

# **Committee on Resources**

## **Subcommittee on Forests & Forest Health**

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### **Statement / Witness Testimony**

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**Testimony of Ms. Adena Cook  
before the Subcommittee on  
Forests and Forest Health  
April 4, 2000**

#### **INTRODUCTION**

The BlueRibbon Coalition has long fostered positive relations with public land managers. We have, since our inception, sought and often achieved a cooperative relationship with the Forest Service from the ranger district to the national level. At least two of our nationally based member organizations (American Council of Snowmobile Associations (ACSA) and the National Off-Highway Conservation Clubs (NOHVCC) have signed memoranda of understanding with the agency that acknowledge and perpetuate cooperative relationships.

We enthusiastically promote good user ethics, good stewardship, and volunteerism. Our BlueRibbon Magazine regularly features stories about these kinds of projects with the Forest Service. These stories recognize the efforts of the volunteers and inspire readers to take similar action.

We have energetically participated in the public portion of many agency National Environmental Policy Act (NEPA) processes, again from the ranger district to the national level. We have sought to be included in agency discussions on access, recreation, and land allocation. We have testified many times before Members of Congress in hearings such as this one, offering our perspective on recreation policy.

#### **CLINTON-GORE ROADLESS PROTECTION INITIATIVE**

##### **Interim Road Rule Participation**

The BlueRibbon Coalition, most of our members and member organizations, and many of our associates in the natural resource dependent community participated vigorously in the Interim Roads Rule process. We strongly opposed the policy direction of the rule, that proposed to disenfranchise and ultimately close thousands of miles of "unclassified" roads, crucial for backcountry dispersed and diverse recreation.

We stimulated public comment, resulting in thousands of letters. We wrote long, thoughtful comments ourselves. Don Amador, our Western States Representative, testified before Congress. When we discovered that an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) had been tacked on the rule without proper process, we appealed that EA and FONSI. My appeal has never even been acknowledged.

##### **Attempts to be Included in Policy Discussions**

In the late summer of 1999, we responded to rumors that a major policy decision from the Forest Service on roads, roadless areas, and access was imminent. Still, we received no direct communication from the agency. We responded by bombarding the Chief's office with thousands of letters that requested, in part,

"Many national and state off-highway recreation organizations have worked hard to promote responsible use of our public lands. Often times these efforts have included collaborative projects with the Forest Service. These programs include TREAD LIGHTLY!, habitat restoration programs, trail improvements, watershed enhancement efforts, sound reduction, improved signing, and youth outreach.

If you are considering a nationwide recreation access policy you should include national off-highway recreation groups (i.e. American Motorcyclists Association, Backcountry Horsemen of America, United Four Wheel Drive Association, American Council of Snowmobile Associations and the BlueRibbon Coalition, etc.) in this new policy effort of yours. It's our view that without active consultation with these recreation groups, your are violating the public trust.

I urge you to contact national off-highway groups and invite them to the table..." (See Exhibit #1)

No response was received. No groups were contacted to discuss the issues.

Recently, a report (see Exhibit #2) authored by this Committee was published that documented extensive discussions last year between the Forest Service and anti-access groups about these very subjects. The report catalogs the development of the Clinton-Gore roadless protection initiative through a series of memos, legal research, and meeting notes. These documents encompass the policy substance, it's procedural separation from the development of a revised transportation policy, public outreach, how and where public meetings should be conducted, and even a preferred alternative.

When questioned about the exclusive agency access these groups enjoyed in the development of Clinton-Gore roadless protection initiative, Undersecretary of Agriculture James Lyons said, while testifying before the Senate on February 22, 2000, said that the agency routinely consults and meets with a wide variety of groups. I'm here to tell you that during the summer and fall of 1999, while documents reveal a close communication on the roadless issue between anti-access groups and the Forest Service, we were not included. Despite voluminous requests, we were not included.

