent threat of fire.

4. Inflexibility:

The proposed action imposes a "one size fits all" prescriptive direction on situations where management decisions should be made by local managers with local input.

In assessing the impact of the Protection Alternatives and the Procedural Alternatives, the DEIS focuses almost exclusively on nation-wide or system-wide impacts. There is little discussion, if any, regarding the impacts of the proposed rules on specific roadless and unroaded areas. This broad-scale approach to roadless area management has been rejected before, when the Ninth Circuit Court of Appeals struck down the RARE II allocation of roadless areas to specific management schemes. One of the primary reasons given by the court was the Forest Service's failure to perform a "reasonably thorough site-specific analysis of the decision's environmental consequences." *California v. Block*, 690 F.2d 753, 765 (9th Cir. 1982).

Ironically, the Forest Service itself has recently recognized that broad-scale prescriptive mandates ignore localized environmental needs and impacts. In the Supplemental Draft EIS for the Interior Columbia Basin Ecosystem Management Project (ICBEMP), the Forest Service concluded that "the mid scale is an important scale for addressing management of ecosystem components, because many important relationships and patterns are evident only at the mid scale." ICBEMP Supp. DEIS at 3-42. Given "the variability of conditions within the interior Columbia Basin," the Forest Service adopted directions that were "outcome-based rather than prescriptive," to "ensure that site-specific decisions implement broad-scale, outcome-based direction, which giving

State of Idaho Comments: Page 10 of 23.

managers the discretion necessary to select the action that also fits the situation on the ground." *Id.* at 3-43. 18645

If the variability of conditions in the interior Columbia Basin requires site-specific decisions, such need is even greater when addressing roadless area management on a nationwide basis. This fact is recognized in the proposed rules for National Forest System Land and Resource Management Planning, 64 Fed. Reg. 54,074 (October 5, 1999). The proposed Planning Rules emphasize the need for forest management decisions to incorporate both broadscale assessments and local analysis, typically at a watershed level. 64 Fed. Reg. at 54,081.

By unilaterally ruling out road construction, and the management actions dependent on road construction, for large swaths of the nation-wide landscape, the Forest Service is violating the very principles it espouses in the ICBEMP and the proposed Planning Rules. If the Forest Service is truly sincere in its desire to protect those portions of the national forest system that currently remain roadless, it should abandon its misguided and politically-oriented mandates in favor of a more flexible system establishing outcome-based directions that leave local managers the discretion to select actions that best fulfill identified goals and address localized forest health situations.



5. Impacts on Idaho:

The DEIS, by taking a national approach to the issue of potential environmental impacts, ignores localized environmental and economic impacts that hit the States of the intermountain West especially hard.

The one-size-fits-all approach to roadless area management ignores the particular forest health needs of Idaho's forests, while glossing over impacts that hit Idaho harder than other areas. Of all 50 States, Idaho, with over 9.2 million acres of inventoried roadless areas affected by the prohibition alternatives, will suffer by far the greatest impact from the proposed rules.¹ The next closest State is Montana, with over 5.8 million acres of inventoried roadless areas, many of them adjacent to Idaho's borders.

¹ Although Alaska has a greater number of roadless acres, most of them are exempted from the proposed rules.

In addition to its large number of roadless areas, Idaho suffers greater impacts because many of its forests area put at particular risk by proposals that prevent active management of forest health. The proposed ban will have a greater adverse impact on forest health in the interior West as opposed than in other regions of the country. Since 1990, 91% of the large fires on national forest lands (over 1,000 acres) were in the interior West. GAO Report 99-65 at 29. The annual number of such fires quadrupled between 1985 and 1995. The Intermountain Region also had the highest number of fire starts within inventoried roadless areas. DEIS at 3-152. Next to Montana, Idaho had the highest number of acres within inventoried roadless areas at moderate to high risk of catastrophic wildfires. DEIS at 3-104. Clearly, the need to address the risk of catastrophic wildfires within Idaho unroaded areas is more pressing than in other portions of the nation. 18645

The economic impacts of the proposal also hit Idaho especially hard. For example, within the lower 48 States, the two regions with the most miles of planned road construction within inventoried roadless areas are the regions that include Idaho, Regions 1 & 4. DEIS at 3-10. Region 4 will suffer from the largest reduction in timber harvest, DEIS at 3-185, and the largest loss of direct jobs. EIS at 3-186. The two national forests with the largest average annual planned offer of timber from inventoried roadless areas are both within Idaho (Idaho Panhandle and Payette National Forests). DEIS at 3-212 through 213. The region whose states will suffer the largest reductions in payment of timber sale receipts to states (PTS) will be Region 4. DEIS at 3-186. Likewise, aside from the Pacific Northwest, Regions 1 & 4 will suffer the largest losses of net revenue associated with commodity harvest volume. DEIS at 3-189.

There are also indications that within Idaho, the need for protection of roadless areas may not be as pressing as in other portions of the country. For example, the sheer number of wilderness and roadless area acres within Idaho suggests that within Idaho, roadless areas are not the rare commodity that they may be in other areas of the country. Within Idaho, road construction into roadless areas may also be in many cases a net environmental benefit, by addressing critical forest health and fuel management needs. Within Idaho and the intermountain West, impacts from forest harvest may also be lower than in other parts of the country. For example, the DEIS notes that impacts from fragmentation are low in the Intermountain Region since less than ten percent of the acres harvested are clearcut. DEIS at 3-57.

In short, the proposed action does not do an adequate job of individually examining each roadless area to determine whether the alleged benefits of protecting the area from road construction are outweighed by the risks to forest health and the economic

18645

impact on surrounding communities. The one-size-fits-all approach to roadless area management should be rejected in favor of a site-specific analysis, which would allow local environmental concerns to be addressed, and allow citizens most impacted by roadless area management to have a real voice in the decision-making process.



6. The range of alternatives:

The DEIS examines only a narrow range of alternatives obviously chosen to support a pre-determined outcome, and violates the duty to examine all reasonable alternatives.

For each of the three proposed actions (the Prohibition Rule, the Procedural Rule, and the Tongass Rule), the Forest Service lists four alternatives, one of which is the “no action” alternative, included as a required point of reference. Thus, for each proposed action, the Forest Service seriously considered just three alternatives. For the Prohibition Rule, no alternative was considered that did not include a prohibition on road construction. For the procedural rule, no alternative was considered that did not require protection of “roadless characteristics” in uninventoried unroaded areas.

The narrow range of alternatives considered in the DEIS does not comply with NEPA requirements. CEQ regulations require an EIS to “[r]igorously explore and objectively evaluate all reasonable alternatives” with the goal of “sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public.” 40 C.F.R. § 1502.14.

Failure to include all reasonable alternatives has often been cited as a fault in those environmental impact statements that did not survive court review. The RARE II EIS is a prime example. There, although the agency included eleven alternatives in the EIS, none of the alternatives allocated more than 35% of roadless areas to wilderness. *California v. Block*, 690 F.2d 753, 765 (1982). Ultimately, the court concluded that the EIS “uncritically assume[d] that a substantial portion of the RARE II areas should be developed and consider[ed] only those alternatives with that end result.” *Id.* at 767.

The same is true here, albeit in reverse. The DEIS obviously starts from the assumption that all road construction will be banned regardless of the environmental impacts, and thus purposefully omits all alternatives that do not include a ban on road construction. Such an omission is a fatal flaw. The EIS must give serious consideration to alternatives that do not allocate all roadless areas to permanent roadless status, and that

18645

do not impose similar protections for smaller unroaded areas in future forest planning. Thus, the State submits that at a minimum, the EIS should contain an analysis of the following alternatives:

Prohibition Alternative 1: Rather than a myopic focus on prohibiting road construction in all roadless areas, local managers should be directed to individually examine each roadless area to determine what unique values it possesses, its uniqueness in relation to other roadless areas and existing wilderness in the vicinity, and its relation to roaded areas, with the goal of identifying strongholds with particular biological values in need of protection. Roadless, unroaded, and roaded areas could be combined in ways that best fit the unique values and biological needs of the particular area under consideration.

Prohibition Alternative 2: Prohibit road construction and reconstruction in inventoried roadless areas, with discretion vested in local forest managers to depart from the prohibition when road construction or reconstruction is determined to be necessary to address forest health issues or fuel accumulation concerns.

Prohibition Alternative 3: Apply a science-based road analysis process to decisions regarding road construction and reconstruction within inventoried roadless areas, akin to that developed and tested by the Forest Service in the document entitled *Roads Analysis: Informing Decisions About Managing the National Forest Transportation System* (USDA Forest Service, 1999, Misc. Rep. FS-643).

Prohibition Alternative 4: Maintain Alternative 2 in the DEIS, but exempt from the prohibition national forests within the coverage of the management directives established in the Interior Columbia Basin Ecosystem Management Project.

Procedural Alternative 1: Require local managers to consider roadless values within any currently unroaded areas in future forest plans, but with management directives that any protections extended to unroaded areas must provide the access necessary for cost-effective management for purposes of protecting forest health, reducing accumulated fuels, or offering commodity timber harvest where consistent with multiple-use management needs.

Procedural Alternative 2: Apply a science-based road analysis process to decisions regarding road construction and reconstruction within unroaded areas, akin to that developed and tested by the Forest Service in the document entitled *Roads Analysis: Informing Decisions About Managing the National Forest Transportation System* (USDA Forest Service, 1999, Misc. Rep. FS-643).

In addition, each of the above alternatives should expressly allow access to school endowment lands and other inholdings within both roadless and unroaded areas.

Please note that the State of Idaho does not endorse any of these alternatives. The State continues to assert that the no-action alternative should be designated as the preferred alternative. But, if the Forest Service insists on going forward, it is clear that the above alternatives must be included in the EIS in order to define the issues and provide a clearer choice among various options.



7. Procedural alternatives:

The DEIS fails to provide any meaningful analysis of the environmental impact of the procedural alternatives, even to the point of not identifying the location of the affected lands.

One of the most appalling aspects of the DEIS is the almost complete omission of any analysis of the potentially enormous impact of the so-called "procedural alternatives." The Procedural Alternatives are a glaring departure from the traditional conclusion that areas of less than 5,000 acres should not be managed as distinct roadless areas, and their impact is, if anything, greater than that of the Prohibition Alternatives. Yet, the entire analysis of the Procedural Alternatives takes only three pages. DEIS at 3-323 to 3-225.

A three page analysis consisting solely of conclusory statements does not fulfill NEPA requirements. No one can rationally dispute that the Procedural Alternatives represent a major federal action that alters management directives on millions of acres of national forest lands, with admitted impacts on forest health. Neither can anyone rationally dispute that three pages of analysis for a decision affecting forest health on millions of acres of lands does not constitute a "full and fair discussion of significant environmental impacts." 40 C.F.R. § 1502.1. Certainly, such an analysis will not withstand court review:

[T]he . . . [impact statement] must set forth sufficient information for the general public to make an informed evaluation . . . and for the decisionmaker to "consider fully the environmental factors involved and to make a reasoned decision after balancing the risks of harm to the

18645

environment against the benefits to be derived from the proposed action." . . . [The impact statement gives] assurance that stubborn problems or serious criticisms have not been "swept under the rug."

Sierra Club v. United States Army Corps of Engineers, 701 F.2d 1011 (2d Cir 1983)(citations omitted).

Unfortunately, reading the DEIS, it is obvious that in addressing the impacts of the procedural alternatives, the Forest Service has done nothing but sweep stubborn problems under the rug. Rather than face the potentially enormous impacts of the Procedural Alternatives, the agency simply throws up its hands and avers that the "magnitude and extent of such effects cannot be determined at a national level." DEIS at 3-224. In large part, this assertion is based on the assertion that "the exact location and acreage of each potential unroaded area is unknown." *Id.* The fact that such areas remain undetermined however, is due solely to the agency's artificial rush to complete the NEPA process during the current Administration. Obviously, the agency has concluded that the information presented in the proposed rule is sufficient to allow each individual forest to engage in "identification and mapping for each national forest of their potentially qualifying unroaded areas specified in this rule at their next land and resource management plan revision." DEIS at 3-241.

If the information and infrastructure is in place for the national forests to identify qualifying unroaded areas, then such information could be incorporated into the DEIS; the only barrier is the fact that the national office has not given the forests sufficient time to identify qualifying unroaded areas. The Forest Service cannot justify moving ahead with a final rule and an final EIS for the sole purpose of meeting the political needs of elected officials. The Forest Service must wait for the development of the information necessary to make an informed decision.



8. Segmentation:

The Forest Service has improperly segmented its analysis of a number of on-going initiatives that, if viewed together, will have enormous impacts on forest health and on State economies.

Another critical concern is the fact that the Forest Service has a number of ongoing rule-making initiatives that address, in various and cumulative ways, the issues of road construction, road reconstruction, and road decommissioning, and the protection of resources found in roadless and unroaded areas. In addition to the Roadless Protection

18645

18645

Initiative, there is the National Forest System Road Management Strategy, the Interior Columbia Basin Ecosystem Management Project, and the proposed Planning Rules.

The Road Management Strategy proposes to adopt a “science-based road transportation analysis to identify the minimum Forest Service road system needed for administration, utilization, and protection of National Forest System lands and resources.” 65 Fed. Reg. 11,676, 11,677 (March 3, 2000). The “new policy emphasizes investing in the process of decommissioning unneeded roads and reconstructing and maintaining the most heavily used roads.” *Id.* at 11,181. The proposed rule also distinguishes between classified and “unclassified” roads, describing the former as “state roads, county roads, private roads, permitted roads and Forest Service roads,” and the latter as “[r]oads 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.” *Id.* at 11,683. It is estimated that there are more than 60,000 miles of unclassified roads with the National Forest System. EA at 12. The policy “makes clear that maintenance of unclassified roads in roadless and unroaded areas would be inappropriate, because such activity would lead to defacto road development.” *Id.* at 11,686.

The Interior Columbia Basin Ecosystem Management Project (ICBEMP) proposes to establish standards and criteria for restoration of national forest lands throughout the Columbia River Basin. The ICBEMP’s emphasis on vegetation management would be little more than a paper exercise without maintenance of the road system needed to make such projects economical. As with the above two initiatives, the ICBEMP proposes to establish criteria for making decisions relating to the construction, maintenance, and decommissioning of roads, in conjunction with the management goals established in the ICBEMP. ICBEMP Supplemental Draft EIS (March 2000).

The proposed rules for National Forest System Land and Resource Management Planning, 64 Fed. Reg. 54,074 (October 5, 1999), provide that designation of roadless areas will take place through the forest planning process. *Id.* at 54,107. The proposed Planning Rules provide that in order to “achieve the desired conditions described in applicable land and resource management plan decisions, the salvage or sanitation harvest of timber is permitted on all National Forest System lands except on those lands where timber harvest is prohibited by law.” *Id.* at 54,108. The proposed rules also require that the “responsible official must recognize the jurisdiction, expertise, and role of state and local governments as regulators, land managers, and representatives of state constituencies and local communities interested in or affected by uses of the National Forest System.” *Id.* at 54,103. The proposed rules also herald the principle that

State of Idaho Comments: Page 17 of 23.

18645

“ecological, economic and social sustainability are inextricably linked: impairing the sustainability of any one aspect affects the entirety.” *Id.* at 54,096.

Each of the ongoing initiatives will independently impact management of forest health issues on the national forests. But they will also have cumulative and synergistic effects which may severely limit the number of acres on which forest health treatments may reasonably be expected to occur in coming years. Unfortunately, the segmentation of the initiatives into three separated processes with independent environmental and economic analyses makes it impossible to accurately assess the overall impact of the combined initiatives.

No reasons have been given for such segmentation. Indeed, the Forest Service itself has noted the close relationship between the initiatives. Forest Service Chief Michael P. Dombeck has informed Congress that “the agency is following a two track process: the first dealing with roadless areas and the second dealing with the existing Forest Service road system, “ and that there “will be some overlap as we pursue these two separate but closely related actions.” Testimony of Michael P. Dombeck before the Subcommittee on Forests and Public Lands Management, Committee on Energy and Natural Resources, United States Senate, November 2, 1999. The EA for the Road Management Strategy states that the road management strategy is “directly or indirectly related” to the 36 CFR. 219 Planning Regulations and the Roadless Area Protective Rule Initiative. Road Management Strategy EA at 1. Likewise, the ICBEMP has been described as “addressing a subset of the social and ecological values spoken to in the Notice of Intent [of the Roadless Initiative].” ICBEMP Supplemental Draft EIS at 20.

The relationship between the Roadless Protection Initiative and other ongoing actions is acknowledged in the DEIS. It notes that the Roadless Area Conservation Rule is “related” to the Road Management Strategy and the Planning Rule, and that “this proposed roadless area rule together with the other proposed rules might have a cumulative impact in final form.” DEIS at 3-240.

While acknowledging the possibility of cumulative impacts, the DEIS makes no effort to assess the exact nature of such impacts. For example, in its discussion of the Procedural Alternatives, the DEIS offers little beyond the statement that “[i]t is reasonable to expect that cumulative impacts may occur if this rule is implemented along with those proposed for land management planning and administration of the forest development transportation system. DEIS at 3-225. It also notes that the ICBEMP “may have additional cumulative impacts at the regional level.” *Id.* Nowhere, however, is the agency or the public informed as to the nature or extent of the expected cumulative impacts. This is unacceptable. An analysis of cumulative impacts cannot be general,

State of Idaho Comments: Page 18 of 23.

one-sided, or “devoid of specific, reasoned conclusions.” *Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, 811 (9th Cir. 1999). Nor is an analysis sufficient where it “makes only conclusory remarks, statements that do not equip a decisionmaker to make an informed decision about alternative courses of action or a court to review the Secretary’s reasoning.” *Natural Resources Defense Council, Inc. v. Hodel*, 865 F.2d 288, 298 (D.C. Cir. 1988). The analysis must fulfill NEPA’s purpose of “inform[ing] Congress, other agencies, and the general public about the environmental consequences of a certain action in order to spur all interested parties to rethink the wisdom of the action.” *Id.* at 296.

In addition to cumulative impacts, there is synergy between the related initiatives. For example, the impact of the roadless initiative is greatly enhanced by the adoption of a concurrent roads policy that emphasizes decommissioning of roads. Not only does the combination of the two policies greatly increase the potential for restricting access to state endowment lands within unroaded areas, it also raises the possibility that many areas now considered to be “roaded” will become “unroaded” as roads are decommissioned, thus becoming subject to the restrictions to be proposed in the Roadless Initiative. Thus, by segmenting the analysis of the ongoing initiatives, the overall impact of each additive policy is not being assessed.

The Forest Service’s failure to assess the cumulative and synergistic impacts of the ongoing initiatives is a direct violation of NEPA and CEQ requirements. In *Kleppe v. Sierra Club*, 427 U.S. 390 (1976), the Court held that when several actions that “will have cumulative or synergistic environmental impact upon a region are pending before an agency, their environmental consequences must be considered together.” *Id.* at 410. Sometime after the *Kleppe* decision, the Council on Environmental Quality (CEQ) issued regulations that define the circumstances under which related actions must be covered by a single EIS. The CEQ regulations provide that actions “are connected if they . . . are interdependent parts of a larger action and depend on the larger action for their justification.” 40 C.F.R. § 1508.25(a)(1). The same regulation also provides that:

Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess

18645

adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

40 C.F.R. § 1508.25(a)(3). The regulation also states that actions “which when viewed with other proposed actions have cumulatively significant impacts . . . should therefore be discussed in the same impact statement. 40 C.F.R. § 1508.25(a)(2).

Although the above regulations are framed as definitions, and in some cases do not use mandatory language (i.e., agency “should” prepare an EIS), the courts have described them as “requiring” a single EIS for connected or cumulative actions. *See, e.g., Thomas v. Peterson*, 753 F.2d 754, 758-59 (9th Cir. 1985).

In sum, CEQ regulations, as interpreted by the courts, require consolidation of all present Forest Service initiatives which will directly control road construction and indirectly dictate the availability of forest health treatments on major portions of our national forests. Without such consolidation, the true impact of the combined initiatives on forest health will go unassessed, a clear violation of NEPA requirements.



9. State endowment lands:

The DEIS fails to provide any analysis of the potential environmental and economic impacts of the proposed rules on state school endowment lands.

The proposed rule contains a vague reference to the need for access to inholdings within roadless areas: “a road may be constructed or reconstructed in an inventoried roadless area if the responsible official determines that . . . [a] road is needed pursuant to reserved or outstanding rights or as provided for by statute or treaty.” Proposed Rules § 294.12. This ambiguous language should be clarified to assure access to state and private inholdings, especially state endowment lands. Without such guarantees, the Idaho Department of Lands estimates that the proposed rules may result in losses of over 163 million dollars to the Idaho school endowment fund over the next thirty years.

