

The Road-RIPorter

Bimonthly Newsletter of the Wildlands Center for Preventing Roads. July/August 1998. Volume 3 # 4

Building Appalachian Restoration with "Roadless Opportunity Areas" in the Monongahela National Forest

— by Than Hitt and David Hines

Appalachian Restoration Campaign, a project of Heartwood

"A gigantic super-metropolis has grown up along the Atlantic seaboard. Great and small cities stretch in almost unbroken succession along eight hundred miles of coast. Already the super-metropolis has crept to the edge of the Southern mountains, some four hundred miles from the rim of the plateau."

— *Harry Caudill, 1962, Night Comes to the Cumberlands*

For 600 million years, the Appalachian region was shaped by seas and glaciers — more recently, though, bulldozers and chainsaws have taken over. As nearly all of this region has been affected by roads and industrial extraction, we need to do more than protect "pristine" areas to restore Appalachian wilderness. We also need to protect land to permit recovery. As one aspect of restoration, we must recognize the effects of roads on local habitats as well as the effects of road networks on regional habitats. In this article, we identify 10 "Roadless Opportunity Areas" (ROAs) within West Virginia's Monongahela National Forest (MNF) to enable protection and restoration of these unique areas¹.

The Monongahela

Located in the Ridge and Valley Province of eastern West Virginia, the MNF contains 900,000 acres of eastern hardwood forest, 9% of which is protected as Wilderness. Diverse topography and a long evolutionary history have given rise to several guilds of endemic species, often named for the only region where they are known to exist (ie. Cow knob salamander, Cheat Mountain salamander). To the east, the Monongahela has excellent connections with the George Washington and Jefferson National Forests, forming part of the largest block of publicly owned land in the eastern US. As the subject of several wildlands proposals, the MNF is a critical area for regional conservation efforts (Mueller 1985; Sayen 1987; Lytwak 1991; Mueller 1992).

In 1960, the Monongahela NF contained an average road density of 0.4 miles of roads per square mile of land. Within thirty years, this road network more than doubled (deHart and Sundequist 1993), prompting concern and action among conservationists. In 1979, the USFS conducted a national Roadless Area Review Evaluation (RARE II) which included over 225,000 acres of roadless habitat on the MNF. Since then, one-fifth of the RARE II acreage has been designated as Wilderness, some areas were administratively protected, and other areas were roaded and heavily logged (eg., McGowan Mountain).



Looking up the forks of Peach Tree Creek and Drew Creek, West Virginia. Photo by Jenny Hager (1998). Published in Appalachian Tragedy: Air Pollution and Tree Death in the Forests of Eastern North America. Sierra Club Books.

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From the Wildlands CPR Office...

This morning's front page headline in the Missoulian (6/23/98): "Another hazard on U.S. 93: Grizzlies crossing." Often confined to the backcountry, non-natural grizzly bear deaths are usually associated with human/bear interactions, not with highway roadkill. But the State of Montana has proposed widening Hwy 93 to four-lanes from Canada to the Idaho border, and this road is already a source of mortality for the bear. Grizzlies inhabit lands around the northern part of Hwy 93 and are proposed for reintroduction in the Selway/Bitterroot, to the south. This story highlights the potential impact of roads and the importance of fighting both new road developments as well as road expansions. An unfortunate reminder for all of us.

While roads continue to impact grizzly bears, the U.S. Congress plays ever more dangerous games with roads. A lengthy discussion of current legislative issues is included on pages 6-7.

Thanks to Than Hitt for the cover story. It's great to know activists are focusing on roads and habitat in the central Appalachians. We hope those of you in other regions will keep us posted on your road issues and contribute articles for *The RIPorter*.

Thanks

Many thanks to those of you who have donated to or joined Wildlands CPR in the past two months. In addition, we'd like to thank Common Counsel for a small grant to help with expenses for our upcoming road removal session at the Society for Ecological Restoration Meeting. Tommy put in a lot of time keeping things going while Bethanie and Dana were both gone for a significant portion of the last month — thanks!! In addition, we rarely give enough thanks to The Ecology Center for their patient assistance with our seemingly endless computer challenges, as well as access to their printer and fax machine, and other general help when we need it. And finally, thanks to Sue Roy for pitching in at the last minute with our lawsuit in Glacier National Park (see page 13).

Wildlands CPR in the field

We've got lots of exciting things on our schedule over the next couple of months. Jacob is developing our first workshop to help activists challenge motorized recreational developments. We hope to hold a "tester" workshop in late August, and then a second, larger workshop in October. Bethanie will present a short workshop on road inventories and road removal at the annual Forest Reform Rally in New Hampshire, September 11-13. A few weeks later, we will host 2 sessions on road removal at the annual Society for Ecological Restoration meeting in Austin, Texas. And while not a Wildlands CPR workshop, expert road remover John McCullah of Salix Applied Earthcare will hold a road removal training in Northern California November 4-6. If you are interested in more information about any of these activities, please contact our office.

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Wildlands Center for Preventing Roads works to protect and restore wildland ecosystems by preventing and removing roads and limiting motorized recreation. We are a national clearinghouse and network, providing citizens with tools and strategies to fight road construction, deter motorized recreation, and promote road removal and revegetation.

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Not For Me

— by Mary Sojourner

I am in the throat of the Turtle Mountain Wilderness, crouched at the base of a basalt cliff, studying a delicate braid of tracks in the sand at the bottom of the narrow wash below me.

I will never make it into the heart of the Turtles. I am fifty-eight, a big woman and one of my lumbar spinal discs is flatter than it should be—too many switch-backs and midnight city concrete, too many rapids run, too much, and never enough, boulder hopping.

The truck is parked where the roads end. If I stand up, I'll see the windshield catching last Mohave light. Lace agate glitters and glows on the pale earth, white chalcedony roses, puddles of mineral cream. To the east, just beyond a portal that opens like a deep breath in the black rock, lies the uni-sex bath-room of a gang of coyotes. At the edge of a tidy deposit of scat is one scarlet flower, blossoms like bells, bells holding light. I imagine how the flower seems to burn, as I imagine what lies west, down-stream, in a stream-bed through which water must pour—I see the pebble curves that tell me eddies have swirled here—twice a year, once, seen only by what lives here. I would love to see that, flash floods no wider than my arm, thunder chaos of brittle-brush, chalcedony and scat.

