

# Committee on Resources

## Subcommittee on Forests & Forest Health

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### Witness Testimony

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STATEMENT OF  
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UNITED STATES DEPARTMENT OF AGRICULTURE  
Before the  
U.S. House of Representatives Committee on Resources  
Subcommittee on Forests and Forest Health  
April 22, 1999

Thank you for your invitation to testify on H.R. 898, which designates the Spanish Peaks Wilderness in the State of Colorado, and the Chairman's draft of "Forest Roads-Community Right-To-Know." I appreciate the opportunity to join you today.

#### **H.R 898 Spanish Peaks Wilderness**

The Administration would support H.R. 898, which designates the Spanish Peaks Wilderness within the San Isabel National Forest in the State of Colorado, if it were amended to contain the "Bullseye Mine Road" within the boundary of the wilderness. The Administration objects to the exclusion of the road, which is actually more like a trail from the wilderness for reason which I will discuss shortly.

The Spanish Peaks area is a worthy addition to the National Wilderness Preservation System (Wilderness System). The Spanish Peaks are the easternmost peaks of the Rocky Mountains and the 13,626 foot summit of West Spanish Peak is a prominent landmark visible across the high plains for many miles. The peaks were added to the National Registry of Natural Landmarks in 1977. Their unique location, geology, and significant elevation gradient provide singular habitats for plant and animal communities. Water rights, which have often been at issue in Colorado wilderness debates, should not present a problem, as the Spanish Peaks are located in a headwaters area while the water users are located downstream and outside of the area to be designated.

The Spanish Peaks have long been the subject of considerable interest for their potential inclusion in the Wilderness System. The Endangered American Wilderness Act of 1978 (P.L. 96-560) directed the Secretary of Agriculture to review the Spanish Peaks Wilderness Study Area and report recommendations for

suitability of the area for inclusion in the Wilderness System. The Forest Service evaluated the suitability of the area for wilderness as part of the forest planning process and did not recommend wilderness designation for the area, due to the numerous private property interests within the area.

The Colorado Wilderness Act of 1993 (P.L. 103-77) created the Spanish Peaks Planning Area and directed the Forest Service to study the area and report to Congress concerning the status of private property interests within the area. The Congress further directed the agency to expedite this study in the 1994 Interior Appropriations Act.

The Forest Service completed this study and forwarded it to the Congress in 1995. Significant private property interests including private land, patented and unpatented mining claims, and oil and gas leases within the study area boundaries have been of greatest concern regarding the suitability of the area as wilderness. There were 825 acres in 7 separate inholdings within the 20,000 acre study area in 1995, which caused concern that the area could not be successfully administered as wilderness. In testimony before the 103rd and 105th Congresses addressing the Spanish Peaks area, the Forest Service highlighted concerns about its ability to preserve wilderness values where significant private property rights exist within wilderness boundaries. We wish to express our appreciation to the Colorado delegation and to the Congress for their willingness to see the issues resolved before going ahead with wilderness designation. As we have often found, resolving such issues after designation is problematic.

Since the 1995 study, the Forest Service has been diligent in the acquisition of lands within this area and the Wilderness Land Trust has worked to acquire some of the inholdings which will eventually be turned over to the Forest Service, but 110 interior acres still remain in private ownership. Because of their location, they cannot be excluded from the wilderness by adjusting the boundaries, so they will remain as inholdings unless the Forest Service can acquire them at a later date.

### Bullseye Mine Road

H.R. 898 would exclude the "Bullseye Mine" Road from the area designated as wilderness. The Forest Service is concerned about the future management of this road and cannot support its exclusion from the wilderness area. This road provides access to mining claims. Historically, use of the road has been limited to foot traffic and pack-animal travel. This use would not be precluded by wilderness designation. The road is currently managed as a non-forest system road and is closed to motorized traffic. It is, however, open to public foot and horse travel. The Forest does not anticipate changing this management direction. We strongly support continuing current management direction which protects wilderness values and is appropriate for health and safety, water quality and fiscal constraints. Regardless of whether the road is included in the area designated as wilderness, the Forest Service does not anticipate opening this road to motorized use. Motorized use would severely degrade the wilderness values of the area, in addition to causing many other problems. The reasons for the current management are:

- A concern for public health and safety - The road is very steep and narrow which does not lend itself to being an enjoyable, drivable road for the majority of the recreating public.
- Erosion and water quality - For the most part, the road traverses above and in-line with a live drainage coming off the West Peak. Maintenance of the road would increase the sedimentation reaching the drainage.
- Road Maintenance - It would be costly and difficult to maintain such a road at the expense of others which receive much higher use by the general public.

However, should the owners of the Bullseye Mine request access to their patented claim, access would be governed by section 1323(a) of ANILCA (16 U.S.C. 3210(a)) and section 7 of the Colorado Wilderness Act of 1993.

The Administration would strongly recommend an amendment authorizing the Secretary to adjust the wilderness boundary to include the Bullseye Mine road. We also recommend deleting section 3 of the bill, relating to access within the wilderness area. This provision is unnecessary and raises concerns about whether section 1323(a) of ANILCA would govern access to private inholdings within the wilderness area.