In addition, there should be additional clarification that the Forest Service will not otherwise render access impracticable or uneconomical through the imposition of unnecessary restrictions. And, most critically, it should be clarified that in allowing such access, the Forest Service will not attempt to impose restrictions on the management of the inholding as a condition of granting the access. It has been the State of Idaho’s experience that the Forest Service has attempted to control timber harvest on state

18645

18645

18645

endowment lands through the placement of conditions within the special use permits covering the use of roads across Forest Service lands. Such practices must cease. The States must be allowed to manage their endowment lands in accordance with the management guidelines established by state law.



10. Economic analysis:

The economic analysis in the DEIS is based on false assumptions and ignores significant potential costs associated with restrictions that prevent effective management of forest health needs

As justification for its recently-adopted policy of reducing road inventories, the Forest Service repeatedly asserts that it does not have the money to adequately maintain its existing inventory of roads. The underlying assumption appears to be that if its road inventory is reduced, the Forest Service will be able to devote more effort to maintenance of the remaining inventory. This assumption, however, is false. It is just as likely that as the number of miles in the classified road inventory declines, so will the money appropriated to the Forest Service for road maintenance.

Another problem with the economic analysis in the DEIS is that it ignores the increasing costs associated with fire suppression on the national forests. From fiscal years 1992 through 1997, expenditures for fire suppression and wildfire preparedness increased 72%. GAO Report 99-65 at 34. By restricting access to unroaded areas and making forest health management actions uneconomical, the Forest Service is virtually guaranteeing that this upward trend will continue. Nonetheless, the DEIS concludes that the "costs of fire suppression are not likely to increase because of road prohibitions." DEIS at 3-200. In part, it supports this conclusion by citing the fact that "[r]oads needed for fire suppression for public health and safety would be exempt from the prohibitions." *Id.* Such a statement ignores the fact that the construction of roads solely for fire suppression purposes is unlikely to occur. The statement also ignores the potential impact of access restrictions outside inventoried roadless areas due to prohibitions on road construction within unroaded areas and decommissioning of roads in currently roaded areas. The cumulative impact of all pending proposed actions will greatly increase future fire suppression costs on national forest lands.



State of Idaho Comments: Page 21 of 23.

11. Impacts on other lands:

The DEIS focuses solely on impacts on federal lands while ignoring the broader environmental impacts that will result from implementation of the proposed rules.

The prohibition alternatives, by reducing timber harvest, will result in increased harvest pressures on other lands. This was recognized in a recent speech by Forest Service Chief Michael Dombeck to the American Forest and Paper Association. In that speech, Chief Dombeck conceded that "cutting off the timber supply from our national forests would do nothing to curtail our Nation's growing appetite for wood products. It would only shift environmental problems to other lands where environmental protections are fewer." Michael Dombeck, Speech to American Forest and Paper Association, May 22, 2000.

Despite Chief Dombeck's concession, the DEIS fails to provide any serious analysis of the environmental impacts that will occur as a result of increased harvest pressure on state and private lands as a result of curtailing timber supply through the Prohibition Alternatives.



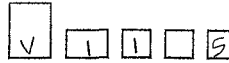
CONCLUSIONS

In light of the above concerns, the Forest Service should:

1. Reject the entire process to date as fatally flawed and begin again, allowing adequate opportunities for States and others to participate in scoping and in review of the DEIS.
2. At a minimum, extend the comment period on the DEIS, at least until maps are made available identifying the lands potentially subject to the procedural alternatives.
3. Make better efforts to involve State and local governments in any decisions regarding prohibitions on road construction in inventoried roadless areas.
4. Specifically address the question of access to school endowment lands.
5. Assess the impact of the proposed rules on the forest health of school endowment lands and other lands that are intermingled with, or adjacent to, national forest lands affected by the prohibition and procedural alternatives.

State of Idaho Comments: Page 22 of 23.

18645



13571

- 6. Include a broader range of alternatives in the final EIS, including those proposed in section 6, *supra*.
- 7. The current analysis of the potential impacts of the procedural alternatives is inadequate and does not fulfill NEPA requirements for an environmental impact statement. The final EIS should include a full analysis of the impacts of the procedural alternatives, including identification of all unroaded areas potentially subject to the proposed rules
- 8. Assess the impact of the proposed rules on a site-specific basis, making specific analyses and recommendations for each inventoried roadless areas, so that localized impacts specific to individual roadless areas are not "masked" by favorable data from other roadless areas.
- 9. Provide flexibility to local land managers to deviate from the proposed rules when necessary to protect forest health.
- 10. Integrate the Roadless Area Conservation DEIS with the environmental impact statements and environmental assessments being done for the ICBEMP, the Road Management Strategy, and the proposed Planning Rules.
- 11. Assess the impact on state, private and tribal lands that may result as harvest is increased on such lands to compensate for shortfalls in timber production from national forest lands.
- 12. Adopt the no-action alternative as the preferred alternative.



STATE OF IDAHO
 OFFICE OF THE ATTORNEY GENERAL
 ALAN G. LANCE

CAET RECEIVED
 JUL 0 6 2000

ROADLESS PROPOSAL COMMENTS

By Idaho Attorney General Alan G. Lance

Oral Comments at Government-to-Government meeting,
 submitted in written form

**Forest Service Public Meeting
 Boise National Forest
 June 29, 2000
 Nampa Civic Center
 311 Third Street South
 Nampa, Idaho**

My name is Alan G. Lance. I am the Attorney General of the State of Idaho. I submit these comments in furtherance of the State's legal rights and interests which are impacted by this massive proposal.

On October 13, 1999, President Clinton announced the roadless proposal. He characterized it as "one of the largest land preservation efforts in America's history." I agree -- in my experience, there has not been a proposal under the National Environmental Policy Act which comes close to being as sweeping, as complex, and as far-reaching as the roadless proposal.

A mere six days later, on October 19, 1999, the Forest Service released the notice of intent (NOI). The short period of time between the announcement and release of the NOI appears to be attributable to the fact that the administration and other top federal officials were meeting with environmental groups for some time putting together the details of this proposal. The documents we have obtained show that the states were not made a part of the planning process.

13571

The NOI was confusing and limited in terms of information provided for public evaluation and comment. It revealed that the roadless proposal would impact two types of land, "inventoried" and "uninventoried" roadless areas. Thus, more than nine million acres in Idaho are subject to the proposal. The NOI provided just sixty days for public comment during the scoping period.

The public was told to look to the Forest Service's website for information about the roadless proposal. That website was "under development" and no useful information was available on it throughout the scoping period. Public meetings in Idaho ended just three business days before the scoping period expired. A Freedom of Information Act request made by my office went unanswered in violation of the Forest Service regulation requiring a response within ten days, and extension requests made by the State of Idaho and the Conference of Western Attorneys General were not answered. The State submitted written comments, but the scoping period expired on December 20, 1999, without the benefit of basic information such as accurate maps and the FOIA information requested by my office.

The Idaho State Board of Land Commissioners (Governor, Attorney General, Secretary of State, State Controller, and State Superintendent of Public Instruction) filed a lawsuit against the Forest Service in federal district court on December 30, 1999. The lawsuit involved the State's legal rights and interests relative to its endowment lands, which generated over \$52 million dollars for our public schools last year. The State's concern is that this proposal will impact its Constitutional duty to manage these lands for the maximum return for Idaho's schools.

As a result of a toothless federal law which gives the public (including states) a right to participate in the scoping process but not a remedy to enforce that right in court, the court ruled that it lacked power to grant relief to the State until the NEPA process is complete. However, Judge Edward J. Lodge told the Forest Service that the roadless proposal will be subject to "close judicial scrutiny" and issued the following warnings:

1. "...the Forest Service may be inviting error and a necessary review of its actions by ignoring the objections of the [State]..."
2. "When the areas contemplated to be roadless are not defined or shown by way of maps or otherwise illustrated, one does not have to be learned in the law to determine the public's participation will hardly be 'meaningful.' The State's concern over ... its endowment lands and state forest lands that may be surrounded by national forest land are legitimate concerns of state and local governments and its citizens."

13571

To date, with the insufficient information made available to the public, the State has identified at least 6 major problems in the DEIS.

First, the comment period is wholly inadequate. The State has requested an extension of time to comment. There is no doubt that this proposal is one of the biggest NEPA proposals of all time. The sixty day comment periods provided for both scoping and the DEIS amount to nothing more than a wink and a nod at the fundamental notion of due process – meaningful notice and a meaningful opportunity to be heard. Judge Lodge specifically wrote, "the Forest Service should proceed with caution. Time is not of the essence on an issue that has been studied for over 30 years." A proposal of this magnitude must be put to a test of equivalent magnitude, a test devoid of arbitrary deadlines set for political purposes. Anything less than an equally historic time for public review and comment casts a shadow of suspicion over the substance of and need for the proposal.

Second, the DEIS inadequately addresses the "procedural alternatives." Over 300 pages in the DEIS are dedicated to the "prohibition alternatives," but only three pages are spent on procedural alternatives. Yet, the overall impact of the procedural alternatives may well be greater than that of the prohibition alternatives, particularly if the recent Road Management Strategy results in more unroaded areas subject to the procedural alternatives. This overlap in proposals is a serious concern, and I note that Chief Dombeck has already admitted that these two proposals are "closely related actions."

Third, the DEIS does not adequately present less restrictive alternatives. The DEIS is basically a doctored-up, one-size-fits-all, all-or-nothing approach. Idaho contains two of the six most impacted forests (the Panhandle and the Payette). The failure to utilize a science-based approach on this aspect of the DEIS is particularly frustrating to Idaho. Idaho, although small in terms of population, is certainly among the hardest hit. Good science, local control, local economies and other unique characteristics should be considered.

Fourth, the DEIS fails to address the State's scoping comments. The State of Idaho spent enormous time and effort telling the Forest Service that our endowment lands must be completely isolated from any impact. We testified in public meetings during scoping, we submitted detailed written comments on this issue, and we went to a federal court to plead our case. The court agreed that our endowment lands are legitimate concerns. Many other states expressed similar concerns with endowment or school trust lands. Regardless of our effort, the DEIS does not even mention "endowment lands" or "school trust lands." Instead, all we see is a statement in the proposed rule that the roadless proposal "will not have substantial direct effects on the states. . . ." The Forest Service's failure to address our comments is unacceptable.

13571

186
29

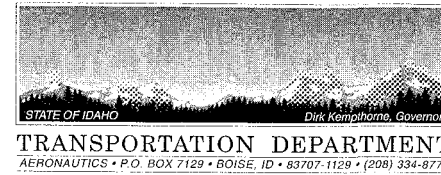
Fifth, the Roadless Proposal, the Road Management Strategy, and the Interior Columbia Basin Ecosystem Management Plan (ICBEMP) are "segmented" proposals. The roadless proposal will result in roadless areas being cut off from any future activities. The road management strategy emphasizes the decommissioning of roads, which will result in new roadless areas that might be subject to the roadless proposal. The ICBEMP emphasizes habitat restoration in the Columbia Basin, which might result in decommissioning some roads and building new roads, activities that might in turn create new roadless areas or conflict with the roadless proposal. Segmentation is not legal under NEPA.

Sixth, despite representations made in the lawsuit that more information would be provided as this proposal progressed from scoping to the DEIS, we still have no maps of uninventoried areas and we are aware that maps of inventoried areas are inaccurate in some forests. This is a serious legal problem for the Forest Service. It is beyond question that a proposal affecting land must begin with a map showing what land is impacted by the proposal. As set forth above, Judge Lodge expressed his view that participation during the comment periods will "hardly be 'meaningful'" if maps are not provided. The State has sought maps and mapping criteria through the FOIA process. We await receipt of accurate maps for all impacted lands in Idaho in order that we can report to Idaho citizens that our comments and participation were meaningful.

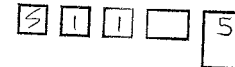
Finally, I would like to make an observation about the general public mood in Idaho that my office has seen relative to this proposal. The public meetings during scoping and the DEIS process indicate statewide opposition to this proposal. During Idaho's primary election, thirteen Idaho counties placed this issue on an advisory ballot and the citizens in those counties voted overwhelmingly against it. Idahoans are upset with the proposal -- they are aware that it is being driven by the President's directive to get it done before he leaves office. Vice President Gore has already announced that, if elected President of the United States, he will expand the proposal. Thus, the perception is that this is a political process, not a science-based, deliberative, policymaking process where public comments are truly considered and weighed in making the final decision. This track is just flat wrong. In my view you have lost the confidence of Idahoans by proceeding with a plan crafted in secret by Washington politicians, Washington bureaucrats, and environmental groups -- a plan that is nothing more than a cookbook on how to reach a pre-determined outcome.

In addition to these comments today, the State of Idaho will also be submitting detailed written comments.

Thank you.



July 7, 2000



USDA Forest Service-CAET
Attention: Roadless Area Proposed Rule
PO Box 221090
Salt Lake City UT 84122

CAET RECEIVED
JUL 10 2000

Gentlemen:

We have reviewed the Draft Environmental Impact Statement (DEIS) for the "Forest Service Roadless Area Conservation". Our staff members have also attended several public and government agency meetings concerning the roadless area proposal.

Our primary concern is the preservation of public use airports and associated aviation activity within the inventoried roadless areas in the State of Idaho. The DEIS and meeting presentations did not specifically address airports or aviation activities within roadless areas.

The DEIS proposes two preferred alternatives: **Prohibition Alternative 2** would prohibit road construction and reconstruction in the unroaded portions of inventoried roadless areas. **Procedural Alternative B** would allow local Forest Service managers to determine whether and how to protect roadless characteristics in the context of multiple use management, during individual forest and grassland plan revisions.

We have attempted to determine the impact of the two preferred alternatives on the existing public use airports located on Forest Service lands in Idaho. The Forest Service airports located in the Selway Bitterroot Wilderness area are allowed to remain open under the provisions of the 1964 wilderness legislation. Airports in the Frank Church River of No Return Wilderness are specifically protected under the provisions of this particular wilderness legislation. Airports located outside of wilderness areas are located adjacent to existing maintained roads and should not be impacted by the proposed preferred alternatives. The Graham USFS Airport is in an area that has been recommended for wilderness classification by previous Forest Service planning documents that would require Congressional action for wilderness designation. In addition, the DEIS states that "existing access to inventoried roadless areas for recreation opportunities would not change because of this proposal".

CONTINUED


STATE OF IDAHO — TRANSPORTATION DEPARTMENT

Roadless Area Proposed Rule
July 7, 2000
Page 2

We are concerned about future off-airport aviation operations that may occur in the inventoried roadless areas. These would be primarily helicopter operations associated with fire suppression activities, timber sales, search and rescue, Forest Service administrative activities, and law enforcement. The DEIS does not specifically address such activities and we are assuming that they would be allowed to continue.

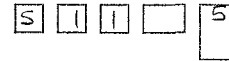
In closing, we are specifically requesting that the Forest Service promptly inform our Division of any proposed changes that would impact any existing airports or aviation activities in the inventoried roadless areas in Idaho.

Sincerely,


BART W. WELSH
Administrator

18629

16186



IDAHO DEPARTMENT OF LANDS

954 W. Jefferson St., PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-2339

STANLEY F. HAMILTON - DIRECTOR

July 11, 2000

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

CAET RECEIVED
JUL 17 2000

BOARD OF LAND COMMISSIONERS

DIRK KEMPTHORNE
Governor

PETE T. CENARRUSA
Secretary of State

ALAN G. LANCE
Attorney General

J.D. WILLIAMS
State Controller

MARILYN HOWARD
Sup't of Public Instruction

The following are the comments of the Idaho Department of Lands regarding the Roadless Area Conservation Proposed Rule and Draft Environmental Impact Statement (DEIS).

The State of Idaho has a critical interest in the proposed rule, due to the potential impact on the institutions, economy, and citizens of our state. Idaho and the western states are carrying a disproportionate share of the burden associated with the roadless proposal in the DEIS. Inventoried roadless areas constitute 28% of National Forest System lands, over 54 million acres, nationwide. 52,296,000 acres, 96% of the total, are in western states. Nearly 17%, 9,232,000 acres, are in Idaho. This makes the State of Idaho second only to Alaska as the largest affected interest.

The Idaho Department of Lands (IDL) is the administrative arm of the Idaho State Board of Land Commissioners. In that capacity, IDL exercises management and control of approximately 2,367,000 acres of state endowment trust land. This responsibility encompasses management of timber, grazing, agricultural, mineral, and recreational resources on approximately 4.5% of Idaho's land base. The mission of IDL is to manage endowment trust lands to maximize long-term revenue for the beneficiaries and protect natural resources for the people of Idaho. The implementation of any of the alternatives in the DEIS could have a real and potentially serious impact on the management of state trust lands, and the beneficiaries of the trusts.

The endowment trust lands were granted to Idaho by the United States upon statehood. Their purpose is to provide revenue to support the nine owning institutions of the state, the most common being the public schools. "The [endowment] land was given only for specific purposes defined in federal

KEEP IDAHO GREEN
PREVENT WILDFIRE
EQUAL OPPORTUNITY EMPLOYER

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

16186
Idaho Department of Lands
Comments, Forest Service Roadless Area Conservation DEIS
July 11,2000
Page 2

statutory laws and state constitutions and now firmly supported by case law. . .¹
To meet this end the lands are managed to,

"maximize revenues over time to the endowment funds for the beneficiary institutions consistent with sound long-term management practices based on land capabilities."²

Since statehood these lands have generated more than \$800,000,000 to the Permanent Endowment Trust Funds, with distributions to the beneficiaries in 1999 of more than \$58,000,000.

The endowment lands provide a diverse foundation of commodity, commercial leasing and rental activity which contributes dollars directly into the institutional accounts. The business activity that surrounds these functions helps support the statewide economy, and in conjunction with similar activities on private and federal land are part of the web of economics and social ties that define the culture of the state.

In addition to management of endowment lands, IDL has been entrusted with the administration of regulatory functions, including the Idaho Forest Practices Act, the Dredge and Placer Mining Act, the Surface Mining Act, and the Lake Protection Act. These functions, along with that of administering several forestry related federal cost-share programs, put IDL in position of influencing and supporting resource management activities on private lands in Idaho.

We have reviewed the DEIS and offer the following observations:

1) **The Roadless Area Conservation DEIS fails to consider the full range of alternatives available for the management of resources in the designated areas.** The Forest Service has interpreted President Clinton's directive as prohibiting consideration of any alternative that would allow road construction or further development of inventoried, and uninventoried, roadless areas. Although harvest activities will be permitted within roadless areas under the chosen alternative, the practicality of harvest operations on most of these areas, without roads, is marginal, at best. Except for "pecking around the edges" of roadless areas with helicopters, little can be accomplished.

Given the president's mandate for "preservation" of roadless areas, and the bureaucratic hurdles forced on Forest Service managers, it will be virtually impossible to prepare and execute any sort of active management activity in a roadless area. All the roadless areas will therefore become defacto wilderness.

¹ O'Laughlin, *Idaho's Endowment Land: A Matter Of Sacred Trust*, (1990), at 3.

² IDL Operations Memorandum 102, February 2, 1996.

16186
Idaho Department of Lands
Comments, Forest Service Roadless Area Conservation DEIS
July 11,2000
Page 3

In fact, there are roadless areas that would benefit from road construction and more intensive management in regard to water quality, biological diversity, recreation, and fire suppression. Unfortunately, this is not mentioned in the DEIS because it does not agree with the preconceived conclusions that underlie the entire document.

2) **As a result of the pre-existing supposition that roadless areas are, by default, better able to support a variety of benefits, the DEIS fails to consider the potential, and very real, negative impacts of leaving these lands in an unroaded state.** These include threats of insect and disease outbreaks and catastrophic fires that begin in inventoried roadless areas, and then spread onto adjacent non-federal land, damaging and destroying resources and values that landowners have worked hard to nourish within the framework of their stated land management objectives.

The recent bark beetle outbreak in northern Idaho demonstrates the danger to state and private land, resulting from the inability of federal managers to manage insect outbreaks on federal land. Had the Forest Service acted promptly to harvest damaged trees that became the catalyst of the outbreak, the damage on federal land, and nearby state and private lands, would have been greatly reduced. In addition, the damaged timber would have contributed in a positive manner to the local economy. Unfortunately, Forest Service policy prevented the agency from acting promptly to salvage the damaged timber. As a result, the bark beetle outbreak was made worse, the Forest Service was compelled to expend federal tax dollars in efforts to reduce insect impacts on adjacent state and private land, and damaged timber and dead trees were left on the ground where they will provide fuel for catastrophic fire.

The contention that fire suppression would not be affected by the proposed rule is based on a creative interpretation of fire suppression records. While it is true that 98% of wildland fires are suppressed before they get big, the size and severity of fires that do escape early suppression is greatly increased by the lack of roads. The roadless wildland fire resources cited by the Forest Service (helicopters and fixed wing aircraft), are, in fact, best suited to small, low intensity fires. They have little utility in stopping large intense fires, such as those to be expected in unmanaged roadless situations.

The difficulty of suppressing fires in roadless areas was manifestly demonstrated on the Payette National Forest during 1994. Lightning ignited fires in stands of unsalvaged, dead trees in roadless areas of the forest. Restrictions on suppression action caused by the lack of access led to a total burned area of over 250,000 acres. The result was enormous ecosystem damage on federal lands, as well other ownerships.

