

Colorado Wild * Great Old Broads For Wilderness * Center For Native Ecosystems * High Country Citizens Alliance * Center For Biological Diversity * Conservation Congress * Wild Connections * Quiet Use Coalition * Wilderness Workshop * Rocky Mountain Recreation Initiative * Sheep Mountain Alliance * San Luis Valley Water Protection Coalition * Colorado Environmental Coalition * Rocky Mountain Chapter of Sierra Club * San Juan Citizens Alliance * American Lands Alliance * San Luis Valley Ecosystem Council * Western Colorado Congress * San Juan Horseriders For A Wild San Juan Mountains * Planeto Azul Hydrology * Central Colorado Wilderness Coalition * Natural Resources Defense Council

Roadless Area Conservation—Colorado
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October 21, 2008

Dear Forest Service,

The following are the comments of the organizations listed below on: Special Areas; Roadless Area Conservation; Applicability to the National Forests in Colorado (hereafter “Draft Colorado Rule”), as described in the Federal Register of July 25, 2008 (73 Fed Reg 53544 et seq.) and the Rulemaking For Colorado Roadless Areas Draft Environmental Impact Statement (hereafter “DEIS”).

The following organizations endorse these comments:

Colorado Wild is a non-profit organization formed in 1998 to protect, preserve, and restore the native plant and animals of the Southern Rocky Mountains, focusing its efforts on habitat protection in the forested high country. We have approximately 750 members throughout Colorado and in other states. Since inception, we have fought hard to conserve the integrity of Colorado’s national forest roadless areas.

Great Old Broads for Wilderness is a 3,500-member national grassroots nonprofit organization dedicated to increasing, preserving and protecting America's roadless public lands. Today there are Broads of all ages and both genders in every state in the union making their voices heard to protect America's last wild places.

Center for Native Ecosystems is a Colorado-based conservation organization advocating on behalf of endangered species and ecosystems across the Greater Southern Rockies region. We value the clean water, fresh air, sources of food and medicine, and recreational opportunities provided by native biological diversity. We also passionately believe that all species and their natural communities have the right to exist and thrive. We use the best available science to forward our mission through participation in policy, administrative processes, public outreach and organizing, legal action, and education. We

have approximately 300 members in Colorado and surrounding states. We have a longstanding interest in the long-term protection of roadless areas in Colorado due to their high value as habitat for sensitive and at-risk native species in the region and their contribution to our region's biological diversity more generally.

High Country Citizens' Alliance is a grassroots organization with more than 600 members whose goals focus on the health and biodiversity of the local environment – land, water, air and wildlife. The mission of High County Citizens' Alliance is to champion the protection, conservation and preservation of the natural ecosystems within the Upper Gunnison River Basin. High Country Citizens' Alliance foresees a future in which all people in the Mountain West thrive in an environmentally sustainable and healthy ecosystem, without compromising the earth's biological diversity or the interests of future generations.

The **Center for Biological Diversity** is a non-profit corporation with nearly 60,000 members dedicated to the preservation, protection, and restoration of biodiversity and ecosystems throughout the world. The Center works through science, law, and creative media to secure a future for all species, great or small, hovering on the brink of extinction.

The **Conservation Congress** works to protect and preserve National Forests, roadless areas, native wildlife species and their habitat in northern California and the Rocky Mountain region. Our Congress is a representative group of dedicated people who provide a voice for the voiceless – the natural world of trees, wildlife, water and plants that cannot speak for itself. We are a membership organization representing conservationists that include hikers, campers, bird watchers, hunters, fishermen, as well as other recreational interests.

Wild Connections, a science-based advocacy organization, works to identify, protect and restore lands of the Upper Arkansas and South Platte watersheds to ensure the survival of native species and ecological richness. We focus on designing, implementing and defending the Wild Connections Conservation Plan - a vision for the future of this region that embodies the results of many years of roadless area mapping, citizen input and conservation science.

The **Quiet Use Coalition** is a 12 year old non-profit organization that creates, promotes and preserves quiet use areas and opportunities on our public lands and waters.

The **Wilderness Workshop (WW)** is a locally-based non-profit organization working to protect and conserve the wilderness and natural resources of the Roaring Fork Watershed, the White River National Forest, and adjacent public lands. WW was founded in 1967 and now has more than 800 members. WW engages in research, education, legal advocacy and grassroots organizing to protect the ecological integrity of local landscapes and public lands. We focus on the monitoring and conservation of air and water quality, wildlife species and habitat, natural communities, and lands of wilderness quality. We

advocate for the designation of primitive and primordial landscapes as wilderness, and we strive to ensure that roadless lands remain intact and unfragmented.

The mission of **Rocky Mountain Recreation Initiative** (RMRI) is to advocate for recreation policies that protect wildlife habitat and sensitive plant and animal communities on Colorado public lands. RMRI works with the Forest Service and BLM on travel planning that reduces habitat fragmentation and ensures the integrity of large scale ecosystems. RMRI also works to protect hiking and the Quiet Use experience in Colorado backcountry.

Sheep Mountain Alliance, a 400-member citizens' non-profit organization since 1988, is dedicated to the preservation and protection of the natural environment and unique quality of life in and around San Miguel County, Colorado.

The **San Luis Valley Water Protection Coalition** (WPC) is a grassroots organization representing a broad spectrum of interests united by the belief that the vital ecological, wildlife, cultural, agricultural, and water resources of the upper Rio Grande and Closed Basins of the San Luis Valley should not be jeopardized by unsustainable industrialization. By working with communities, local government and various stakeholder groups, WPC is actively engaged in developing an SLV Citizens Clean Energy Initiative that is responsive to the demands of climate change while protecting the vital natural and cultural resources that are the foundation of our communities.

The **Colorado Environmental Coalition** unites Coloradans to protect our natural heritage and quality of life. Every year, the Coalition mobilizes scores of organizations and hundreds of individuals who care deeply about Colorado. CEC has over 4,000 individual members across the state.

The **Sierra Club** is America's oldest, largest and most influential grassroots environmental organization with over 1.3 million members. Inspired by nature, the Club works to protect our communities and planet. The Sierra Club's Rocky Mountain Chapter is comprised of over a dozen local groups across Colorado. The Rocky Mountain Chapter is involved with environmental education and conservation to help protect the air, land, and water of the State of Colorado.

The **San Juan Citizens Alliance** is based in Durango, Colorado, with over 500 members in La Plata, Montezuma, and Archuleta counties. The San Juan Citizens Alliance and its members have an active interest in the management of our public lands and national forests in Southwest Colorado, including the San Juan National Forest.

American Lands Alliance, a national non-profit conservation organization, works to protect and restore America's forest ecosystems by providing national leadership, coordination, and capacity building for the forest conservation movement. American Lands Alliance is headquartered in Washington, DC, where decisions are made on national forest issues. American Lands works to educate and advocate for sound management policies for the National Forest System and is very involved in upholding

protections for all national forest roadless areas. American Lands represents citizen activists across the country and local and regional forest conversation organizations whose members recreate on National Forests.

The mission of the **San Luis Valley Ecosystem Council (SLVEC)** is to protect and restore through research, education, and advocacy the biological diversity, ecosystems, and natural resources of the Upper Rio Grande bioregion, balancing ecological values and human needs.

Western Colorado Congress (WCC) is an alliance for community action – made up of over 3000 members in eight local community groups – that empowers people to protect and enhance their quality of life in western Colorado. WCC has a long-standing interest in protecting and restoring the ecological integrity and sustainable use of public lands in western Colorado, particularly on the Grand Mesa-Uncompahgre-Gunnison (GMUG) National Forest.

Horseback Riders for a Wild San Juan Mountains is a new non-profit project focusing on the management of public lands around Pagosa Springs, Co. We believe the use of public lands is not a right, but a privilege that comes with the responsibility of stewardship. Our organization also believes that the most important responsibility of public lands management is to protect the ecological health of these lands. The purpose of this project is to enlist the support and help of horseback riders in preserving the public lands we ride on. This project will also provide a local environmental voice in educating the public about private and public land development plans as they affect local public lands and working with land management agencies.

Planeto Azul Hydrology is a small business providing affordable expertise in wildland hydrology throughout the West to those interested in conserving aquatic resources. Planeto Azul is located in Portland, Oregon but works on watershed conservation issues throughout the Western U.S.

