



DIRK KEMPTHORNE
GOVERNOR

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IDAHO SEEKS EXTENSION OF COMMENT PERIOD ON CLINTON ROADLESS PLAN

(BOISE) Governor Dirk Kempthorne has requested Forest Service Chief Michael Dombeck extend the public comment period on the Clinton Administration's proposal to protect roadless areas within national forests. In a letter drafted with Attorney General Al Lance, Kempthorne is asking for a 120-day extension, claiming the Forest Service isn't giving Idaho nearly enough time to comment on the sweeping proposal. Currently, the comment period is scheduled to end December 20.

"More than eight million acres of land in Idaho could be affected by the actions contemplated in the NOI. A permanent moratorium on Forest Service road development will have a devastating impact on timber communities in Idaho," the letter said. "The proposed moratorium will destroy attempts to develop recreational economies in north, central and eastern Idaho and deny access to huge areas of Idaho to all but the able-bodied. In sum, the moratorium will deny thousands of Idahoans the opportunity to use, enjoy and benefit from the land within their own State."

The letter continues, "Your agency should not be trying to ramrod a decision that will shut down eight million acres of Idaho land into 'a short time frame.' You should be honoring the spirit - not to mention the clear mandate - of NEPA by providing meaningful opportunity for public participation and careful, principled, environmental analysis."

"Forest Service officials are scheduled to give Idaho land management officials their first full briefing on the President's plan on December 13th. The closing date for public comments is currently set for December 20th. With decisions on the management of over 8 million acres of land in Idaho at stake, seven days is clearly not adequate time for state officials to thoroughly review and analyze the proposal, and to provide the Forest Service with informed and substantive comment."

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December 3, 1999

VIA FACSIMILE AND U.S. MAIL

Dr. Michael P. Dombeck
Chief
United States Forest Service
201 14th Street, S.W.
Washington, DC 20250

RE: State of Idaho's Initial Comments on October 14, 1999; Notice of Intent to Prepare an Environmental Impact Statement, 56 Fed. Reg. 56,306

Dear Chief Dombeck:

On October 14, 1999, the United States Forest Service (Service) announced a vast "rulemaking process to propose the protection of the remaining roadless areas within the National Forest System." 64 Fed. Reg. 56,306. This rulemaking purportedly includes two draft environmental impact statements, at least one set of draft rules, and a draft environmental assessment. The Notice of Intent (NOI) solicits comments "on the scope of the analysis that should be conducted" and "on the identification of alternatives to the proposal" that will be set out in this multitude of documents. The NOI then provides prospective commentators with slightly more than sixty days to comment on this enormous and poorly defined proposal. The NOI is an unacceptable affront to the promise of meaningful public participation that is the centerpiece of the National Environmental Policy Act (NEPA).

More than eight million acres of land in Idaho could be affected by the actions contemplated in the NOI. A permanent moratorium on Forest Service road development will have a devastating impact on timber communities in Idaho. The proposed moratorium will destroy attempts to develop recreational economies in north, central and eastern Idaho and deny access to huge areas of Idaho to all but the able-bodied. In sum, the moratorium will deny thousands of Idahoans the opportunity to use, enjoy and benefit from the land within their own State.

The process used by the Forest Service to consider such a potentially severe decision must reflect absolute fairness and deliberation. The NOI demonstrates neither of those traits. No specific proposals are identified. No preliminary findings are referenced. These failures violate one of NEPA's primary objectives of encouraging and facilitating "public involvement in decisions which affect the quality of the human environment." 40 C.F.R. § 1500.2(d). The NOI states that it "initiates the scoping process." 64 Fed.

Reg. 56,307. However, the NOI does not identify "the significant issues related to [the] proposed action," as is required by federal regulations. 40 C.F.R. § 1501.7. The NOI does not encourage "the participation of affected Federal, State, and local agencies" and the regulations implementing NEPA anticipate. 40 C.F.R. § 1501.7(a)(1).

The ambiguity and confusion that characterize the NOI are compounded by the fact that the comment period is so brief. Title 40 C.F.R. sections

1501.8(b)(1)(i)-(viii) specifically set out considerations that the Forest Service should be using in determining the time limits for soliciting comments on the NOI. The agency may:

(1) Consider the following factors in determining time limits:

- (i) Potential for environmental harm.
- (ii) Size of the proposed action.
- (iii) State of the art of analytic techniques.
- (iv) Degree of public need for the proposed action, including the consequences of delay.
- (v) Number of persons and agencies affected.
- (vi) Degree to which relevant information is known and if not known the time required for obtaining it.
- (vii) Degree to which the action is controversial.
- (viii) Other time limits imposed on the agency by law, regulations, or executive order.

40 C.F.R. § 1501.8(b)(1).

It should be obvious that all of these factors support a careful, deliberate, consideration of the environmental impacts of the proposed permanent moratorium. The expedited deadline in the NOI is completely inconsistent with 40 C.F.R. section 1501.8(b).

In an October 28, 1999, letter to Forest Service Managers, you suggested that the Forest Service is attempting to complete the environmental analysis of a permanent moratorium in a "short time frame." Your agency should not be trying to ramrod a decision that will shut down eight million acres of Idaho land into "a short time frame." You should be honoring the spirit - not to mention the clear mandate - of NEPA by providing meaningful opportunity for public participation and careful, principled, environmental analysis.

Forest Service officials are scheduled to give Idaho land management officials their first full briefing on the President's plan on December 13th. The closing date for public comments is currently set for December 20th. With decisions on the management of over 8 million acres of land in Idaho at stake, seven days is clearly not adequate time for state officials to thoroughly review and analyze the proposal, and to provide the Forest Service with informed and substantive comment.

Accordingly, and based on the reasons stated above, the State of Idaho requests that you extend the deadline to submit comments on the NOI by one hundred and twenty (120) days. Your expedited consideration of this request is appreciated.

Sincerely,

Dirk Kempthorne

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Governor

DK:

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