The contention that this risk of catastrophic fire is somehow reduced by allowing, "...road construction if a wildland fire threatened public health and safety," shows a lack of understanding of the principles of wildland fire suppression. The notion that the Forest Service, when faced with catastrophic fire would, or even could, in light of the provisions of the National Environmental Protection Act, divert resources to construct roads, is not realistic. Neither is prescribed fire the substitute for other active management activities, as the Los Alamos fire recently demonstrated.

3) **One of the biggest deficiencies in the DEIS is the failure to examine the attributes of, or potential impacts on, individual roadless areas.** By lumping and examining criteria on a nationwide basis, real problems are missed. For example, the average impact on local communities may be slight, but this gross analysis masks the extreme suffering that will be forced on specific communities. This impact is not examined in the DEIS because the study was not done at that level. Ecological, human, social, and economic impact analyses all share this shortcoming.

The results in some cases are statements that are completely false at the local level. For example, *"The effects of the alternatives on national, and to a large extent regional, social and economic systems are minor"* (page 3-211). Or, *"Not surprisingly, private lands account for 71% of the total commercial forestland. National forests account for another 19% of the total commercial forestland"* (page 3-112). These statements are totally false and misleading on a local scale.

In other cases, actual local impacts are glossed over. For example, the DEIS recognizes that Regions 1 and 4 of the Forest Service, which cover the bulk of Idaho, will experience the largest reductions in timber related direct jobs under the action alternatives (Pages 3-220 & 3-221). The impacts, however, are "washed" in the averaging at the national scale, and mask the very real impacts the reduction of federal harvest due to the roadless initiative will have on payments to counties, and the economies of local communities.

More detailed studies of individual areas were done during RARE II, but those are over 20 years old. One can only speculate as to the reasoning behind using such a shotgun approach. It appears that the DEIS was created solely to support a predetermined decision, and fulfill NEPA requirements for a completed report.

4) **The impact of this proposal on reasonable access to state endowment trust lands is a major concern of the Department of Lands.**

Over 54,000 acres of these lands require access over lands managed by the Forest Service, access that does not now exist. These lands have the potential of providing over \$163,000,000 to Idaho institutions in the next 30 years, revenue that is jeopardized by this proposal. Failure to generate this revenue through active land management activities would require Idaho to either reduce services to, or increase taxation on, its citizens.

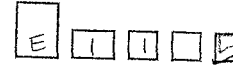
The Alaska National Interest Lands Conservation Act of 1980, 16 U.S.C. 3210, (ANILCA) supposedly ensures access to non-federal land in-holdings. Unfortunately, the tedious processes to secure access across federal lands (especially if threatened or endangered species are resident) seem designed to ensure the applicant withdraws its request out of frustration prior to actually acquiring access. The federal agencies appear to routinely use this bureaucratic maze to exercise de facto management control of non-federal lands. The roadless proposal can only make the process more difficult. The likelihood of receiving access across a roadless area in any situation is largely nonexistent.

In light of the above observations, the Idaho Department of Lands offers the following comments and recommendations for overcoming the deficiencies in the DEIS:

1. Given the history, importance, and public interest in this issue, a more thorough public debate should be initiated by the Secretary of Agriculture. The initial public comment period should be re-opened so that a full range of issues, concerns, and alternatives can be addressed in the DEIS. This should include active management alternatives, including responsible road construction and maintenance, and timber harvesting. The public comment period should be correspondingly extended to adequately accommodate this expanded review.
2. The DEIS is a "broad stroke" document which lumps all the roadless areas together. As a result, the effects of this action on any single roadless area have not truly been evaluated. The DEIS should be revised based on individual studies and analyses of each inventoried roadless area. The alternatives should be selected on an individual roadless area basis.
3. The DEIS is not an objective review of detailed scientific data. Assumptions or data based on the country as a whole have been inferred to apply to specific regions whenever it strengthened the argument for the listed or preferred alternatives. Conversely, information about specific regions has been inferred to apply to the country as a whole. This is a consistent problem throughout the document. The DEIS needs to be re-written to remove such misleading information. A fair representation of the impacts by roadless area is needed.

Idaho Department of Lands
Comments, Forest Service Roadless Area Conservation DEIS
July 11, 2000
Page 6

16186



13533

4. Impacts on access to non-federal in-holdings are not thoroughly examined or fully explained. The DEIS needs to specifically answer the following questions:

- > How will the legitimate rights of the State of Idaho to access state endowment trust lands be guaranteed under the roadless initiative proposal?
- > Under what conditions will such rights of access be granted?
- > Who will be expected to pay the costs of whatever environmental analyses will be required to acquire access?

5. The DEIS must be revised to establish with clarity how the Forest Service intends to address the potential negative impacts, on adjacent property, of the probable catastrophic insect and disease outbreaks and wildfires that will start and spread from federal lands of this proposal.

In summary, the Idaho Department of Lands believes the Forest Service Roadless Conservation DEIS is seriously flawed. The process of its development has been rushed, and the analysis been truncated to support the desired outcome. The result will be reduced quality in on-the-ground management and ecosystem health, and reduced trust in federal government agencies.

Sincerely,

STANLEY F. HAMILTON
Director

Testimony by
Senator Judi Danielson
Idaho State Senate
Before
The Boise National Forest
June 29, 2000
Nampa Civic Center
Nampa, Idaho

CAFE RECEIVED
JUL 06 2000

For whatever reasons, this DEIS has been rushed and it is incomplete. Its flaws will delay the process and put millions of acres of our national forests at risk. This DEIS is so flawed that it must be withdrawn and another process put in place to review the real issues of how we will manage our national forest lands. It must be done, however, by involving local people and local communities and the states so we can all make a contribution and an informed decision on this hugely important issue.

One of the largest problems with this DEIS is that it fails to consider millions of acres of forest that stand a high risk of "losing key components that define [their] system." In other words, they stand a high risk of being "clear cut" by catastrophic wildfire.

The way this catastrophe could happen, say the researchers, is by the burning of wildfires more intense than any we have previously studied. None of this is a surprise – its been reviewed and re-reviewed through ICBEMP and other projects, and we're living

13533

through disaster fires such as Los Alamos and Denver every year -- and yet it wasn't completely covered in this DEIS.

13533

The second problem with this DEIS is that there is no alternative that considers active care and restoration of these lands. The proposals to stop bad things from happening to our forests are unmatched by ideas for acting to make good things happen. There are many management activities that could be taken to keep our forests from burning up. There are many that can reverse legacy problems, provide homes for fish and wildlife, stop the bleeding of sediment into national forest streams and avoid massive air pollution caused by large, out of control wildfires.

Even though this agency has itself documented these options elsewhere, the Forest Service has failed to consider them in making this decision on what happens to our roadless areas.

They've skirted new ideas in the debate of forest management such as temporary roads. They've alienated those who believe some or all of the roadless lands could be left as they are. This whole effort is just one part of a larger, ^{Legacy} political strategy to shut down the multiple use of our nations public lands. ^{the people's} Lands

This administration has undertaken more rulemakings than any other since President Carter. The Clinton Administration has proposed changes to the Forest Planning Process, proposed changes to the Clean Water Act silviculture and TMDL state processes, is trying to mandate changes to all forest plans through the ICBEMP process, wants to decouple the 25 percent funds to counties from timber harvest and has, overall, reduced the harvest of timber by 80 percent over the past 8 years. ^{The Legacy} will be death & destruction to our forests.

This administration has made management of Idaho's endowment lands more difficult and they continue to try to do so through

section 7 consultations on endangered species. I fear that under this proposal, the state may find it even more difficult to access some of its own lands. If so, the endowment fund will suffer and because of that -- our kid's education will suffer. - are Western School Children the Class students to this administration?

I believe that this initiative, embodied in this DEIS, could result in a takings of the value of our state endowment lands without just compensation. ^{Default to be by the Fed. Govt. has been occurring for years thru the PILT program. Private Citizens would lose their properties thru tax defaults for this.} None of this is necessary. There is already sufficient procedure in place within the framework of the National Forest Management Act and other laws to protect all of the various areas of our national forests. These allow active management by professional foresters. It is inappropriate and irresponsible to prescribe new implementation rules for forest plans as the proposed action and preferred alternative does. I urge the Administration to withdraw this initiative.

13533

to address forest management - some areas have old roads in them. The DEIS does not objectively analyze the proposal or its impacts; it is so biased in favor of "no roads" that other options or alternatives are not adequately analyzed.

2. The No Action alternatives have environmental/social impacts which are not identified. These impacts should be analyzed and outlined in the DEIS.
3. The maps provided are inadequate to identify inventoried roadless areas or unroaded un-inventoried lands.
4. The road closure program denies access; road closures lead to more lands without road access -these are not mentioned or analyzed in the DEIS.
5. The cumulative impacts of the roadless proposal with other proposals, i.e. the forest planning regulations and the transportation rule, are not adequately evaluated -- all roadless issues should be addressed in a single EIS.
6. Maps and text do not adequately identify wilderness areas so the public is not informed about true nature of the environment.
7. Some revised forest plans have already addressed roadless areas; this proposal seems to contradict or undermine those efforts.
8. The DEIS fails to describe each inventoried roadless area and/or describe what characteristics of each inventoried roadless area are being protected, and what activities might affect them.
 Note: If you know about specific inventoried roadless area, you should describe how the DEIS would dictate inconsistent management of these areas.
9. Reference the derogatory comments about mill workers. These statements show bias and a lack of objectivity.
10. The roadless proposal bypasses Congress and creates de facto wilderness by prohibiting road building. There are specific laws which allow multiple use of public land unless Congress has specifically declared wilderness. All of the areas included in this proposal were determined to not be wilderness quality and specifically excluded from wilderness designation.
11. Mining provides important natural resources which enable us to survive and have a high standard of living. This proposal would allow the Forest Service to place such severe proverbial roadblocks that mining will cease to exist as an industry on public land. Mining is allowed on public land through a number of laws including
 - the Mining Law of 1872, ~~et~~
 - the Organic Administration Act of 1897
 - Federal Land Policy and Management Act of 1960
 - Multiple-Use and Sustained Yield Act of 1960
 - National Forest Management Act
 - USFS Regulations on Locatable Minerals

13533

12. The economic impacts of the proposal have not been adequately addressed. The document makes that assumption that both mining and logging are on the decline; therefore, economic impacts to rural communities will not be significant. The document also assumes that by providing more opportunities for dispersed recreation that the economies of rural communities will boom. There have been studies by the University of Idaho that dispute this assumption.
13. The preferred alternative by the Forest Service guarantees that the western United States will be subject to huge, catastrophic fires which will ravage forests, threaten humans and wildlife, and cost the tax payers millions. Forest health is a major issue in the west and this proposal ignores the problem.
16. This is a one-size-fits-all document which indicates increasing micro-management from Washington, D.C. The Forest Service needs to return to its original mission of multiple use of public lands instead of catering to special interests. In Section 532 "ROADS" in Title 16, Chapter 2 of the United States Code it is stated "The Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the National Forests... is essential if increasing demands for timber, recreation, and other uses of public land are to be met... and that such a system is essential to enable the Secretary of Agriculture to provide for intensive use—protection, development, and management of these lands under the principles of multiple use and sustained yield of products and services." That's the law.

E 1 2 3 5

13532

13532

Testimony of
Testimony by
Senator Cecil Ingram
Idaho State Senate
At
The Boise National Forest
Roadless DEIS Hearing
June 29, 2000
Nampa Civic Center
Nampa, Idaho

CAET RECEIVED
JUL 06 2000

My name ^{is} Cecil Ingram and I am a member of the Idaho State Senate. I come before you today to express my deep reservations and concerns over the federal proposal to turn 9 million acres of Idaho's national forests—which were intended to be open to multiple use—into defacto wilderness without going through Congress. This proposal is partly explained in the document called the Roadless Draft Environmental Impact Statement or DEIS.

This DEIS selects a plan, called the preferred alternative, which would eliminate all road building and logging on these acres. The plan is to not manage these forests. Just let nature take its course. Well, that is a sure recipe for disaster. We have seen what happens to our national forests when we just "let it burn". Leaving forests without active management to reduce fuel loadings, thin out thickets of trees, deal with disease and insect infestation will provide the platform for catastrophic wildfires the likes of which most of us have never seen. We could have a natural disaster such as the country saw in 1910 when millions of acres of national forest reserves in north Idaho burned up.

Not only were people killed and towns destroyed. There was massive wildlife death, habitat for fish and wildlife was destroyed, sediment coursed down desolate moonscapes of burned over lands

into Idaho's rivers, killing fish downstream and clogging spawning areas for years. In some cases the fires burned so hot it fused the soils making them hydrophobic, unable to absorb water. Some are only now recovering. We don't need to allow this to happen. We can stop it but we need access to the lands to be able to actively manage them to remove fuel loads.

The roadless initiative is not only bad for the environment and the forest, it is an exercise in deception of Idahoans and the American people. The Forest Service, at the direction of the Clinton Administration is telling us that these lands need more "protection". Protection from what? They are already protected under a myriad of laws—National Forest Management Act, Multiple Use Sustained Yield Act, the Clean Water Act, the Clean Air Act to name a few. Millions of acres of wilderness lands are protected by the Wilderness Act. The fact is that this is not about protecting the environment, it is about a political agenda. We should not allow our national forests to suffer because some one wants to use it to get elected.

The DEIS is unsatisfactory because it does not contain an adequate or reasonable range of alternatives. The listed range of alternatives is much too narrow and restrictive. All alternatives eliminate logging—a known practice which can reduce fuel loads in the woods and help keep our forests from burning. To comply with the National Environmental Policy Act (NEPA), the range of alternatives must be expanded to permit road construction in some or all of the areas. I ask that the Forest Service assemble information describing the most environmentally sensitive, cost effective multiple use road access to each roadless area under consideration in this review. The Forest Service must develop and evaluate one or more "ACCESS FOR ALL" alternatives in the DEIS.

I believe that this initiative and resultant DEIS is unnecessary and should be withdrawn. The Forest Service has sufficient statutory and regulatory authority to manage all the lands they now have under their perview. Now is not the time to prescribe new rules for roadless areas. If a decision is to be made on these lands, it should be done by Congress after much local input—not behind closed doors in Washington, D.C. by a few of Bill's closest friends.

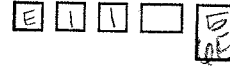
Finally in closing, I recommend to the Forest Service that they withdraw this DEIS because it is fatally flawed in yet another way—the cumulative effects analysis is totally inadequate. Before a final EIS is issues, the cumulative effect of the proposed forest planning regulations, road management policy and roadless area conservation rule should be analyzed in greater detail. It is only through this effort that the American people will truly understand the magnitude of the impact of this policy. If this is not done, the final EIS will be no more than the cover up for the sham process this Administration has followed in a hollow effort to divert attention from the President's poor record of governing.

If this roadless initiative becomes final the Boise National Forest will become the Boise National Shrub lands. This is not the outcome Idahoans would choose for the federal lands within Idaho's borders, and it does not have to happen.

This concludes my remarks and I submit this written testimony for the record.

13532

Ms. SHAWN KEOUGH
DISTRICT 1
BONNER
& BOUNDARY COUNTIES
STATE CAPITOL BUILDING
P.O. BOX 83720
BOISE IDAHO 83720-0081
(208) 332-1000



Idaho State Senate

Senator Shawn Keough

6/21/00

STATEMENT FROM STATE SENATOR SHAWN KEOUGH
ON THE USDA FOREST SERVICE ROADLESS AREA CONSERVATION
DRAFT ENVIRONMENTAL IMPACT STATEMENT AND PROPOSED RULE

I am here today to enter into the public record my comments on this Presidential Initiative.

I believe strongly that the history of the establishment of our nation's national forests shows that the system was to be quite different from our park system and what has evolved since that time, our wilderness system. The national forests were to be a system of "working forests" which, when actively managed, would provide continuing and healthy forests and all the benefits that active management brings: clean air, clean water, abundant wildlife, trees and other resources that all provide for our nation's citizens.

I believe that the President's Roadless Proposal flies in the face of this historical purpose. In fact, I believe that the proposal ignores what professional foresters know to be the true conditions of our forests. Furthermore, the proposal appears to bend or break the very laws and processes that have been structured to ensure that decisions of this nature are carefully and scientifically made.

More to the point, evidence has surfaced that shows that environmental laws like NEPA (National Environmental Policy Act) and the science that shows that 41% of the roadless lands in Idaho are at risk to fire, have been blatantly ignored. The EIS has no analysis of the effects of wildfire on threatened and endangered species, or water and air quality. The abuse of the NEPA process underscores what I believe to be the true intent of this effort - pure politics.

These points, coupled with the clear, and now published, contempt for our timber people and communities (EIS - Chapter 3 - 3-190) demonstrate that this administration's efforts are politically based and that the chosen alternative for this EIS, since it appears it cannot be stopped, should be Alternative One - NO ACTION.

I respectfully request that Alternative One be selected and that there be an extension to the public comment period of 120 days.

If the goal of this effort is truly to plot a scientifically sound management course for our roadless lands, the extension of the comment period will push this process out of the cloud of the national presidential political arena while giving local land management

13530

HOME ADDRESS
P.O. BOX 101
SANDPOINT, IDAHO 83864
(208) 263-1839
TOLLFREE 1-888-453-6844

CAET RECEIVED

JUN 03 2000

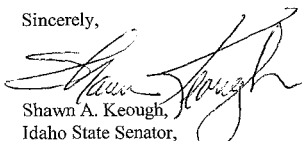
13530

professionals the opportunity to have a legitimate role in analyzing the science and potential course of management for these lands.

By adopting this approach, we can be assured that the integrity of the historical purposes for the establishment of our national forest system remains intact, thus providing the opportunity for healthy forests, and all the benefits those forests provide to our nation, now and for future generations.

Thank you for this opportunity to comment.

Sincerely,


Shawn A. Keough,
Idaho State Senator,
Bonner & Boundary Counties

LENORE HARDY BARRETT
DISTRICT 26
CUSTER, LEMHI, CLARK
& JEFFERSON COUNTIES

HOME ADDRESS
P.O. BOX 347
143 WEST PLEASANT
CHALLIS, IDAHO 83226
(208) 879-2797
FAX (208) 879-4257



16092
COMMITTEES
REVENUE & TAXATION
RESOURCES & CONSERVATION
LOCAL GOVERNMENT

House of Representatives State of Idaho

July 13, 2000

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

FACT RECEIVED
JUL 17 2000

I support the "no action alternative" because:

1. President Clinton has exceeded his constitutional authority. Congress is shamefully inadequate to the task of bringing the president into constitutional compliance, allowing the USFS to aid and abet an unconstitutional activity.
2. Experience has taught Westerners that testimony from local people is duly noted and just as duly dismissed.
3. Many of our federal foresters would like to do the right thing but environmental radicals have, according to former Forest Service Chief Jack Ward Thomas (Post Register April 21, 2000), "...whipped the whole Forest Service."
4. This roadless initiative is not about protecting the environment and forest health. It is an accelerated move toward federal control and distribution of natural resource wealth (mining, timber, grazing, water) by limiting access to dissuade private production. Government control of production and distribution is, by definition, communism.
5. As for extending the comment period, requesting maps, and invoking the General Mining Law, Organic Administration Act, FLPMA, MUSY, NEPA, the National Forest Management Act and USFS Regulations on Locatable Minerals---why bother! We've already been "set up and sold out!"



Lenore Hardy Barrett

attach: Media reports/Challis & Salmon Hearings

FRANK BRUNEEL
DISTRICT 6-A
PERCE COUNTY

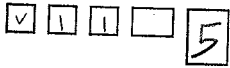
HOME ADDRESS
3207 4TH STREET
LEWISTON, IDAHO 83501
(208) 743-8951



**House of Representatives
State of Idaho**

MAJORITY LEADER

ROADLESS DEIS TESTIMONY



CAET RECEIVED

JUN 10 5 2000

My name is Frank Bruneel. I am and elected State Representative for District 6, comprising the city of Lewiston and some adjacent outlying area. I speak for and in behalf of the large majority of my constituents. I support the No Action Alternative. How can we possibly consider such an irrational policy to ignore our stewardship responsibilities of the identified 3.8 Million acres of roadless land in Idaho and the 3.9 million acres of like land in Montana

I strenuously oppose this political, special interest motivated movement for Roadless Designation of these lands. We already have large and adequate Wilderness designated areas. Why should we put even more land at risk. Much of these proposed areas are not and should not be roaded, but why remove the management and decision making process from the local forest supervisors. Isn't that their job, what they are trained for and paid to do. How can such a rigid, blanket policy plan as is being proposed be in the best interest of today's forests. We cannot live and conduct our lives as if people don't live here. We do, we care and are responsible for perpetuating our economic futures, recreation and the resources needed by all citizens of our nation.

United States Code, Section 532 in title 16, chapter 2 is specific on the construction and maintenance of roads within and near National Forests.