The mission of the **Central Colorado Wilderness Coalition** is to protect, defend, and preserve for future generations the ecological integrity of wild places in the Pikes Peak Region of central Colorado and promote permanent protection of these areas through wilderness designation.

Founded in 1912, the **Colorado Mountain Club** is the oldest and largest recreation and conservation organization in the State. The Club is organized to unite those who study and explore the Rocky Mountains, with a mission that is based in the philosophy that outdoor enthusiasts are driven by the desire to protect the places they cherish. With 15 chapters and four office locations, the CMC serves a membership of almost 9,000 people. Our organization has a long history of involvement in roadless issues, beginning with participation in the initial mapping of Colorado's roadless areas in the 1960's and 1970's.

The **Natural Resources Defense Council** (NRDC) is a nationwide environmental advocacy organization with over one million members and activists, including more than 37,000 in the state of Colorado. NRDC uses law, science, and advocacy to protect the planet's wildlife and wild places and to ensure a safe and healthy environment for all living things. Its work focuses, among other things, on the protection of wildlands and wildlife in national forests of the United States. NRDC has worked for many years on the conservation of Inventoried Roadless Areas in the National Forest System, at the local, regional, and national level. NRDC has been involved in all public processes related to the Roadless Area Conservation Rule (RACR), with its staff and members advocating strong protections for roadless areas, and has defended the RACR in court, repeatedly.

I. COLORADO ROADLESS AREAS DESERVE STRONG PROTECTION. There is absolutely no question that national forest roadless areas provide a great benefit to the American people, and also to people from other countries who visit our national forest lands. These benefits are summarized at DEIS pp. 23-24, and listed, under *Roadless area characteristics*, in the Draft Rule at section 294.31. See also pp. 4-5 of our comments on the Advanced Notice of Proposed Rulemaking for the Colorado Rule (hereafter “ANPR comments”), dated February 22, 2008. We hereby incorporate those comments by reference into these comments. Here, we re-emphasize the very high level of importance of high-quality, undisturbed wildlife habitat, found in many of Colorado’s roadless areas, for many species of wildlife, including lynx, which need large and mostly undisturbed land for habitat. This is a critically important need that is fulfilled to a considerable degree by roadless areas, and one that cannot be provided on lands which are developed for human uses and/or have fairly frequent human activity. In addition, roadless areas provide unparalleled opportunities for human-powered recreation, providing a huge draw for Colorado’s visitors and residents alike.

Roadless areas in Colorado especially need protection because of the threats to roadless characteristics and roadless area integrity posed by the very rapid pace of natural gas drilling, continued coal exploration and mining, and public pressure for removing beetle-killed trees, including some areas within roadless areas, to protect communities from wildfire. The possible effects of these activities and the need to limit them in roadless areas are discussed in more detail in these comments.

Further discussions of the myriad of benefits from national forest roadless areas can be found: in the Preamble to the 2001 Roadless Area Conservation Rule (hereafter “2001 Rule”) at 66 Fed Reg 3245 et seq., January 12, 2001; in Volume 1 of the Final Environmental Impact Statement for the 2001 Rule; and in the Risk Assessment prepared for the Draft Colorado Rule.

The increasing demands of a steadily increasing population will make intact roadless areas all the more important for many resources, especially wildlife. See DEIS at 203-204.

There is also no question that the public has expressed strong support for protecting roadless areas at every opportunity. Official opportunities for comment on the national rule have included: 1998 scoping for a national rule protecting roadless areas, comment on the draft Rule and draft EIS for a national rule in 2000, comments on the Advanced Notice of Proposed Rulemaking for a new national rule in 2001, and comment on the then-proposed “state petitions” rule in 2004. During all these comment periods, commenters expressed overwhelming support for strong roadless area protection. Specific to Colorado, roadless protection was also overwhelmingly supported during comment periods for the Colorado Roadless Areas Review Task Force meetings and comment periods in 2005 and 2006, and in comments on the ANPR earlier this year.

In short, public opinion has demanded, and continues to demand, strong protection for roadless areas. Taken at face value, the purpose of the Draft Colorado Rule appears to reflect this demand somewhat:

The purpose of this [rule] is to provide, within the context of multiple use management, lasting protection for roadless areas within the National Forests in Colorado”.

36 CFR 294.30.

However, the Draft Colorado Rule falls far short of the high level of protection the public persistently demands, and of meeting its stated purpose. Instead of allowing exceptions to the prohibitions on logging and road construction and reconstruction in roadless areas only for specific, narrowly tailored situations and problems, primarily to protect public safety and for valid existing rights of access, as the 2001 Rule did, the Draft Colorado Rule would allow extremely broad exceptions to these prohibitions. The result of application of the Draft Rule would likely be a great degradation, or some cases, even elimination, of roadless values on sizable acreages, over time. The Draft Colorado Rule would create second-class roadless areas, i. e., ones having less protection than those in other states. Because of this, and for the specific reasons described in detail in the remainder of these comments, the Draft Colorado Rule is absolutely unacceptable.

II. COMMENDABLE FEATURES OF THE DRAFT COLORADO RULE. While we oppose the draft Colorado Rule, it does have a few commendable features that we briefly mention here.

--The draft Colorado Rule would prohibit construction of pipelines for transporting oil and gas from sources originating outside any roadless area through any such areas.

--Before construction of roads in roadless areas, an environmental impact statement must be prepared, and that document must consider a no-road alternative, and for proposals involving permanent road construction, a temporary road alternative must be

considered.¹ We strongly recommend that an EIS also be required for any long-term temporary roads, if such are allowed in roadless areas under a final Colorado rule, since such roads may be used for several decades (i. e., the life of a producing oil, gas, or coal lease), during which time considerable impact to roadless area characteristics could occur. See further discussion in section IV B 2 below.

--The Forest Service would not be allowed to “to waive, except, modify, or otherwise remove any oil and gas lease stipulation that prohibits or restricts road building or otherwise prohibits surface occupancy within CRAs”. Section 294.33(c)(5).

--When the Forest Service is the lead agency for projects inside roadless areas, it would offer cooperating agency status to the State of Colorado.

--The DEIS provides much useful information of the possible effects of each alternative on roadless areas. Appendix B, showing how roadless areas would be managed under the respective national forest land and resource management plans, is particularly helpful, as is Appendix F, which shows areas with high wildlife values that might be subject to road construction and/or logging under the alternatives. For Appendix A in the Final EIS, we recommend combining the table showing acreages for inventoried roadless areas and Colorado roadless areas, so that readers can easily see how the areas vary in size.

III. THE ACCURACY OF THE COLORADO ROADLESS AREAS INVENTORY MUST BE IMPROVED.

It is important that Colorado Roadless areas include all the land that is roadless. This includes all the acres that are roadless in and around existing inventoried areas and all stand-alone areas at least 5000 acres in size, or of any size for areas which are adjacent to designated wildernesses, wild or scenic rivers, national parks, or other Congressionally-designated areas. We believe the CRA inventory has omitted or failed to consider as roadless numerous stand-alone areas and logical inclusions to areas that were considered. Many of these omissions and recommendations for correcting them are detailed in Exhibits 1 and 2.

It is important that the public has a chance to comment on any proposed changes to roadless area boundaries. However, a statewide rulemaking process is not the best place to solicit comment on roadless boundaries. That is more properly done during plan revision or in a separate process for each national forest or portion thereof.

This is a concern because there were many changes in roadless boundaries and total acreages in determining Colorado Roadless Areas from Inventoried Roadless Areas. There has been no official public review of many of these boundaries and acreages. It is important that public comment still be formally invited on boundaries of roadless areas residing on national forests undergoing plan revisions.² Therefore, our comments in

¹ This must not be taken to mean that we support the wide allowance for road construction in roadless areas under the Draft Colorado Rule. See section IV of these comments for a detailed discussion.

² Notably, the three Colorado national forests that are undergoing, or will soon undergo, plan revisions (Pike-San Isabel, San Juan, and Grand Mesa-Uncompahgre-Gunnison). The GMUG had by far the greatest

Exhibit 1 must not be considered our final word on the subject of roadless area boundaries and area inclusions.

IV. THE DRAFT COLORADO ROADLESS RULE WOULD NOT PROTECT ROADLESS AREAS.

A. FOREST PLANS DO NOT PROVIDE MUCH PROTECTION FOR ROADLESS AREAS. Several of the provisions of the Draft Colorado Rule would allow activities and road construction in roadless areas only if such actions comply with the respective land management plan. See, e. g., sections 294.33(b)(6) and (7) and (c)(2). In other words, activities that might degrade roadless characteristics and are permitted by the Draft Colorado Rule would be prohibited where they would not comply with forest plans. See Draft Rule Preamble at 73 Fed Reg 43547. However, land management plans for Colorado generally do not provide much protection for roadless areas.