And, I am grateful to see what lies around me. Now. Here. A mile from the truck, a mile that took me an hour to cross, down into little arroyos, picking my way between fire-rock boulders, stopping to pick up a shard of crystal, an agate rose. I knew better than to bend over and I did it anyway. I'll pay for it later with fire in my back. How could I not touch this lover, this fierce Mohave earth softened by winter light? How could I not, as I once lay in the perfect arms of the perfect lover who perfectly

would leave, breathe in the miracle of being here, being here, only now.

The Buddhists tell us joy lies in limitation. We Americans are taught the opposite. You deserve it all. More is better. Go for it all. I move away from the cliff and look up at the ragged cobalt mountains. I want to go up, into the high saddle, into what leads into mystery, up where I can look out and see forever. I want more. I want it all.

I cannot have it. My back holds me here. Some roads are closed to me forever. I consider that I have become the person the road-greedy claim to fight for. But what about the hand-capped? What about the elderly?

On my slow way to this cliff, this wash, where light seems to catch on



Smoky Mountain road escarpment on the Kaiparowits Plateau. Photo by Milt Hollander.

every facet of twig and stone, and shadows pour like blue lava, I walked across roads that went back to earth beneath my boots. Closed. Closed. I touched the signs. I whispered, "Thank you."

I leave nothing at the base of the cliff except gratitude, and make my careful way back to the truck. My friend, my road-buddy who loves road and roadless equally, emerges from the shadows. He is grinning. I look at his

face and know I look in a mirror.

"How was it?" he asks.

"Very very good."

"Yeah."

We walk in silence. Later he will tell me how he traversed rock he might more prudently have avoided, and how that led him, heart in his throat, to a hidden arch in a saddle and the sight of the southern Mohave rolling in waves of mountains and desert, sunset and blue mist to the far curve of the earth. I will tell him about coyote house-keeping and bells of light and how enough is enough, and never enough. But, for now, our silence is sweet earth without roads.

We camp in an abandoned mining claim. There is the requisite rusting bed spring, coils of wire, shattered Colt 45 bottles glittering like fool's agate. My friend cooks, linguine with garlic and capers. I spread out my sleeping bag and stretch. My back throbs. Fire shoots down one leg.

"Trying to sleep is going to be lovely," I say.

He laughs. "Would you have it any other way?"

I turn on my back, pull my legs up to my chest. Nothing releases. I look up into moonless sky, Orion striding eternally young and strong, across the eastern sky.

"You mean?" I ask.

"Doing it the easy way. I don't know, maybe driving up to the arch."

I twist left, right. Slowly. I keep my eyes open. I look. The mountain-tops I will never see up close lie like sumi brush-strokes against the stars. I don't answer my friend. I don't have to. The way into the answer is perfectly clear.

— I am blessed to live within sight of the San Francisco Peaks. I came here to write and fight for the earth, I am doubly blessed to do both. — Mary Sojourner

Restoring Appalachian Wilderness

— continued from page 1 —

A Roadless Opportunity

Roadless areas are vital for maintaining forest health and biodiversity. On the converse, roaded habitat causes habitat fragmentation (Forman et. al. in press), leads to roadkill (Langton 1989), introduces exotic organisms (Brothers and Spingarn 1992), increases predation and parasitism on forest interior species (Brocke et. al. 1988), and degrades water quality and fish habitat (Beechie et al 1994). Additionally, high road densities may threaten timber productivity through erosion and soil nutrient losses (Douglass and Swift 1977; Gasper 1998).

Although some of the best opportunities for roadless area protection and restoration in the east are found within the National Forests, it has been nearly 20 years since the last systematic evaluation of the opportunities for “roadless area” designation in the Forest Service’s Eastern Region. During this time, the ecological importance and economic value of roadless habitat has increased as the surrounding landscape has been further dissected by urban sprawl and industrial development. The limited amount of public land in the east increases the importance of protecting these places. In contrast to the Forest Service’s conventional definition of “Opportunity Areas” as management units based on the suitable timber base and accessibility for logging, here we identify 10 “Roadless Opportunity Areas” to help protect currently unrecognized roadless areas and restore future roadless habitat on the Monongahela National Forest.

Methods: Defining Roadless Opportunity Areas

To identify ROAs, we first mapped all roads in the Monongahela National Forest purchase boundary from US Geological Survey data (1987 digital line graphs at 1:100,000), including all primary, secondary, “improved” and “unimproved” dirt roads, and excluding trails. Following the Southern Appalachian Assessment (1996) and the Forest Service Handbook (1909.12 chapter 7, section 7.2), we then identified potential roadless areas as 1000-acre blocks containing less than 0.5 miles of roads². To evaluate the opportunities for roadless habitat within each 1000-acre block, we calculated road densities in 100-acre subregions, mapped contiguous low road density habitat, and ranked these areas for size and percent MNF ownership. Following are the 10 largest Roadless Opportunity Areas which meet USFS road density criteria for protection as “roadless areas.” Maps and analyses were produced with ARCGRID v.7.1.2 and ArcView Spatial Analyst v.1.1.

It has been nearly 20 years since the last systematic evaluation of the opportunities for “roadless area” designation in the Forest Service’s Eastern Region.

Results and Recommendations: 10 Roadless Opportunity Areas on the MNF

Approximately one-third of the land within the MNF purchase boundary meets road density criteria for roadless area designation (Figure 1). Evaluating 100-acre blocks, we identified nearly 200,000 acres of Roadless Opportunity Areas (Figure 2), over half of which is currently vulnerable to road building and logging. As you read this, proposed road building, timber sales, and “erosion control” projects threaten McGowan Mountain Area and Dolly Sods Area, the third and fourth largest ROAs, respectively. The three largest areas, Back Alleghany Mountain, Cheat Mountain, and McGowan Mountain, comprise 80,000 acres of a single section of the Ridge and Valley Province and offer an unparalleled chance to restore landscape connectivity in the MNF.