13534
COMMITTEES
REVENUE & TAXATION
TRANSPORTATION & DEFENSE
WAYS & MEANS

13534

We have the necessary laws in place to protect and utilize one of our most prize resources. Let's follow the laws we have, not confound them

The economic impacts of this proposal are not well documented. Common sense dictates that you cannot replace good paying timber resource based jobs with tourism and allow people to survive. The University of Idaho has studies to support this fact.

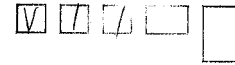
This is a most critical action for our nation and especially for the Western part. If there needs to be some re-evaluation and rule changes, allow all interests to be involved in the drafting and not just be given a "take it all or none" proposal.

"People support what they help create".

Again, I and the majority of the people I represent, oppose this proposed "Roadless Initiative".

Frank C. Bruneel

51044



51044

ROADLESS ENVIRONMENTAL IMPACT STATEMENT

I am Charles D. Cuddy, Idaho State Representative, District 7, residing in Orofino, Idaho.

When I commenced reading the proposed Roadless Initiative, I was pleased to discover that the amended Roadless Proposal did allow for wood fiber removal for forest health and elk habitat management. This feature has, for too long, not been nationally recognized as necessary for adequate land management.

COPIES RECEIVED
JUL 14 2000

Maybe I should have stopped reading at this point and closed the book.

It's my observation that the proposed D.E.I.S. was authored around a predetermined agenda and the immense amount of paper used to produce it would have been much more beneficial had it been used for children's schoolbooks.

Paragraph 2, page 3-209 substantiates my belief that this is a W.D.C. top down, predetermined decision.

I take particular issue with the attitude the wood products employees are transient. I am personally aware of many generations of families that have derived their livelihood from the wood products industry. They have been solid citizens, community leaders, legislators, congressmen, and yes, even governor.

1

U.S.D.A. FOREST SERVICE
Roadless Area Conservation

Proposed Rule & Draft Environmental Impact Statement

U.S.D.A. Forest Service
PO Box 2201090
Salt Lake City, UT 84122

ATTN: Roadless Area Proposal Rule

Testimony of Charles D. Cuddy
Idaho State Representative
Legislative District 7

51044

That particular statement is typical of the Washington D.C. elitist attitude toward our hard working families that earn their living by the sweat of their brow and reside in rural America.

From my observation in this community, federal employee management policy may be a larger contribution to personnel movement than the wood products industry. A stable federal timber availability policy that provides for sustainable, healthy forests will do a lot for not only rural, natural resource dependent communities, but will protect all the values Americans want from their forests.

When I consider the area encompassed, time and effort expended on the I.C.B.E.M.P. and U.C.R.B. proposals and their ultimate questionable acceptability, I cannot even fathom this particular proposal being comprehensively prepared and put in place in less than one year, particularly when it takes about six years just to conclude the sale of twenty truckloads of logs.

A review of pages 3-218-3-220, the draft D.E.I.S. clearly tells the story better than I. This exhibit of affected communities and county resilience clearly identifies incorrect federal land management as the problem. If the President would recognize that this roadless policy is a death knell for our forests, he would withdraw it.

51044

We all know that the vast majority of federal land ownership is in the West and in counties like Idaho and Clearwater, it, without question, holds the dominant amount of our primary natural resources.

This particular exhibit lists 13 states and 118 communities with potential affect. Four of the listed states are in densely populated areas of the East with a total of 8 communities feeling the negative affect. This leaves 110 communities in 9 western states that are negatively affected.

Thirty-five of these communities are located in Idaho. It should come as no surprise that Clearwater and Idaho counties have as many communities listed as the Eastern United States. This analysis reiterates the point that Washington D.C. top down decisions are controlling federal resources and that, in essence, means non-productivity, forest health crisis and reduced living standards for the families residing in those 110 western communities.

The D.E.I.S. goes into detail about community resiliency in an attempt to justify the pre-determined result. It makes absolutely no mention of studies by Robison and McKetta that reveal there is more than adequate available product to sustain existing mills and

51044

increase production while harvesting in a sustainable way. There are other unbiased publications that reveal major flaws in the current administrative attitude regarding responsible forest land management. Responsible forest managers would not leave the forest to burn, killing wildlife and fish, polluting the air and water and endangering families in the interface.

As an example, a sawmill that was the major payroll in Grangeville, Idaho, closed in 1993, a town of approximately 3200 inhabitants. The full impact to the community was not immediately felt, but today some 7 years later, there are approximately 100 existing homes for sale in the community and new housing construction is near nil. How many years does the purported community resiliency encompass?

This proposal offers nothing to schools or local government except to expect additional burden on local infrastructure at the expense of the local taxpayer and that an entity that owns 50% or more of the land in a county should not be responsible for equitable contributions toward educating our children, and maintaining roads, bridges, and local communities.

Is it time for Washington D.C. to figure out it cannot manage public land from afar? One only has to look toward New Mexico for a clear view of the results – destruction of the forest, homes and wildlife!

4

51044

There are many responsible and professional land managers locally within the federal system that, if given the authority and workable regulations, could accomplish excellent land management. I propose to do just that. However, they must have lands in designations that can be managed. Under this proposal, professional Forest Service foresters will not be able to manage the land except to let it burn.

It is time both the Administration and Congress get serious about this problem and find a workable solution. The first step is withdrawal of this proposal.

5

14716



CAET RECEIVED
JUN 05 2000

U.S.D.A. FOREST SERVICE
Roadless Area Conservation

Proposed Rule & Draft Environmental Impact Statement

U.S.D.A. Forest Service
PO Box 2201090
Salt Lake City, UT 84122

ATTN: Roadless Area Proposal Rule

Testimony of Charles D. Cuddy
Idaho State Representative
Legislative District 7

Lewiston, Idaho
June 27, 2000

CAET RECEIVED
JUN 05 2000

As I stand here before you today, again, questioning how non-management will benefit Idaho, its residents, and for that matter, the United States of America.

The current D.E.I.S. does not address existing recreational use of wilderness compared to recreational use of lands that have better vehicular access, nor does it justify any increased benefit either recreational or commercial that this proposal will accomplish.

Current land management policy that emphasizes vegetative thinning and controlled burning to manage forestland needs to have access considered for increase rather than decrease if efficient management is to be accommodated.

With federal lands continuing to decrease in produced net revenue combined with current federal budgeting policy, how are present needs going to be maintained, not to mention cost increases that this proposal will incur?. This D.E.I.S. makes no effort to explain how this revised land management will be financed.

This proposal is getting us prepared to substantially increase both financial and vegetative loss from wild fire. The end result being a situation which will destroy vast amounts of a renewable resource while simultaneously devastating the environment with soil damage,

periods of excessive water quality degradation not only by increased turbidity but also by long term water temperature increase.

At some point in time reality will reveal the nearsightedness of current policy and land management will return to those that possess the appropriate technical knowledge and experience.

In the interim, jobs will be lost, resources lost, recreation reduced and local governments unduly burdened to subsidize a federal decision that satisfies only a favored few.

This policy directly hurts education on two fronts as it not only represents reduced or non-funding to schools in the communities adjacent to federal land, but restricts or blocks access to some 12,000 acres of state-owned school endowment land located within the interior of these proposed roadless areas.

These particular lands were granted to Idaho by the federal government as one part of a far-sighted plan for federal contribution to local schools and governments.

This D.E.I.S. makes mention of restitution for either of those takings nor is any accurate appraisal of damage included.

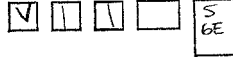
In the interest of fairness, restoration of loss is generally an integral part of any taking. I question whether these issues will in fact under this proposal be deemed compatible with current law.

There are four alternatives in this D.E.I.S. and one is asked to support a preference. Until all the issues are adequately addressed, any choice but to return to the existing forest plan seems to me to be as premature as the proposal before us.

JIM D. KEMPTON
DISTRICT 25
CASSIA, MINIDOKA
& TWIN FALLS COUNTIES

HOME ADDRESS
1000 SOUTH 1156 EAST
ALBION, IDAHO 83311
(208) 673-6261

House of Representatives
State of Idaho



July 10, 2000

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

To: Whom It May Concern:

Subject: Roadless Area Conservation, Draft Environmental Impact Statement, Summary and Proposed Rule, May 2000.

I have read the May 2000, United States Forest Service document Forest Service Roadless Area Conservation, Draft Environmental Impact Statement, Summary and Proposed Rule and make the following observations and comments:

DEIS ALTERNATIVES:

I do not support Forest Service Preferred Alternative 2 - Prohibit Road Construction and Reconstruction Within Unroaded Portions of Inventoried Roadless Areas.

I do not support Forest Service Preferred Alternative B - Forest Planning Process (for Alternative 2 above) Implemented at Next Forest Plan Revision.

1) There has been inadequate opportunity for the state of Idaho to engage in meaningful scoping analysis sufficient to clarify other overlapping and interlocking rule proposals such as the "Road Management Strategy", "The Interior Columbia Basin Ecosystem Management Project", and the "National Forest System Land and Resource Management Planning Regulation". 2) Adequate alternatives, including some road construction, have not been presented. 3) There are no current and accurate maps establishing the boundaries of proposed roadless areas to include existing road mapping within the boundaries. 4) The DEIS 60 day comment period is too short and should be extended by a minimum of 120 days.

I support Roadless Area Conservation DEIS Alternative 1. (No Action, No Prohibitions) and Alternative A. (No Action, No Procedures)

44351

44351

COMMITTEES
CHAIRMAN
TRANSPORTATION & DEFENSE
REVENUE & TAXATION

ECONOMIC IMPACT: SCHOOLS AND ROADS

The Forest Service Roadless Area Conservation DEIS illustrates that Idaho will be impacted to a greater combined extent than any other state in the lower 48 states. Two of the most significant areas of impact are schools and local highway districts which are funded by the 25% portion of moneys tied by law to income from the sale of forest natural resources and recreational fees. Using a nationwide average in the DEIS and stating that jobs and payments to states would decline about 2% per year under Alternative 2 does not scratch the surface of actual impacts in Idaho.

Idaho splits "25% Forest Service fund money" 70/30 between county highway districts and school districts, respectively. The division takes place at the county level from revenue transferred by the Forest Service through the state Treasurer's office. In 1994, the Forest Service paid the state of Idaho \$25.2 million (\$1.24/ acre). By 1999, the amount had dropped to \$7.5 million (\$0.37/ acre).

Using the ten school districts in Idaho that receive the most money among eighty-five school districts receiving forest funds, revenue dropped from \$5,332,857 in 1994 to \$1,310,131 in 1999; a 75% reduction in five years. This drop resulted primarily from restrictions and delays in timber harvest at a time when timber values were rising nation-wide and in reduced grazing authorizations. The Sawtooth National Forest Service Office estimates that another 9.34% reduction in payments to the state of Idaho will result from implementation of roadless area rules. There is no other tax based aspect of the Idaho economy in the counties where these schools are located that is replacing the loss of these federal funds.

As near as can be estimated without accurate map boundaries and road descriptions, the largest amount of undeveloped forest service land available for timber harvest affecting the ten school districts above lies within the proposed roadless areas. The timber industry has clearly demonstrated that clear cutting is not now the preferred method of timber harvest. With selected timber harvest and a policy of forest husbandry involving reforestation plantings, the timber industry has become a partner in developing and managing new growth timber. However, in order to maintain any semblance of economic stability in the industry, timber harvest must be allowed to move into current roadless areas as new growth plantings mature over time. Expansion of mining operations into roadless areas should be evaluated on a case by case basis.

With regard to local roads and bridges, the impact to highway districts is far greater than the simple dollar value of reduced natural resource in the proposed roadless areas. Local highway districts to which the federal forest fund revenue is distributed are authorized to use this revenue on a 7.34% matching basis with "Transportation Equity Act in the 21st Century (TEA-21)" funds for roads and bridges. For every dollar lost in forest fund revenue, 13.62 dollars can be lost in local funding for highways and bridges; many of which allow the movement of the public to and from activities on federal lands. Local road and bridge revenue received from forest funds dropped from \$17.7million in 1994 to \$5.3 million in 1999; a 70% reduction in five years. As above, this drop resulted primarily from restrictions and delays in timber harvest at a time when timber values were rising nation-wide. Considering Forest Service fund losses since 1994, the potential loss of "TEA-21" funding at a local matching rate of 7.34% is in excess of \$169 million per year. The roadless area proposal will exacerbate the loss of federal funding for local roads and bridges by another \$6.2 million.

44351
4435144351
44351

The Roadless Area DEIS cannot be separated from combined impacts of other "overlapping and interlocking" Forest Service rule proposals; rule proposals in documents, such as those identified previously, which are reflective of current ad hoc Forest Service management practices that have driven Idaho's forest fund revenues down since 1994. The effect of such management practices has significantly reduced forest fund payments to Idaho schools and local highway districts. No single regulatory document can be identified as the document which breaches the Unfunded Mandate threshold of \$100 million that requires a statement under section 202 of the Unfunded Mandates Reform Act of 1995 (2USC 1531-1538). Each document will establish that there is not a \$100 million impact to a state or subordinate unit of government of that state. However, in total the impact exceeds \$100 million in Idaho and the impacts are real. Additional scoping discussions are essential to insure Congress agrees to restore eroded Forest Service payments to Idaho before Forest Service roadless area rules are implemented by Executive Order. (See Unfunded Mandates Reform below)

The Forest Service is proposing to implement the Roadless Area Conservation DEIS by rule without accepting a corresponding obligation to reach agreement with Congress to "provide permanent, stable payments that would be unaffected by the level of timber harvest". Without a self imposed obligation to seek Congressional funding prior to implementation of rule by Executive Order, the Roadless Area Conservation DEIS is inconsistent with Forest Service determination that the proposed rule will not have "substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." The Forest Service does have the "...additional obligation to assess federalism implications at this time". (See Federalism below)

FIRE PREVENTION/ SUPPRESSION

The May 2000 Forest Service Roadless Area Conservation DEIS, (Summary and Proposed Rule) is noticeably deficient in any significant discussion of fire prevention and fire suppression. Suffice it to say, the accumulation of fuels on federal forest land in Idaho will not be diminished by restricting timber extraction to airborne operations; operations that are in an order of seven times more costly than timber harvested along established road networks. Neither is the fire suppression record of the Forest Service a great source of comfort when attempting to establish the risk to adjoining Idaho "endowment lands", "school trust lands" and non-federal personal property in general. The West Yellowstone fire (circa 1988), the 1994 McCall fire and the more recent Cerro Grande fire in Los Alamos come to mind. Neither is the prospect of Forest Service good intentions to construct roads in the face of imminent fire threat a great solace; especially when "imminent fire threat" parameters remain unidentified and when time for preparation of environmental impact statements for road construction is not considered.

Perhaps the cavalier way Forest Service Roadless Area Conservation, (Pamphlet) FS-670, May 2000 address the question of fire suppression best sums my opposition to this whole "rushed" attempt to provide pro-rule information to the public.

To the Question "Would fire suppression activities be affected by the proposed rule?", the Forest Service response is, in part: "No.... The proposed rule would allow road construction if a wildfire threatened public health and safety." Now, seriously wouldn't that particular effort be just a little late?

FOREST PROTECTION "IN ADDITION TO IMPLEMENTING PROHIBITIONS"

Options for implementing discretionary decisions at the local level of Forest Service management is granted for "smaller uninventoried unroaded areas" (no dimension limits addressed) with discretionary decisions being limited only by the a list of generic "uninventoried unroaded area 'characteristics' to be protected" and the imagination of the "local manager", "local decisionmaker", "local official", or "responsible official" - or whom ever. (All four designations are used within two quarter page paragraphs - another instance where language in the document does not give this reader a real comfortable feeling about the quality of the document as a whole.)

This section of the DEIS (Summary and Proposed Rule) gives local forest service officials (my choice of the four possibilities above) almost unlimited authority to establish protective "prohibitions" in smaller areas outside inventoried roadless areas based only on a "forest planning process" yet to be defined. The language also establishes policy by rule which makes no connecting reference to more expansive policy proposed in the Forest Service document National Forest System Land and Resource Management Planning, 64 Fed. Reg. 54,074, (October 5, 1999).

Authorities granted to local forest service officials under the Roadless Area Conservation DEIS do not take into consideration the fact that Idaho's right to manage "endowment lands" and "school trust lands" granted at the time of statehood admission are not to be subordinated to federal actions which violate the 10th Amendment of the United States Constitution.

The ambiguous language between "overlapping and interlocking" rule proposals requires an extended period of time for the state of Idaho to assess related impacts. It is not unlikely that state management of federal lands granted to Idaho at the time of statehood admission will be significantly affected.

RECREATIONAL ACTIVITIES

The Forest Service states that: "Existing access to inventoried roadless areas for recreation opportunities would not change because of this proposal Other types of recreation activities (not requiring roads), such as off-road vehicle use and snowmobiling, would continue in inventoried roadless areas if the land resource management plan allows them today." Roadless Area Conservation, (Pamphlet) FS-670, May 2000.

However, The May 2000 Forest Service Roadless Area Conservation DEIS, (Summary and Proposed Rule) A-13, states: "In roadless areas, people have the opportunity to enjoy unique recreational experiences that are usually not available in more developed areas. These opportunities include the chance to experience *renewal, isolation, independence, and closeness in mostly undisturbed settings (emphasis added)*" Further, on A-13 and 14, "The Recreational Opportunity Spectrum (ROS Users Guide, FSM 2311 and FSH 2309.27) was developed to provide a framework for classifying and defining segments of outdoor recreational environments, potential activities, and experimental opportunities. The ROS's settings, activities, and opportunities represent a continuum that is divided into six classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural and urban. *Inventoried roadless areas and other unroaded areas are characterized mainly by the primitive, semi-primitive non-motorized, and semi-primitive motorized classes (emphasis added).*"

Continuing, "Primitive and semi-primitive non-motorized classes often have many wilderness attributes. In semi-primitive motorized settings, there is little evidence of managerial control, yet these areas allow some (emphasis added) motorized activities, such as off-highway vehicle, over-snow vehicle, motorboat, and helicopter; chainsaw and other motorized tool use; and appropriate (emphasis added) motor vehicle use for other resource management activities."

Combining the paragraphs above, one comes to the rather obvious conclusion that the Forest Service is misleading in Roadless Area Conservation Pamphlet FS-670 and the DEIS. While stating that "recreation activities (not requiring roads), such as off-road vehicle use and snowmobiling, would continue in inventoried roadless areas if the land resource management plan allows them today," that use would be diminished in numbers sufficient to meet competing primitive and semi-primitive non-motorized Forest Service recreational objectives within the same roadless area boundaries.

In short, there will be a significant restriction on numbers of motorized off-road vehicles and snowmobiles, and not all of the areas allowed today for such motorized vehicle use will be allowed under the roadless area proposal.

RS 2477 PUBLIC RIGHTS-OF-WAY:

The "Mining Act of 1866", incorporated language by which Congress offered to grant rights-of-way to states and/or subordinate units of state government to construct highways over unreserved public lands. This provision later became Section 2477 of the Revised Statutes, or more simply, "R.S. 2477". This statute was later recodified as 43 United States Code 932.

Under "R.S. 2477", the grant of a right-of-way is self-executing. An "R.S. 2477" right-of-way comes into existence automatically when a public highway is established across public lands. (Standard Ventures, Inc. v. Arizona, 499 F.2d, 9th Cir. 1974; Sierra Club v. Hodel, 848 F.2d, 10th Cir., 1988.) Among other things, the courts have historically ruled that standards sufficient to establish "R.S. 2477" rights-of-way include trails and former routes of trade, commerce, or transportation that have been frequented by public users for such a period of time and/or under such conditions established by state law as to prove that a public right-of-way has come into existence.

Subsequent Department of the Interior (DOI) models for establishing the validity of "R.S. 2477" claims are presented in the June 1993 DOI Report to Congress on R.S. 2477; notably the "1980 Solicitor's Office Interpretation" and the "1988 (Hodel) Policy". The Forest Service has also adopted the DOI 1988 Hodel policy.

One hundred ten years after its enactment, "R.S. 2477" was repealed by the Federal Land Policy and Management Act (FLPMA) of 1976. Rights-of-way authorization established pursuant to "R.S. 2477" prior to its repeal in 1976 remain in effect.

Although "R.S. 2477" was repealed by FLPMA on October 21, 1976, the Omnibus Consolidation Act of 1997 (P.L. 104-208), under "General Provisions", Title I, (Department of the Interior), Section 108., provided this additional guidance to the Executive Branch of the federal government:

4435/
44351

"No final rule or regulation of any agency of the federal government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the enactment of this Act (emphasis added)".

By letter of July 29, 1997, to James F. Hinchman, Acting Comptroller General of the United States, seventeen members of the United States Congress evidenced their conviction that the language of Section 108. was not ambiguous; that the term "subsequent to the date of enactment of this Act" was intended to have effect beyond the fiscal year covered by the bill, that the section applied to "any agency of the federal government", not just the Department of the Interior, and that the language of the Act was, in fact, permanent beyond the fiscal year of the Act itself. The letter requested a response from the Comptroller General.