The Forest Service looks forward to working with the Committee and Representative McInnis on the inclusion of this beautiful area in our national wilderness preservation system.

### **H.R. (Chairman's Draft of Forest Roads, Community Right -To-Know Bill)**

(Comments are based on draft version dated April 15, 1999 (12:00))

The Administration agrees that the public should be involved in the decision making process regarding road closures, as stated in the draft, but believes this draft bill is unnecessary, costly and redundant to the public processes already in place.

Current statute and policies provide adequate direction to ensure that State and local officials are involved in the Forest Service's planning process. The National Environmental Policy Act (NEPA) and Forest Service policy require that State, local officials and interested publics are notified of proposed actions, including permanent road closures, on National Forest System lands and given the opportunity to provide comment.

In addition, the 1999 Interior and Related Agencies Appropriations Act as bundled as part of the Omnibus Appropriations Act states that "no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided."

One of the intended principles of the Forest Service's proposed long-term road policy is to engage the American people in a dialogue about when and where roads will be built in our National Forests. The long-term roads policy will provide local managers with the tools they need to make decisions on which roads are needed, which roads need to be decommissioned, and the appropriate level of maintenance. It will also address the economic realities of maintaining our Forest road system. Specific road decisions will be made at the local level, by local managers working with local publics. This new policy will build on our collaborative process to involve local officials and interested publics in Forest road management decisions.

Current policy and procedures ensure that information is available to public officials and interested citizens before decisions are made and before actions are taken. We invite the participation of affected Federal, State and local officials, and other interested persons and request their comments which are then addressed in the environmental analysis for the proposed action. The current process provides the following opportunities for public involvement in the Forest Service's planning process.

1. Quarterly, a list of proposed actions is sent to interested and affected agencies, organizations and persons. Many Forests also post this on the internet. This report includes project description, the estimated date when scoping may begin, estimated date of decision, project location, and who to contact for additional information.

2. Typically we scope for 30 days for an environmental assessment (EA), starting with publication of a notice for public comment in a newspaper of general circulation. Letters requesting comments are also sent to persons expressing interest in the proposal.
3. After the EA is completed and prior to the decision, under the Forest Service's appeal regulations (36 CFR 215.6) there is a 30-day period for the public to comment on the proposed action. For projects requiring an environmental impact statement (EIS) there is a 45-90 day period for the public to comment on the draft EIS (40 CFR 1506.10).
4. In addition, for most proposed actions requiring an EA or EIS, there is a 45-day period to file an appeal (36 CFR 215.13).

In addition to our general concerns, we have other strong objections with the draft legislation.

1. The draft does not allow for the closure of temporary roads or closure of roads for public health and safety or resource protection unless the closure is less than one year. Line officers need to retain the authority to close temporary roads as soon as they are no longer needed for the constructed purpose and the authority to implement emergency closures for resource protection and public health and safety. Temporary closures may need to remain in effect for more than one year to complete the decision-making process is determine long-term use of the road or until funding is available to address the reason for closing.
2. The draft requires the agency to show the volume of traffic for the previous five years on roads proposed for closure. Usually roads proposed for closure are not high use arterials and collector roads needed for permanent access, and are not the roads that we can afford to monitor traffic counts on for five years. Through our public involvement process and local knowledge and experience, land managers will have general information of traffic patterns and volume which is factored into the environmental analysis. In addition, this requirement would prevent any closures for five years and divert limited funding from road maintenance.
3. The draft requires annual meetings with appropriate State and local government officials to describe all agency plans or proposals that, within the next two fiscal years, will or may result in the permanent closure of forest roads on Federal lands. Annual meetings with appropriate State and local officials to discuss proposed projects is a common practice for our local managers. However, it is unusual for Forests to identify roads proposed for closure two years in advance.
4. At the first annual meeting the draft requires the agency to provide information on all forest roads that have been subject to permanent closure, including a description of the methods and costs of the permanent closure, in that State during the previous five years. This information can be provided, but since most road closure concerns are local, managers should be allowed to work with local officials to determine what information is needed.
5. The draft defines a forest road as any road on Federal lands. A forest road is many different things to different people and the Forest Service is constantly addressing the definition when framing the road issue debate. We define a forest road as a road wholly or partially within or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

Madam Chairman, we believe current statute and policies provide adequate opportunity for public

involvement. Therefore, we do not support the draft bill because it makes addressing road needs more cumbersome and expensive, thereby adding to the deferred road maintenance costs which already exceed \$8 billion. The draft bill requires the agency to take redundant or unnecessary actions which will lead to unnecessary delays in closing roads to prevent harm to the environment and most importantly the public. As we draft the long-term roads policy, we will be sure to include as much public participation as possible without being redundant to the processes already established. We are committed to this and we would be happy to discuss this with the Subcommittee.

This concludes my statement, I would be happy to answer any questions you and the Members of the Subcommittee might have.

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