I've enclosed some documents that further demonstrate this close collaboration and our exclusion: A July 9, 1999 memo from Mike Francis, Wilderness Society to George Frampton that discusses ongoing communications on the roadless issue, including a suggested roadless protection announcement letter from President Clinton (Exhibit 3). Note the similarity with the actual Clinton announcement on October 13, 1999 (Exhibit 4).

### **Notice of Intent Excludes Recreation Concerns**

The Roadless Initiative Notice of Intent cited 80,000 comments on the proposed interim roads rule as rationale for proceeding. The NOI cited concerns contained in these comments:

- The temporary suspension of road construction/reconstruction should be made permanent.
- Continued entry into roadless areas will decrease the amount of wildlife habitat available by increasing fragmentation.
- The temporary suspension does not go far enough to protect all roadless lands across the National

### Forest System.

- The temporary suspension should not have included exemptions such as the Tongass National Forest and those areas covered by the President's Forest Plan.
- Economic and social effects will result from reductions in commercial timber harvest and other commodity production.
- Temporary suspension of road construction and reconstruction essentially expands the wilderness system.
- Denying access to roadless areas violates the Alaska National Interest Land Conservation Act.

Only two of the items in the NOI referred to multiple use concerns. None of the items addressed backcountry access, our concern about disenfranchising "unclassified" roads, and our concern about "unroaded" areas. Hundreds, perhaps thousands of thoughtful letters provided comments on these issues. Numbers aside, how many times have we heard from the agency that these public processes are not a voting game? In any case, recreationists concerns were unacknowledged in the NOI.

The NOI posed possible alternatives, a departure from the accepted NEPA process. In the usual NEPA process, alternatives are developed from issues raised during scoping. The alternatives dealing with roads,

- Prohibiting new road construction and reconstruction projects in the remaining unroaded portions of inventoried roadless areas;
- Prohibiting new road construction and reconstruction projects and commercial timber harvest in the remaining unroaded portions of inventoried roadless areas;
- Prohibiting the implementation of all activities, subject to valid existing rights, that do not contribute to maintaining or enhancing the ecological values of roadless areas in remaining unroaded portions of inventoried roadless areas; and
- Making no change in current policy (No action alternative).

represented an incomplete range that only discussed prohibition of road construction, reconstruction and road removal. No development or maintenance of roads was discussed, even though comments had previously favored this action.

The NOI sets the stage for a "wilderness lite" management of current roadless areas. Additionally, it sets the stage for expansion of "wilderness lite" into new "unroaded" areas.

### **Roadless Initiative Scoping Process**

The Forest Service initially scheduled 11 public meetings, all in urban centers in or near regional offices. The meeting schedule was expanded only because this Committee, during the hearing held November 3, 1999, extracted promises from Chief Dombeck that additional meetings would be held - at least one in every national forest. It is quite ironic that Chief Dombeck and Secretary Lyons repeatedly tout the number of meetings held as proof of the sufficiency of their public outreach, when they initially had no such intentions. Any credit for this effort belongs to the Subcommittee on Forests and Forest Health..

The meetings were hastily scheduled, during the Christmas season, in the vicinity of the National Forests. Agency officials performed their duty under a severe handicap of little information. The local forest

meetings were inconsistent, and public statements were not accepted as in the prior 11.. Many were short presentations followed by question and answer sessions. There were few answers. A common response was, "Put that in your comments." Only after staff from the Forests and Forest Health Subcommittee called the agency's attention to the inconsistency, were statements from the public recorded at these national forest meetings.

The agency received an unprecedented number of requests to extend the comment period. They came from us, from many members of congress, and from western governors. These requests were not granted.

### **BlueRibbon Joins State of Idaho's Suit**

On December 30, 1999, the State of Idaho sued the Forest Service over the conduct on the scoping process. According to Idaho Attorney General Al Lance, the goal of the state's lawsuit was simple. He said that the state and the people of Idaho need, and deserve, a reasonable amount of time to review and understand the Forest Service's proposal to end all road development in currently roadless areas.

