

SENATE NATURAL RESOURCES  
REPORT NO. 8  
2/16/05  
BILL NO. SB 417

**Forest Service Informational Testimony on SB 417**

**Governor Petition U.S. Government for Rules on Roadless Areas  
in National Forests**

---

Mr. Chairman, Members of the Committee:

My name is Terry Chute and I represent U.S. Forest Service Northern Regional Forester Gail Kimbell. The Forest Service is not taking a position on this bill. I am here today to provide you with factual information about the Forest Service Proposed Roadless Rule to assist the committee in making an informed decision.

First of all, the rule is not yet final. A proposed rule was published on July 16, 2004 in the Federal Register for a 60 day public comment period. In September 2004 the public comment period was extended for 90 days, and officially closed on November 15, 2004.

An estimated 1.8 million comments were received. Those comments are currently being reviewed and evaluated, and will be considered in developing a final rule.

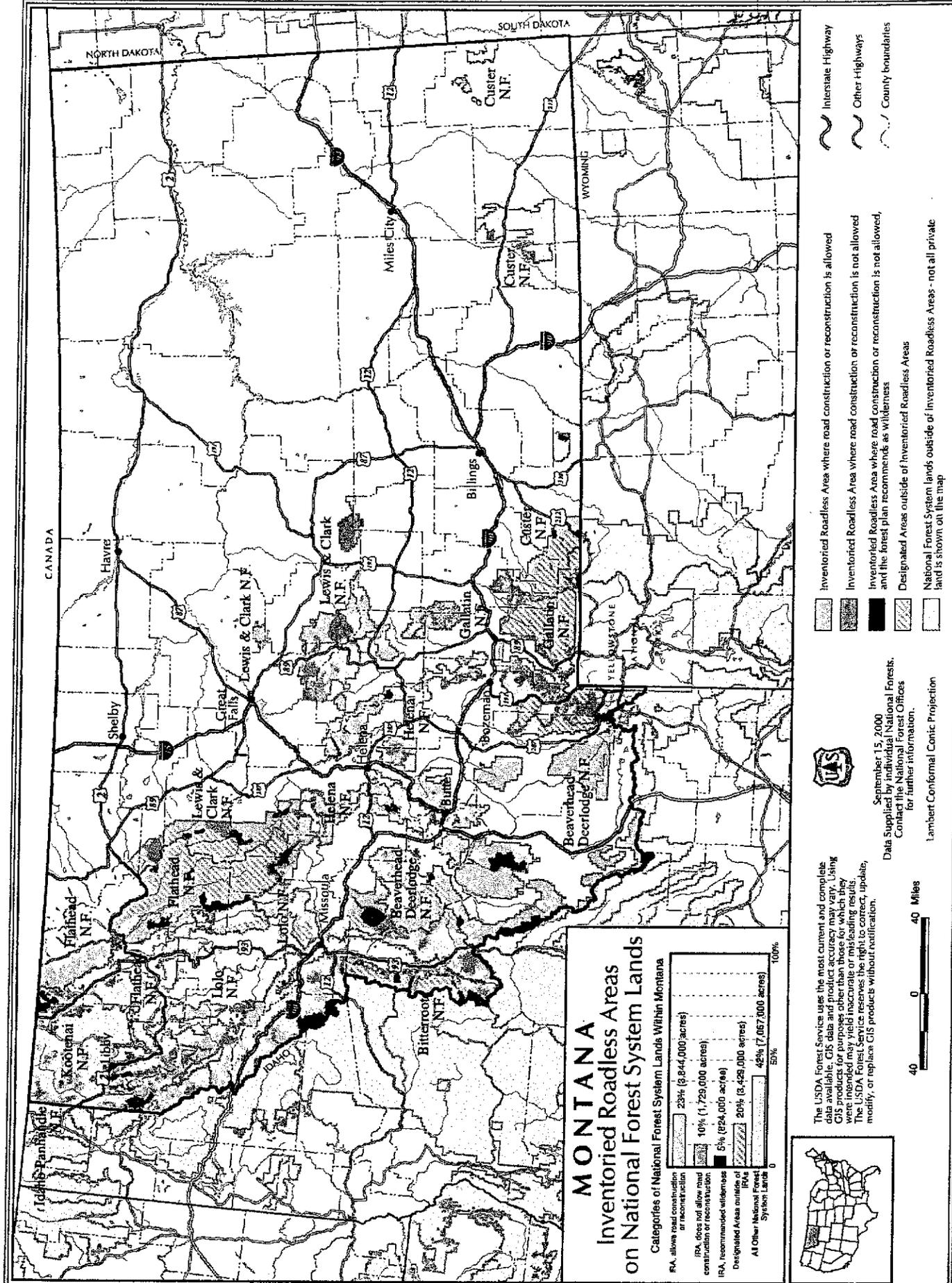
The Secretary of Agriculture is the Responsible Official for making a decision on the final rule. The Forest Service is responsible for providing staff work for the Secretary.

The content and direction contained in final rule is unknown at this time. It may or may not be similar to the proposed rule.

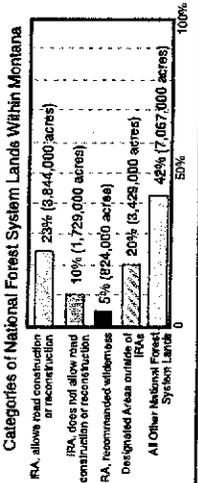
There is currently no estimate on when a decision will be made on the final rule.

Thank you for your time and attention. I am available to answer questions and can provide you with further information at your request.