Given the regional significance of roadless habitat, the current opportunities for future roadless areas on the Monongahela National Forest, and the up-coming Land and Resource Management Plan revision, we recommend that the MNF take the following actions:

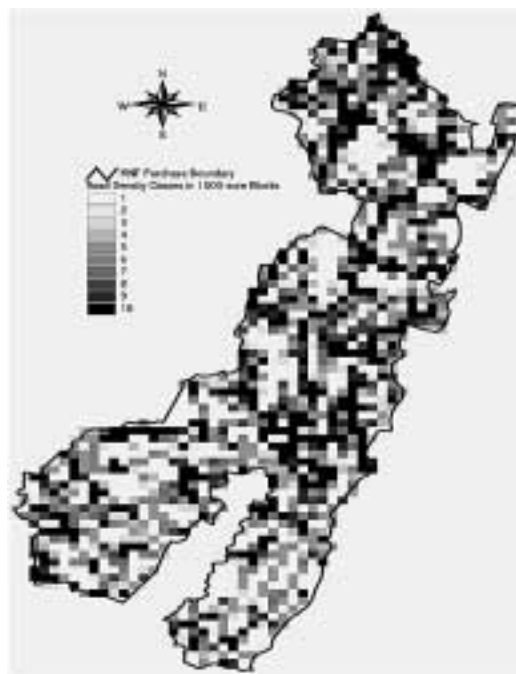


Figure 1. Road density within 1000-acre blocks in the Monongahela National Forest purchase boundary. Data source: US Geological Survey Maps, 1:100 000, 1987 digital line graphs. Class 1 blocks (in white) contain less than .5 miles of roads per 1000 acres.

ROADLESS OPPORTUNITY AREAS IN THE MONONGAHELA NF

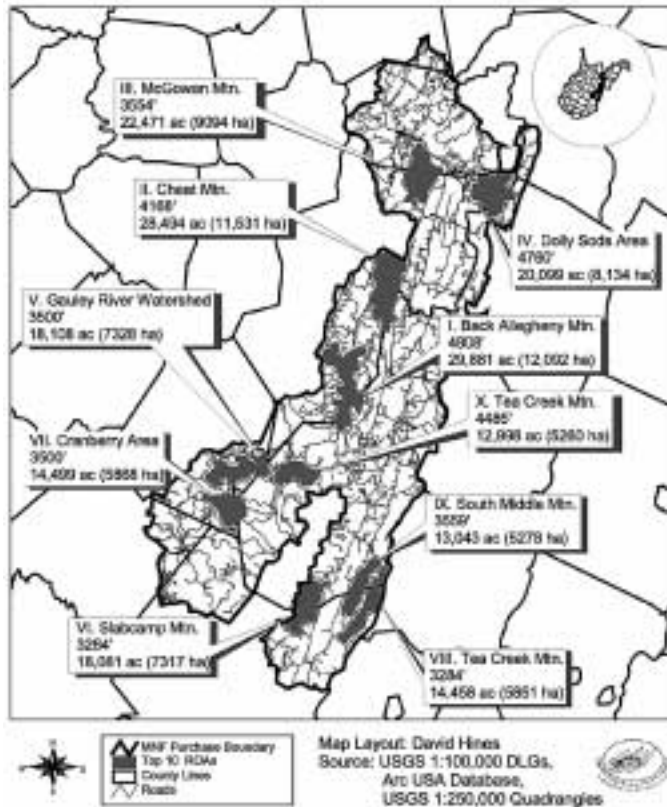


Figure 2. Roadless Opportunity Areas (ROAs) on the Monongahela National Forest. Each of these ROAs contains sufficient contiguous habitat for "roadless area" designation under USFS guidelines for size and road density. Roads shown are primary roads only.

- ◆ Initiate a Forest-wide roads inventory and roadless area evaluation which updates RARE II areas and considers the Roadless Opportunity Areas identified here (Figure 2).
- ◆ Enjoin all current or proposed projects which would degrade the ROAs listed here, including proposed actions in McGowan Mountain's Lower Glaty Opportunity Area and the Dolly Sods North area.

Acknowledgements

For review and presentation of this project, we would like to thank Jim Sconyers, Rick Landenburger, Jason Halbert, Jim Hardy, and Sara Huss. Additionally, we would like to recognize The George Gund Foundation and Environmental Systems Research Institute (ESRI) for their generous support of Appalachian restoration.

Footnotes

¹ This information was presented to the USDA Forest Service on June 29, 1998 at the conclusion of the Central Appalachian Ecological Integrity Conference, Elkins, WV.

² USFS criteria for "roadless area" designation in the western US require 5000 acres of roadless habitat.

The Appalachian Restoration Campaign (ARC) is a project of Heartwood, an eastern forest protection network. ARC works for wilderness restoration with ecological research, education, and advocacy. You can contact ARC at 740-592-3968.

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Legislative Update

On June 25, Interior Secretary Bruce Babbitt wrote an editorial exposing Congress' efforts to legislate roads through wildland ecosystems. He highlighted the Izembeck road (see RIReporter V3#3), which would be illegal without a specific law authorizing it. Even more distressing, many of these legislative assaults are attached as riders to important spending bills, such as the Interior Appropriations bill. This review, thanks mostly to Roger Featherstone's "On Top of the Hill," summarizes a few of the road and motorized recreation issues being debated. It is now up to the President and environmental leaders in Congress to stop these stand-alone bills and riders that are even worse than the anti-environment laws of the 104th Congress. Our job is to make sure they do theirs.

National Transportation Bill Riders

These road and recreation riders were placed on the new national transportation bill, (TEA-21) the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). President Clinton signed TEA-21 and its riders into law on June 9, 1998.

Road to Nowhere

Senator Frank Murkowski (R-AK) placed another rider on ISTEA that gives \$2.5 million for "NW Alaska Road/Rail Access." The Northern Alaska Environmental Center notes this 100-500 mile route would bisect Kobuk Valley National Park and the Selawik, Kanuits, and Koyukuk National Wildlife Refuges in northwest Alaska on the way to Nome or Cape Lisburne. The cost may reach \$1.2 billion and the road may be used to access coal deposits in northwest Alaska.