The plans certainly provide less protection than the 2001 Rule. Plans for the Grand Mesa-Uncompahgre-Gunnison, Pike-San Isabel, San Juan, and Manti-La Sal are less restrictive than the 2001 Rule on nearly 100 percent of their inventoried roadless areas. DEIS at 230.

Overall, for inventoried roadless areas, 23 percent of the acreage is in management category D4 (DEIS at B-21), under which logging and road construction and reconstruction are “not restricted”. *Id.* at B-2. Another 41 percent of the IRA acreage is in management category C4 (*id.* at B-21), under which logging is “not restricted” and road construction and reconstruction are “generally not restricted except under some specific circumstances”. *Id.* at B-2. Concomitantly, only five percent of the IRA acreage is in management categories A1 and A2, under which road construction and reconstruction are prohibited, and logging is prohibited or strongly restricted. *Id.* at B-2 and B-21.

For Colorado Roadless Areas, the allocations are very similar: 20 percent of the acreage is in category D4 and 41 percent is in category C4, with just six percent in categories A1 and A2. *Id.* at B-35.

In other words, there are almost no restrictions on logging or road construction or reconstruction in more than 60 percent of Colorado’s national forest roadless acreage. This demonstrates the need for a strong roadless rule that would limit ground-disturbing activities to conserve roadless characteristics, as the public demands.

changes in acreage of roadless areas, both for acres dropped from the roadless inventory, and those added to it, in deriving Colorado Roadless areas from Inventoried Roadless Areas. See Draft Colorado Rule Preamble, Table 1, at 73 Fed Reg 43545, July 25, 2008. The San Juan National Forest issued a draft revised plan earlier this year and the comment period was completed. The GMUG issued a draft revised plan, but it was withdrawn after the 2005 Planning Regulations were found illegal, thus the comment period was never completed. There has been no official review of the roadless boundaries on the Pike-San Isabel.

B. THE DRAFT RULE WOULD ALLOW TOO MANY MILES OF ROAD TO BE BUILT, AT TOO HIGH A COST TO ROADLESS CHARACTER.

1. A large mileage of roads could be constructed in roadless areas under the Draft Colorado Rule. The DEIS makes very clear that alternative 2 (the Draft Colorado Rule) would allow construction of a great network of roads in Colorado Roadless Areas – up to 136.5 miles in the next 15 years – for oil, gas, and coal. DEIS at 123. Notably, the Draft Rule (alternative 2) would not provide much more protection than would occur with no roadless area protection rule (alternative 3 - Forest Plans), as under the latter, 140 miles of road could be built in roadless areas in the same time period. Id. In other words, the Draft Colorado Rule would result in a mere 3.5 miles of road, or 2.5 percent, not being built for mineral development in the next 15 years compared to management under existing forest plans!

There would also be nearly as much surface occupancy for oil and gas wells under the Draft Rule (674 wells on 570.5 acres) compared to alternative 3 (731 wells on 617 acres³). Id. By contrast, alternative 1 (2001 Roadless Rule) would allow 54 miles of road to construct 252 wells on 209 acres. Id. See additional discussion in section B 4 below.

Similarly, coal production would not be much different under alternatives 2 and 3, with one billion tons under the former, requiring 45 miles of road, and 1.1 billion tons under the latter, requiring 66 miles of road. DEIS at 124.⁴ Note that the area of “road-accessible coal reserves in roadless areas” is 29,000 acres for alternative 2 and 31,000 acres for alternative 3. Id. By contrast, alternative 1 would allow only 6.5 miles of road construction in roadless areas to access 135 million tons of coal on 3,700 acres. Id. See additional discussion in section IV B 6 below.

For fuel reduction treatments under the Draft Colorado Rule, 88 miles of road would be constructed in roadless areas and 14 miles reconstructed over the next 15 years. DEIS at 150. For alternative 3, 118 miles would be constructed and 14 miles reconstructed. Id. at 151. Under the 2001 Rule, there would be no road construction or reconstruction for fuel reduction, as this is not allowed under that Rule.

Total road miles constructed or reconstructed in roadless areas under alternative 2 would be 18-19 miles per year (DEIS at 74, as corrected by the July 21, 2008 Errata Sheet), totaling 270-285 miles over 15 years. Under alternative 3, 29.8 miles of road per year, or about 447 miles over 15 years, would be built in roadless areas. DEIS at 74. Under the 2001 Rule (alternative 1), only 6.3 miles of road would be constructed or reconstructed per year, or 93.8 miles over 15 years. Id.

The construction and use of such roads and implementation of the activities these roads would access would have a considerably adverse impact on roadless characteristics,

³ There would be more well pads in roadless areas in the next 15 years under alternative 2 (143), than alternative 3 (132). Id.

⁴ Why 19 miles of additional road in roadless areas would be needed to access a relatively small additional amount of coal under alternative 3 is not explained.

including: wildlife habitat, including fragmentation (DEIS at 196-199); biological diversity (id. at 209-210); ESA-listed and sensitive plants (id. at 167-173); scenery (id. at 242⁵); introduction and spread of noxious weeds (id. at 159-160); and disqualification of portions of numerous roadless areas, or maybe whole roadless areas in some cases, from ever being designated as wilderness (id. at 256).

While it is true, as the DEIS states at p. 185, that potential adverse effects can be reduced at the project level by good design and application of mitigation measures, the level of activity likely to occur under the Draft Colorado Rule would surely cause considerable adverse impacts to important roadless characteristics, even with well designed and implemented mitigation measures.

Note, e. g., that many ESA-listed and sensitive species appear to be selecting roadless areas with “exceptionally high wildlife values”. DEIS at 198. Roadless areas containing such features where road construction or logging are likely to occur are listed in DEIS Appendix F. Note that the list there is quite long, i. e., there are many roadless areas with important wildlife values where destructive habitat alteration could occur under the Draft Colorado Rule. This is a strong indication of the pervasive threat to wildlife habitat in roadless areas that would likely occur with implementation of the Draft Rule 2.⁶

In sum, the 2001 Roadless Rule would provide much more protection against road construction and reconstruction in roadless areas than would the Draft Colorado Rule, and the Draft Rule would provide only a little more protection from some destructive activities than no rule at all in the next 15 years.

2. Temporary roads, including “long-term temporary roads”, have adverse effects similar or equal to permanent roads, and would be difficult to restore. Many of the roads that could be built or reconstructed in roadless areas under the Draft Colorado Rule would be “temporary”. See section 294.33(c). However, construction techniques for temporary roads can be, and often are, the same as for specified, or permanent, roads. Culverts are often installed, and cuts and fills are used to increase road stability in areas traversing steep slopes, for temporary roads. See further discussion in our ANPR comments at pp. 23-24. See also DEIS at 187, which states that temporary roads “present most of the same risks posed by permanent roads⁷” for wildlife.

⁵ The discussion of impacts to scenery under alternative 2 at DEIS p. 270 severely understates the impact of this alternative. Some roads would exist for decades, and thus be long-lasting scars on the land, even if closed to public use. Each fuel reduction project that employed logging would be noticeable for several years. There would likely be many such projects in roadless areas in the next 15 years.

⁶ Appendix F lists roadless areas where there is potentially higher risk for wildlife because road construction and/or logging are likely to occur “under one or more alternatives”. See DEIS at F-1. Since alternative 2, the Draft Colorado Rule, would allow considerable activity in roadless areas, many of the ones listed would suffer under implementation of the Draft Rule.

⁷ This passage goes on to say that “the impacts would likely be of shorter duration”. However, that would not be the case with long-term temporary roads. See discussion in main text in this subsection below.

The definition of temporary road in the Draft Colorado Rule includes a requirement that once the need for a temporary road ends, or the use authorization terminates or expires (whichever comes first), the road must be “decommissioned and the affected landscape restored”. Section 294.31. The intent of decommissioning and landscape restoration, “to preserve the roadless character of CRAs to the maximum extent practicable” (Draft Rule Preamble at 73 Fed Reg 43547) is commendable.