The suit contended that the state's and its citizens' efforts to receive current and definitive information about the proposal was hampered by the federal government's failure to provide maps or other site information that could be used to determine the total scope of the environmental impact statement's effect in Idaho.

"Citizens attempting to visit the Forest Service's 'roadless initiative' web page have discovered that access to information, such as maps and site-specific information, was 'under development' when the comment period expired," Lance stated.

The BlueRibbon Coalition, together with the Idaho State Snowmobile Association, and the American Council of Snowmobile Associations agreed with the state. They requested and were granted intervention in Idaho's lawsuit. In addition to the state's claims, they brought a national recreation perspective to the table.

### **Judge Dismisses Idaho's Suit with Advice for Agency**

On February 18, Judge Lodge ruled in favor of the Forest Service and granted their request to dismiss the State's claims. He found that the court could not appropriately interfere at this phase of the administrative process.

However, he had strong words for the agency regarding the conduct of the rest of the process:

"While the Court has determined it lacks subject matter jurisdiction over the State's Complaint at this point, the Court would be remiss if it failed to emphasize to the Forest Service that due to the historic magnitude of the proposed action, the agency's final agency action will undoubtedly be subject to close judicial scrutiny. As stewards of the federal funds being expended to complete the NEPA process on the proposed action, the Forest Service should make every effort to ensure that the process is properly implemented with reasonable time frames to allow meaningful participation by the public. It appears at least arguable to this court that the Forest Service may be inviting error and a necessary review of its actions by ignoring the objections of the Plaintiffs for a meaningful scoping process.

"Counsel for the Forest Service do not dispute that the purpose of the coping process is to identify issues that are substantive and eliminate issues that are not so as to instill confidence and trust in the process. A central purpose of the NEPA process is to provide full disclosure of relevant information to allow meaningful public

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

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

The additional claims brought before the court by the intervenors are still pending.

### **Priceless Diverse Recreation Resources exist in Roadless Lands**

Roadless lands cover a significant portion of the nation's recreation resources. For example in Idaho, Forest Service lands amount to 20 million acres. Of that 20 million, 4 million are designated Wilderness and off-limits to motorized access. Almost half of the 20 million acres, 9.5 million acres, are in the roadless category. These roadless lands offer an unparalleled and diverse recreation opportunity. They are generally open and unrestricted to snowmobiling. The 9,000 miles of single-track motorized trail are generally within these roadless acres.

The BlueRibbon Coalition and other motorized recreation groups were not included in the planning for this initiative. The NOI ignored our perspective. The scoping process was hasty and offered insubstantial information on which to comment. If it continues on its present course, the Clinton-Gore Roadless Protection Initiative present a grave threat to these magnificent recreation resources.

## **OTHER FEDERAL RULEMAKINGS THAT AFFECT RECREATION**

### **Forest Planning Rules**

The proposed rules completely change the focus of the Forest Service from an agency that provides for public needs to an agency that only protects natural systems and attempts to return the forests to pre European conditions. The regulations emphasize raising the level of the decision making process higher in the chain of command, making this clearly a top down process. This destroys one of the advantages of the Forest Service, which is that decisions are made at a local level.

We object to the following key features of the proposed rule which:

- Redefines the Gifford Pinchot's guiding principle, "Providing the greatest good for the greatest number in the long run, " to a statement that, "the lands be devoted to their most productive use for the permanent good of the whole people always bearing in mind that conservative use of these resources in no way conflicts with their permanent value." This restatement puts resource preservation first.
- States that national forest lands should not be expected to single handedly sustain existing economies

and communities, although it acknowledges that these lands may contribute some local economic value. It conveniently ignores the fact that most of the acreage within these "existing economies and communities" is under the control of the federal government.

