

# Testimony of Dennis Larratt before the Committee on Natural Resources January 21, 2010

My name is Dennis Larratt, I reside at 10990 N. Sunshine Dr., Littleton, CO 80125. I am a third generation native of Colorado, my grandfather was the Colorado State Farm Manager for nearly 40 years, so my roots are tied to the ground of Colorado. I have spent virtually all of my life enjoying the Colorado backcountry on horseback, off road motorcycles, foot, skis, and mountain bikes. My recreational interests are equally based in recreation and my love for the beauty and wonders of nature.

Today I am representing the American Motorcyclist Association (AMA) and the Colorado Off-Highway Vehicle Coalition (COHVCO). The AMA was founded in 1924 in an effort to preserve and protect responsible riding opportunities in America. AMA and her sister organization, the All-Terrain Vehicle Association (ATVA), represents the interests of millions of American motorcyclists and ATV riders. I am a lifetime member of the AMA, with my membership dating back to age 13. In 1987 I helped found the Colorado Off-Highway Vehicle Coalition, and have served various roles in the organization, including Chairman two different times. COHVCO represents 4WD, motorcycle, ATV and snowmobile interests in Colorado, with a focus on maintaining access to public lands for responsible use of and stewardship of public lands. We are fortunate to have 22 million acres of public land in Colorado, and it is critically important to maintain public access to it.

I am here to testify against HR 3914, the San Juan Mountains Wilderness Act of 2009. I will try to briefly lay out my concerns about this bill in particular, the current raft of Colorado Wilderness proposals, and Inventoried Roadless Areas.

### Summary of Colorado Wilderness Proposals

It is important to start by identifying the various proposals:

Proposal	# of areas	# of acres	Land Holding
HR 3914, Salazar	11	44,000	USFS, BLM, private
HR 4289, DeGette	34	850,000	BLM, USFS, private
Hidden Gems	40	400,000	USFS, BLM, private
Colorado's Canyon Country	62	1,650,000	Mostly BLM, USFS
TOTAL	147	2,944,000	Some overlap occurs

This summary shows the scale of the Wilderness proposals, and it must be compared to the existing Colorado Wilderness designation of approximately 3.3 million acres of USFS land and 211,000 of BLM lands.

While Wilderness designation is the best known and most explicit management prescription for protection of public lands, Inventoried Roadless Areas and Wilderness Study Areas are currently protected in nearly the same fashion, and both the USFS and

BLM have management prescriptions that provide appropriate protections, while not requiring a literal act of Congress to change them in the future.

We must then look at the areas that are protected as Inventoried Roadless Areas, which total an additional 4.8 million acres in Colorado, see the table below.

The following table is a summary of the Inventoried Roadless Areas

Forest	IRA 1		IRA 2		IRA 3		Designated		Other FS Lands		Total Acres
Pike-San Isabel	582,000	21%	109,000	4%	2,000	0%	427,000	15%	1,658,000	60%	2,778,000
GMUG*	1,038,000	35%	89,000	3%	0	0%	555,000	19%	1,276,000	43%	2,958,000
White River	600,000	26%	40,000	2%	0	0%	748,000	33%	888,000	39%	2,276,000
Arapahoe											
Roosevelt	216,000	14%	167,000	10%	9,000	1%	343,000	22%	852,000	54%	1,587,000
Medicine Bow											
Routt	792,000	28%	29,000	1%	0	0%	334,000	11%	1,750,000	60%	2,905,000
Rio Grande	93,000	5%	438,000	24%	0	0%	436,000	23%	893,000	48%	1,860,000
San Juan	<u>543,000</u>	29%	<u>61,000</u>	3%	<u>0</u>	0%	<u>426,000</u>	23%	<u>848,000</u>	<u>45%</u>	<u>1,878,000</u>
	3,864,000	24%	933,000	6%	11,000	0%	3,269,000	20%	8,165,000	50%	16,242,000
Total IRA											4,808,000

\* GMUG = Grand Mesa, Uncompahgre & Gunnison

IRA 1 = IRA, allows road construction and reconstruction

IRA 2 = IRA, does not allow road construction and reconstruction

IRA 3 = IRA, recommended wilderness

Between current Wilderness designations and Roadless areas, a total of 8.1 million acres are already restricted from development, and largely from motorized and mechanized access. In addition, various management prescriptions restrict millions of additional acres. The USFS is in the process of completing its National Travel Management Rule, whereby all national forests restrict motorized travel to designated routes, with no open travel. The BLM is undertaking a similar approach in moving to designated routes as Resource Management Plans and Travel Management Plans are undertaken.