By letter of August 20, 1997, General Counsel of the Office of Comptroller General of the United States concluded that Section 108. was, in fact, permanent law. By the simple meaning of the language of the law, the law is applicable to any agency of the Federal government.

Under 40-204A(5), Idaho Code: "Any member of the public, the state of Idaho and any of its political subdivisions, and any agency of the federal government, may choose to seek validation of its rights under law to use granted rights-of-way either through a process set forth by the state, through process set forth by any federal agency, or by proclamation of user rights granted under the provisions of the original act, Revised Statute 2477."

This section of Idaho Code envisions possible creation of "public roads" across federal land under self-executing authority granted through "R.S. 2477". Under Idaho Code, there is no distinction of a "road" being other than a "highway". In fact, "road" is specifically defined in terms of "highway."

The May 2000 Roadless Area Conservation Draft DEIS (Summary and Proposed Rule) ignores the Omnibus Consolidation Act of 1997 (P.L. 104-208); specifically, "General Provisions", Title I, (Department of the Interior), Section 108., as presented above. The Forest Service edict by rule that no new roads, or reconstructed roads, will be allowed within "inventoried" Roadless Areas on National Forest System lands is a defacto decision to deny the validity of any legitimate "R.S. 2477" right-of-way validation by a state or subordinate unit of state government.

The issue of legitimacy of a "R.S. 2477" right-of-way validation action is further obfuscated by the lack of any court finding which supports the "1988 Hodel Policy"; a policy which defines federal "unreserved public lands" as lands not reserved or dedicated by Act of Congress, Executive Order, Secretarial Order, and some classifications by statute (emphasis added). In Nevada, the issue of "road possession" on South Canyon Road, south of Jarbridge, is a case in point; although not a roadless area issue per se.

The Roadless Area Conservation DEIS pits Executive Order authority and Secretarial Order authority, which were not established or defined in connection with enactment of "R.S. 2477" in 1866, against the express direction of the United States Congress in 1997 that "no rule or regulation of any federal agency federal government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the enactment of this Act." (See Federalism below.)

4435/
44351

4435/
44351

BON F. SCHNEH
DISTRICT 4
KOOTENAI, SHOSHONE
& BENEWAH COUNTIES
HOME ADDRESS
P.O. BOX 7
COEUR D'ALENE, IDAHO 83816
(208) 687-9770



100-1

COMMITTEES
APPROPRIATIONS (JFAC)
TRANSPORTATION & DEFENSE

UNFUNDED MANDATES REFORM

The Forest Service has determined that: "Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2USC 1531-1538)...This proposal does not compel the expenditure of \$100 million or more by any state, local, or tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required."

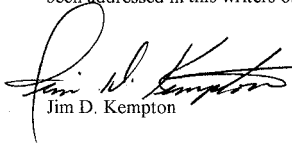
I do not concur. See Economic Impact: School and Roads above.

FEDERALISM

The May 2000 Forest Service Roadless Area Conservation, Draft Environmental Impact Statement, Summary and Proposed Rule states: "The agency has considered this proposed rule under the requirements of Executive Order 12612 and has made a preliminary assessment that the proposed rule will not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment on federalism implications is necessary at this time"

I do not concur. See Economic Impact: Schools and Roads and R.S. 2477 Rights-of-Way above.

In conclusion, the scoping process and comment period for the Forest Service Roadless Area Conservation DEIS have been rushed to the point the NEPA process has been seriously compromised. As a minimum, the comment period for the DEIS should be extended another 120 days. A more reasoned approach would be to re-enter the scoping phase for proposed roadless area rules and to address the multitude of issues that remain unanswered, a few of which have been addressed in this writers observations and comments.


Jim D. Kempton

House of Representatives
State of Idaho

July 7, 2000



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

CAET RECEIVED
JUL 10 2000

Dear Chief:

I am opposed to the Forest Service's new regulations that claim to protect certain roadless areas within the National Forest System (36 CFR part 294; RIN: 0596-AB77 Special Areas; Roadless Area Conservation).

A citizen legislator, I am an elected Idaho State Representative. My Legislative District includes the Coeur d'Alene National Forest Lands and all the St. Joe National Forest Lands within Shoshone County. I am a member of the Western Legislative Forestry Task Force (6 western states & 3 provinces of Canada).

I am certain that taking this action at the national level is inappropriate. Not enough effort has gone into the development of the proposed rule, alternatives, and environmental analysis. The hearing period is too short. The idea is clearly an executive choice extremely unpopular with locals most impacted, who are patronized and out-voted. Yet, they are prepared, willing, and capable of being proper stewards of our national lands.

Folks of good will throughout this nation will cast a "yes" in favor of this proposal without the benefit of knowledge of local conditions, issues, and concerns. The huge majority will never visit, understand, or feel the impacts of any local forest practices be they good or bad.

18627

E I I I I

13529

Denying access for multiple use of the Panhandle National Forest from the current 76% to 31% is drastic and will place these lands under forest management policies of inaction. Such a choice will subject these lands to greater protection costs and increased risks of devastation.

The proposal fails to recognize issues of diversity. It circumvents existing forest plan management areas and their development processes. The suggest rule questionably meets the "sustainability" criteria of the Committee of Scientists. Their conclusions are already forgotten in lieu of this new fast track agency claim that this land plan "will provide lasting values for future generations." Some scientists counter that this rule will instead "provide lasting waste." For example, it's more of a "National Transportation Policy," which completely fails to address "National Forest Health Policies." Strong evidence supports the fact that most of our local forests are dying faster than they are growing.

I remain opposed to the Forest Service's new regulations that claim to protect certain roadless areas withing the National Forst System (36 CFR part 294; RIN: 0596-AB77 Special Areas; Roadless Area Conservation).

Sincerely,



Don Pischner

Because of the great harm that would be done to the school districts and the population of the district I represent, I can only support Alternative A.

Our schools and infrastructure have already suffered immensely and can not tolerate further decline in the timber industry. What the Federal Government may perceive as best for Idaho, may not fit into the economic structure of the area. The laser beam needs to focus on what is right, and what is best for the people, both now and for the future. That focus must include societal needs and the economic aspect of the issue, and MUST be included in any decision making.

I am fully against clearcutting, or anything that comes close to that, however, to sustain healthy forests they must be managed for disease and fire control. We are told that in case of an out of control forest fire, roads could be built to suppress such a fire. My question is: how do you effectively build a road under those conditions?

We are also told that the wish is to preserve our forests for hunters, fishermen, and hikers. This then would make access available only to the healthy and the wealthy. How will the ordinary person hike these distances to recreate? Perhaps on horseback with a guide? Quite pricey. They won't be able to do so. How can the miner who has a claim access the mine and take in equipment and supplies? He won't be able to do so. I firmly agree that we need to protect our forests for now, and for the future. We all want clean air and clean water; I don't think anyone will dispute that. However, I strongly believe that with sound science and reasonable management, we can have both, environmental protection for Idaho's heritage, and assessable forest land.

I urge you to listen to the people who will be so intensely affected by your decision....select Alternative A. Thank you.

**Testimony given by Representative, Mary Lou Shepherd,
District 4 June 21, 2000.**

CAET RECEIVED

JUN 03 2000

V 1 1 1 5

1068a

K 1 2 5

29021

Judith T. Ellis
P.O. Box 5
Indian Valley, Idaho 83632
(208) 256-4440

I'm Gary Pietsch representing State Representative Jerry Stoicheff who needed to be in Boise at the State Convention today.

We must be able to use the resources that we have. We live in a timber area. It is our heritage. Boundary County and Bonner County were founded on the limbs of timber. Our people need to be able to make a living wage and the timber industry enables us to do that. If we shut the forests down to roads, we are also shutting down an access to put out fires. The fires may be caused by lightning or careless people but they all turn our timber black, ruin the habitat for wildlife, and are a useless waste of lumber. We also need to rid some of the area of undergrowth and to cut diseased trees before they infect other timber.

The Forest Service needs to provide reasonable alternatives to the Roadless Choice. There needs to be a compromise that still allows for jobs and timber production. If there are 3.8 million acres of Roadless land in Idaho we need to allow for road building to cut down on the risk of catastrophic wildfire. In order to manage our forests, we must have access to them. We have all seen black areas of trees that have been burned both near Bonners Ferry and Sandpoint.

A good, hard look needs to be taken into the economic impact for Boundary and Bonner Counties if the mills are shut down and the mills will shut down if no one can get into the forests. Our counties are not the ones that are booming ahead with great financial gains. Alternatives must be expanded to permit road construction in some of the roadless areas to help the economy and for job opportunities in our northern region.

CAST RECEIVED
JUN 30 2000

July 16, 2000

USDA Forest Service - CAET
Attention: Roadless Area Conservation Proposed Rule
P.O. Box 221090
Salt Lake City, UT 84122
877-703-2494

Dear United States Forest Service,

I recently ran for and was elected County Commissioner in Adams County, Idaho. Over two thirds of our county is in the Payette National Forest.

As I campaigned, the major concern the voters expressed was for maintaining access to public lands. The *Roadless Initiative* is perceived as proof of an encroaching effort by the federal government to close off currently unroaded lands, in ever smaller and smaller tracts, with the goal of eventually ending multiple use entirely. Grazers cite steady reductions of grazing permits, and numbers of cattle and sheep allowed per permit. Loggers cite the increased use of what they see to be warped use of Endangered Species Act categorization to shut down the forests to harvest. And hunters mix up various unrelated road related policies that close surplus roadage, as proof of an attempt to close them out of the forests as well.

My understanding is that the Payette National Forest was required to study and categorize their roadless lands in 1995. They have done this. In that study, additional lands that adjoin the Frank Church Wilderness Area were suggested as appropriate for adoption as wilderness, but flexibility and local control were retained to allow for continued forest harvest. This plan seems sufficient for management of the Payette National Forest, and because it retains control in the hands of our local Forest Service personnel, it is generally accepted in our community, even though it withdraws additional lands from multiple use.

But, coming so soon after the 1995 study, the Roadless Initiative appears to throw out the planning expertise of our local Forest Service. It would withdraw 10% more or the remaining forest from multiple use. And it appears to confirm the fears of local people that the Federal Government is a voracious animal with an unquenchable appetite for locking up the forest, a government that does not honor agreements for more than a few years.

In light of the input of my constituents, and to preserve as much local control as possible, I urge you to adopt Alternative 1, "No Prohibitions", and allow local managers to continue to make case-by-case decisions.

I further urge you to adopt Alternative C, "Project-by-Project Analysis, and to avoid adopting any one-size-fits-all forest plan for roadless areas. Not only do I feel that local Forest Service personnel are more competent to make these decisions based on their experience with local conditions, but local citizens feel more loyalty to the decisions that are reached.

In the special case of the Tongass National Forest, a single forest plan would potentially halt growth and development of a currently undeveloped area of the county. I do not think this is an appropriate choice for the Forest Service to make.

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

29021

Also, I urge that you seek clarification of the term "unroaded", so as to avoid litigation that could arise if, say, someone were to assert that by definition all places that were not actually roads were "unroaded".

Further, I urge you to go out of your way to not contribute to the urban/rural stereotyping that is already rampant in our society. While comments about rural communities that include logging activities mentioned on 3-190 and 3-191 cannot be faulted singly, taken as a body the implication is that such communities are expendable, or certainly nothing worth working to save.

First of all, there are, at least in this vicinity, no purely "logging" communities. Logging is one aspect of the economy. An important part, to be sure, but not the only one. It is impossible in this age of communication to predict exactly where any business can be located. And, all sorts of businesses and people with varying degrees of education are located in what formerly might have been called logging communities. Further, there has been a major influx of retirees into communities surrounded by national forests, because of recreation opportunities, lower land prices, and the beauty of the landscape. Thus, it is unfair to generalize about citizens and communities in the neighborhood of a national forest.

It is legitimate for the Initiative to attempt to discuss what the adoption of the policy would be in human terms. But care should be taken not to encourage notions, such as assuming that unemployment of loggers would lead to increased alcohol and drug use, and thereby to civic decay. Communities are impacted, to be sure. But rural communities are more resilient and multi-faceted than your report takes into account. They often have resources of personal support that are unfamiliar to urban people. I don't say it is an easy task to represent the strengths of small rural communities fairly, but you owe it to the communities where the forest is located to try.

Lastly, I urge the Forest Service to work to increase trust in the local areas that, once a policy is adopted, that the Forest Service will continue to honor it for the foreseeable future. I recognize that the Roadless Initiative may, in fact, have been an attempt to do just that, even though I oppose the preferred alternatives. I also recognize that there are many disparate interests competing to decide how the public lands will be used, so the Forest Service has a hard time satisfying everybody.

But, at the local level, the major reality is that nothing is ever certain dealing with Forest Service policy. There appears to be a new study or a new policy every time we turn around. And the steady trend is toward more and more restrictions and less and less access. To the extent that it is possible, it would reduce hostility and resistance to the government if there were some certainty that policy could be counted upon, and agreements honored.

Thank you for consideration of my input.

Sincerely,

Judith T. Ellis,
Commissioner Elect
Adams County, Idaho

BOISE COUNTY BOARD OF COUNTY COMMISSIONERS

10110

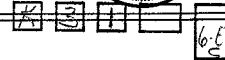
JOHN N. DYER
District I Commissioner

JOHN S. FOARD, JR.
District II Commissioner



DALE HANSON
District III Commissioner

RORA A. CANODY
Clerk to the Board



June 23, 2000

CERTIFIED RETURN REQUESTED

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

CAFT RECEIVED

JUN 29 2000

RE: Boise county FOIA Letter Dated May 12, 2000

Dear Sirs:

We are unable to prepare the necessary comments on the Roadless Area Conservation Draft Environmental Impact Statement (DEIS) until such time we have knowledge of the total "uninventoried unroaded" areas within the Boise National Forest.

Given the relatively large amount of inventoried roadless areas on the Boise, the size of the "uninventoried unroaded" areas will be critical to our ability to assess the impacts of the Roadless DEIS on the Boise National Forest and on the citizens of Boise County. As the elected officials directly responsible for the health and safety of the citizens who live and recreate in and around the Boise National Forest, we have serious concerns about the Forest Service's ability to reduce the threat of high intensity fire in this urban/wild land area.

We are, therefore, requesting a one-hundred and twenty (120) day extension of the comment period, in hopes we will receive the information requested in our FOIA letter dated May 12, 2000.

Your prompt attention in this matter is appreciated. If you have any questions or comments concerning this request, please contact us or the Boise County Clerk, Rora Canody, at 208-392-6636.

Sincerely,

John S. Foard
Chairman

John N. Dyer
Commissioner

Dale Hanson
Commissioner

cc: Idaho AG
IAC
file

• P. O. Box BC, Idaho City, Idaho 83631 • Office (208) 392-6636 • FAX (208) 392-4473 •

BOISE COUNTY BOARD OF COUNTY COMMISSIONERS

10110

JOHN N. DYER
District I Commissioner



DALE HANSON
District III Commissioner

JOHN S. FOARD, JR.
District II Commissioner

RORA A. CANODY
Clerk to the Board



K 3 1 2

10104

Boundary County Commissioners
Murreleen Skeen, Chairman
Merle E. Dinning, Commissioner
Kevin Lederhos, Commissioner

County of Boundary

P.O. Box 419
Bonners Ferry, Idaho-83805

May 12, 2000

CERTIFIED MAIL
RETURN RECEIPT

Kathy Oelke
Freedom of Information Act/Privacy Act Officer
United States Department of Agriculture
Forest Service
14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

RE: Freedom of Information Act Request

Dear Ms. Oelke:

This is a Freedom of Information Act (FOIA) request seeking certain documents related to the Roadless Area Conservation Draft Environmental Impact Statement (DEIS).

The DEIS separates currently unroaded areas into a variety of categories. One of those categories is uninventoried unroaded areas. The DEIS does not contain any maps of these uninventoried unroaded areas for the Boise National Forest in Region IV of the Forest Service. We are requesting a current map of the Boise National Forest that specifically identifies the uninventoried unroaded areas within that National Forest's boundaries.

As you are probably aware, the Forest Service has allowed a very brief period of time to comment on the DEIS. Indeed, the Forest Service has indicated that it will deny any request for an extension of the DEIS comment period. Therefore, we respectfully request that you respond to this FOIA request prior to the expiration of the DEIS comment period on July 17, 2000. Please bear in mind that a federal judge reviewing the initial scoping documents for the roadless initiative indicated that accurate maps are an important aspect of the meaningful participation guaranteed by the National Environmental Policy Act.

We appreciate your prompt attention to this request. If you have any questions or comments concerning this request, please contact us or the Boise County Clerk, Rora Canody, at 208-392-6636. If you wish to fax documents, our fax number is 208-392-4473. If sending documents via electronic mail is more convenient, our electronic mail address is RCanody@co.boise.id.us.

Sincerely,

John S. Foard, Jr.
John S. Foard, Jr.
Chairman

John N. Dyer
John N. Dyer
Commissioner

Dale Hanson
Dale Hanson
Commissioner

July 11, 2000

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

To Whom It May Concern:

The Board of Boundary Commissioners is in the process of obtaining information through a Freedom of Information Act request through the United States Department of Agriculture. Since we have not received the requested information in a timely manner, we are at this time requesting an extension of the comment period. Enclosed is a copy of the Freedom of Information Act request.

Sincerely,

Murreleen Skeen

Murreleen Skeen
Chairman

Merle E. Dinning

Merle Dinning
Commissioner

Kevin Lederhos

Kevin Lederhos
Commissioner

PAID RECEIVED
JUL 15 2000

njr
enclosure

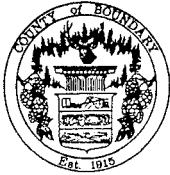
cc: Matthew McKeown, Idaho Attorney General's Office
Paul Beddoe, Policy Analyst Idaho Association of Counties

• P. O. Box BC, Idaho City, Idaho 83631 • Office (208) 392-6636 • FAX (208) 392-4473 •

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

Boundary County Commissioners
 Murreleen Skeen, Chairman
 Merle E. Dinning, Commissioner
 Kevin Lederhos, Commissioner



County of Boundary
 P.O. Box 419
 Bonners Ferry, Idaho--83805

June 13, 2000

Kathy Oelke
 Freedom of Information Act/Privacy Act Officer
 United States Department of Agriculture
 Forest Service
 14th & Independence SW
 P.O. Box 96090
 Washington, DC 20090-6090

RE: Freedom of Information Act Request

Dear Ms. Oelke:

This is a Freedom of Information Act (FOIA) request seeking certain documents related to the Roadless Area Conservation Draft Environmental Impact Statement (DEIS).

The DEIS separates currently unroaded areas into a variety of categories. One of those categories is uninventoried unroaded areas. The DEIS does not contain maps of these uninventoried unroaded areas for the Panhandle National Forest in Region 1 of the Forest Service. We are requesting a current map of the Panhandle National Forest that specifically identifies the uninventoried unroaded areas within that National Forest's boundaries.

As you are probably aware, the Forest Service has allowed a very brief period of time to comment on the DEIS. Indeed, the Forest Service has indicated that it will deny any request for an extension of the DEIS comment period. Therefore, we respectfully request that you respond to this FOIA request prior to the expiration of the DEIS comment period on July 17, 2000. Please bear in mind that a federal judge reviewing the initial scoping documents for the roadless initiative indicated that accurate maps are an important aspect of the meaningful participation guaranteed by the National Environmental Policy Act.

We appreciate your prompt attention to this request. If you have any questions or comments concerning this request, please feel free to contact us at (208) 267-7723. If you wish to fax documents, our fax number is (208) 267-7814. If sending documents via electronic mail is more convenient, our electronic mail address is bccommis@dmj.

16104
 COPY

16104
 Kathy Oelke
 June 13, 2000
 Page 2

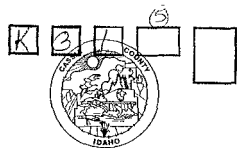
Sincerely,

Murreleen Skeen
 Chairman

Merle Dinning
 Commissioners

Kevin Lederhos
 Commissioners

njr



OFFICE OF THE COUNTY COMMISSIONERS
COUNTY OF CASSIA
 1459 Overland Avenue
 BURLEY, IDAHO
 208-878-7302

COMMISSIONERS
 PAUL CHRISTENSEN
 SHIRLEY POVLSEN
 DENNIS CRANE

CLERK OF THE COURT
 DARRELL M. ROSKELLY
 PHONE: 208-878-4367

July 10, 2000

19312

19312

Page -2
 July 10, 2000

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

CAET RECEIVED
 JUL 11 2000

CAET RECEIVED
 JUL 12 2000

RE: Roadless Area Conservation Project DEIS Comment.

To Whom It May Concern:

As the Board of Commissioners for Cassia County, Idaho, we offer the following comments in opposition to the proposed rule providing national level direction surrounding management of roadless areas.