Boundary Waters Canoe Area Wilderness

Representatives Oberstar (D- MN) and Vento (D-MN) attached a rider to ISTEA allowing trucks and jeeps to haul boats across two portage roads while eliminating motorboat use on the tiny Canoe (107 acres) and Alder (342 acres) Lakes. This rider sets a bad national precedent and marks the first time Congress has rolled back protection for designated Wilderness.

Denali Road

Senator Frank Murkowski (R-AK) placed a rider on ISTEA that appropriates \$1.5 Million for the "Denali North Access Route Construction" to build a 95 mile road or railroad into Denali National Park and Preserve. Estimated traffic is 500 vehicles per day, twice the

level currently allowed by the Park Service. This route has never had a hearing in Congress and has never been studied.

Symms Act

In addition to these riders, TEA-21 also reauthorized the Symms Act (see *The RIReporter* V2#3). The Symms Act funds trail developments and has been used to motorize public lands. States received a total of \$37.5 million in Symms funding from 1991-1997. Under the Symms reauthorization in TEA-21, this will climb to \$270 million for trail developments over the next six years. With categorical exclusions the norm for these projects, and money going to machinery such as the SWECO traildozer, activists will be spending a lot of time fighting bad Symms projects.

Emergency Supplemental Spending Bill Riders

Forest Roads Moratorium By-pass

Senator Larry Craig (R-ID) added to S.1768, the Emergency Supplemental spending bill, a rider subverting the Administration's proposed 18-month road building moratorium in National Forest roadless areas. The rider requires the Forest Service to offer substitute timber sales to offset those suspended by the moratorium. It applies to fiscal years 1998 and 1999 — the likely duration of the moratorium. The rider also requires the FS to pay any state 25 percent of the revenue lost from timber sales cancelled by the moratorium. (Although another proposal would separate the 25% fund from timber sales.)

Petroglyph National Monument

Senator Pete Domenici (R-NM) added to S.1768 a rider to adjust the boundary of Petroglyph National Monument in New Mexico to allow construction of a multi-lane highway for expanding Albuquerque suburbs.



Lawmakers are busy attaching anti-environment riders to spending bills. File photo.

Forest Service Roads Budget

Congress continues to debate and affect the Forest Service (FS) roads budget, with mixed results.

First, Rep. Porter (R-IN) agreed with Rep. Young (R-AK) to cut the Purchaser Road Credit (PRC) program (see *RIPorter* V2#3) from the budget in exchange for limiting future debate on road funding. Since supporting the PRC cut last year, Wildlands CPR has learned that its impact would be quite limited, as the FS has so many other sources of road funds, from slush and emergency funds, to other appropriated line items.

Second, to keep road funding alive, Congress combined the road maintenance, construction, and reconstruction line-items in the FS budget. This makes it nearly impossible to stop bad, or support good road funding. The new line-item also includes decommissioning money, but the bill now prohibits the FS from removing system roads until all non-system roads have either been decommissioned or reconstructed to standard. While many National Forests are removing non-system roads, it is often the system roads that cause the most damage. This language could force the FS to reconstruct roads rather than remove them to reduce environmental impacts. It also promotes the "construction" of nonsystem roads, which were never authorized, engineered or analyzed by the Forest Service. This language is a direct challenge to the long-term roads policy being developed by the Forest Service.

There are also several potential rider and bills under consideration, such as: 1) a rider to allow jet boat use in the wild portion of the Snake River; 2) a stronger version of the TEA 21 rider that would require a northern access route in Denali National Park; 3) a bill to force Great Smoky Mountains National Park to keep the Newfound Gap road open year-round; and 4) a rider to eliminate solitude as a directive for wilderness management.

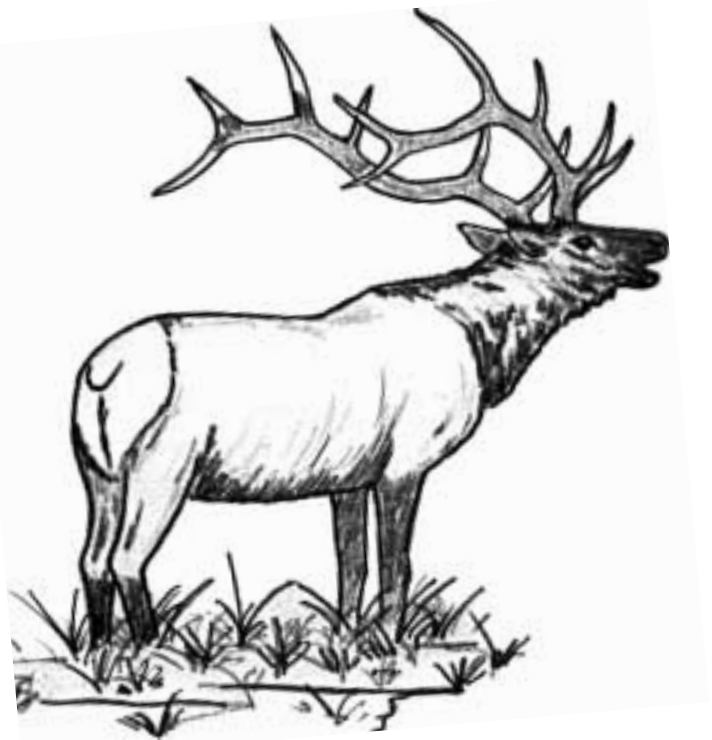
Interior Appropriations Riders

House Riders

Chugach Road/Copper River Delta — This rider, pushed by House Resources Chairman Don Young (R-AK), allows road construction through Alaska's Chugach NF across the Copper River Delta, perhaps the richest waterfowl feeding area on the North American West Coast. It exempts the road from environmental review and public input. Contact Alaska Rainforest Campaign (907) 463-6755 or <http://www.akrain.org>, and see *RIPorter* V3#3.