- It indicates that national forest land should be managed to compensate for changes caused by management of private land; so that as adjoining private land increases production of goods and services the public land should provide less.
- The Forest Service can select certain individuals with specific objectives and allow them to become directly involved in the decision making process.
- Advisory committees can be formed and used, but the proposed rules offer no guidance in their makeup. They would be easy to manipulate and bias the results.
- Planning is undertaken at the national, regional, and/or national forest level depending on the nature of scope of the topic of general interest of concern. This will allow the Chief to personally override decisions made at the local level, or inhibit a local manager's ability to make certain site-specific decisions. Additionally, these "topics of general interest and concern" can be identified by any number of sources such as the Chief's mandates or national anti-access organizations.
- Although it requires that decisions be consistent with the best available scientific information and analysis, there is no guidance on how this is determined. Instead, it requires the formation of a national science advisory board that has complete and total oversight of national forest management. It uses scientists for goal setting, evaluation, and monitoring and allows managers to select scientists who support their point of view.

At the public meetings, few of these alarming details were discussed. Instead, very general "themes" were presented: Sustainability, Integrating Science, Creating Living Documents, and Collaboration. These were discussed so broadly, and in such warm and fuzzy terms, that few objections were raised. Forest Service personnel in charge were generally unwilling or unable to discuss the specifics of the proposed regulations as published in the Federal Register.

Attendees were asked to break into groups where they were asked to discuss how they feel about these general themes; what they like about each, and what they dislike or feel needs clarifying or is missing. The group recorder then recorded the three highest priority responses from the group.

These meetings were conducted per the classic Delphi Technique. This technique for conducting group meetings preserves the illusion that participation occurs while eliminating dissenting comment. The goal of the Delphi technique is to lead a targeted group of people to a pre-determined outcome, while giving the illusion of public participation.

According to the Delphi Technique, dissenting opinions within each group are subdued by the group leader's report which emphasizes what was generally agreed upon. Questions outside the frame of general reference are put off. The Forest Service thwarted substantial public comment on the proposed changes through this meeting structure.

It's important to recognize that none of these proposed changes revise the existing laws with which the Forest Service must comply, such as the National Forest Management Act, Sustained Yield Multiple Use, or

National Environmental Policy Act. The proposed forest planning rules can effectively eliminate diverse recreation in our national forests.

## **Roads Rule**

The proposed revision of the National Forest System Road Management regulations focuses on upgrading and managing only 20% of the transportation system in the National Forests. The selection of this 20% is determined by a process by which every road must be justified. Ecosystem protection, the cornerstone of the other initiatives, is paramount in the proposed roads rule as well. Comments on this proposed rule are due May 2, 2000.

This will effectively eliminate 80% of the roads in the National Forests, and even more than 80% of recreation access, since many of these roads can lead to trails, and since many of these roads are uninventoried and not counted in the present system.

The Forest Service has acknowledged the importance of recreation use of these roads. The proposed roads rule does not reconcile the growing needs of a diverse recreating public with a drastic reduction in access.

## **CONCLUSION**

This blizzard of initiatives and rule changes from the National Forest is unprecedented. They can function independently, but they all seek a common goal: the exclusion of diverse and productive activities from our National Forests. They embrace the idea that human intervention in natural process is always negative. Recreation access and diverse recreational activities are to be discouraged, because they proceed from different points of view. Recreationists we represent do not support a uniform value system that puts preservation first, while excluding us. Our enjoyment of our national forests should not be socially engineered.

We are using every means to express our perspective: that proper management of our national forests can accommodate a broad range of activities well dispersed across the landscape as well as protect the resource.

Submitted by,  
Adena Cook, Public Lands Director  
BlueRibbon Coalition  
P.O. Box 1427  
Idaho Falls, ID 83403  
Phone: 208-524-3062; Fax: 208-524-2836  
e-mail: [bradena@sharetrails.org](mailto:bradena@sharetrails.org)

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