Terry A. Chute  
U.S. Forest Service – Montana Capital City Coordinator  
(406) 444-5516



### MONTANA Inventoried Roadless Areas on National Forest System Lands



The USDA Forest Service uses the most current and complete data available. GIS data and product accuracy may vary. Using GIS products for purposes other than those for which they were intended may yield inaccurate or misleading results. The USDA Forest Service reserves the right to correct, update, modify, or replace GIS products without notification.



September 15, 2000  
Data supplied by individual National Forests.  
Contact the National Forest Office for further information.  
Lambert Conformal Conic Projection



- Inventoried Roadless Area where road construction or reconstruction is allowed
- Inventoried Roadless Area where road construction or reconstruction is not allowed, and the forest plan recommends as wilderness
- Designated Areas outside of Inventoried Roadless Areas
- National Forest System lands outside of Inventoried Roadless Areas - not all private land is shown on the map
- Interstate Highway
- Other Highways
- County boundaries

Montana Counties with Inventoried Roadless Areas  
February 15, 2004

Beaverhead	Madison
Big Horn	Meagher
Broadwater	Mineral
Carbon	Missoula
Cascade	Park
Choteau	Pondera
Deer Lodge	Powder River
Fergus	Powell
Flathead	Ravalli
Gallatin	Rosebud
Golden Valley	Sanders
Granite	Silver Bow
Jefferson	Stillwater
Judith Basin	Sweet Grass
Lake	Teton
Lewis & Clark	Wheatland
Lincoln	

33 Montana Counties contain Inventoried Roadless Areas on National Forest System.

Note: This list of counties with Inventoried Roadless Areas on National Forest System lands was compiled by comparing a map of Inventoried Roadless Areas in Montana to a map of Montana counties. The map of Inventoried Roadless Areas in Montana came from the National Inventoried Roadless area website: [www.roadless.fs.fed.us](http://www.roadless.fs.fed.us). While some counties have substantial inventoried roadless acreage, others contain only small portions of inventoried roadless areas.

## Background Paper

### Proposed Rule to Replace the Roadless Area Conservation Rule with a State Petitioning Process for Inventoried Roadless Area Management

The Roadless Area Conservation Rule was published in the Federal Register on January 12, 2001, as a discretionary rule to fundamentally change the Forest Service's longstanding approach to management of roadless areas. The rule established blanket, nationwide prohibitions generally limiting, with some exceptions, timber harvest, road construction and reconstruction within inventoried roadless areas on national forests and grasslands across the country.

These nationally applied prohibitions would have superceded the management prescriptions for inventoried roadless areas applied through the development of individual land management plans, and would not have been revisited through subsequent plan amendments or revisions. Nor would they have allowed changes in management direction due to changes on the landscape caused by natural occurrences—like catastrophic wildfire.

During the development of the roadless rule in 1999 and 2000, the Governors of several western states requested cooperating agency status to work with the Forest Service in the development of the Environmental Impact Statement and the roadless rule. These requests were all denied.

Of the 58.5 million acres of inventoried roadless areas used as the basis for the roadless rule, about 34.3 million acres were allocated to management prescriptions in local planning processes that allowed road construction and reconstruction, and 24.2 million acres were allocated to prescriptions that prohibited road construction.

Over the past several years the roadless rule has been the subject of nine lawsuits in Federal district courts in Idaho, Utah, North Dakota, Wyoming, Alaska, and the District of Columbia.

In June of 2003, the litigation with the State of Alaska was settled resulting in a December 2003 amendment to the roadless rule that temporarily exempted the Tongass National Forest from the rule's prohibitions.

On July 14, 2003, in the litigation with the State of Wyoming, the U.S. District Court for the District of Wyoming issued a permanent injunction and set aside the roadless rule.

The court found that the roadless rule was promulgated in a manner that was illegal, both procedurally and substantively. The court ruled against the government on 5 of 6 claims under NEPA, and also found that the roadless rule violated the Wilderness Act of 1964 because the timber harvest and road construction prohibitions constitute establishment of *de facto* wilderness (only Congress can designate wilderness areas). This decision has been appealed to the U.S. Court of Appeals for the Tenth Circuit. There continues to be much uncertainty concerning the implementation of the roadless rule as legal proceedings are ongoing and the ultimate outcome is far from certain.

The purpose of this proposed rule is to seek public comments on replacing the roadless rule by establishing a process to allow Governors with inventoried roadless areas within their States to review the existing management requirements for these areas and petition the Department to establish or adjust management requirements. This opportunity would be of limited duration, as petitions must be submitted to the Secretary not later than 18 months from the effective date of the final rule.

The Forest Service and USDA are committed to conserving and managing roadless values and consider inventoried roadless areas an important component of the National Forest System. The Department has concluded that replacing the rule by providing this petitioning opportunity is an appropriate solution to address the challenges of roadless area management.

## Inventoried Roadless Area Fact Sheet

February 15, 2004

### Nationally

Total NFS Lands in US	192 million
Number of Acres of Inventoried Roadless on NFS Lands	58.5 million
Percent of Forest Service Landbase	31%
Percent of US Landbase	2%
States with Inventoried Roadless on NFS Lands	39

### Montana

Montana NFS Lands	16.9 million
Inventoried Roadless Area Lands	6.4 million
Roadless - Percent of Forest Service Landbase in MT	37.9%
Roadless - Percent of MT Landbase	6.8%

### Individual National Forest - Acres of Inventoried Roadless Areas

Beaverhead-Deerlodge NF	1,829,000
Bitterroot NF	405,000
Custer NF	145,000
Flathead NF	476,000
Gallatin NF	704,000
Helena NF	445,000
Kootenai NF	639,000
Lewis & Clark NF	1,004,000
Lolo NF	758,000
Idaho Panhandle NF	one small area - overlaps state border