It is our position that Prohibition Alternative 1 - No Action; No Prohibitions and Procedural Alternative A - No Action; No Procedures should be emphasized. We believe that it is in all parties' best interest to consider plans for road construction and reconstruction on a case-by-case basis at the local level. Therefore, we now go on record as being opposed to the proposed rule prohibiting road construction and reconstruction in inventoried roadless areas.

The basis for our position is essentially that active management of resources is needed at all levels. Proper and well-thought out management of renewable resources, including carefully managed harvest as needed at local levels, lessens the burden on non-renewable resources in our national forests. Blanket prohibitions at the national level will not allow for the local input and local management to ensure that harvests will protect the integrity of our public lands. We view this one-approach-suits-all as being against the interests of the public.

With respect to ecological factors addressed at Summary page 36-37, the study

indicates that the prohibition of road construction and reconstruction *could* potentially have important ecological effects. The study specifically states that "[t]hese effects would vary by area, depending on size, location, and kinds of disturbance that have occurred within and adjacent to an area." We agree that such variance of effect depends on the local situation. This being the case, a hands off management approach is ecologically dangerous and imprudent. Local management is needed so that, considering these local variables, those with local knowledge can develop, on a case-by-case basis, the best approach for management and to provide the most appropriate outcome for use of resources to sustain beneficial ecological results in any given local area. Local information, local knowledge and local understanding should always be brought to bear in the resolution of local issues.

In regard to Human Uses impact at Summary, page 37, we agree that:

Timber sales are used to achieve a variety of vegetation management objectives, including restoring, improving, or maintaining forest health using stewardship purpose sales and providing a sustainable yield of forest products to meet the nation's demands using commodity purpose sales. Timber sales are often used as the least expensive method for managing vegetation to meet resource objectives such as improving wildlife habitat, reducing fuels that may increase fire risk, restoring areas after natural disasters, and combating insect and disease infestations.

We also note that timber sales assist in management of fire prevention, fire fighting and suppression, and the control of catastrophic wild fires. They are an effective means for the control and eradication of noxious weeds. Timber sales are also an effective tool in the control of insects and disease outbreaks in timbered areas.

While, as is pointed out at Summary page 37, "timber harvesting can result in additional stream sedimentation, water temperature changes, and habitat fragmentation and destruction", we are confident that through current existing management and regulations, these issues can be appropriately managed and mitigated. In fact, local understanding of such factors can provide for favorable outcomes where such factors are of concern. A national rule that requires hands off from public lands will not address issues of stream sedimentation, water temperature changes and habitat fragmentation and destruction. It will merely allow to happen, what will happen. With ever increasing pressure on resources world-wide, it no longer works to turn and walk away. We must be even more vigilant in our stewardship responsibilities over natural resources to ensure

Page -3
July 10, 2000

their proper use today and their availability for tomorrow.

In considering Social and Economic factors at Summary pages 39 - 41, the impact of the proposed rule will result in the import of timber, commodities and food. No longer would we rely on historical harvests to meet local and regional demands. However, there remains a global impact. Harvest will necessarily have to occur somewhere to meet ever-growing demands and someone will have to face those impacts. We need to manage our own resources and resource bearing lands, and thereby provide control over our economic destiny. If we bypass our local, historical harvest opportunities there is, in addition to the loss of local natural resources, a loss of the economic multiplier to the local community. This loss of economic multiplier is significant on the local level and of such magnitude that the recreational usage that the proposed rule tries to protect by the proposed rule simply cannot and will not fill the gap.

For instance, the impact of the Spotted Owl/Endangered Species Act has resulted in the loss of over 66% of renewable timber harvests in the Pacific Northwest since its introduction. Correspondingly, timber costs have increased dramatically. This has effectively cut off affordable housing to some segments of our community. Jobs are lost. The pursuit of the "American Dream" is crushed because we refuse to face difficult issues where they need to be dealt with -- on the local level. This situation is untenable.

Also, in review of federal compensation to counties in Idaho, we note a decrease of 33% of total payment amounts between FY 1993 and FY 1998 (the latest figures available). The net impact of this significant decrease is that Counties are strapped with provided burgeoning necessary services, without benefit of economic activity on public lands. With so much of our County being federal land, we believe that local decisions mitigate impact on that federal land while also mitigating impact on the local citizens. Localized decision making will best provide a win-win relationship. This will best serve the public interest.

The trend, and what is proposed by the current study, is to set "national guidelines" so accountability and decisions are removed from where they ought to reside -- on the local level -- where impact is the greatest. We do all of this under the guise of "public interest". But isn't public interest best served by facing, and making, decisions at the local level, on a case-by-case basis? We believe such decisions, as affect ecological factors, human use factors, and social/economic factors are best made on the local level.

By setting national directives to govern local issues, we all abdicate effective

19312

Page -4
July 10, 2000

management of our resources. It is true that if the proposed rule is adopted, we have less responsibility. It is also true, if we walk away from that responsibility, we all give up freedom. We are willing to continue to accept responsibility for our local natural resources, and to concurrently enjoy freedom to do what is best for our local public interests. We all have stewardship responsibilities for these resources and so should have input into decisions affecting their use. The study indicates that such a process is steeped in controversy. This only means that the process of local decision making works. Those affected have differing opinions and ideas of how and when to use our natural resources. Let the controversy work out to the best good for those affected at the local level by having decisions that consider all facets of the issue, with decisions that have to answer to those varying opinions and ideas. This tempering of decisions in the fiery furnace of controversy will encourage careful, thoughtful and prudent use of natural resources, while providing more scrutiny over the very factors the proposed rule seeks to address.


In conclusion, proper local management and local stewardship will best provide for lasting value of our renewable resources for current populations and for future generations. We implore you to not give effect to the currently proposed rule, but rather allow decisions concerning our public lands to be made at the local level, on a case-by-case basis.

Please note in this vein, we also opine that with regard to Uninventoried Roadless areas of less than 1000 acres, such areas should be managed only on the local level.

Respectfully submitted,
BOARD OF COMMISSIONERS
CASSIA COUNTY


PAUL CHRISTENSEN, Chairman


SHIRLEY POVLSSEN, Commissioner


DENNIS CRANE, Commissioner

19312

19312



18625

Page -5
July 10, 2000

CASSIA COUNTY PUBLIC LANDS COMMITTEE

cc: Senator Craig
Senator Crapo
Representative Chenoweth-Hage
Representative Simpson
State Representative Kempton

Paul Ward Chairperson 1960 S. Elba-Almo Rd. Elba, Idaho 83342 638-5526	Earl Warthen Vice Chairperson 1047 S. Hwy 77 Albion, ID 83311 673-5385	Karl Austin Secretary-Recorder 3024 S. Goose Creek Rd. Oakley, Idaho 83346 436-1562	Cassia County Courthouse Burley, Idaho 83318 878-7302 Fax 878-9109
--	--	---	--

July 5, 2000

CAET RECEIVED
JUL 10 2000

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

Sirs:

We would like to take this opportunity for comment on the ROADLESS AREA CONSERVATION - PROPOSED RULE. We are adamantly opposed to the proposal until the following issues are resolved:

- 1) The Prohibition Alternative is not an option.
- 2) Some form of classification, recognition and management that addresses the roads that currently exist in these so called "roadless" areas needs to be developed. Until USFS acceptance and management plan (with public input) is developed, this proposal should not proceed. The fear with proceeding with this proposal until the existing "ghost roads" are addressed, is that the following scenario could happen. These areas have been inventoried under RARE I and RARE II ^{AND CONTAIN} ~~has been~~ roads. Yes, there are roads in these areas but the roads that exist do not fit in the existing USFS road classification system. Therefore, these "ghost roads" are not roads and do not exist in the eyes of the USFS. These "ghost roads", after the implementation of this proposal, could be perceived by the USFS as new roads and are instantly closed. Address this issue before allowing this proposal to continue to ROD.

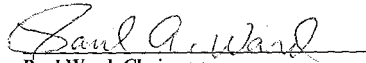
Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

- 3) Do not allow this proposal to permanently handicap the USFS in future ecosystem management programs that might require a new road or roads. Do not allow this proposal to restrain possible economic requirements that might require a new road or roads.

Thank you for the opportunity to comment on this critical matter.

Sincerely,


Paul Ward, Chairman

KLJL 6E
yes

43859

P.O. Box 586
Orofino, ID 83544

Commissioners

Phone: (208) 476-3615
Fax: (208) 476-3127

Earl E. Pickett, Chairman
H.L. "Bud" Bonner
David L. Ponozzo

Clearwater County Commissioners

June 20, 2000

OFFICE RECEIVED
JUL 14 2000

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

The Clearwater County Board of Commissioners is opposed to the proposed changes to roadless areas being considered in the agency's Roadless Area Conservation Strategy Draft Environmental Impact Statement. The Board is going on record as supporting Alternative 1, no change.

Prohibiting or limiting activities on the national forests is not in the best interest of Clearwater County. The Board supports carefully designed timber harvests as necessary to provide healthy forest ecological systems. We also support recreational activities that allow the majority of people access to the forests.

We strongly believe that management decisions should be made by Forest Service personnel who know the forest they are managing. History has proven that national forests must be managed to survive disease and wild fires and create habitat for animals. Scientific evidence supports this.

To manage the remoteness of the forests, a good road system must be maintained and funded. Roads do not necessarily have to be permanent. New roads, as well as, old roads can be obliterated. Many roads have been obliterated successfully and that is always an option if management decides a road is no longer necessary. Road building should be a management tool to be utilized at the local agency's desecration.

The Clearwater County Board of Commissioners questions the current process concerning this conservation strategy. The National Environmental Policy Act (NEPA) was created to allow citizens' input towards making a decision. According to the media,

43859

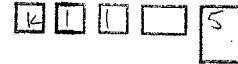
44000

a political decision has been made and will be executed regardless of public input. The speed of the decision adds some credibility to this accusation. Therefore, the Board of County Commissioners is requesting a 120-day extension for public comments.

Sincerely,

David L. Ponzoso, Pro Tem Chair
Board of County Commissioners
Clearwater County, Idaho

**BOARD OF COMMISSIONERS
CUSTER COUNTY, IDAHO
P.O. BOX 385 - CHALLIS, IDAHO 83226
(208) 879-2360**



July 17, 2000

USDA Forest Service-CEAT
Attention: Roadless
P.O. Box 221090
Salt Lake City, Utah 84122

To: Whom It May Concern
Subject: Roadless Areas

CAET RECEIVED
JUL 17 2000
CAET RECEIVED
JUL 17 2000

As County Commissioners for Butte, Custer and Lemhi Counties, Idaho, we appreciate the opportunity to comment on the Roadless Areas Conservation Project. Our economies depend upon our natural resource base. Ninety plus percent of the combined areas of our three counties are public lands managed for the most part by the Forest Service (FS) or Bureau of Land Management (BLM). Thus, our constituents and we are very interested in federal policies and/or directions that affect these lands and our economy. Our comments have been developed jointly by a committee of concerned citizens. However, each county will be submitting individual responses. In addition, although we have joined forces to develop comments, our constituents and we retain the right to pursue further actions either individually or jointly.

Custer County has formally requested under the Freedom of Information Act an inventory of the unroaded areas for the Challis/Salmon National Forest and the Sawtooth National Recreation Area. After a reasonable amount of time, we have not had the courtesy of a reply or even an acknowledgement of our request. It is impossible to analyze the document when information is not available, nebulous or withheld.

The roadless process is not collaborative but an executive fiat. It ignores previous agreements resulting from years of collaborative efforts between Local, State and Federal Government. Based on the comments made by the administration, this plan appears to be a thinly veiled attempt at turning what should be a public process into a political one.

44000

44000

Now to some specifics:

- Federal Agencies manage 90.4% of the lands in Butte, Custer and Lemhi Counties. The Salmon-Challis National Forest is more than 4.3 million acres. This proposal would directly affect more than 2.2 million acres. Nearly one third of this area is already part of The Frank Church River of No Return Wilderness; the largest wilderness in the lower 48 states with much of the rest being too rough of terrain to even consider roading.
- There are 3,807 miles of numbered or system roads on the Salmon-Challis National Forest. This proposal will affect fully 82 % of these roads (85-86 % when we include the travel plan). If we refer to the Upper Columbia River Basin Draft Environmental Impact Statement (UCRBDEIS), the least roaded category calls for road densities of 0.07 miles of road per acre. Even if we include the estimated 7000 miles of non-system roads we are still below this designation.
- As a part of this process, the Forest Service is to determine the "social values" that are associated with this process. If this proposal is allowed to go through as proposed our traditional access over these roads will be denied and will affect the history, custom and culture (social values) of not only our citizenry, but also that of all forest users. Rather than dispersing the impact of our recreational activities over the whole forest, we will concentrate not only our activities but also our impact. This will be further compounded if our land managers are not allowed to reconstruct (maintain) existing roadways.
- Douglas-fir ecosystems were historically maintained with non-lethal fires to develop large diameter trees, similar to those typical of ponderosa pine ecosystems. They are in poor health due in some part from a no-fire policy. Similarly, the Ponderosa pine ecosystems are in poor health for much the same reason. These stands now contain large amounts of ladder fuels. Fire has now been added back into the management of these stands. Mechanical means are needed to return both of these systems to a place where fire can again take its natural role. Without the ability to access these stands, catastrophic destruction of the entire system will be the effect.

Therefore, as we see your proposal, our local Forest Service Land Managers will not have adequate access to manage these lands for:

- a) Forest health (ecological value's implications).
- b) Watershed restoration (Clean Water Act implications).
- c) Fire management (Clean Air Act implications).
- d) By disallowing access you are eliminating options for future generations and rendering active forest management extinct.

This is not "caring for the land and the proposed transportation" plan could easily mandate closure of existing roads that are well traveled by our senior citizens, disabled,

veterans, and families with young children or those in poor health. The history, culture and customs of our county residents value the access to these areas. Making 80% of the Salmon-Challis National Forest inaccessible to most American Citizens is not "serving people" or "meeting their diverse needs."

In your environment impact statement it is imperative that you analyze the cumulative effects of the following actions on our counties and identify mitigation to offset economic losses. Essentially we are calling for the "No action alternative" and as such, there is no need to initiate the process as we are already doing these things.

These actions are:

- Proposed Rule Change for Planning Regulations
- Road Transportation Plan
- Roadless Area Initiative
- Frank Church River of No Return Management Plan
- Interim Columbia River Basin Ecosystem Management Project
- Endangered Species Act listings;
 - Sockeye salmon, Chinook salmon, Bull trout, Steelhead trout
- Possible Listings;
 - West Slope Cutthroat, Lynx
- Introduction of wolves and possible introduction of grizzly bears

We propose the following in a truly collaborative process identify and protect all historic and current uses:

Allow local Federal Land Managers and local Governments to identify critical areas to protect valuable resources and determine whether roads are necessary to build or maintain in order to "care for the land and serve the people." Restricting 82% of the Forestlands in our counties from Forest Product Industry or Recreation Accessibility will force a concentration of people onto the roaded portion and on private land increasing the potential for water and air pollution.

The citizens of western states and local jurisdictions such as Butte, Custer and Lemhi Counties have a direct interest in the management of public lands. The effects of the proposed strategies on federal lands will have dramatic direct and indirect effects on nonfederal lands and private citizens. Those effects include the loss of taxes from payments in lieu of taxes and stumpage fees that contribute significantly to funding of public schools and roads. Road access restrictions will impact access to adjoining private tracts, reduce recreation, and impact all permitted activities on federal lands. Further, these actions will contribute to air and water quality degradation and impact other uses that are important to state and local entities.

¹ Roadless Comments

44000

43129

K I I I 5

Thank you for considering our comments.

for Ed M. Peck
Lin F. Hintze, Chairman
Custer County Commissioners

cc: Idaho Congressional delegation (Senator's Craig and Crapo, Representative's Simpson and Chenoweth-Haige)
Governor Dirk Kempthorne
Idaho Association of Counties
National Association of Counties



OFFICE OF THE COUNTY COMMISSIONERS
206 COURTHOUSE DRIVE
SALMON, IDAHO 83467

Thomas C. Chaffin, Chairman
Patti Burke
Michael W. England

Phone: 208-756-2815

Fax: 208-756-8424

July 17, 2000

CAET RECEIVED

JUL 17 2000

USDA Forest Service-CEAT
Attention: Roadless
P.O. Box 221090
Salt Lake City, Utah 84122

To: Whom It May Concern
Subject: Roadless Areas

As County Commissioners for Butte, Custer and Lemhi Counties, Idaho, we appreciate the opportunity to comment on the Roadless Areas Conservation Project. Our economies depend upon our natural resource base. Ninety plus percent of the combined areas of our three counties are public lands managed for the most part by the Forest Service (FS) or Bureau of Land Management (BLM). Thus, our constituents and we are very interested in federal policies and/or directions that affect these lands and our economy. Our comments have been developed jointly by a committee of concerned citizens. However, we will be submitting individual responses. In addition, although we have joined forces to develop comments, our constituents and we retain the right to pursue further actions either individually or jointly and to submit further comments as information becomes available.

Custer County has formally requested under the Freedom of Information Act an inventory of the unroaded areas for the Challis/Salmon National Forest and the Sawtooth National Recreation Area. After a reasonable amount of time, we have not had the courtesy of a reply or even an acknowledgement of our request. It is impossible to analyze the document when information is not available, nebulous or withheld.

43729

The roadless process is not collaborative but an executive fiat. It ignores previous agreements resulting from years of collaborative efforts between Local, State and Federal Government. Based on the comments made by the administration, this plan appears to be a thinly veiled attempt at turning what should be a public process into a political one.

Now to some specifics:

- Federal Agencies manage 90.4% of the lands in Butte, Custer and Lemhi Counties. The Salmon-Challis National Forest is more than 4.3 million acres. This proposal would directly affect more than 2.2 million acres. Nearly one third of this area is already part of The Frank Church River of No Return Wilderness; the largest wilderness in the lower 48 states with much of the rest is too rough of terrain to even consider roading.
- There are 3807 miles of numbered or system roads on the Salmon-Challis National Forest. This proposal will affect fully 82 % of these roads (85-86 % when we include the travel plan). If we refer to the Upper Columbia River Basin Draft Environmental Impact Statement (UCRBDEIS), the least roaded category calls for road densities of 0.07 miles of road per acre. Even if we include the estimated 7000 miles of non-system roads we are still below this designation.
- As a part of this process, the Forest Service is to determine the "social values" that are associated with this process. If this proposal is allowed to go through as proposed our traditional access over these roads will be denied and will affect the history, custom and culture (social values) of not only our citizenry, but also that of all forest users. Rather than dispersing the impact of our recreational activities over the whole forest, we will concentrate not only our activities but also our impact. This will be further compounded if our land managers are not allowed to reconstruct (maintain) existing roadways.
- Douglas-fir ecosystems were historically maintained with non-lethal fires to develop large diameter trees, similar to those typical of ponderosa pine ecosystems. They are in poor health due in some part from a no-fire policy. Similarly, the Ponderosa pine ecosystems are in poor health for much the same reason. These stands now contain large amounts of ladder fuels. Fire has now been added back into the management of these stands. Mechanical means are needed to return both of these systems to a place where fire can again take its natural role. Without the ability to access these stands, catastrophic destruction of the entire system will be the effect.

Therefore as we see your proposal, our local Forest Service Land Managers will not have adequate access to manage these lands for:

- a) Forest health (ecological value's implications).
- b) Watershed restoration (Clean Water Act implications).
- c) Fire management (Clean Air Act implications).
- d) By disallowing access you are eliminating options for future generations and

rendering active forest management extinct.

This is not "caring for the land and the proposed transportation" plan could easily mandate closure of existing roads that are well traveled by our senior citizens, disabled, veterans, and families with young children or those in poor health. The history, culture and customs of our county residents value the access to these areas. Making 80% of the Salmon-Challis National Forest inaccessible to most American Citizens is not "serving people" or "meeting their diverse needs."

In your environment impact statement it is imperative that you analyze the cumulative effects of the following actions on our counties and identify mitigation to offset economic losses. Essentially we are calling for the "No action alternative" and as such, there is no need to initiate the process as we are already doing these things.

These actions are:

- Proposed Rule Change for Planning Regulations
- Road Transportation Plan
- Roadless Area Initiative
- Frank Church River of No Return Management Plan
- Interim Columbia River Basin Ecosystem Management Project
- Endangered Species Act listings;
 - Sockeye salmon, Chinook salmon, Bull trout, Steelhead trout
- Possible Listings;
 - West Slope Cutthroat, Lynx
- Introduction of wolves and possible introduction of grizzly bears

We propose the following in a truly collaborative process identify and protect all historic and current uses:

Allow local Federal Land Managers and local Governments to identify critical areas to protect valuable resources and determine whether roads are necessary to build or maintain in order to "care for the land and serve the people." Restricting 82% of the Forestlands in our counties from Forest Product Industry or Recreation Accessibility will force a concentration of people onto the roaded portion and on private land increasing the potential for water and air pollution.