However, any roads with cuts and fills are very difficult to fully restore. Such restoration would be expensive and could cause adverse impacts to soils and water quality, as: fills must be removed, cuts restored, the terrain shaped as closely as possible to the original contours, and vegetation reestablished on disturbed areas. This requires considerable earth moving to accomplish, increasing the risk of soil erosion and sedimentation of streams. Similarly, removing culverts is likely to unleash sediment into streams be destabilizing stream banks. The possibility of causing environmental harm by recontouring a slope that formerly had a road is acknowledged in the Preamble at 73 Fed Reg 43547. These problems can, of course, be avoided by not building the roads in the first place.

There is also the question of what “decommissioning” means, as there is no definition of this term in the Draft Colorado Rule. The Forest Service Manual defines the term as follows:

Decommissioning includes applying various treatments, which may include one or more of the following:

- a. Reestablishing former drainage patterns, stabilizing slopes, and restoring vegetation;
- b. Blocking the entrance to a road; installing water bars;
- c. Removing culverts, reestablishing drainage-ways, removing unstable fills, pulling back road shoulders, and scattering slash on the roadbed;
- d. Completely eliminating the roadbed by restoring natural contours and slopes; or

Other methods designed to meet the specific conditions associated with the unneeded roads.

FSM 7703.2 (2); emphasis added.

Thus decommissioning could mean merely closing a road without actually removing any of it, allowing it to naturally become revegetated. However, this would likely allow at least all-terrain vehicle and motorcycle usage for a decade or more, as well as foot and

horse traffic for at least that period.⁸ Requiring “obliteration”, under which the road is totally removed from the land, is more appropriate. Note that the 2001 Rule required obliteration of roads used for mineral leases when the road was no longer needed or when the lease terminated or expired. 2001 Rule at 36 CFR 294.12(b)(7). The language in the Draft Colorado Rule on restoration, which must be done “to achieve complete stabilization and restoration to a condition generally consistent with the pre-existing roadless characteristics”, is good and should be retained.⁹

Finally, there is the question of availability of money for decommissioning of temporary roads. Forest Service budgets are very low and not expected to increase significantly in the near future. Thus under this situation, it is unlikely the agency would have sufficient funds to decommission all the temporary roads that could be built in roadless areas under the Draft Colorado Rule and to restore the surrounding landscapes. Prior to the initiation of any roadwork, all leases and surface use plans of operation in roadless areas under which road construction or reconstruction of any kind will be authorized must require operators to post bonds or deposits sufficient to cover the costs of any road obliteration and landscape restoration.

The problems described above would be even worse for “long-term temporary roads”. Like regular temporary roads, these are not “forest roads”, i. e., they are not roads

that the Forest Service determines [are] necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

Section 294.31. See also FSM 7705.

However, this is contradicted by DEIS at 47:

Roads built for access to existing oil and gas leases as of the date of the Colorado Rule and roads built to accommodate coal mining exploration and coal-related surface activities in the North Fork coal mining area will be considered forest roads, thus part of the National Forest System.

Emphasis added. The Draft Rule Preamble at 73 Fed Reg 43547 states that long term temporary roads

would be included in the forest transportation system, ensuring they will be monitored and maintained in compliance with the terms of the applicable permit or special use authorization.

⁸ Even a well-revegetated roadbed is still an obvious path. Without restoring original contours or establishing dense stands of trees of at least sapling size, a road can still be used for travel.

⁹ This must not be taken as an endorsement of the Draft Colorado Rule’s allowance for construction of temporary roads for a variety of purposes. We oppose those provisions, as is clearly stated in this section of the comments. However, we recognize that some temporary roads would get built in roadless areas under any alternative, due to the need to allow access for valid existing rights, such as for mineral leases issued prior to the effective date of the 2001 Rule.

Many of the roads constructed for oil, gas, and coal leases would be long-term temporary roads, since they will exist and be used for as long as the lease is producing, which can be “many decades” (DEIS at 92, 242); the average life of a producing oil or gas well is assumed to be 30 years (id. at 112). Thus the DEIS and Draft Rule Preamble directly contradict draft Rule language on whether such roads are forest roads. This must be clarified. In any case, forest roads would be more difficult to remove from the transportation system, since the Forest Service would be reluctant to give up the investment it had made to construct and maintain these roads.

Long-term temporary roads would be included in the “forest transportation atlas”, but normal temporary roads are not so included. Section 294.31.¹⁰ This is appropriate, since the former “would be expected to continue for many decades”. DEIS at 92, 242.

But this longevity makes these roads essentially permanent. These roads would need considerable pre-construction and construction engineering, much more so than would a true temporary road (i. e., one intended only for very short-term use that is constructed with only very minor earth moving, and with no culverts, slope cuts, or fills), to ensure that resources like soils and water quality did not suffer irreparable harm.

Alternatively, for any roads that were constructed with permanent road-type features or in areas with unstable slopes or other environmental challenges, but without adequate engineering design for construction, the impacts would be even more severe than for permanent roads. In any case, these roads would need regular maintenance over their lives to retain the function of the roads for their intended uses and to minimize resource damage. (See quote from Preamble above.) Also, the Draft Colorado Rule allows authorized temporary roads to be reconstructed. Section 294.33(c)(1). Note that “reconstruction” means, among other things, “actual building”. Section 294.31; see also 36 CFR 212.1.

As with regular temporary roads, long-term temporary roads would have to be “decommissioned and the affected landscape restored”. Section 294.31. However, the high level of design, engineering, and construction of these roads, designed to last several decades, would also make it much more difficult to obliterate them and to restore the surrounding landscape. They would in effect be permanent, not “temporary”, roads. Their construction and longevity would cause a long term loss of roadless characteristics.

Long-term temporary roads should not be allowed in roadless areas. If they are allowed, an EIS must be prepared before approval of any construction or significant reconstruction. An EIS must also be prepared for regular temporary roads when a network of such would be built, such as for coal exploration and methane disposal¹¹, or for fuel reduction projects, which would result in degradation of roadless area

¹⁰ A forest transportation atlas is “a display of the system of roads, trails, and airfields of an administrative unit”. Id.

¹¹ The Draft Colorado Rule would allow both temporary and long-term temporary roads for coal mining. Section 294.33(c)(6).

characteristics. All EISs must be prepared in accordance with the CEQ Regulations at 40 CFR 1500 et seq.

3. The draft rule would allow almost unlimited road construction for treatments in areas covered by a community wildfire protection plan (CWPP) or in the wildland-urban interface. Proposed section 294.33(c)(3) would carve out a wide exception to the prohibition on road construction in Colorado Roadless Areas, as road construction could occur where:

A temporary road is needed for treatment actions and in areas identified in a community wildfire protection plan or, if a community wildfire protection plan is not present, within areas of the wildland-urban interface¹².

This could result in construction of 88 miles of new roads in roadless areas in the next 15 years under the Draft Colorado Rule. DEIS at 150. What's more, the term "treatment" is never defined in the Draft Rule.

Road construction for fuel reduction logging should never be needed in portions of roadless areas that are not close to at-risk communities, as implementing activities from these roads would provide little or no protection to such communities, but would harm roadless characteristics. See discussion in sections IV C 1-3 below. Thus roads would not be needed in areas far away from these communities. Furthermore, construction of roads, even "temporary" ones, would greatly degrade roadless characteristics. The roadless characteristics of small roadless areas (under about 8,000 acres) could be almost totally destroyed by road construction a few miles into the interior of such an area.

Areas accessible by roads also have a much higher chance of fire ignitions, as statistics clearly show. See, e. g., USDA Forest Service, 2000 at 3-115, -116, and Eastman et al, 2002. The fact that roads for logging under this provision would be temporary and closed to public use (Draft Rule at 294.33(c)(4) and(d)) does not significantly reduce the danger of ignitions. The numerous trips made by personnel implementing projects could result in fire ignitions. Also, road closures are often disobeyed, especially during big game rifle hunting seasons, and hunters often build campfires.

This exception to the general prohibition on road construction in CRAs is so broad that it could almost negate the prohibition for sizable portions of some roadless areas, leaving many CRAs vulnerable to road construction. It could also lead to increased fire ignitions, the very result the provision is designed to reduce or prevent.