While there is obvious overlap between some of the proposed Wilderness and some of the Roadless Areas, a simple summation results in approximately 11 million acres, or half of all federal public lands in Colorado being contained in designation and proposals.

### Suitability

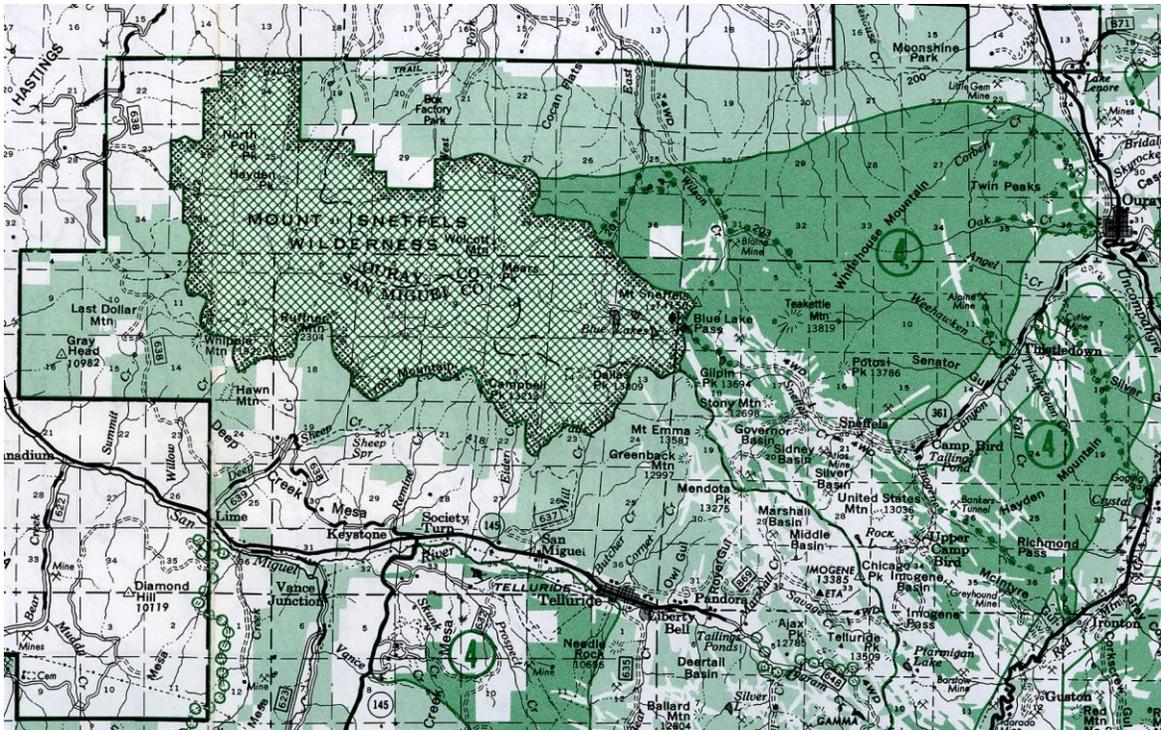
The current Wilderness proposals, both those put forward in legislation, and those that are being promoted by restrictive use groups, are in fact focused on areas that did not pass muster in either the RARE I or RARE II comprehensive wilderness suitability studies. Even the *Conservationists' Wilderness Proposal for Colorado National Forest Lands*<sup>1</sup> does not include any of the areas proposed in HR 3914, or the other proposals. Because the character of the land hasn't changed significantly since the early 90's, and no significant new land has been brought into the USFS or BLM, it becomes apparent that the change is in the political landscape. Every time land is added to the Wilderness

<sup>1</sup> The Conservationists' Wilderness Proposal for Colorado National Forest Lands, first edition, second edition 1991, first few pages provided in pdf format on electronic copy

inventory, the next round of proposals begin, either with legislators or with restrictive use groups.