The citizens of western states and local jurisdictions such as Butte, Custer and Lemhi Counties have a direct interest in the management of public lands. The effects of the proposed strategies on federal lands will have dramatic direct and indirect effects on nonfederal lands and private citizens. Those effects include the loss of taxes from payments in lieu of taxes and stumpage fees that contribute significantly to funding of public schools and roads. Road access restrictions

43729

43729

will impact access to adjoining private tracts, reduce recreation, and impact all permitted activities on federal lands. Further, these actions will contribute to air and water quality degradation and impact other uses that are important to state and local entities.

Thomas C. Chaffin

Thomas C. Chaffin, Chairman
Lemhi County Commissioners

cc: Idaho Congressional delegation (Senator's Craig and Crapo, Representative's Simpson and Chenoweth-Haige)

Governor Dirk Kempthorne
Idaho Association of Counties
National Association of Counties

LEMHI COUNTY
ADVISORY BALLOT
MAY 23, 2000

C
- 1-1
88⁵

Precinct _____ Prepared by: _____

Total ~~XXXXXX~~ Ballots _____ Prepared by: _____

~~XXXXXX~~ CANDIDATE POSITION

	SC	DEPT	Brooklyn	CHENOWETH	NOBLE	G. PETERSON	W. M. D. HILL	W. J. CRAPPO	W. J. SIMPSON	FT. LEMHI	YARVIS NIKK	JUNE HORN	TOTAL
YES I support proposed Fed. policies advocating more road closures	34	8	56	10	6	7	4	11	2	5	0	2	150
NO I do not support proposed federal policies advocating more road closures	46	16	490	145	62	49	16	69	42	111	55	47	1808
YES I favor prohibiting road construction or reconstruction in inventoried roadless areas	95	22	117	22	14	13	9	24	8	14	4	7	365
NO I do not favor prohibiting road construction or reconstruction in inventoried roadless areas	95	15	412	13	50	39	9	56	36	102	50	41	1555

By *Serri J. Norton, Clerk*

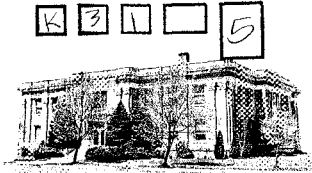
CAPI RECEIVED

candidate received _____ total votes.

candidate received _____ total votes.

MAY 30 2000

1 Roadless Comments



MADISON COUNTY

P.O. BOX 389
REXBURG, IDAHO
83440

CAET RECEIVED

JUN 23 2000

June 27, 2000

Roadless Area Proposed Rule
Box 221090
Salt Lake City, Utah 84122

Re: Roadless Proposal

Gentlemen:

The Madison County Commission believes that each *Yes* vote should be entered in your record as a response in favor (460 votes) of this proposal and every *No* vote be recorded as a response not in favor (3,697 votes) of the roadless proposal.

We believe that the residents of Madison County are well informed on this issue and have consistently supported multiple use and access to our forests. The election process is the only true democratic procedure for gathering comment on these kinds of issues that affect both the personal lives of our constituents as well as the economic affect that this proposal will have on the residents at large. Please let us know if you are not going to record these comments in this manner!

We look forward to working with the Forest Service and representing the residents of Madison County.

Sincerely,

Reed B. Sommer, Chairman

Gerald L. Jeppesen

Brooke Passey

Attachments
Election Night Abstract
Official Madison County Ballot

13562

14:55:23 VT98013
ELECTION NIGHT ABSTRACT

MADISON COUNTY

Page 2 13562

Number of Entities Reporting: 14

Office	Party	Candidate Name	Votes Cast
PCT COMMITTEEMAN/DELEGATE REXBURG 9TH	DEM	HUBSCHER, ART	37
PCT COMMITTEEMAN/DELEGATE REXBURG 9TH	REP	SUTHERLAND, CARMA	316
PCT COMMITTEEMAN/DELEGATE REXBURG 11TH	DEM	TERRY, LEE	60
PCT COMMITTEEMAN/DELEGATE REXBURG 12TH	DEM	WILLIS, DEBRA C.	19
PCT COMMITTEEMAN/DELEGATE UNION-LYMAN PRECIN	DEM	COATES, BLAIR	25
PCT COMMITTEEMAN/DELEGATE UNION-LYMAN PRECIN	REP	CLEMENTS, MIKE G.	286
PCT COMMITTEEMAN/DELEGATE ARCHER PRECINCT	DEM	BECK, EARL	30

JUDICIAL

SUPREME COURT JUSTICE-TO SUCCEED CATHY SILAK	NON	EISMANN, DAN	3,477
SUPREME COURT JUSTICE-TO SUCCEED CATHY SILAK	NON	SILAK, CATHY	699
APPEALS COURT JUDGE TO SUCCEED-DARREL R. PERRY	NON	PERRY, DARREL R.	3,452

MISC ISSUES

TARGHEE FOREST ADVISORY ON ROADS	YES, SUPPORT	460
TARGHEE FOREST ADVISORY ON ROADS	NO, DO NOT SUPPORT	3,697
PLANT FACILITIES RESERVE FUND SCHOOL DIST #321	YES, PLANT FACILITIES FUND	2,109
PLANT FACILITIES RESERVE FUND SCHOOL DIST #321	NO, PLANT FACILITIES FUND	1,246

*****END OF REPORT*****

OFFICIAL REPUBLICAN PRIMARY ELECTION BALLOT

13562

87/17/2000 16:24 2084657724

FRED KELLY GRANT LTD

PAGE 02

19311

A	MADISON COUNTY	B	STATE OF IDAHO	C	MAY 23, 2000
	<p>INSTRUCTIONS TO VOTERS DO NOT VOTE FOR CANDIDATES OF MORE THAN ONE PARTY. IDAHO LAW PERMITS YOU TO VOTE FOR CANDIDATES OF ONLY ONE POLITICAL PARTY IN A PRIMARY. IN ADDITION TO VOTING THE PARTY BALLOT OF YOUR CHOICE ALL VOTERS MAY VOTE THE NON PARTISAN JUDICIAL NOMINATING ELECTION BALLOT. Use Marking Instrument Provided. To VOTE, blacken the oval (●) next to the candidate of your choice. To vote a "Write-in" blacken the oval next to the blank line and WRITE THE NAME of your CHOICE ON THE BLANK LINE.</p>		<p>LEGISLATIVE DISTRICT OFFICES CONTINUED LEGISLATIVE DISTRICT #27 FOR STATE REPRESENTATIVE POSITION B (Vote for One)</p> <p><input type="radio"/> Gerald "Jerry" Jeppesen</p> <p><input type="radio"/> Dell Raybould</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>NONPARTISAN OFFICIAL JUDICIAL NOMINATING ELECTION BALLOT</p>
	<p>CANDIDATES FOR UNITED STATES OFFICES FOR PRESIDENT (Vote for One)</p> <p><input type="radio"/> Alan Keyes</p> <p><input type="radio"/> George W. Bush</p> <p><input type="radio"/> NONE OF THE NAMES SHOWN (UNCOMMITTED)</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>CANDIDATES FOR COUNTY OFFICES FOR COUNTY COMMISSIONER FIRST DISTRICT (Vote for One)</p> <p><input type="radio"/> Edward E. Hill</p> <p><input type="radio"/> Roger Muir</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>JUSTICE OF THE SUPREME COURT TO SUCCEED JUSTICE CATHY SILAK (Vote for One)</p> <p><input type="radio"/> Cathy Silak</p> <p><input type="radio"/> Dan Elsmann</p>
	<p>FOR REPRESENTATIVE IN CONGRESS SECOND DISTRICT (Vote for One)</p> <p><input type="radio"/> Mike Simpson</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>FOR COUNTY COMMISSIONER THIRD DISTRICT (Vote for One)</p> <p><input type="radio"/> Brooke H. Passey</p> <p><input type="radio"/> Robert H. Hansen</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>JUDGE OF THE COURT OF APPEALS TO SUCCEED JUDGE DARREL R. PERRY (Vote for One)</p> <p><input type="radio"/> Darrel R. Perry</p>
	<p>CANDIDATES FOR LEGISLATIVE DISTRICT OFFICES LEGISLATIVE DISTRICT #27 FOR STATE SENATOR (Vote for One)</p> <p><input type="radio"/> Robert R. Lee</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>FOR COUNTY SHERIFF (Vote for One)</p> <p><input type="radio"/> Greg Moffat</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>VOTE FOR ONE STATEMENT ONLY</p> <p><input type="radio"/> YES I support proposed Federal policies advocating more road closures and 40 to 60 million more acres of roadless lands nationwide, with approximately 841,000 acres of a total of 1.8 million acres in the Targhee Forest.</p> <p><input type="radio"/> NO I do not support proposed Federal policies advocating more road closures and 40 to 60 million more acres of roadless lands nationwide, with approximately 841,000 acres of a total of 1.8 million acres in the Targhee Forest.</p>
	<p>LEGISLATIVE DISTRICT #27 FOR STATE REPRESENTATIVE POSITION A (Vote for One)</p> <p><input type="radio"/> Todd M. Hammond</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>FOR PROSECUTING ATTORNEY (Vote for One)</p> <p><input type="radio"/> Sid D. Brown</p> <p><input type="radio"/> _____ (WRITE IN)</p>		<p>Plant Facilities Reserve Fund Levy School District #321 Shall the Board of Trustees of School District #321, be authorized to extend the existing plant facility levy an additional five years (for a total of ten years) and increase the amount the levy collects by a sum of \$250,000 each year (for a total levy amount of \$392,000 each year), to be placed in the School Plant Facility Reserve Fund for the District, to be invested at interest until needed, and to be used as authorized in Idaho Code Sections 33-901 and 33-1102 including the</p>
			<p>CANDIDATES FOR PRECINCT OFFICES FOR PRECINCT COMMITTEEMAN AND VOTERS' DELEGATE TO THE PARTY'S COUNTY AND DISTRICT</p>		

OWYHEE COUNTY NATURAL RESOURCES COMMITTEE

P.O. Box 128
Murphy, Idaho 83650

⑤
D 1 2

USDA FOREST SERVICE-CART
POST OFFICE BOX 221090
Attention: Roadless Areas Proposed Rule
Salt Lake City, Utah 84122

Re: Comment on Special Areas: Roadless Area Conservation DEIS as published in Federal Register (36 CFR Part 294, RIN: 0596-AB77)

I. The Proposed Rule attempts to circumvent the authority of Congress to manage the federal lands.

Article IV, Section 3 of the United States Constitution authorizes only the Congress to manage the federal lands by requiring that the Congress "shall have the power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." In the exercise of this authority, the Congress has authorized management agencies such as the Forest Service and the Bureau of Land Management to issue rules implementing the management authority expressed by Congress in statutes. But, as recently pointed out in *Food and Drug Administration v. Brown and Williamson Tobacco Corporation*, (Opinion by United States Supreme Court entered on March 21, 2000): "Regardless of how serious the problem an administrative agency seeks to address, however, it may not exercise its authority "in a manner that is inconsistent with the administrative structure that Congress enacted into law."

The Preferred Alternative, and in fact all alternatives except the so-called "No-Action" alternative, is inconsistent with the administrative structure which the Congress has set up for the federal lands, and in particular, the federal forest lands. In the Organic Act and in the National Forest Management Act, the Congress has mandated the multiple uses for the forests. In fact, the Congress has consistently maintained the management rule for the forests that the lands should be managed for "multiple-use and sustained yield of renewable resources without impairment of the productivity of the land."

The close down which will result from this Rule violates the Congressional mandates in at least five ways:

(1) Congress has never authorized a close-down of roads into the forest areas. On the contrary, Congress has continued to appropriate money for roads, and has continued to authorize logging which can be practically carried out only if roads are

Roadless Area Conservation

Volume 4 - Letters from Agencies and Elected Officials

19311

available. Congress has also mandated that full recreational opportunities be provided to American citizens, and roads are a necessary complement to recreational use.

(2) A close-down of the forests works directly in conflict with continued multiple uses. Grazing, mining, logging, and recreational uses cannot be continued on the 60,000,000 acres covered by the proposed rule. The only "use" which will be facilitated will be nature observance of the "spiritual" quality of the outdoors by those lucky and young enough to hike for miles into the forests which are paid for, owned, and intended by Congress to be enjoyed by, all Americans.

(3) The Congress has mandated that full enjoyment of public services be made available to Americans with Disabilities. Yet, this Rule discriminates against the handicapped who cannot hike miles into the forests to enjoy natural surroundings. The DEIS recognizes this fact, and tries to rationalize the impact by suggesting that people in wheel chairs should not be in the forests. First, not all handicapped are in wheel chairs. A famous golfer has been allowed to use a golf cart because of the adverse impact of long walks, yet he enjoys his proficiency at the sport of golf. The same is true for many, like him, who would enjoy the forests by being able to drive into them. Second, it is not for the Forest Service to decide what restrictions should be placed on the federal lands with regard to handicaps. That can only be done by Congress under its constitutional authority to manage the federal lands.

(4) The Congress has authorized only itself to decide what areas of federal lands should be placed in wilderness status. Yet, this proposed rule will turn 60,000 acres of non-wilderness into wilderness, with the stroke of the executive pen. Such action is inconsistent with the provisions of the Wilderness Act.

(5) The Congress has required that any such rule as this be withheld until there has been appraisal of the adverse impact of the rule on "small entities" such as counties, cities, other taxing districts such as school districts, and small businesses. The Forest Service has made no such initial assessment, and the rule should be withdrawn until and after such full assessment is made and presented to Congress for review.

The proposed rule is just another example of this Administration's attempt to lock the federal lands away from the citizens, all to satisfy the whims of a handful of extremist "non-use" fanatics. To implement this initiative without approval and authorization by Congress constitutes an unconstitutional usurpation of legislative authority.

II. Implementation of the Proposed Rule Violates the Site Specific Management Philosophy Mandated by the Congress

Under the National Forest Management Act, management of the federal forests is accomplished on a site-specific forest level through the development and implementation of specific forest management plans designed to meet the specific needs of the forest.

19311

Thus, the Modoc Forest in California is managed for the particular terrain and problems faced by local managers, and the Payette, Boise and Sawtooth Forests are managed for their particular terrain and problems by local management agents.

But, this new "one rule fits all" approach is inconsistent with the Congressional mandate of site specific management. It is designed to facilitate the Administration's agenda of by-passing Congress and shutting down the multiple uses of the federal lands. Taken together, as it must be, with the newly proposed Forest Service Planning Rules, and with the various ecosystem management plans ready for implementation, it is simply a final piece in the jigsaw puzzle of land controls which the Administration is putting in place to lock out the American public. The rule is violative of the Congressional mandate for management of the federal forests.

III. The DEIS does not contain an adequate economic analysis of the adverse impact of the proposed Rule on the economics of individuals engaged in the resource industry, on the economics of their communities, and the impact of the economic effect on the overall environment. Thus, the DEIS does not comply with NEPA.

It has been held by many courts that a DEIS is insufficient if it does not include an accurate economic analysis once it is apparent that economic impact will effect the environment. That is certainly the case regarding the proposed rule. When logging is ended, when forest managers are prevented from reaching the interior of the forests for management purposes, when grazing is ended, the fire fuel load of the forests will drastically increase. The wildfires which can result will be devastating to the ecosystem, including the water sources which will be polluted by the peripheral effects of fire.

This DEIS does not adequately explain the economic adversity which will result from the rule which will shut down all resource uses, and explain the environmental adversities which will result from the absence of resource users as managers and protectors of the ecosystem's various elements.

IV. Reduction of recreation opportunities in the federal forests will place an even greater pressure on the federal rangelands, and such result is inconsistent with Owyhee County's Land Use Plan.

When the proposed rule, which will represent the Preferred Alternative, is placed in effect, recreation off-road users will be locked out of the federal forests. The result will be that those users who enjoy recreation in the Boise National Forest above Boise, in particular, will turn to the rangelands of the Owyhee County area, some 40 miles away. The BLM has already engaged in a more restrictive management philosophy regarding recreation use in these rangelands, and the increased pressure will heighten tensions between federal managers and citizens expecting to be afforded the recreational opportunities which Congress has committed to them.

19311

What we all know is that the BLM has also started an inventory of its rangelands with existence of roads of primary importance. If the BLM follows suit with the Forest Service in an attempt to close down the rangelands, or even if the BLM does not do so, the pressure of increased recreation use of the rangelands will inevitably lead to unlawful use of private property for recreation use. Often it is not possible for a recreation user to distinguish between private and federal property. But, if the federal property is clearly marked "closed", the private property will be turned to. Owyhee County's citizens will often be left to their own recourse to patrol their property because law enforcement services in the county cannot handle the increased load of responsibility which will result from a close down of the forests. The potential for explosiveness is tremendous.

The public is again not adequately advised under NEPA because there is no discussion of this increased pressure on the rangelands and the adverse environmental, economic and social impact which can result. The impact is inconsistent with the Owyhee County Land Use Plan which calls for open recreation use unless there is threat to the environment. By closing down the forest lands, the Forest Service will increase the pressure on the rangelands, and accelerate the BLM to close down rangelands in order to avoid the increased pressure. That is not the type of administrative shut-down which would be consistent with the Owyhee County Land Use Plan which calls for decisions to be made consistent with the recreation opportunity statutes passed by Congress.

V. The DEIS does not sufficiently recognize the existence of private property rights and provide for adequate protection of those rights.

The discussion of "valid existing rights" found at page 3-140 is far from an adequate recognition of the full property rights existing in water, in-holdings, RS 2477s rights of way, and private roads. The Forest Service view of the rights in RS 2477s is not consistent with the Congressional mandate. Without an understanding of the full body of rights held in such rights of way, the DEIS fails to provide adequate protection for them. You simply cannot close down roads in the forests without adversely impacting rights of way. You have not made an adequate survey of which of the roads are RS 2477s, and the DEIS does not contain information sufficient to advise the public of the adverse impact on the property right held in a right of way so that the public can make an informed comment to you about the alternatives.

The same is true of water rights. You cannot close down grazing without adversely impacting the stock water rights of the grazer. That is clear from a long line of decisions rendered by the United States Supreme Court related to forests, grazing of livestock and the ownership of water rights.

You cannot close down access roads without impairing the value and usefulness of in-holdings, and without impairing the ability of the owner to protect his holdings against

the ravages of fire which will follow the absence of active management as clearly as night follows day.

Your DEIS does not adequately discuss the full nature of private property rights existing on the federal lands and in the in-holdings which are isolated within those federal lands. It does not discuss the adverse impact on those rights, and the adverse impact that will have on the environment. So, once again the public is not given the type of discussion of information needed for them to understand the true and accurate environmental impacts of the rule.

VI. There has been insufficient NEPA review because the Forest Service has failed to include sufficient information, and a sufficient array of alternatives, to allow the public to accurately understand the environmental impacts of the Rule.

The DEIS does not present a full array of alternatives. You present the "No-Action" alternative, which is misnamed. The alternative calls for active management by the Forest Service under local forest management plans as mandated by Congress. It does not call for "No-action", it rather calls for continued active management under the direction of Congress.

The only other alternatives you present are restrictive and prohibitive. You could present alternatives recognizing the adverse impact of the roadless policy and modifying the policy somewhat between the complete restriction and the current action plans. NEPA demands such an array of alternatives. If you were really interested in public comment, your would have provided such an array of alternatives.

The DEIS does not state a case for why prohibitions and restrictions are needed. There is no presentation of scientific environmental information which would justify the restrictions and prohibitions. The Forest Service has neither justified the restrictive approach nor provided a range of possibilities for protecting and maintaining the resource without closing down the lands. For example, the Forest Service presents no data for public review which demonstrates that well designed roads would have a greater adverse environmental impact than would leaving the forest susceptible to catastrophic fire and insect damage which cannot be controlled without adequate access by managers. No attempt has been made to explain the environmental trade-offs to the public, so NEPA review has been totally inadequate.

No detailed maps have been made available so that the public can determine exactly what areas are subjected to the "roadless" category which will be especially hard hit by the proposed Rule. Without such maps, the public cannot make the assessment it is entitled to make under NEPA.

No data is provided to adequately support the assertion that the existing planning system as to roads is having a significantly negative affect on the environment to justify

19311

19311

this massively restrictive initiative. There are no alternatives offered which would provide for maintenance and construction under plans which would minimize any risk, even though it is a mere supposed risk. No data is presented to show the public what the trade-off is for eliminating and closing roads, i.e., no data to show the adversity to the resource which will result from forest managers not being able to gain access to work for forest health which has mandated by Congress.

The DEIS, and the preferred alternative and resulting rule which will be implemented, are all designed to support a pre-determined agenda: close down the federal lands in order to politically placate the non-multiple use fanatics who drive this Administration. This is so apparent as to render the DEIS ineffective because not prepared with good faith objectivity.

VII. The DEIS, and the rule which will result, is and will be invalid because of the activities between the Administration and various environmentalist radical groups which violate the Federal Advisory Committee Act.

At least two pending lawsuits have challenged the roadless policy, and any rule which will result from this DEIS, on the grounds that the Administration violated the provisions of the Federal Advisory Committee Act by consulting with and working with various radical environmentalist groups prior to issuing the policy. The impact of this statutory violation will be to render the action invalid. The DEIS and the preferred alternative should be withdrawn now, and re-developed without violation of FACA, and with complete compliance with the statutory mandates of Congress.