Senate Riders

"King Cove Health and Safety Act" — Sponsored by Don Young (R-AK) in the House and championed in the Senate by Ted Stevens (R-AK), this bill authorizes a \$30 million, 30-mile gravel road through Izembek National Wildlife Refuge and Wilderness, and waives environmental laws. As stand-alone bills, both HR 2559 and Sen. Murkowski's (R-AK) version, S. 1092, passed committee last fall. The Izembek Road would be the first permanent road through designated Wilderness. It is opposed by conservationists, sportsmen, Alaskan natives, taxpayer groups, and the Administration. For more information, contact Tom Uniack, Defenders of Wildlife (202) 682-9400 and see *RIPorter* V3#3.



Drawing by Gary Steele.

Anti-Rider Bill

Representative Henry Waxman (D-CA) attached an amendment to HR 3534, the Mandates Information Act, that would have extended points of order to bills that would weaken environmental and public health standards. The amendment received 190 votes. This amendment is also a stand alone bill by Representative Waxman titled HR 1404. This bill allows a separate vote on environmental riders attached to widely-supported bills.

What you can do:

1) Contact your Congressional delegation and tell them: "No Riders, No Rollbacks!" The American public will not stand for legislating by rider again. Congressional Switchboard (202) 224-3121

2) Call President Clinton and urge him to veto any and all bills that contain anti-environmental riders. Cite some that are pending. White House comment line (202) 456-1111 or e mail to: president@whitehouse.gov

3) Write a letter to the editor of your local newspaper. Call GREEN for a sample.

4) Urge your delegation to support Waxman's HT 1404 to shine the light on riders weakening environmental and public health standards.

Bibliography Notes

Bibliography Notes summarizes and highlights some of the scientific literature in our 6,000 citation bibliography on the ecological effects of roads. We offer bibliographic searches to help activists access important biological research relevant to roads. We keep copies of most articles cited in Bibliography Notes in our office library.

Tooth and Claw: Ecological Effects of Roads on Predators

— by David Havlick

Predators stand out among terrestrial fauna as the group most susceptible to the adverse impacts of roads. Positioned high in the food chain, predators have evolved to live long natural lives, rear their young over a protracted period, and generally have low reproductive rates. All of these factors combine to create an extremely low tolerance to increased mortality.

Because of their extensive home ranges, many predatory species also stand out as umbrella species for management—that is, if we protect predators and their habitats, then this protective “umbrella” will be large enough to include the habitat needs for other species that coexist with predators (Noss et al. 1996). Unfortunately, predators’ unique combination of sensitivity to mortality and broad habitat needs has led increasingly to their imperilment. Road and access management is crucial to the long-term survival of predators (see *RIPorters* V3#3 and V2#6 for Bibliography Notes on grizzly bear and wild cats).

Fender Fodder

Direct mortality from roads—in the form of vehicle-predator collisions—can devastate predator populations, especially when they are isolated geographically or rare in number (Forman et al. 1996). In some cases, such as that of the Florida panther, death by auto has been cited as one of the primary causes of a species’ imperilment. Before 1991, 47% of known Florida panther deaths were from road kill, though highway underpasses installed since that time appear to be reducing direct mortality substantially (Foster and Humphrey 1995; Smith et al. 1996). In Denmark, roadkill accounted for 3600 badger deaths—or 10-15% of the species’ total population in that nation—in a single year (Aaris-Sorensen 1995). Roadkills represent 46% of all human-related mortality for the endangered American crocodile (Smith et al. 1996), and are considered the major cause of mortality for the ocelot, an endangered North American cat (Jenkins 1996).

Beyond Bumpers

Indirect impacts from roads—such as habitat fragmentation, direct habitat loss, increased human development, increased motorized access, and habitat displacement—also account for substantial human-caused mortality of predators (Ruediger 1996). Additionally, prey species such as elk (Lyon 1983), moose (Crete et al. 1981; Timmerman and Gallath



Who's afraid of the big bad road? Photo courtesy of National Park Service.

1982), and deer (Sage et al. 1983) are sensitive to road densities and as their populations decline the accompanying predators drop in number accordingly.

When roads slice through formerly-unbroken habitat areas, the resultant openings affect species’ abilities to hunt, find cover, or den. This fragmentation also facilitates the spread of noxious weeds and affects the native plant populations upon which herbivores and subsequently predators depend. The degree of habitat fragmentation generally correlates with road density, which is determined by calculating the miles of road per square mile of land area.

Road densities greater than 1 mile/square mile have been shown to reduce habitat security and increase mortality for a range of predators, including grizzly and black bears, and lynx (Britell et al. 1989; Naney 1991; Noss 1996 citing Brody and Pelton 1989). A 1996 study of Montana grizzly bears found that animals avoided areas of high road density even though roads were closed to public use (Mace et al. 1996). Studies in southern Utah and the northern Great Lakes have shown that mountain lions and wolves, respectively, fail to survive when road density exceeds 0.9 miles/square mile (Thiel 1985; Van Dyke et al. 1986; Jensen et al. 1986; Mech et al. 1988). Mech (1989) later determined that wolves could survive in areas with higher road density only if they existed adjacent to roadless lands populated by wolves.

Swift fox present one of the few exceptions to the array of predators that are known to avoid roads. Whether due to easier hunting in the short grasses near roadsides, trying to avoid their own most common predator (coyotes), or for some other yet-unknown reason (like becoming more visible to researchers), swift fox show a strong preference for roads and typically den within 230 meters of them (Hines and Case 1991). Whatever the motive, swift foxes' affinity for roadsides exacts a toll as they suffer high levels of juvenile mortality to roadkill (Sovada et al. 1998).

Roads create an obvious source of mortality from trapping, hunting, or poaching due to easy motorized access. A Minnesota study, for instance, found that 91% of all black bear deaths were caused by legal and illegal hunting (Rogers 1987), and in roaded areas of Maine trapping accounted for 90% of all pine marten deaths (Hodgman et al. 1994). Not surprisingly, the danger and noise associated with roads typically create an avoidance response by predators. An ongoing study in British Columbia has found wolverine den sites exclusively in roadless drainages (Krebs 1998). Lynx generally will not cross openings greater than 100 feet (Naney 1991), bobcats avoid roads and habitat within 100 meters of roadsides (Lovello and Anderson 1996), grizzly bears are disrupted up to a distance of 4 kilometers by roads (Mattson et al. 1987), and in Africa black-backed jackals avoid areas within 600 meters of a roadway (Newmark et al. 1996). Spanish predators, including the Iberian lynx, red fox, wild cat, and common genet avoid road crossings by using culvert tunnels beneath roadways (Rodriguez et al. 1996).

