

NEWS RELEASE

OFFICE OF GOV. BILL RITTER, JR.

FOR IMMEDIATE RELEASE
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Contact:

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GOV. RITTER ASKS FEDERAL GOVERNMENT FOR 'INSURANCE POLICY' FOR COLORADO ROADLESS AREAS

Gov. Bill Ritter today formally asked the federal government for an "insurance policy" to protect Colorado's 4.1 million acres of forested roadless areas from development.

In a four-page letter sent to the U.S. Department of Agriculture and the U.S. Forest Service, Ritter asked for several modifications to the petition former Gov. Bill Owens submitted to the federal government in November 2006.

Gov. Ritter praised the exhaustive work of the Colorado Roadless Area Review Task Force, whose recommendations formed the basis of the Owens' petition. "I am supporting the vast majority of its recommendations," Gov. Ritter wrote. "However, there are a limited number of matters that require some modification."

Ritter said he supports the protections provided by the federal government's original 2001 roadless rule. A recent court ruling in California (*Lockyer v. U.S. Department of Agriculture*) reinstates the 2001 rule and its roadless protections. Ritter said he is concerned that future court decisions could eliminate the 2001 protections. Earlier this week, an appeal was filed in the Lockyer case.

"I am therefore requesting a state-specific rule-making process to serve as Colorado's insurance policy for protection of our roadless areas in the event the 2001 rule and Lockyer decision are struck down."

Specifically, Gov. Ritter requested:

- Interim protection for Colorado's roadless areas while the federal review process is underway. That process could last 18 months or longer.
- Cooperating agency status for the Colorado Department of Natural Resources (DNR) and Division of Wildlife (DOW) on any proposed activity within the roadless areas.
- Returning the North Fork coal areas in the Grand Mesa, Uncompahgre and Gunnison national forests to the roadless-area inventory. However, limited exceptions could be made that allow temporary roads and other activities associated with coal exploration and development.
- That the state DNR and DOW participate in wildlife and habitat reviews associated with potential expansion of recreational ski areas within roadless areas.

"The 2006 petition, as modified by this letter, recognizes Colorado's commitment to protecting our invaluable wild places and at the same time allowing for limited activity where unique circumstances exist," Ritter wrote. "This issue is extremely important to Colorado's hunters, anglers and citizens in general. With the modifications set forth in this letter, I look forward to working with you to promulgate a Colorado Rule which will protect Colorado's roadless areas."

The complete letter is below.

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April 11, 2007

The Honorable Mark E. Rey
Office of the Undersecretary for Natural Resources and Environment
U.S. Department of Agriculture
Whitten Building, Room 217E
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Re: Colorado Inventoried Roadless Areas 2007 Petition

Dear Mr. Rey:

Colorado's roadless areas are a treasure enjoyed by the citizens of this state and the visitors who come here to recreate and enjoy the natural beauty of our National Forests. Roadless areas provide critical wildlife habitat, clean drinking water, recreation and unmatched scenery. As national lands, these areas belong to all Americans and are a resource that we must protect and pass on to future generations. Therefore, I support the national effort to ensure that these last wild forests are protected in Colorado, as well as across the country.

Although I support the protections provided by the 2001 Roadless Rule ("2001 Rule") which currently protects these special lands in Colorado, I am concerned that potential future court rulings could place the 2001 Rule in jeopardy and leave Colorado's roadless areas unprotected. While the LaPorte decision (Cal. ex rel. Lockyer v. U.S. Dep't of Agric., 459 F. Supp 2d 874 (N. D. Cal. 2006)) is currently the law of the land, that decision has been appealed to the 9th Circuit Court of Appeals thus leaving the longer term status of roadless areas in some doubt. I am therefore requesting a state-specific rule-making process to serve as Colorado's insurance policy for protection of our roadless areas, in the event the 2001 Rule and the Lockyer decision are struck down.

I have thoroughly reviewed the record and recommendations submitted by the Colorado Roadless Areas Review Task Force ("Task Force"), a bipartisan group which put an extraordinary effort into the review of the roadless areas of the state. The Task Force recommendations formed the basis for the initial Colorado Roadless Petition ("2006 Petition") submitted on November 13, 2006 to the United States Department of Agriculture ("USDA"). The Task Force's insight and thoughtful evaluation of roadless area management in Colorado has resulted in a recommendation that reflects the desire of Colorado's residents to protect our roadless areas. Therefore, I am supporting the vast majority of its recommendations. However, there are a limited number of matters that require some modification. The modifications I am suggesting are, in part, based on detailed analysis provided by the Colorado Division of Wildlife ("DOW"). I appreciate the DOW input and expect that its analysis will form the foundation for further involvement by DNR and the DOW as we move forward with the rule-making process consistent with this petition.

With the incorporation of the modifications set forth below, I am prepared to move forward and formally present Colorado's request for rule-making ("2007 Petition") to the Roadless Areas Conservation National Advisory Committee ("RACNAC") and to the USDA for consideration and adoption. However, Colorado's submittal of the 2007 Petition and participation in this process are contingent upon the following agreement prior to receiving Colorado's commitment to participate in the next phase of rule-making.