VIII. On the other hand, while the Administration consulted unlawfully with Environmental radicals, the Administration failed to coordinate its planning policy with the Counties and other units of local government effected by the policy and engaged in their own local land use planning efforts.

The National Forest Management Act, and the Federal Land Policy and Management Act, both contain provisions requiring coordination of federal planning actions with local units of government which are engaged in local land use planning activities. As evidenced in a lawsuit filed by Boise and Valley counties in Idaho, there was no such coordination with those counties.

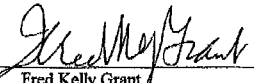
Even though the proposal will result in BLM policies to complement the roadless proposal, and will result in BLM policies related to various species which emanate from the Forest Service policy, the proposal was not coordinated with Owyhee County, and is inconsistent with Owyhee County's land use plan. No effort was made to resolve those inconsistencies with the County, or with the Governor of the State.

19311

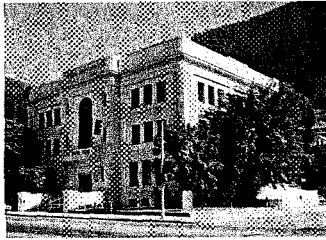
IX. Conclusion

The DEIS should be withdrawn, and all issues related to road maintenance, construction and existence and use should be managed on a local site specific basis.

Submitted in behalf of Owyhee County's Natural Resources Committee at the direction of the Owyhee County Board of Commissioners, this 17th day of July, 2000.

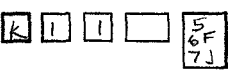

Fred Kelly Grant
Member, Natural Resources Committee

MARCIA WINGFIELD, CLERK DISTRICT COURT
AUDITOR and RECORDER
email: mclerk@co.shoshone.id.us
Office Phone: 752-1264
Fax: 753-2711



6389
DUP'D 6390

COMMISSIONERS:
JIM VERGOBBI, District 1
SHERRY KRULITZ, District 2
JACK KING, District 3
email: commsec@co.shoshone.id.us
Office Phone: 752-3331
Fax: 753-2711



County of Shoshone
700 BANK STREET, SUITE 120
WALLACE, IDAHO 83873-2348

June 21, 2000

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

To whom it may concern:

I am writing this letter in opposition to the Roadless Area Conservation Proposed Rule and Summary of the Draft Environmental Impact Statement (DEIS).

As a member of the Idaho Public Land Committee and National Association of Counties Public Lands Committee, along with being a Shoshone County Commissioner, I have requested a current map of the Idaho Panhandle National Forest in Region 1 that specifically identifies the uninventoried unroaded areas within the National Forest boundaries. We request an extension to the comment period in an effort to afford us the time to review these maps.

Shoshone County comprises 1,690,370 acres. Of that, the Idaho Panhandle National Forest makes up 1,201,901 acres. As you can see, the impact of this proposed rule greatly affects my County.

We have been informed that the agency will save \$565,000 per year from reduced road maintenance costs. This was based on previous expenditures. However, Shoshone County lost approximately \$900,000 last year in timber receipts. Our County is the second largest receiver of timber receipts in the State of Idaho. These funds maintain 450 miles of County roads along with supporting four school districts.

While the monetary value of this proposed rule is severe, the health of these forests is just as critical. The majority of our forests are comprised of pine, larch and fir. All who live here are aware of the blister rust which has affected our pine, and the beetle which has affected our fir.

CAET RECEIVED
JUN 26 2000

6389
USDA Forest Service-CAET
June 21, 2000
Page 2

Having been born and raised here and a resident for 50 years, I have seen numerous photographs of the devastation caused by our 1910 fire. The removal of diseased, dying and dead timber is critical to maintaining a healthy forest.

In closing, I reiterate my strong opposition to the proposed rule.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

Sherry Krulitz
Sherry Krulitz, Commissioner

SK/skj

Valley County Board of County Commissioners

0392

0392

P. O. Box 737 / 219 North Main Street
Cascade, Idaho 83611



TEL 208-382-4297
FAX 208-382-4955

TERRY F. GESTRIN
Chairman of the Board
F. PHILLIP DAVIS
Commissioner

THOMAS W. KERR
Commissioner
LELAND G. HEINRICH
Clerk

Kathy Oelke

Page 2

06/13/00

I appreciate your prompt attention to this request. If you have any questions or comments concerning this request, please feel free to contact me at (208) 382-7100. If you wish to fax documents, my fax number is (208) 382-7107.

Respectfully submitted,

Terry F. Gestrin, Chairman
Valley County Commissioners

June 13, 2000

Kathy Oelke
Freedom of Information Act/Privacy Act Officer
United States Department of Agriculture
Forest Service
14th & Independence SW
P.O. Box 96090
Washington, D.C. 20090-6090

RE: Freedom of Information Act Request

Dear Ms. Oelke:

This is a Freedom of Information Act (FOIA) request seeking certain documents related to the Roadless Area Conservation Draft Environmental Impact Statement (DEIS).

The DEIS separates currently unroaded areas into a variety of categories. One of those categories is uninventoried unroaded areas. The DEIS does not contain any maps of these uninventoried unroaded areas for the Payette National Forest in Region IV of the Forest Service. I am requesting a current map of the Payette National Forest that specifically identifies the uninventoried unroaded areas within that National Forest's boundaries.

As you are probably aware, the Forest Service has allowed a very brief period of time to comment on the DEIS. Indeed, the Forest Service has indicated that it will deny any request for an extension of the DEIS comment period. Therefore, I respectfully request that you respond to this FOIA request prior to the expiration of the DEIS comment period on July 17, 2000. Please bear in mind that a federal judge reviewing the initial scoping documents for the roadless initiative indicated that accurate maps are an important aspect of the meaningful participation guaranteed by the National Environmental Policy Act.

6392
Valley County Board of County Commissioners

P. O. Box 737 / 219 North Main Street
Cascade, Idaho 83611



TEL 208-382-4297
FAX 208-382-4955

TERRY F. GESTRIN
Chairman of the Board
F. PHILLIP DAVIS
Commissioner

THOMAS W. KERR
Commissioner
LELAND G. HEINRICH
Clerk

June 22, 2000

K I I [] 2
5
6F

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

88.1% of our land in Valley County is in federal ownership and the proposed Roadless area rules may affect over half this amount. We have requested (FOIA) additional information and specific maps in order for us to better understand the overall effect.

A project of this magnitude requires additional time for us to review all consequences prior to us being able to provide meaningful comments. It is for this reason that we would respectfully request an extension of 120 days for the comment period to enable us to receive and review the requested maps prior to the submission of our comments.

Respectfully Submitted,

Terry F. Gestrin, Chairman
Valley County Board of Commissioners
Valley County, Idaho

Attachment: FOIA

CAET RECEIVED

JUN 26 2000

44353
44353
Valley County Board of County Commissioners

P. O. Box 737 / 219 North Main Street
Cascade, Idaho 83611



TEL 208-382-4297
FAX 208-382-4955

TERRY F. GESTRIN
Chairman of the Board
F. PHILLIP DAVIS
Commissioner

THOMAS W. KERR
Commissioner
LELAND G. HEINRICH
Clerk

K 3 I I [] 5
6F CAET RECEIVED
JUN 23 2000

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

Review Team:

Valley County is comprised of 2,354,048 acres of which 88.1% are federal owned forest lands. The majority of these federally owned acres are within the Boise and Payette National Forests.

As a whole, Idaho is without a doubt the most affected state and Valley County will be one of the most affected counties.

We have requested an extension of the comment period in order to have sufficient time to receive the maps of the actual areas involved. We are concerned about the specific areas, because to our knowledge, there have been three different maps that we have seen and can not be sure which one will be used.

We are also concerning about the on-going changes in definitions used for roads. This does not consider public roads and rights of way as defined by R.S. 2477 that were established and accepted by public use and enjoyment before October 21, 1976, and connected to points of societal importance (including points so connected located inside or outside the boundaries of Valley County) whether established and maintained by usage or mechanical means, whether passable by foot, beast of burden, carts or wagons, or motorized/mechanized vehicles of each and every sort, whether currently passable or impassable. It is difficult to follow the process when it is continually a moving target, apparently being done to enhance confusion.

Very little scientific evidence has been used in this whole process. We would hope this process is to improve our current health of the forests, but it has become quite apparent that it has become a political propoganda scheme that is doomed to help only the selected few with no consideration being given to our forest health and those local communities that are totally dependent upon continued multiple use of our forests.

44353

D 1 3 5

44006

July 17, 2000

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

Chief Mike Dombeck:

The Idaho Association of Counties (IAC) is a non-profit service organization representing the state of Idaho's forty-four counties. Under Idaho law, counties are charged with protecting the health and safety of those within their jurisdiction. Because the USDA Forest Service administers such vast areas of our state - in some counties as much as ninety percent of the land - any change in management direction is of great concern to Idaho's counties. The past few years have seen the erosion of the compact between the federal government and local governments envisioned by Gifford Pinchot and the resulting precipitous decline in 25% fund payments to counties for the support of local schools and infrastructure. We have also witnessed the agency's mission and philosophy shift from multiple-use and sustained-yield to a broadly popular but scientifically unsound 'environmentalism'. Our comments must be understood in this context. We do not see this proposal as a stand alone policy, but yet another move away from sound forest management.

Before outlining our specific comments, please note that, in general, IAC objects to the process which gave rise to this proposed rule. For such a sweeping rule to be 'fast-tracked' before all the facts are available to the land managers, much less to the public, is a violation of the spirit, if not the letter, of NEPA. A number of Idaho counties have asked, for instance, for maps of the uninventoried unroaded areas which are to be managed pursuant to procedures set out in the rule. Not only have the maps not been made available, but the Forest Service has neither responded to the counties' request, nor granted an extension of the comment period until the information can be generated and studied.

A full range of alternatives not considered
Even a cursory review of the alternatives in the DEIS reveals that a full range of alternatives was not considered. In fact, there is no substantive difference between Alternatives 2-4 as noted in Table S-1, pages S-18-23. The FEIS should, at a minimum, consider an alternative that permits road construction and maintenance for forest-health purposes, including mechanical treatments and prescribed burns.

Forest health impacts inadequately considered
The risk of wildfire under Alternatives 2, 3 and 4 is not set forth clearly in the DEIS. The loss of watershed resources, wildlife habitat and air quality deterioration which result from catastrophic wildfires is not discussed. This is not consistent with the Forest Service's own science as developed by the Interior Columbia Basin Ecosystem Management Project, for instance, and the GAO's report calling for extensive management to restore forest health.

Coherent strategy not apparent
The overview discusses the changes in roads management and the planning rule as compared to the roadless areas rule. It says that these are "...three separate and distinct F.S. initiatives that together form a coherent strategy

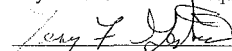
The four alternatives in the DEIS are not based on scientific facts. The no action alternatives (Alternative 1) should represent current management. The alternatives all allocate lands without respect or compliance with existing forest plans, on-going Forest Plan Revisions or the administrative and legal process of forest planning, NEPA or The Regulatory Flexibility Act. This Roadless Conservation Plan circumvents the administrative and legal process only because Clinton and Gore have been unduly influenced by environmental groups and have made political deals to create wilderness areas.

Social and economic impacts have not been given any serious consideration. States and counties have been denied all requests to be granted the designation of a Cooperating Agency Status. Without all necessary players at "the table," true and accurate data, consequences, or benefits of this proposed plan will never be given adequate consideration. It appears to us that the old adage, "Don't confuse me with the facts because my mind is made up," certainly rings clear and true.

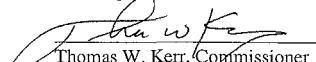
We feel the Forest Service should be stopped from working on or finalizing any other policy proposals until the new Plan Regulations are final. This proposal has stopped all local multiple use activities and no one "on the ground" can make any useful decisions.

The no action alternative is the only acceptable outcome of this process. The decision-making needs to be returned to the local level with consideration given to local issues. Local historical, social and economic issues need to be considered. We are restricting access to our forests. We are failing to address forest health, and we certainly are not considering the social and economic impacts now under consideration that would be imposed on local communities, local counties, and most of all, on local individual people who by your definition have been deemed second class citizens.

In conclusion, we can only state that the many different impacts that would be a result of this proposed Roadless Plan, have not been given proper consideration. Furthermore, with the vast area and millions of acres involved, there is no way that this has been adequately analyzed in the amount of time that has been allowed.


Terry F. Gestrin, Chairman


F. Phillip Davis, Commissioner


Thomas W. Kerr, Commissioner

4400

13555

for dealing with vital conservation issues." However, page S-45 states, "As these public rulemakings proceed, the agency may choose to integrate and clarify certain provisions within each rule to insure consistency, clarity and effectiveness." The time to make such badly needed clarifications and adjustments is when drafting the DEIS. The public must have the opportunity to see what the proposal is and how it will work. This lack of integration and disclosure of cumulative impacts is unacceptable.

Analysis of economic impacts on local communities inadequate
The cost benefit analysis the agency discusses on page A-17 says that "Local level analysis cannot easily incorporate the economic effects associated with nationally significant issues." This is not acceptable. The Forest Service has an obligation to disclose the effects of this proposal on Idaho's communities. It may not be done 'easily' but it must be done.

Consultation and coordination is misstated
The agency states, on page S-47, that, "The Forest Service also consulted with states, tribes and local governments." There was no such consultation with Idaho's counties except for invitations to public meetings. While some of the national forests in Idaho offered a separate 'government to government' sessions to offer information and to take comments - which we applaud - this is not the same as consultation. Idaho's counties were not consulted in the development of this initiative.

Change of definition of roadless area is unsound
The original RARE II inventoried roadless areas were based on a minimum of 5,000 contiguous acres. The lack of specificity under the new definition will open the door to further litigation and unnecessary confusion.

Forest planning process is circumvented
There is already a forest planning process in place that weighs the values of roadless areas as a matter of course. Forest managers should be empowered to follow these processes to manage the forests under their care rather than top-down one-size-fits-all policy directives out of Washington, D.C. This policy is unnecessary.

Conclusion
IAC respectfully requests that the Forest Service withdraw the Roadless Areas DEIS until the deficiencies enumerated herein are corrected.

Sincerely,

Daniel G. Chadwick
Executive Director



CITY OF BONNERS FERRY

OFFICE OF THE MAYOR
P. O. BOX 149
BONNERS FERRY, IDAHO — 83805



JUNE 22, 2000

CITY OF BONNERS FERRY FIRE HALL ROADLESS AREA PROPOSAL COMMENTS

1. THE NEW ROADLESS PROPOSAL, IF ALLOWED TO PROCEED, WILL HAVE A SEVERE DETRIMENTAL EFFECT ON OUR COMMUNITY.
2. OUR AREA ALREADY HAS MORE THAN ITS SHARE OF INVENTORIED ROADLESS AREAS.
3. THIS NEW PROPOSAL IS BASED ON THE PREMISE THAT IT WILL "---- PROVIDE LONG-TERM PROTECTION FOR ROADLESS AREAS." THIS IS PRESIDENT CLINTON'S STATEMENT ON OCT. 13, 1999. ANYONE FAMILIAR WITH THE FORESTS, AS OUR LOCAL RESIDENTS ARE, KNOWS THAT ROADLESS IS NOT THE ANSWER TO FOREST PROTECTION. WISE AND SENSIBLE USE AFFORDS MUCH MORE PROTECTION TO THE FORESTS THAN DOES LESS ACCESS.
4. LESS ACCESS MEANS MORE INSECT, DISEASE AND FIRE PROBLEMS.
5. LESS ACCESS MEANS FEWER PEOPLE CAN ENJOY OUR FORESTS.
6. THE HANDICAPPED AND THE POOR WILL BE ALL BUT LOCKED OUT OF THESE AREAS.
7. PRIVATE LANDOWNERS HAVE LESS CHANCE TO ACCESS AND USE THEIR OWN PROPERTY.
8. THE PROPOSAL STATES THAT THE FOREST PLANNING PROCESS WILL MAKE THE EVALUATIONS ON THE ROADLESS AREAS. HISTORY TELLS US THAT THE PLANNING PROCESS HAS HAD THE OPPOSITE EFFECT. THE FOREST SERVICE IS UNDER PRESSURE FROM THE PRESERVATION GROUPS TO STOP ALL DEVELOPMENT ACTIVITIES IN THE ROADLESS AREAS.
9. THE LOCAL FOREST HAS NEVER MET EVEN THE MINIMUM TARGETS SENT BY THE PLANNING PROCESS FOR USE OF THE FORESTS.

Respectfully Submitted
Darrell Kerby
Darrell Kerby
Mayor
City of Bonners Ferry, Idaho

CAET RECEIVED
JUN 30 2000

H16III H163

220

23169

1 MR. DONNER: Yes. My name is Doug Donner.

2 I'm mayor pro tem for the City of Orofino representing

3 the City of Orofino and mayor and council people.

4 (We opt for the no action alternative. The

5 forest service has not considered the impact on the

6 small towns in the DEIS. The U.S. Forest Service

7 should be completing the plan approved by Congress

8 right now rather than the Clinton-Gore initiative.)

9 (Access to our national forest is being cut

10 off with this plan. We expect the forests to be

11 healthy and cared for, full of fish and wildlife. We

12 expect fire fighters to have the ability to contain

13 wildfires and protect our lives and communities.)

14 (We need access to our private lands which

15 are surrounded by national forests.) And,

16 unfortunately, this proposal to lock up forty to sixty

17 million acres of national forest would not have the

18 identified unroaded areas for public review.

19 (This would, in turn, doom these lands to a

20 cycle of overcrowded stands, followed by disease and

21 insect infestation. And wildfire would bake the

22 ground so nothing else would grow for years.)

23 We just stand opposed to -- no action to

24 this new alternative.

25 Thank you.

SOCC 90010 9-7

PURPN 10210 9-7

EFFAN 71130 9-7

ENNR 84000 9-7

Name: DOUG DONNER - MAYOR PRO TEM H-1-5- - [5] 10078
 Address: P.O. BOX 663 CITY OF OROFINO
 City, State, Zip Code: OROFINO IDAHO 83544

Dear Forest Service, WE OPT FOR THE "NO ACTION"
ALTERNATIVE.
 THE FOREST SERVICE HAS NOT CONSIDERED
 THE IMPACTED ON THE SMALL TOWNS.
 THE US. FOREST SERVICE SHOULD BE
 COMPLETING THE PLAN APPROVED BY
 CONGRESS. RATHER THAN THE CLINTON/
 GORE INITIATIVE.

DONT LOCK THE PUBLIC
OUT OF PUBLIC LANDS!



CAET RECEIVED
 JUN 26 2000

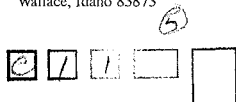
Fold in half and mail, with address to "USDA Forest Service - CAET" on outside.
 Comments must be received by July 17, 2000.

CLEARWATER REPORTING DBH SQB
 800-247-2748 - LEWISTON IDAHO 83501



SCHOOL DISTRICT NO. 393

401 River Street
Wallace, Idaho 83873



19314

Office of Superintendent
Phone: (208) 753-4515.
Fax: (208) 753-4151
e-mail: dist393@sd393.k12.id.us

July 10, 2000

USDA Forest Service—CAET
Post Office Box 221090
Attn: Roadless Areas Proposed Rule
Salt Lake City, UT 84122

CAET RECEIVED
JUL 12 2000

Dear Secretary of Agriculture:

As Superintendent of the Wallace School District 393, I desire to be heard in the discussion about the Roadless proposal. There are several secondary and tertiary areas deleteriously impacted from such a proposal. Beyond the forest and timber industry, schools, cities, towns and rural people are all impacted by such a proposal.

There are several school districts in the forest areas of north Idaho and elsewhere in the state and nation. Our school district is comprised of 85% national owned forest land, which generates about \$175,000.00 annually in forest funds for the school district. These funds are used to maintain our facilities and grounds. Even though the forest funds are not adequate to cover all of the district maintenance needs, it is most helpful.

Should the Roadless proposal be enacted, we can expect a decrease in timber generated revenue for the local economy, county and school systems. Loss of access to the forest for the timber industry means increased unemployment in a valley that is presently the highest in Idaho (+20%). Additionally, families looking for alternative employment leave the community and take their children with them. Market value of houses decrease and the tax base is eroded so locally generated revenue for schools is impacted.

Presently, the community overwhelmingly supports additional self taxation for school revenue through supplemental levies. These annual levies amount to about 1/5 of the total revenue for the school district. Should families move away as they are looking for work, they take the YES vote with them and the hope of passing supplemental levies.

As the chain of events continue; loss of revenues, loss of jobs, loss of families, loss of students, etc., the secondary and tertiary impact of one Roadless proposal becomes one of Townless, studentless, schoolless, and hopeless. Please reconsider any Roadless plan as it will destroy rural, small school America as we know it today.

Professionally,
Reid Straabe, Superintendent