Conclusion

While highway underpasses, wildlife culverts, and other measures can sometimes mitigate the direct impacts of roadkill, predators will continue to suffer world-wide declines if present road-building trends continue. With an estimated 10% of the contiguous United States already directly impacted by roads (Forman et al. 1996), there are simply too many roads exerting too much damage in too many places for predators to rebound on their own. It remains critically important to predators' survival in North America and elsewhere that activists and land managers work to remove the most ecologically destructive roads and prevent new roads from being built into existing habitat.

— David Havlick has an MS from the University of Montana and coordinates the Roads Scholar Project for Predator Project, Box 6733, Bozeman, MT 59771; 406-543-8424.

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Can you find the secretive pine marten in this photo?
File photo.

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Motorized Issues Ripe For Review

— by Sidney Maddock, Biodiversity Legal Foundation

Road activists involved with litigation know that technical legal doctrines can determine whether plaintiffs are able to sue a federal agency. For example, courts require a plaintiff to have “standing” before the court will hear their case. In the wake of an environmental setback from a unanimous U.S. Supreme Court decision in Ohio Forestry Association v. Sierra Club, 1998 WL 244192 (May 18, 1998), activists also will have to consider the doctrine of “ripeness” before suing over certain Forest Service actions. While this ruling limits challenges of timber harvest provisions of Land and Resource Management Plans (Management Plans) pursuant to the National Forest Management Act (NFMA), the decision still allows activists to challenge road building provisions.

The Decision

Sierra Club and others (Club) sued the Forest Service, claiming the Management Plan for the Wayne National Forest (Plan) permitted below-cost timber sales by clearcutting, in violation of NFMA. The Plan permitted logging on 126,000 acres of the 178,000 acre forest. However, it set a ceiling on the amount that could be cut, allowing logging on about 8,000 acres during the decade, including about 5,000 acres of clearcuts or other even-aged cuts. While the District Court decided that the Forest Service had acted lawfully, the Court of Appeals for the Sixth Circuit reversed, finding the Plan improperly favored clearcutting and violated NFMA. However, the U.S. Supreme Court (Court) ruled that the suit was nonjusticiable because it was not “ripe for court review,” and vacated the Court of Appeals’ decision.

Judicial Ripeness

In its ruling, the Court initially discussed the purpose of the ripeness requirement. It is designed to avoid premature adjudication and prevent the courts from entangling themselves in abstract disagreements over administrative policies. It also protects agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties. In the Court’s view, several factors led to the conclusion that the NFMA challenge to the Management Plan was not ripe.

The Court first reasoned that to withhold court consideration at the present would not cause the parties significant hardship. While the Plan

Forest Service can permit logging, it must focus on a particular site, propose a specific harvest method, prepare an environmental review, permit the public an opportunity to be heard, and (if challenged), justify the proposal in court.” Thus, the Court did not find a “strong reason” why the Club must bring its challenge against the Plan’s timber provisions. The Club will have opportunity to file a lawsuit challenging clearcutting whenever the Forest Service proposes a particular clearcut. At that time, the Court believes, the harm will be “more imminent and certain.”

The Court also reasoned that from the agency’s perspective, immediate judicial review directed at the lawfulness of clearcutting could hinder agency

efforts to refine its policies through revisions to the plan or to application of the Plan in practice (e.g., in the form of site-specific proposals, which are subject to review). The Court stated the real possibility that the Forest Service could further consider the Plan’s contents, either through plan amendments or successful appeals. Judicial review of the Club’s claims regarding clearcutting would require time-consuming consideration of the details of an elaborate, technically based plan which predicts consequences that may affect many different parcels of land in a variety of ways, and which effects themselves may change over

time. The Court felt that judicial review of the Plan would take place without the benefit of the focus that a particular logging proposal could provide.



While Forest Plan prescriptions for clearcuts were found to be not ripe for review, the court did not preclude challenges to road building. File photo.

makes logging more likely in that it is a precondition to logging, the Plan “does not give anyone a legal right to cut trees, nor does it abolish anyone’s legal authority to object to trees’ being cut.” The Plan’s timber provisions did not, in the Court’s view, inflict significant practical harm on the environmental interests the Club had argued in the case, because “before the

— continued on next page —

References

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Finding Opportunities

Ohio Forestry Association is a setback to those who would like to challenge Management Plan provisions regarding timber harvests pursuant to NFMA. Nevertheless, the decision also has important language suggesting that portions of these plans involving road building still may be subject to judicial review. When the Club was before the Supreme Court, it argued that the Plan also would hurt the Club in many other ways, such as opening trails to motorcycles. The Court responded that this argument, contesting “the Plan’s failure to close roads or to provide for the building of trails,” had not been raised in the lower courts. If the Club had previously raised these other kinds of harm, the ripeness analysis would be “significantly different.” The Solicitor General stated that if the Club’s claim was that the “Plan was allowing motorcycles into a bird-watching area,” that claim would be immediately justiciable. However, as these claims were not raised in the lower courts, the Supreme Court would not consider them.

In order to avoid dismissal of a challenge to a Management Plan on ripeness grounds, it must be clear how the Plan causes imminent injury. Ohio Forestry Association suggests that Management Plans that open a particular area to off-road vehicles still are subject to legal challenge. In addition, when activists submit comments to the Forest Service on a draft Management Plan, the activists should clearly point out how the draft’s provisions regarding off-road vehicle trail or road construction will cause imminent, concrete injuries. It is well known that roads adversely affect wildlife and reduce the value of hiking areas, but activists should clearly discuss these injuries and, if possible, include studies or data that support the discussion.

— *Sidney Maddock is a lawyer for the Biodiversity Legal Foundation, and also serves on the Wildlands CPR Board of Directors. When he’s not fighting bad land management projects, he spends his time wind surfing off the coast of North Carolina.*



Caspers Park, California. Photo by Mark Alan Wilson.

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What Will Fill Forest Service Vacuum?