4. The Draft Rule would allow road construction on many roadless acres in oil and gas leases, including some leases issued after the effective date of the 2001 Rule. The

¹² The wildland-urban interface, or WUI, is broadly defined. See Draft Colorado Rule at 294.11. See also discussion below in section V C 3.

draft Rule would only prevent road construction on oil and gas leases for those leases issued after the effective date of the Colorado Rule. In other words, road construction would be allowed on any leases issued prior to that effective date that do not have stipulations preventing this activity. Section 294.33(c)(5).¹³

According to the DEIS, 152,459 acres of Colorado Roadless Areas are leased for oil and gas, and road construction would be allowed on 129,238 of these acres under alternative 2. DEIS at 116.¹⁴ Road access and surface occupancy would be allowed on approximately 57,500 acres of roadless lands leased after the effective date of the 2001 Rule (January 12, 2001) that do not have stipulations prohibiting surface occupancy. DEIS at 117. If the 2001 Rule is finally declared to no longer be in effect, leases on an additional 10,100 acres, which have road prohibitions directly linked to the 2001 Rule, could have road construction. Id. Thus it is clear that the Draft Colorado Rule provides much less protection against road construction for oil and gas leases than does the 2001 Rule, which would prohibit road construction on leases issued after its effective date (January 12, 2001).

In total, establishment of 674 wells on 143 well pads with construction of 136.5 miles of access roads could occur in roadless areas in the next 15 years under the Draft Colorado Rule. DEIS, id. Note that this does not provide much more protection than no roadless protection rule (alternative 3), under which 731 wells on 132 well pads could be established, with 140 miles of road. DEIS at 121. The DEIS states that the Draft Colorado Rule (alternative 2) “would result in approximately the same amount of oil and gas infrastructure development as alternative 3”. DEIS at 116, emphasis added. Note the contrast with what would likely occur under the 2001 Rule (alternative 1): 252 wells on 59 well pads, with 54 miles of road. DEIS at 113.

5. The Draft rule would inappropriately allow permanent road construction for new, as well as existing, water conveyances and utilities. Section 294.33(b)(6) would allow construction of new, permanent roads for access to construct new facilities in roadless areas as well as maintenance of existing facilities. The types of facilities allowed are defined as follows:

utilities are existing and future transmission lines used for electrical power and water conveyance structures are existing and future diversion structures, headgates, pipelines, ditches, canals, and tunnels (but shall not include reservoirs).

Section 294.31; emphasis added.

¹³ The DEIS incorrectly states that under alternative 2, temporary roads can be built “[w]here...needed in conjunction with the continuation, extension or renewal of an oil and gas lease”. DEIS at 49. This is language is from the 2001 Rule. The Draft Colorado Rule language merely state that a temporary or long term temporary road can be built if “needed in conjunction with an oil and gas lease”. Section 294.33(c)(5).

¹⁴ These figures likely understate the impact slightly, as the analysis only covers roadless areas where at least 640 acres are leased. EIS at 115.

Construction of new facilities for these types in roadless areas would degrade roadless values. The presence of electrical transmission lines would mar scenery and might have adverse effects for avian species of wildlife. Constructing towers for overhead lines would first require linear clearcuts, if the lines traversed forested areas. That would fragment wildlife habitat.

Water conveyances such as pipelines and ditches and the roads necessary to construct them would require considerable earth movement, which could lead to weed infestation and spread in remote areas that currently have no weeds. The same would be true if underground electrical lines were installed. Any water conveyance or utility would require maintenance of a road for the life of the facility, diminishing roadless characteristics in that portion of an affected roadless area.

Allowing road construction for new facilities in roadless areas is, in essence, an open invitation for water and utility companies to build apply for permits to build such facilities in roadless areas. New facilities in these areas are absolutely inappropriate, as their presence and the associated roads would degrade or eliminate roadless characteristics in remote portions of some of Colorado's roadless areas. Utilities and water conveyances can more properly be located outside of roadless areas.

This provision of the Draft Colorado Rule must be modified to allow only maintenance of existing roads, and only to retain roads to existing facilities at the minimum standard necessary for such access.

6. Additional coal mining and associated roads should not occur in roadless areas. Section 294.33(c)(6) would allow construction of temporary, or long-term temporary, roads for the purpose of accessing coal to be mined anywhere in the area identified on the North Fork coal mining map included with the DEIS.¹⁵ This could include up to 29,000 acres. 73 Fed Reg 43554. Ten to 20 drainage wells are constructed for each 640 acres (one square mile) mined, with each well occupying approximately 0.33 acres. DEIS at 108. A road would be needed for each well. Thus a big network of roads would be needed for coal mining in roadless areas. Therefore, the road construction that could be done in the North Fork coal mining area would be very harmful to roadless area characteristics.

There should be no mining or road construction or surface occupancy or disturbance in roadless areas on any coal leases issued after the effective date of the 2001 Rule, or on any areas yet to be leased.

At a minimum, any roads allowed for coal mining, as well as actual mining, in roadless areas must be restricted to areas adjacent to the three existing mines in the greater North Fork area. This would eliminate a need for any new portals, i. e., mine entrances, which

¹⁵ The map is actually entitled: "Existing Coal Leases and Colorado Roadless Areas, Grand Mesa-Uncompahgre-Gunnison National Forests: Alternative 2", hereafter "Alt. 2 coal mining map".

require a great deal of surface disturbance. It would also conserve the Currant Creek CRA, which is not near any existing mining. This roadless area: is remote, with difficult access and travel; is important fawning and calving ground; has deer and elk winter range; and is highly utilized by black bears in fall. Profiles of Colorado Roadless Areas (DEIS Appendix) at 66-67. About one-third of the area also has steep oak brush canyons, presenting a vegetation type that is not very prevalent in Colorado's roadless area. Id. and DEIS at 131.

Surely, this is an area worth protecting.¹⁶ Roads and coal mine facilities would fragment habitat and lead to a major degradation of roadless characteristics in this important, lower elevation roadless area.

Limiting mining and access roads to areas adjacent to existing mines would also conserve roadless land in the southern third of the Pilot Knob CRA and in the southeast corner of the Flattops/Elk Park CRA. See Alt 2 coal mining map. Most of the portions of these roadless areas within the North Fork coal mining area are not near any existing mines.

The roadless areas identified above are mostly or entirely not currently leased for coal, so prohibiting mining in them would not require termination or buy-out of leases. Again, see Alt 2 coal mining map.

The area where coal mining and access roads will be allowed must not include the entire acreage of the Flatiron and Sunset CRAs, as would under the Draft Colorado Rule. (See alt. 2 coal mining map.) Most of the land in these CRAs is not currently leased for coal. Allowing mining and road construction throughout these areas would completely eliminate these roadless areas. That is unacceptable.

7. New roads are not needed for livestock grazing operations. The Draft Colorado Rule would allow construction of permanent roads for livestock grazing. Section 294.33(b)(7). Such roads are clearly not needed, as the following text from the DEIS demonstrates:

...those who have grazing permits for allotments in roadless areas have been effectively managing their livestock in these areas for long time periods without the necessity of additional roads. They typically rely on pack and saddle stock to manage the livestock and maintain their range improvement structures. In specific instances, their permit[s] may include authorized use of motor vehicles to access specific locations for specific needs associated with their permit[s]. Such actions would not require construction of a road, but would allow one-time, over-ground motorized access to the area. Range management personnel on the national forests of Colorado do not foresee a need for additional roads in roadless areas in support of livestock grazing management in those areas over the next 15 years under any alternative.

¹⁶ Two oil-gas leases issued prior to the effective date of the 2001 Rule cover 792 acres, but most of this has a no surface occupancy stipulation. Profiles at 67.

DEIS at 278; emphasis added.

Livestock grazing on national forest land is not likely to increase in the foreseeable future. Many ranches are going out of business in the face of difficult economic conditions¹⁷, and aging owners whose offspring are not interested in working long hours for low pay. Many national forest allotments are vacant, and more will become vacant in the near to mid-term future.

It could not be more clear: there is no need for road construction in roadless areas, let alone for permanent roads, to support livestock grazing. The provision allowing construction of any roads for livestock grazing must be deleted from the final Colorado Rule. Any essential motor vehicle access can be granted, as it is under current management, by permits allowing one-time or very short-term use for a specific purpose.

8. Fuelwood gathering via motor vehicles operating off designated routes or temporary roads must not be allowed in roadless areas. The DEIS at p. 297 states that fuelwood gathering could be allowed from temporary roads in roadless areas if this activity “is deemed by the local district as an approved use of those temporary roads”. However, the Draft Rule does not generally allow this, as temporary roads are closed to motorized use “unless specifically used for the purpose for which the road was established”, with exceptions for administrative use, law enforcement, other emergency access, and specific written authorization issued under Federal law or regulation. Section 294.33(d).