Congress has charged the Secretaries of Interior and Agriculture through the USFS and BLM with identifying areas for additional Wilderness designation. The sum total of the USFS Inventoried Roadless lands that were recommended for designation is only 11,000 acres. Let me repeat that the USFS identifies only 11,000 acres of 4.8 million IRA lands as suitable for Wilderness designation, yet HR 3914 alone is 4 times that size, and the other various proposals are a total of almost 300 times that quantity.

Included below are excerpts from the 1981 USFS San Juan and Uncompahgre National Forest Travel Maps, companion maps to National Forest maps in that era. The SJNF map depicts the area included in the Sheep Mountain SMA, and clearly shows that motorized recreation was allowed in that area. The same is true of the Liberty Bell and Last Dollar areas. By the printing of this map, areas that were recommended for inclusion in the Wilderness Preservation System were excluded from motorized travel. It is acknowledged that the Whitehouse area was managed for Wilderness character at that time. This is further proof of the lack of suitability of the lands in this proposal.



1981 Uncompahgre NF Travel Map

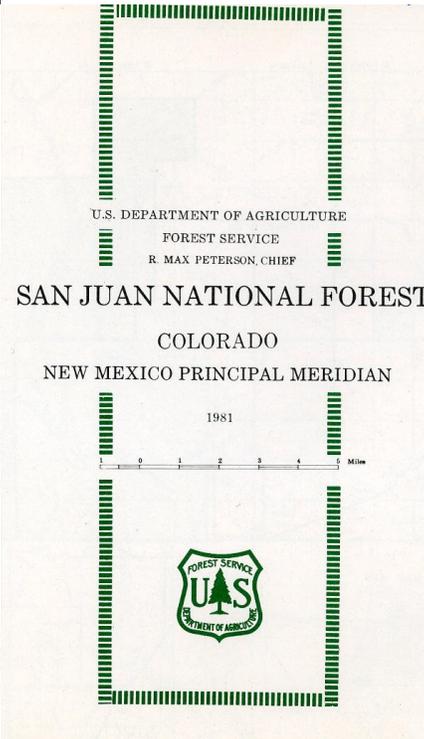
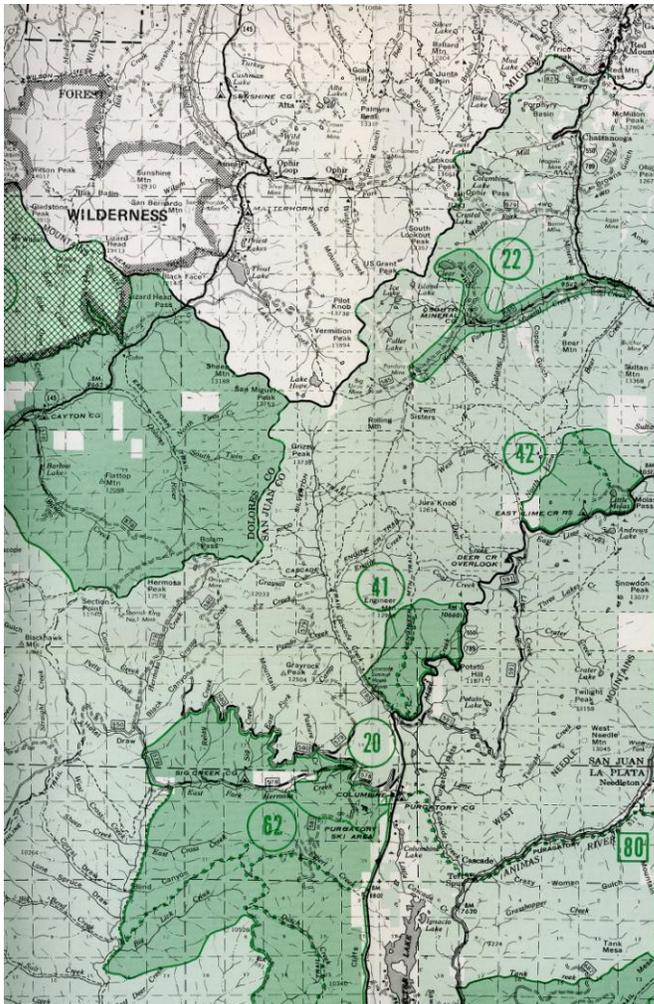
Light green is open to year round motorized use