— by *Bethanie Walder*

It seems no matter what the Forest Service does, someone is always mad at them. While conservationists successfully challenge the agency to reduce timber sales on our National Forests, we are also helping create a management vacuum within the Agency. Congress, the recreation industry and the timber industry are all working to fill this vacuum while environmentalists sit on the sidelines. The recent threat from conservative Republicans (including Murkowski, Chenoweth and Craig) to turn the agency over to custodial management is a great example. The threat of custodial management is simply an effort to force the Agency to get the cut out, but it also plays right into the hands of those who want to privatize and commercialize the National Forests. Similarly, the recreation industry is working to create the type of relationship with the Forest Service that the timber industry has enjoyed for so many years. No one, however, is offering an ecologically sound alternative for filling this void: wildland restoration.

Managers need a reason to manage.¹ With recreation generating nearly thirty times the revenue as timber from

American public “customers,” discussing ways to improve customer service, and selling their product: industrial recreation within the boundaries of the National Forests. And while all recreation needs some management, big recreation needs the biggest management. And big recreation brings in big bucks. In 1997, for example, the Forest Service spent approximately \$2.5 million on Challenge Cost-Share Agreements (public/private partnerships) with recreation industries and organizations. In return, these organizations contributed \$6.2 million in benefits to the Forest Service, and these public/private partnerships are on the rise. Chief Dombeck is orchestrating a managerial shift from industrial resource extraction to industrial recreation. Now is the time to head off this shift and offer an environmental vision for the Forest Service that puts the ecological needs of the land, and specifically wildland restoration, at the heart of continued forest management.

If environmental activists do not weigh in on this issue now, we must prepare for the hard times we will face working to protect public lands from the ecological degradation caused by

recreation. While it may seem difficult to challenge logging and mining, it is considerably easier than challenging recreation. Only a small part of the public identifies with those employed in resource extraction, and an even smaller portion identifies with the multinational companies that profit from resource extrac-

tion. Recreation, on the other hand, is something all Americans do, and something we might misinterpret as

benign. After all, what’s the problem with hiking, fishing and hunting? While all recreation causes impacts, motorized recreational impacts are severe. The Forest Service is using increased recreation to justify more roads, more parking lots and more motorized access to public lands. In addition, motorized recreation brings the largest revenues for gateway communities. It is only natural for the Forest Service to emphasize the form of recreation that will generate the most revenue, either through fees or through increased cost-share agreements with industry. But it will be nearly impossible to run a campaign against recreation. “Stop Lawless Recreation” just does not have the same ring to it as “Stop Lawless Logging.” Silence is deadly in this instance. The Forest Service and Chief Dombeck need to know that we want our Forests managed for their ecological values first and foremost.

The National Forest System was created to ensure the American people would have healthy and plentiful forests, clean water, clean air and wildlife. It is time for the Forest Service to embody a vision of restoring land degraded by industrial logging, mining and grazing for the last century. Wildland restoration through road removal provides high-skill, high-paying jobs and rehabilitates habitat for the salmon, grizzly and wolf. The Forest Service has been known as the largest road building entity in the United States, probably even the world, for long enough. Let them now become known for their expertise in land and watershed restoration, not as a recreation machine. We need a long term approach to managing our National Forests — one which protects the wildlife and water resources the National Forests provide, a vision which allows the Forest Service to employ people restoring degraded land rather than degrading productive land.

¹ While some conservationists may argue that we need no management on our National Forests, it is unlikely the Forest Service will cease to exist. It is therefore critical that environmentalists weigh in as the agency redefines itself.



Increased recreation poses a different type of environmental threat. Photo by Sidney Maddock.

our National Forests, it is only natural for the Forest Service to embrace it (see *The RIPorter* V2 #6). The Forest Service can justify their existence by calling the

Pave Paradise and Put Up a Parking Lot?

Wildlands CPR and The Coalition for Canyon Preservation have won a Temporary Restraining Order (TRO) preventing Glacier National Park (in Montana) from expanding the Avalanche Creek parking lot and historic picnic area. Both groups are challenging the park's finding that a 71-space parking lot will have no significant impact on an old-growth cedar forest at the site. A hearing for a preliminary injunction was scheduled for July 13, while this issue of the *RIPorter* was being printed.

Glacier National Park released a Finding of No Significant Impact (FONSI) that called for cutting 42 trees. When the contract was completed, however, it called for cutting over 90 trees, more than double the amount analyzed in the Environmental Analysis. In addition to approving an action that is significantly different than the chosen alternative, the Park Service ignored several other substantive comments during the process. The chosen alternative will significantly alter the rare old growth cedar habitat in the area, with mitigation expected to occur within 4-500 years when the early successional trees in the area finally mature into old growth.



Cedar-Hemlock forest types are extremely rare in the ecosystem surrounding Glacier National Park. Photo by Jim Coefield.

Outer Banks Road Widening

The North Carolina Department of Transportation (DOT) is proposing to widen US 64, the main access from the west to the Outer Banks, a group of barrier islands. Citing projected increases in traffic, DOT proposes widening the road from two to four lanes between Plymouth and Columbia, NC.

While DOT justifies the wider road with references to increased tourism and its economic benefit, their draft environmental impact statement (DEIS) completely fails to address the project's indirect and cumulative impacts.

Increased traffic will have significant adverse impacts on the sensitive coastal ecosystem. In one county alone, the Natural Heritage Program lists five

sites of national significance, and the Pea Island National Wildlife Refuge (NWR), Currituck NWR and Cape Hatteras National Seashore (CHNS) also are found on these islands. In addition to ESA-listed sea turtles, over 350 species of birds utilize the CHNS, including the ESA-listed piping plover and the state listed gull-billed tern and roseate tern.

Widening the road will increase development in rare maritime forest areas, and impact roughly 100 acres of wetlands. Increased powerboat and jet ski use will impact sensitive rookeries and other important wildlife habitat.

Finally, DOT plans to expand the road through the Alligator River NWR, where a non-essential population of red

wolves lives. The current DEIS, however, doesn't address the impacts of these two, connected actions.