Fuelwood gathering usually involves people driving motor vehicles off roads to retrieve firewood. But even if it could legally be done under the Draft Colorado Rule or other authority, allowing fuelwood gathering would not be appropriate in roadless areas if motor vehicle use off of designated routes or temporary roads was allowed. Such activity would degrade roadless area characteristics, such as undisturbed soil, reference landscapes, and natural-appearing landscapes with high scenic values.

The Forest Service does not have the personnel to properly supervise firewood gathering, even in well-roaded areas. The only situation in which firewood gathering from temporary roads in roadless areas might be acceptable is when slash disposal was needed as part of an authorized fuel reduction project for which an existing or new temporary road was used. But even then, material to be offered as firewood would have to be placed, but not piled¹⁸, near roads to prevent or discourage soil damage from vehicle use off of designated routes or temporary roads.

¹⁷ The existing state of the U. S. economy will make this situation even worse, as it will likely be very difficult or impossible for many ranchers, already heavily in debt, to borrow any additional money.

¹⁸ It would likely not be safe for firewood gatherers to pull apart log piles to get firewood.

C. THE DRAFT RULE WOULD ALLOW EXCESSIVE LOGGING, TO THE DETRIMENT OF ROADLESS VALUES.

1. The Draft Colorado Rule's provision for logging for fuel treatment would not ensure focus on maximizing the effectiveness of treatment. The undersigned recognize the need for reducing fuels in areas adjacent to homes and communities. But we believe that treating any such locations within roadless areas can and must be done without sacrificing roadless characteristics.

It is clear from Forest Service research that the best protection for homes is accomplished by making the home fire-resistant and treating vegetation in the immediate surrounding area. See Cohen, 1999 and 2000. See a more detailed discussion on this issue at pp. 21-22 of our ANPR comments. Without creation of defensible space around homes, even treatments adjacent to the homes, let alone far away from them, would provide little fire protection. Any logging in roadless areas done outside the areas immediately surrounding homes and communities should thus be limited to specific purposes, such as to provide escape routes for residents or provide access routes for firefighters.

However, the Draft Colorado Rule would allow road construction and logging on all roadless lands to reduce the hazard of wildfire effects or large-scale insect and disease outbreaks "in areas covered by and as provided in a community wildfire protection plan...". 36 CFR 294.34(b)(1)(ii). As with road construction (see section IV B 3 above), this would allow logging on a large area of roadless lands, some of it miles from any housing, communities, or infrastructure. Indeed, many CWPPs cover whole counties. See Exhibit 3. The total acreage logged after 15 years could be 114,000 acres, or three percent of the total CRA acreage. *Id.* Note that only 12,000 acres would be logged under the 2001 Rule (alternative 1) in the same time period. *Id.*

The Draft Colorado Rule would thus allow logging in areas where treatment would not address needs to protect private and municipal properties from wildfire. As such, it would discourage the focusing of fire risk reduction treatment in areas where it is most needed.

Implementation of this provision would not significantly reduce the risk of fire, as there is no substantial difference in the potential for large fires to occur in roadless areas among the three alternatives considered in the DEIS. DEIS at 82.

The Draft Rule provision being discussed here does state that projects are to be implemented after giving "careful consideration to roadless area characteristics as defined by this rule". Section 294.34(b)(1)(ii). However, we do not believe that this would ensure adequate protection of roadless area characteristics, as this consideration is only to be applied insofar as it is "[c]onsistent with the purposes of this paragraph". *Id.* In other words, the emphasis would be on addressing effects of insects or diseases and/or reducing fire risks, not on maintaining roadless characteristics.

Widespread salvage logging and associated road construction in response to mountain pine beetle attacks, for example, which would be allowed by section 294.34(b), would

leave any roadless area so treated in a degraded state, as dead and dying trees are typically clearcut and removed during such operations.¹⁹ This means there could be widespread clearcutting in roadless areas under the Draft Colorado Rule. At a minimum, the following identified roadless characteristics would be degraded: high quality undisturbed soil, water and air; diversity of plant and animal communities; reference landscapes; and natural appearing landscapes with high scenic quality. See the Draft Colorado Rule at 36 CFR 294.31 and DEIS at 23-24. Intense treatment, along with the presence of roads, could be sufficient to warrant consideration of removing treated areas from the roadless inventory.

It is important to recognize that dead trees, even high concentrations of them, while not desirable immediately adjacent to communities, are part of the natural ecological regime in Colorado, especially in ecosystems dominated by lodgepole pine. Since natural values receive emphasis in roadless areas, any roadless rule must ensure that roadless values in areas not immediately adjacent to communities are not unduly degraded. The Draft Colorado Rule does not provide this protection.

Treatment could conceivably occur over a fourth or more of Colorado's roadless acreage. See Table 32 at p. 142, which shows that 24-25 percent of the State's roadless acreage are within three miles of an at-risk community. Such areas are often included in CWPPs. Logging is projected in nearly all of the roadless areas on the Pike-San Isabel National Forest, including those with a threatened fish species. DEIS at 229. In numerous roadless areas, logging is "somewhat likely", "very likely", or proposals are being studied or have already been approved. DEIS at C-3 through C-7. Overall, the DEIS projects that 7600 acres in roadless areas would be logged annually. DEIS at 77.

The fact that tight budgets and other factors might limit widespread application of authority for logging in roadless areas (see DEIS at 77) is not a valid defense of this provision. Budgets may change; indeed, intense efforts are currently underway to score more appropriations for Colorado in order to treat much more of the federal land in Colorado that has mountain pine beetle mortality, some of which has occurred in roadless areas. Thus the broad authority for logging could easily get used over sizable areas of Colorado's roadless lands in the relatively near future. Also, the mere existence of a provision allowing logging in portions of roadless areas miles away from communities invites responsible officials to use it.

Similar to the provisions for road construction, the Draft Colorado Rule's extremely permissive logging provision could essentially negate application of the general prohibition on logging in some roadless areas.

2. CWPPs cannot be used as a the basis for authorizing logging in roadless areas. The amount of area covered by individual CWPPs varies greatly across Colorado. Some cover a relatively compact, site-specific area, but others cover whole counties. Note the

¹⁹ Approximately 600,000 acres, or 14 percent, of Colorado roadless acreage is considered to be at high risk for insect and disease mortality. DEIS at 133.

following from the Colorado State Forest Service website: “A CWPP can be developed for any level of ‘community’, from a homeowner’s association or mountain town to a county or metropolitan city”.²⁰ Numerous counties are each covered by single CWPPs, (see Exhibit 3), as is a large area of northern Routt County in the North Rout CWPP. Many of these of these CWPPs include thousands of acres of roadless lands.

There are no agreed-upon standards for how much land a CWPP should cover, nor for how much detail on desired treatments should be provided, as is clear from the CWPP Handbook, 2004:

The language in the HFRA provides maximum flexibility for communities to determine the substance and detail of their plans and the procedures they use to develop them.

Handbook at 2.

CWPPs that cover a large area are simply not sufficiently site-specific to provide the basis for authorizing individual projects. This point is reinforced by information on the Colorado State Forest Service’s website:

County level plans can be used as an umbrella for community plans but should not be considered a substitute. A county plan will not provide the detail needed for project level planning.

CSFS, id.

In this light, a county-wide CWPP or any CWPP that covers a large area (like the one for Eagle County, which covers more than one million acres) should never be used alone to authorize any fuel reduction projects. That applies even more strongly for projects within roadless areas, where many important values could be harmed by logging (and associated road construction) during implementation of projects that might not even provide any fire protection for homes and communities because they might be very distant from those homes and communities.

With no agreed-upon standards for identifying and prioritizing areas for treatment, CWPPs must not be used to authorize logging in roadless areas. This provision must be deleted from any Colorado Rule. We provide more specific substitute language for addressing the issue of fuel reduction in roadless areas adjacent to occupied private property in the Recommendations section at the end of these comments.

3. In the absence of a CWPP, the Draft Rule would inappropriately allow logging up to 1.5 miles from communities. There is no guidance in the Draft Rule for determining community boundaries. If a CWPP does not exist, 36 CFR 294.34(b)(1)(i) would allow

²⁰ <http://www.csfs.colostate.edu/cwpp.htm>

logging in the wildland-urban interface (WUI). The Draft Rule defines WUI, for areas where no CWPP is in effect, as an area within one-half mile, and in some cases, 1.5 miles, of an at-risk community. See 36 CFR 294.31 and 16 U.S.C. 6511 (16).