The Whitehouse area, 4, was closed to motorized use

1981 San Juan NF Travel Map below

Shows almost entire Sheep Mountain area to be open to year round motorized use

Section 22 had seasonal closures



**The failure of the lands in HR 3914 to be recommended for inclusion in either of the RARE studies, or in their entirety in current USFS or BLM Wilderness recommendations, should disqualify HR 3914 from practical consideration for Wilderness designation.**

**Exceptions and Poor Language**

The language provided in HR 3914 is sure to initiate lawsuits. The bill provides exceptions for allowing the continuation of helicopter skiing in the Sheep Mountain Special Management Area, as well as mountain biking and the operation of a commercial foot race (also in the Liberty Bell area). All of these activities are all inconsistent with Wilderness designation. Wouldn't it be better to consider putting the Sheep Mountain SMA into a National Conservation Area, or a National Recreation Area status, with clear, consistent, and manageable language? As shown above in the 1981 map, the trails in this area were open to motorized travel in 1981. It has been found that single track motorcycle and single track bicycle use is often times compatible, and should be looked at again. Language in the form of National Conservation or Recreation Area, or Backcountry Area could allow for this.

HR 3914 goes to great effort to state that it will not set a precedent regarding federal water rights, water projects, and the access and operation of existing water resource facilities (P.14, Section 6.d.2, below, emphasis by author).

(2) ACCESS ROUTES.—Existing access routes within such areas customarily employed as of the date of enactment of this Act *may* be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have *no increased adverse impacts* on the resources and values of the areas described in sections 3 and 4 than existed as of the date of enactment of this Act.

But the language offered is vague. For instance, it states that ‘Existing access routes within such areas customarily employed as of the date of enactment of this Act *may* be used,...’, but the word MAY also implies that it MAY NOT be used as well. The terms under which the routes MAY be used are undefined. Who is to make this determination, and how? More ambiguity follows when the act states *no increased adverse impacts*. But simply driving a vehicle across the route *could* be interpreted as an increase in adverse impact. If the designation is to proceed, these allowances need to have the modifiers/qualifiers removed, and simply allow the maintenance and operation to occur to maintain the resources.

In a state with so little water, a growing population, the threat of climate change affecting fresh water throughout the world and especially the arid Southwestern US, the idea that all water projects are complete is naïve. There may not be any proposals today, but they may be needed in the future. A number of the tracts proposed in HR 3914 move down drainage from existing Wilderness areas, and this increases the potential conflict for water movement in the future.

The Sheep Mountain SMA is scheduled to convert to Wilderness designation in the future, when all non-conforming uses are resolved. There is no language guiding the Secretary to end the non-conforming uses. There is no timeline for discontinuing these uses. There isn’t even a sunset provision for the helicopter skiing permit. What there is, is vague language.

**Put simply, areas either qualify for designation as Wilderness or they don’t. These exceptions render the designation, and HR 3914, unreasonable, unmanageable, and will foster lawsuits and discontentment. In this case the Sheep Mountain area does not qualify for Wilderness protection.**

### **Best Interests of Americans**

Further Wilderness designations aren’t in the best interests of Americans. A century or more ago, mining and mineral extraction was the primary activity on public land, and especially in this area. It appears obvious that the predominant use of public land in the 21<sup>st</sup> century may well be recreation. A recent National Visitor Use Monitoring<sup>2</sup> study for the USFS, shows very interesting results.

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<sup>2</sup> National Visitor Use Monitoring Results, USDA Forest Service National Summary Report, attached to testimony in .pdf format.

