



United Four Wheel Drive Associations, Inc.

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The Colorado Roadless Area Review Task Force
Via Draft Recommendations Comment Form

<http://www.zoomerang.com/recipient/survey.zqi?p=WEB225J4W96VJ9>

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Dear Task Force members,

Thank you for the opportunity to comment on the petition recommendations for Colorado Roadless Areas.

- Page 1, lines 26-30: The proposal defines Inventoried Roadless Areas as, "Areas identified in a set of inventoried roadless area maps, contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, which are held at the National headquarters office of the Forest Service, or as such maps may be amended pursuant to the procedures established by this Rule." This definition is legally insufficient insofar as the rulemaking under which the above-referenced Environmental Impact Statement (EIS) was issued has been vacated by the Wyoming U.S. District Court. The only Inventoried Roadless Areas locations and acreage that remains undisputed through the courts are those Roadless Areas identified by Land and Resource Management Plans for the forests in Colorado. Therefore, the definition of Inventoried Roadless Areas should be changed to reflect such.

- Page 1, lines 34-43 and Page 2, lines 1 and 2. The definition for a road has been codified by the agency at 212.1. Therefore, the final petition should replace the proposed definition with the codified definition which states, "Road: A motor vehicle route over 50 inches wide, unless identified and managed as a trail". The currently codified definition of road has been through formal rulemaking and environmental analysis, including public input, and therefore should be substituted for the proposed definition.

- Page 2, lines 3 – 6: The definition for a temporary road has been codified by the agency at 212.1. Therefore, the final petition should replace the proposed definition with the codified definition which states, "Temporary road: A road necessary for emergency operations or authorized by contract, permit, lease, or other written authorization that is not a forest road and that is not included in a forest transportation atlas". The currently codified definition of temporary road has been

through formal rulemaking and environmental analysis, including public input, and therefore should be substituted for the proposed definition.

- Page 2, lines 7-20: The proposed definition for Roadless area characteristics has been vacated by the Wyoming U.S. District Court and has not been codified or formally adopted by the agency through other rulemaking. Therefore, the definition for Roadless area characteristics should be, "Roadless area characteristics. Resources and features that are often present in and characterize inventoried roadless areas, including: (1) Roadless areas previously inventoried in the second roadless area review and evaluation (RARE II), in a unit plan, or in a forest plan, which remain unroaded and undeveloped, and which have not yet been designated as wilderness by law; (2) areas contiguous to existing wilderness, primitive areas, or administratively proposed wilderness that are unroaded and undeveloped; or (3) areas containing all of the following values: (a) an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain; and (b) An area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

- Page 2, lines 21, 22, and 25-31: The definitions for road construction and reconstruction have been codified by the agency at 212.1. Therefore, the final petition should replace the proposed definition for the codified definition which states, "Road construction or reconstruction: Supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a road". The currently codified definition for road construction and reconstruction has been through formal rulemaking and environmental analysis, including public input, and therefore should be substituted for the proposed definition.

- Page 5, line 16: UFWDA acknowledges the appropriateness of the statement "Maintenance of [a] Classified road is permissible in roadless areas." However, this statement should appear elsewhere as subsection (c) within the Roads section rather than as a subsection of paragraph (b) as proposed. The statement is incongruous as written. In short, it allows construction or reconstruction of a road if the Responsible Official finds that the condition exists where maintenance of a classified road is permissible in roadless areas. To correct the problem, the statement about maintenance of a classified road permissible in a roadless area should be a separate subsection of the Roads section, making it clear that maintenance is a clearly and separately defined term from construction or

reconstruction, and therefore not part of the exceptions allowing for road construction or reconstruction.

- Page 5, lines 18 and 19: The sentence, “All roads constructed pursuant to paragraph (b) of this section shall be closed to all motorized vehicles not specifically used for the purpose of the access” is too restrictive upon the agency. For example, if implemented, this sentence prohibits the use of a road for treatment areas identified in a community wildfire protection plan if the road was constructed or reconstructed to conduct a response under CERCLA. Certainly, this proposal does not intend to prohibit road use for vital fire fighting access merely because the road was originally constructed for CERCLA clean-up purposes. Otherwise, the administrative management of these roads would become over burdensome, or worse, exacerbate a catastrophe in the name of strict application of the rule.

- Page 5, lines 24 and 25: The proposal states, “Roadless areas in which temporary roads are allowed and built will not lose their roadless inventory status during the use of the temporary roads”. Please adopt the following sentence to clarify the intent of the proposal. “Roadless areas in which temporary roads are allowed and built will not lose their roadless inventory status during the use of the temporary roads, **based merely on the presence of such temporary roads.**” Otherwise, the proposal seeks to confer upon the agency rights not given where other issues not related to the presence of temporary roads causes the area to lose its roadless inventory status under proper analysis.

- Page 5, lines 25 – 27: The proposal states, “The Forest Service shall conduct an Environmental Impact Statement whenever proposing to build a permanent road, and shall consider a no-road and non permanent road alternative as part of such Environmental Impact Statement.” The determination to conduct an Environmental Impact Statement rather than other analyses can not be determined by agency regulation when such determination does not comply with the National Environmental Policy Act (NEPA) or the Council on Environmental Quality (CEQ) implementing regulations. An EIS may not be required or triggered under NEPA if the construction of a permanent road does not rise to the level of a federal action significantly affecting the quality of the human environment. This petition should not suggest agency adoption of regulations to perform an EIS when an EIS may not be warranted or required under NEPA. To do so will convey to the agency authority they otherwise possess as well as with burden the agency with additional financial and personnel requirements for the preparation of an EIS when an EIS may not be triggered under NEPA.

Thank you for the opportunity to participate in such an important management process for Colorado’s Roadless areas.

Very truly yours,

Carla Boucher

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