Similar to the draft Rule's allowance for logging anywhere covered by a CWPP, this is excessive. Logging 1.5 miles away from at-risk communities would do little to reduce the risk of fire to those communities, especially if little or no action had been taken to reduce the risk of fire in the area immediately surrounding each community. It is true that burning embers, or firebrands, can break off from a crown fire and land some distance away to start another fire. But if adequate measures had been taken in and near communities, there would be little or nothing for a firebrand to burn.

Intact roadless areas near communities are very important, as they provide clean air and water, effective habitat for a variety of wildlife species, and much opportunity for recreation. As more and more people move to Colorado and settle in communities near roadless areas, the value of these areas will increase to even higher levels. We believe that a reasonable level of protection can be provided for communities without destroying roadless area values. See Recommendations section at the end of these comments.

4. Broad authority for logging in roadless areas for wildlife management must not be granted. Section 294.34(b)(1)(i) of the Draft Colorado Rule would allow logging

For management and improvement of wildlife and plant species (including threatened, endangered, proposed, or sensitive species) in coordination with the Colorado Department of Natural Resources, including the Colorado Division of Wildlife.

As with the liberal permission for logging in response to a perceived threat of fire and insects and diseases, this provision is also too broad and unnecessary. It is very unlikely that logging in roadless areas would be beneficial to wildlife and plants. Indeed, one roadless characteristic is: "diversity of plant and animal communities"; another includes "habitat for...those species dependent on large, undisturbed areas of land". Draft Colorado Rule at 294.11.

But logging, by definition, cuts down, and usually removes, trees, the very habitat needed by many species of wildlife. We know of no terrestrial wildlife species with important habitat on national forest land that are heavily dependent on non-forested areas.²¹ Logging is a disturbance that would drive wildlife away from an affected area. After logging, the changed habitat would likely be undesirable or unsuitable, or at least less desirable and less suitable, for many species of terrestrial wildlife. Logging could also harm aquatic species by causing deposition of sediment in streams and lakes.

²¹ This would not be true for wildlife on the national grasslands, but those lands are not at issue here, as the grasslands in Colorado do not have any roadless areas.

Thus it is difficult to see how logging in roadless areas would benefit wildlife, and harm to many species would be considerably more likely to occur than any benefit.

Similarly, it is difficult to envision a scenario under which logging would benefit rather than harm plants. The use of heavy equipment for logging and road construction compacts soils, making it difficult for most plants to grow. Such equipment can also directly kill groups of plants and even small populations of them. Seeds of noxious weeds often come into lands being logged on vehicles used in logging and road work. If weeds get established, native plants would be reduced in coverage or eliminated from an affected area.

Any logging desired to improve wildlife habitat could be better done outside roadless areas where roaded access already exists. Any such logging in roadless areas must be limited to that needed to “to improve threatened, endangered, proposed, or sensitive species habitat” as provided in the 2001 Rule at 36 CFR 294.13(b)(1)(i). Such logging should also maintain or improve roadless characteristics, as was also required by the 2001 Rule. *Id.* 2001 Rule at 36 CFR 294.13(b)(1).

5. Unlike the 2001 Rule, the proposed Colorado Rule would not require logging to be infrequent and to generally be limited to smaller diameter trees. Under the 2001 Rule, logging in roadless areas was expected to be infrequent and to consist of “generally small diameter timber”. 2001 Rule at 36 CFR 294.13(b) and (b)(1). There are no such limitations in the Draft Colorado Rule. In most places in Colorado, logging that prioritizes removal of small diameter material will likely be the most effective in reducing the threat of uncharacteristic wildfire.²²

Furthermore, the 2001 Rule required that any logging “maintain or improve one or more of the roadless characteristics”. *Id.* at (b)(1). In contrast, the Draft Colorado Rule requires only that logging; a) for wildlife “should be designed to maintain or improve roadless characteristics” (section 294.34(b)(1)(i); emphasis added); and b) for implementation of projects addressing insect and disease outbreaks and wildfire risk reduction, the responsible official shall give “careful consideration to roadless area characteristics” (section 294.34(b)(1)(ii)).

For the latter, the language states that the responsible official “**shall** implement projects to reduce the wildfire threat to communities” after giving careful consideration to roadless areas. *Id.* We are troubled by the use of the word “shall” here, as it could be interpreted to mean that the responsible official is required to implement such projects in roadless areas. That must not be part of any Colorado Rule, as it would ensure destruction of roadless area values and would create confusion on what projects had to be implemented.

²² Recent research has indicated that low thinning, in which small trees less than 20-25 cm in diameter at breast height (dbh) are cut, can reduce fire severity. Conversely, evidence from the Biscuit Fire in Oregon indicates that more intensive mechanical thinning, which involves removing many young and mature trees, can increase fire severity. See Hanson and Odion, 2006.

We strongly recommend that sections 294.34(b)(1)(i) and (ii) be removed from any Colorado Rule. If paragraph (ii) is retained, it must, at a minimum, be reworded to make clear that the Colorado Rule does not require implementation of projects in roadless areas, and to require that any such projects proposed must be designed and implemented so that roadless area characteristics are maintained or improved.

V. LOCATIONS OF POSSIBLE SKI AREA EXPANSIONS MUST REMAIN IN THE ROADLESS INVENTORY. Under a troubling recalculation of roadless acreage, 8,200 acres of land under existing ski area permits or in a ski area management prescription would be removed from the roadless inventory. See Draft Rule Preamble at 73 Fed Reg 53545, 53546, July 25, 2008, and DEIS at 252.

Given the lack of increase in ski area visitation, due to demographics and high lift ticket and transportation costs, the need for ski area expansion is questionable at best. See our ANPR comments at pp. 12-13 for a more detailed discussion. We believe the prediction, stated at DEIS p. 250, that ski area usage will regularly increase well into the future, is incorrect.

Roadless areas are not any less valuable just because they could be developed for ski facilities. (See our ANPR comments at pp. 13-16 for examples of possible ski area expansion locations containing resources and roadless characteristics that are valuable for other uses.²³) Indeed, ski area development triggers intense development on adjacent and nearby private land, making the retention of roadless characteristics and related wild values in such locations all the more important.

The DEIS states that land allocated for ski area expansion from the roadless inventory would “result in removing three roadless areas from CRAs that are of high importance for terrestrial wildlife”.²⁴ DEIS at 197. These CRAs include:

--Bard Creek, which “is a critical connecting land bridge for large carnivores and other wide-ranging species like between the north and south ends of the state”.

--Porcupine Peak, which is “a critical movement area for wildlife and landscape linkage for lynx (Loveland Pass linkage)”.

--Game Creek, which is “a lynx linkage area, deer migration corridor, and elk winter range”. The portion removed from CRA “is located in a vital central position in the Dowd Junction lynx linkage”.

²³ Our ANPR comments describe the benefits of the Treasure Mountain Roadless Area, which could see an expansion of the Wolf Creek Ski Area on the San Juan National Forest (p.16). The proposed action in the draft revised plan for the San Juan Public Lands Center did not include this possible expansion, but one other alternative did, the final revised plan could still do so.

²⁴ Actually, portions of four roadless areas are described: Mt. Sniktau, Bard Creek, Porcupine Creek, and Game Creek.

DEIS at 198; emphasis added. For both the Porcupine Peak and Game Creek Roadless Areas, road construction and logging are “somewhat likely”. DEIS at C-7.

The undersigned well recognize the importance of ski areas to Colorado’s winter economy, and increasingly, to its summer economy as well. However, we feel strongly that important wildlife values, like landscape linkages and other movement corridors for wildlife must not be sacrificed to bolster the ski industry. This would be true even if expansion into the areas within CRAs was considered necessary to meet future ski demand, but it is especially true given that such expansions are not likely to be so needed. (Again see our ANPR comments.)

Removing ski area expansion locations from the roadless inventory would allow roads to be built in these areas for ski area expansion, even though “ski area development may occur without roads”. DEIS at 251. Any roads constructed and used for ski expansions could also be used for other purposes, such as commercial logging, that would be inappropriate in roadless areas and would degrade roadless area characteristics. Thus removing possible ski area lands from the inventory could cause additional degradation of roadless area integrity.