**Table 1.** National visitation estimate for the National Forest System, for fiscal year 2007.  
Visit Type Visits

Visit Type	Visits (thousands)	90% confidence interval width (%)
Total Estimated Site Visits	206,291	3.2
Designated Wilderness Visits <sup>a</sup>	6,358	7.6
Total Estimated National Forest Visits	178,625	3.4

<sup>a</sup> Designated Wilderness visits are included in the Site Visits estimate.

This USFS data demonstrates that only 3% of visits to National Forests are in designated Wilderness areas. The study goes on to demonstrate that there is a decrease in the length of visits, and that the preferred visits are those to developed facilities, from campgrounds, to trailheads, to resorts, like Telluride, which is in the middle of the HR 3914 proposal. The means of access to enjoy these resources, is most often motorized, whether it is via auto, or off highway vehicle.

The areas in question in HR 3914 are rich in the development and history of Colorado. The fact that the first AC and the first DC generating power plants are located in this area, the rich mining history, and the development of roads that have become national treasures as Scenic Byways, are all a testament to the development of, and access to this beautiful public land. While the Scenic Byways and most existing routes are maintained open, the proposal eliminates the opportunity for mining and mineral activity in an area that is rich in minerals and mining claims. At the establishment of our National Forest System, just over 100 years ago, Gifford Pinchot recognized that access to our national resources was an important part of the national forest system. Today it appears that few hold his vision, and are happier to have America dependent on foreign sources for raw and finished goods. I disagree, and feel that we should protect our resources within the existing prescriptions provided to the Secretaries, while maintaining flexibility into the future.

**Designation of additional Wilderness will pacify the restrictive use and ‘environmental’ groups for a short time, until they want the next addition to the Wilderness Preservation System. At the same time, it will reduce access by the general public to the wonderful resources of our federal public lands. The designation will also prevent access to our nation’s natural resources far into the future.**

**Impact to Motorized Recreation**

I give Representative Salazar credit for avoiding wholesale closure of exiting motorized recreational routes, for summer use. There are several key routes that are virtual boundaries to the proposed areas. Examples are the Wilson Mesa Trail, the East Fork Trail, Dallas Trail, and Imogene Pass, to name just a few. Despite clear language in the bill on buffers, that has never stopped or even slowed restrictive use groups from requesting closure to motorized use, and often times getting their way. In the nearly 25 years that I have been working on motorized access to public lands, every single

Resource Management Plan, Forest Plan and Travel Management Plan that I have seen have resulted in a decrease in motorized access.

The same can not be said for winter recreation. Extensive winter travel management has not occurred in Colorado, leaving all USFS land that is not specifically closed to all motorized use, open to winter snowmobile use. Since that is not the case in most of the HR 3914 lands under the current GMUG Forest Plan. As such, HR 3914 will reduce winter snowmobile opportunities by about 91% or 40,000 acres.

**Snowmobile use would be directly affected by this bill, and I am concerned that summer motorized access will be the side effect, rather than direct affect of HR 3914.**

### **Potential Takings**

The areas considered by HR 3914 have large numbers of inholdings, many of which are patented mining claims. The legislation contemplates the resolution of nonconforming use. Is this a reference to the government purchasing all of the inholdings? Is there an implicit threat of a taking by eminent domain?

The organizations that I represent are unaware of any existing Colorado Wilderness areas where private property rights were not specifically protected with cherry stems, border adjustments, or explicit access rights. **We ask for specific explanations of the planned approach to private property holdings in the proposed lands.**

### **Summary**

The path forward for HR 3914 is that it should be sent back to Representative Salazar for a complete reworking. Colorado already has 3.5 million acres of designated wilderness, and does not require additions. HR 3914 is a piece meal approach, with many small areas proposed for designation. It has vague and unmanageable wording that will only benefit the lawyers who litigate it in the future. It provides exceptions that are inconsistent with, and improper for inclusion into the National Wilderness Preservation System. It is a small part of the current proposals for Colorado Wilderness, and should not be allowed to stand alone, but rather be included in a proposal that includes all of the proposed areas. That proposal should then be distilled down by engaging ALL of Colorado's Congressional delegation, and then and only then, be put before Congress.

Thank you for allowing me to testify today against passage of HR 3914.