First, interim protection of the identified roadless areas in the 2007 Petition during rule making is of paramount importance. No action should occur during the rule-making process which would undermine the status quo as the 2007 Petition is considered. We recognize that Colorado's Inventoried Roadless Areas ("IRAs") are currently protected by the LaPorte decision but in the event that any judicial decision alters the current protection, Colorado must have a commitment in place that will ensure that lands covered by the 2007 Petition will not be adversely impacted during the timeframe necessary to complete the rule-making process. Therefore, I am requesting that Colorado receive a written commitment from the Secretary of Agriculture or his designee, prior to Colorado's presentation to the RACNAC, that the lands within the 2007 Petition will be protected during the USDA/FS rule-making process. Because the rule-making is expected to take eighteen months or more to complete, interim protection will assure that no activity inconsistent with the 2001 Roadless Rule will be authorized during the time necessary to promulgate the Colorado Rule.

Second, Colorado is concerned that the 2007 Petition could be modified during the rule-making process. While I understand that you cannot guarantee any particular outcome during rule-making, Colorado reserves the right to withdraw its 2007 Petition, or to withhold its signature from the Record of Decision if the rule-making outcome is unacceptable to the state. We would appreciate your written acknowledgement of Colorado's right to terminate the process if the 2007 Petition is changed in a way the state finds unsatisfactory before we can proceed with the RACNAC review.

Additional modifications to the 2006 Petition

North Fork coal mining areas

The 2006 Petition identified portions of seven specific IRAs in the Grand Mesa, Uncompahgre, and Gunnison National Forests and removed these areas from the Roadless Inventory during the period of coal exploration and development. My preference in the 2007 Petition is to leave these areas in the Roadless Inventory but to make clear in the Colorado Rule that such areas may be managed in a way that permit roads and other activities associated with coal exploration and development. Any other non-coal related activities resulting in the use or development of new roads would not be allowed. Restrictions identical to those referenced in the 2006 Petition (see (A)(b) and (B) regarding restrictions on motorized access) would be retained. Once coal mining is complete, all roads would be reclaimed and all activities within the area would be consistent with Roadless designation.

The DOW evaluation confirmed that coal mining activity in these areas could have negative short-term effects if the construction of roads to facilitate coal activities is not closely monitored. The DOW believes it can mitigate these potential short-term negative effects by participating in review and evaluation of the proposed activities. Therefore, I request that the Colorado Department of Natural Resources ("DNR") and DOW will be provided cooperating agency status with the Forest Service to evaluate all future environmental analysis documents accompanying plans and any permitting activity relating to coal exploration and development in these areas.

Ski areas

The 2006 Petition removed approximately 10,000 acres from the Roadless Inventory to facilitate limited expansion of ski areas within current special use permit areas and in areas allocated for such use by forest plans currently under revision. The 10,000 acres are split between as many as twelve existing ski areas around Colorado. Because of the relatively small acreage involved, and the fact that these areas are already within existing special use permits or identified for such use under forest management plans currently under revision, I am willing to adopt the 2006 Petition recommendations relating to ski areas with one proviso: Any proposed activity within these areas must be evaluated consistent with the National Environmental Policy Act, including full participation by the State – including DNR and DOW – as

cooperating agencies. Many of these areas provide important wildlife habitat, as identified by DOW. For the same reasons set forth in the North Fork coal mining section of the 2006 Petition, the DOW has recommended that it is critical that site-specific wildlife evaluation occur prior to any approvals or activities to ensure that the impacts to the environment resulting from any proposed activities within these areas are minimized. DNR and DOW participation as cooperating agencies will provide this assurance.

State Land Board Minerals

The Colorado Constitution requires the State Land Board (“SLB”) to seek a reasonable investment return on land within its portfolio. To fulfill this mandate, the SLB sought authority to lease their mineral interests underlying United States Forest Service (“USFS”) surface interests within IRAs in the 2006 Petition. While we must reserve the right to do this, the Colorado Rule should emphasize that the land exchange delineated in the last paragraph of the SLB Minerals portion of the 2006 Petition is the more appropriate resolution of this issue. A “value for value” exchange would allow for the unification of currently split estates and provide the USFS with both the mineral and surface interests of all land within the existing IRAs and the accompanying protection. The SLB would, conversely, own undivided estates without the development constraints imposed on IRAs within Colorado. This solution would allow the USFS to manage their IRAs in a more consistent manner while allowing the SLB to fulfill its constitutional mandate.

Adjustments of IRAs

Finally, I would like to re-emphasize the portion of the 2006 Petition dealing with adjustment of IRA boundaries. It is imperative that the USFS undertake an evaluation of boundaries as part of the forest plan revisions when there is information, brought forward by any interested party, showing that existing boundaries are inaccurate. Upon the presentation of information showing that certain areas are incorrectly either omitted or included, such areas should be considered for Roadless designation and protection or exclusion consistent with the Colorado Rule.

I would like to again acknowledge the tremendous effort by the Task Force. Its dedication to this important issue resulted in a fundamentally sound recommendation. The 2006 Petition, as modified by this letter, recognizes Colorado’s commitment to protecting our invaluable wild places and at the same time allowing for limited activity where unique circumstances exist. The vast majority of comments received during the state process supported protection of IRAs within Colorado. This issue is extremely important to Colorado’s hunters, anglers and citizens in general. It is my intention, by requesting these modifications, to provide protections consistent with the expectations of Colorado’s citizenry as reflected in the public sentiment expressed during the Task Force proceedings. With the modifications set forth in this letter, I look forward to working with you to promulgate a Colorado Rule which will protect Colorado’s Roadless Areas.

Sincerely,

Bill Ritter, Jr.
Governor