Retaining possible expansion areas in the roadless inventory would help conserve roadless characteristics if the adjacent ski area later expanded into the area, as mitigation measures would likely be much stricter under any roadless rule in roadless areas than outside of them, due to the need to protect roadless characteristics. This could prevent some expansions, and for expansions that did occur, reduce the damage to wildlife habitat and connectivity and reduce moving the expansion areas within roadless areas toward the developed end of the recreation opportunity spectrum. See DEIS at 250.

Land must not be removed from roadless areas just because such land could be made into a ski area. Road construction must not be allowed on the 3500 acres of roadless areas that were added to ski permits after the effective date of the 2001 Rule. (See DEIS at 252).

VI. THE PROCESS FOR CHANGING ROADLESS AREA DESIGNATIONS SHOULD BE MORE RESTRICTIVE. Section 294.37 would allow the Chief to make “administrative corrections” and “modifications” to roadless area designations. A modification, which would be more than a minor adjustment of boundaries (see *Id.* at subsections (a) and (b)), could be made because of “changed circumstances or public need”. *Id.* at 294.37(b).

Why would “public need” be a reason for changing roadless area designations? An area either is roadless or it is not. If an area is roadless, it must be in the inventory. See section III above.

Public need is not defined. Would it take a majority of people living in a geographically identified area expressing a need for change to constitute public need? In the extreme, the

Chief could say that a public need exists to implement more commercial logging or allow industrial scale oil or gas development with roads, and thereby propose to delete all or parts of certain roadless area(s) from the inventory.

We agree there needs to be a process for changing roadless area designations in any roadless rule. Indeed, we believe that many thousands of acres must be added to the inventory of roadless areas in Colorado. See section III and Exhibits 1 and 2 of these comments. However, “public need” should not be a reason for changing the roadless inventory. Therefore, we ask that this clause be deleted from any Colorado Roadless Rule. Provisions for public comment on any changes should be retained.

VII. MISCELLANEOUS

In the DEIS:

Page 34 states that all public comments received during scoping for the proposed rule are on the Forest Service’s roadless website. We do not find them there.

Page 142: The column headings for Table 32 should make clear that the percentages expressed are for roadless acres, not roadless areas.

Page 144 states that only eight percent of roadless acres have vegetation cover types that are characteristic of Fire Regime V, which is very infrequent fires. However, according to page 131, 24 percent of roadless acreage is covered by the spruce-fir type, which typically has a very long fire return interval, i. e., one that should fit into Fire Regime V.

Pages 229, 232: in the table stating effects on aquatic species and habitat for alternative 2, it says that oil and gas operations would continue in some portions of the roadless area on the Manti-La Sal National Forest. However, this statement is not in the corresponding table for alternative 3, even though alternative 3 is at least as permissive for oil and gas operations as alternative 2.

Page 255: Table 51 shows the areas and acreage recommended for wilderness in each national forest, but it is likely not accurate. Some of the acreage in areas listed here has already been designated wilderness, most prominently most or all of the 187,000 acres in the Sangre de Cristo area on the Pike-San Isabel National Forest. At least some of the acreage listed for Buffalo Peaks and Greenhorn on this national forest have been designated wilderness. Also, 39,800 out of 47,000 acres in Fossil Ridge on the GMUG National Forest has been designated as a special management area. DEIS at 258.

Page 268: In the list of visual quality objectives, the “preservation” VQO is omitted. It corresponds to “very high (unaltered)” in the scenery management system.

Page 269: The Arapaho-Roosevelt National Forest now uses the Scenery Management System, per a 2006 amendment to the Forest Plan.

Pages 316 and 320: the former says that 118 at-risk communities in 20 counties could benefit from additional fuel reduction treatments in alternative 2 compared to alternative 1, but at the latter, the corresponding figures are 132 communities in 12 counties.

In Profiles of Colorado Roadless Areas:

Pages 81-82: the size of the Long Canyon CRA is listed as 17,500 acres and as 22,400 acres.

Page 98: Whitehouse Mountain is west, not northeast, of Ouray. The Wilson CRA is in San Miguel, not Telluride, County.

Page 204: The South Fork CRA is east of Glen Eden, not west.

Page 209, second paragraph under “Roadless Characteristics”: the Whalen Creek CRA is adjacent to the Zirkel Wilderness, not the Sarvice Creek Wilderness. It is correctly stated elsewhere in this paragraph and other places in the write-up for this area.

Page 254: the Hunter CRA is listed as 1100 acres and 6500 acres.

Pages 259-260: the descriptions for CRAs Meadow Mountain A and B are almost exactly the same. But they should not be, as they are separate areas, and thus their boundaries should be different.

In the Risk Assessment:

The Risk Assessment does not discuss the risk to wildlife, landscape linkages, and lynx from removing from the roadless inventory roadless areas that could become part of ski areas. Clearly, such values would be at greater risk under alternatives 2, which removes possible ski areas from the roadless inventory, and alternative 3, which provides no specific protection for roadless areas, compared to alternative 1, under which possible ski areas would remain under roadless protection. See, e. g., DEIS at 198-199.

CONCLUSION. The Draft Colorado Roadless Rule is absolutely unacceptable. It simply does not ensure protection of Colorado’s national forest roadless areas at anywhere near the degree they deserve. Rather, the draft Rule seems designed to allow almost unlimited discretion for managers to approve and implement activities in roadless areas that would damage or even destroy important roadless area characteristics.

Given the failure of the Draft Colorado Rule to protect roadless areas and the strong desire of the public to see these areas protected, the Forest Service must not rush to make a decision about a possible Colorado Rule.

RECOMMENDATIONS. The undersigned support the strong roadless area protections provided by the 2001 Rule. While we support a national roadless protection rule, any final Colorado rule must follow all of the recommendations listed below to ensure adequate protection of the State's roadless area values and characteristics.

Roadless inventory. The Forest Service must accurately assess its lands so that all roadless acreage is included in the inventory.

Fuels Reduction. Neither CWPPs nor a very liberally defined WUI can be used to determine where road construction and logging can occur in roadless areas. In some locations, roadless area boundaries come very close to homes or other structures. In most such locations, fuel reduction treatments that would most effectively protect buildings can still be implemented outside the roadless area. In a few areas, the roadless area boundary may be so close that fuel reduction needed to protect structures would occur within the roadless area. Exceptions to the prohibitions on logging in the 2001 Rule already cover many of these situations. If no exceptions apply (as might occur in dense lodgepole pine and in areas with steep slopes, especially ones that run downhill from structures), the roadless area boundary can be adjusted in a public process to provide needed protection for communities.

Any logging in roadless areas must be designed and implemented to maintain or enhance roadless area characteristics. Logging should generally be focused on smaller-diameter material and be as infrequent as possible.

Oil and gas activities. Any type of road construction and surface occupancy must be prohibited for oil and gas leases in roadless areas issued since the effective date of the 2001 Rule.

Coal mining. Coal mining and associated roads for leases issued after the effective date of the 2001 Rule must not be allowed in roadless areas. Any such activity that does occur in roadless areas must be limited to areas adjacent to existing mines.

Water conveyances and utility corridors. Roads for new water conveyances and utilities must not be allowed.

Logging for wildlife and plants. Logging for wildlife and plants must be limited to that needed to improve habitat for threatened, endangered, proposed (for Endangered Species Act listing), or sensitive species. Any such logging must maintain or enhance roadless characteristics. Logging should generally be focused on smaller-diameter material and be as infrequent as possible.

Ski areas and roadless inventory. Acreage must not be removed from the roadless inventory because it could be used to build or expand a ski area.

Livestock grazing. New roads must not be allowed for livestock grazing operations. Access needs can be met under existing permits allowing for short term or one-time use of motor vehicles.

EIS needed for long duration roads and any roads degrading roadless area characteristics. If long term temporary roads are allowed, an EIS must be prepared before approval of such facilities. EISs also must be prepared for shorter-duration temporary roads and permanent roads when roadless area characteristics could be adversely affected.

Road obliteration. Any temporary or long-term temporary roads in roadless areas must be completely obliterated after need for their use ends, except where obliteration would cause more harm than benefit to roadless characteristics.

Sincerely,

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EXHIBITS

Exhibit 1: Review of boundaries for Colorado Roadless Areas and Other Roadless Areas in Colorado. Separate file.

Exhibit 2: Maps of roadless areas with acreage excluded from the Colorado Roadless Inventory. Separate file.

Exhibit 3: Status of Community Wildfire Protection Plans In Colorado. Colorado State Forest Service, 2008. Separate file.