Ask the U.S. Army Corps of Engineers to deny DOT's request for a permit to fill the wetlands for the road project. Address comments to: Mr. Michael F. Bell, Washington Regulatory Field Office, U.S. Army Corps of Engineers, Post Office Box 1000, Washington, NC 27889, by August 15, 1998. For more information, contact Sidney Maddock, Biodiversity Legal Foundation (252) 995-3312.

Gumboot Creek Lawsuit

Wildlands CPR joined Hells Canyon Preservation Council, Native Fish Society and Northwest Environmental Defense Center in a recent lawsuit to challenge the reconstruction of the Gumboot Creek road in Hells Canyon National Recreation Area. The lawsuit challenged the Federal Highway Administration and the Forest Service for using a categorical exclusion to reconstruct a road with ERFO (Emergency Relief for Federally Owned) roads funding. (see *The RIPorter* V #)

Gumboot Creek provides habitat for Chinook Salmon and Steelhead trout, both of which are listed as threatened under the Endangered Species Act. Unfortunately, the court upheld the agency's decision, but because that decision was unpublished, the court ruling has no precedent and should not preclude future ERFO project challenges. While the plaintiffs decided not to appeal the ruling, we will continue to look for ways to challenge environmentally damaging ERFO projects.

Ask Dr. Roads



Dear Dr. Roads,

I live in a coastal community in Florida. To get to work, I drive around a 50,000 acre swamp that is full of mosquitoes, snakes and panthers. The swamp has only a few houses and a couple of lime rock roads that have been washed out for years. During the summer the swamp floods, and the road has giant potholes that are two or three feet deep. People who take this "short cut" always stall out and get stuck. My town council thinks this would be a good hurricane evacuation route, as it cuts the driving distance to town in half. Should I take the initiative and help their idea work by dumping sand in the holes?

— **Back Phill, Sand County, FL**

The mosquitoes, snakes and panthers may be able to survive a hurricane, but why build an evacuation road through a swamp that floods every summer during hurricane season? This sounds like a ploy to develop the area: pave a road and people will come, even to a hot, buggy swamp. I can see the advertisements now: "Own your own piece of heaven by purchasing water-front property." These ads usually forget to mention that the land is under a foot of water most of the year, and the invertebrate population doesn't get prominent billing either.

This situation illustrates Dr. Roads' Third Rule of Roads: never repair pot holes by filling them with sand or other materials — deep pot holes do a great job of keeping the critters from getting run over by speeding cars. Also, not getting involved will keep you from having to pay a big fine for violating the Clean Water Act when your sand fills more than the road and ends up in wetlands.

— **Dr. Roads, PhD.**

Send questions to:

Ask Dr. Roads, c/o Wildlands CPR
PO Box 7516/Missoula, MT 59807
or WildlandsCPR@wildrockies.org

Join Wildlands CPR Today!

Membership benefits both you and Wildlands CPR. You lend your support to our efforts, giving us more leverage in submitting comments, filing lawsuits, and creating pressure to prevent and close roads on public lands. In addition, your financial support helps us continue providing information and resources to activists throughout North America.

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New Resources for Road-Rippers

Wildlands Center for Preventing Roads and Friends of the Earth announce the publication of "Trails of Destruction," a report that exposes a fast-growing threat to our public lands: off-road vehicles. Beginning with a concise explanation of the ecological impacts of ORVs, "Trails of Destruction" also explains federal funding mechanisms for ORV developments and how motorized recreationists have gained access to once non-motorized public lands. This 30 page report is a primer on current ORV issues and a starter for activists interested in challenging ORVs. It also includes policy recommendations that might begin to remedy some of the problems caused by ORV developments. Wildlands CPR is also working on a new guide/toolbox focused on grassroots and legal action you can use to challenge motorized recreation in wildland ecosystems.

Wildlands CPR Publications:

- Road-Ripper's Handbook (\$15.00, \$25 non-members)** —A comprehensive activist manual that includes the five Guides listed below, plus *The Ecological Effects of Roads*, *Gathering Information with the Freedom of Information Act*, and more!
- Road-Ripper's Guide to the National Forests (\$4, \$7 non-members)** —By Keith Hammer. How-to procedures for getting roads closed and revegetated, descriptions of environmental laws, road density standards & Forest Service road policies.
- Road-Ripper's Guide to the National Parks (\$4, \$7 non-members)** —By David Bahr & Aron Yarmo. Provides background on the National Park System and its use of roads, and outlines how activists can get involved in NPS planning.
- Road-Ripper's Guide to the BLM (\$4, \$7 non-members)** —By Dan Stotter. Provides an overview of road-related land and resource laws, and detailed discussions for participating in BLM decision-making processes.
- Road-Ripper's Guide to Off-Road Vehicles (\$4, \$7 non-members)** —By Dan Wright. A comprehensive guide to reducing the use and abuse of ORVs on public lands. Includes an extensive bibliography.
- Road-Ripper's Guide to Wildland Road Removal (\$4, \$7 non-members)** —By Scott Bagley. Provides technical information on road construction and removal, where and why roads fail, and how you can effectively assess road removal projects.

Bibliographic Services:

- Ecological Impacts of Roads: A Bibliographic Database** —Updated Feb. 1998 —Edited by Reed Noss. Compiled by Dave Augeri, Mike Eley, Steve Humphrey, Reed Noss, Paul Pacquet & Susan Pierce. Contains approx. 6,000 citations — including scientific literature on erosion, fragmentation, sedimentation, pollution, effects on wildlife, aquatic and hydrological effects, and other information on the impacts of roads. Use the ecological literature to understand and develop road density standards, priorities for road removal, and other road issues.
- Database Searches** —We will search the Bibliography on the subjects that interest you, and provide results in IBM or Macintosh format (specify software), or on paper. We also have prepared a 1-disk Bibliographic Summary with results for commonly requested searches. Finally, we offer the full bibliography. However, you must have Pro-Cite or a compatible database program in order to use it.

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Visions...



Road-ripping in the Fremont Valley, Mojave desert, California. Photo courtesy of Southwest Center for Biological Diversity.



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*“So mechanical man in triumph seated
upon the seat of his machine will be driven
mad from within himself, and sightless.”*

*– DH Lawrence,
“The Triumph of the Machine”*

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