



Colorado Wild Public Lands

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Ms. Becca Smith
Pagosa Ranger District
PO Box 310
Pagosa Springs, CO 81147

VIA EMAIL: rebecca.smith@usda.gov

<https://cara.ecosystem-management.org/Public//CommentInput?Project=NP-2434>

Dear Ms. Becca Smith,

Re: Comments on Proposed Colorado Roadless Area Modifications

The following are the comments of Colorado Wild Public Lands (COWPL) on the proposed Colorado Roadless Area changes related to the Valle Seco Land Exchange. Colorado Wild Public Lands is a 501(c) 3 organization. Our mission is to protect the quality, size and integrity of Colorado's public lands, and our focus is advocating for the public in proposed land exchanges in our state.

We understand that The Forest Service, U.S. Department of Agriculture (USDA), proposes to modify the South San Juan Adjacent, Turkey Creek, and Winter Hills/Serviceberry Mountain Colorado Roadless Area (CRA) boundaries on the San Juan National Forest to remove Federal land for the Valle Seco 2019 Land Exchange and to add acres to the Winter Hills/Serviceberry Mountain CRA "based on changed circumstances". The Forest Service proposes to modify the South San Juan Adjacent Roadless Area and Turkey Creek Roadless Area boundaries to remove approximately 176 acres of Federal land to be conveyed to Non-Federal Parties as part of the proposed land exchange. The Forest Service is also considering modifying the Winter Hills/Serviceberry Mountain CRA to add between approximately 529 acres and 7,954 acres to the CRA. Per the Forest Service, these various boundary modification alternatives were analyzed in the Draft Environmental Assessment for the Valle Seco 2019 Land Exchange. Yet, the Forest Service stated that they did not

consider the proposed Roadless Area changes to be part of the Environmental Assessment. This is the only place the changes have been analyzed so far.

COWPL noted that the Forest Service's preferred Alternative 2 includes the 529 acres to be added, and not the greater acreages proposed in Alternatives 3 and 4. It seems that further analysis of the proposed additions should be conducted. Most importantly, there does not appear to be a direct connection between the proposed land exchange and the new additions to the CRA's.

In general, Colorado Wild Public Lands (COWPL) doesn't object to adding acreage to CRA's, providing the lands meet the Roadless Area criteria and sufficient analysis and public outreach are conducted. If acreage is added to the Winter Hills/Serviceberry Mountain CRA, we suggest that the lands should be contiguous. COWPL does not support adding acreage to a different CRA as mitigation and/or compensation for removing land from the Turkey Hill or South San Juan CRA's.

The following are COWPL's comments and concerns regarding the proposed reductions in the acreage of the CRA's, specifically as proposed in the action referenced above.

I. THE FOREST SERVICE SHOULD NOT TRANSFER LAND OUT OF ROADLESS AREAS

To implement the proposed exchange, land in two Colorado Roadless Areas (CRAs) would be traded away. All of parcel 1 (175.2 acres) would be removed from the South San Juan Adjacent (SSJA) CRA, and the 0.66-acre parcel 2 would be removed from the Turkey Creek CRA. EA at 34.

The Forest Service has conducted NEPA processes to clarify the Roadless Rule and the areas designated as CRA's. Public input was solicited in the process. The San Juan National Forest confirmed the boundaries of their Roadless Areas in the 2012 Colorado Roadless Rule. Thus, the CRA's have been determined based on NEPA and public participation. Changing the boundaries for the purposes of a private-public land exchange would be under-mining the previous processes.

The public expects that CRAs will be protected as roadless. The SSJA was not recommended for wilderness designation in part because "[m]anagement under the Colorado Roadless Rule would protect roadless characteristics...". San Juan Forest Plan (Forest Plan) Final EIS at C-51. The Colorado Roadless Rule established that roadless areas belong to all Americans and are a resource to protect and pass on to future generations. The proposed land exchange reneges on this promise.

The preamble to the Colorado Roadless Rule (CRR) stated:

Roadless areas belong to all Americans and are a resource to protect and pass on to future generations. The final rule will provide long-term management of CRAs to ensure roadless area values are passed on to future generations,...

77 Fed Reg 39577, July 3, 2012.

By trading away 175 acres of roadless lands, the Forest Service fails to fulfill the CRR's mandate to protect roadless lands in Colorado. It would trade away relatively pristine lands in management area 1, which should not be traded away.

It seems that to compensate for a reduction in roadless acreage as a result of the proposed exchange, the Forest Service proposes to add considerable acreage to the Winter Hills/Serviceberry CRA (WH/S CRA) in alternatives 3 (4675 acres) and 4 (7425 acres)¹. See EA at 25. If the land proposed for addition to the CRA is roadless, why is it not already in one or more roadless areas and protected as roadless? While we support protecting these areas as roadless, adding areas to the CRAs that should already be in CRAs cannot count as compensation for the loss of roadless lands in different CRA's in the proposed exchange.

In alternatives 3 and 4, the acreage proposed to be added to the WH/S CRA is not contiguous with the existing roadless area. Both of the proposed additions are on opposite sides of Highway 84 from the existing CRA, so the proposed additions and the existing area cannot be connected. If a Roadless Area is bisected by a road, it seems that it cannot be one roadless area but should be two separate roadless areas. See EA Figure 6, p. 26. Therefore, it would be better to create a new roadless area to place this land in the roadless system.

2. THE ROADLESS AREAS PROPOSED TO BE EXCHANGED HAVE INTRINSIC VALUABLE CHARACTERISTICS.

PARCEL 1 -175.48 acres

The parcel is within the South San Juan Adjacent Colorado Roadless Area and contiguous with National Forest land. 5.7 acres are located in the East Fork of the San Juan River suitable wild and scenic river corridor. Thus, additional levels of protection exist on Parcel 1 indicating that it benefits from valuable public resources. The EA lists some of these per below.

- Parcel 1 has a "mixed conifer stand that is classified as old growth" [EA at 44].

¹ Under all action alternatives, 529 acres, contiguous to the WH/S CRA, would be added to this CRA. EA at 23 and Figure 6 at 26.

- The parcel is located in migration corridors for elk and mule deer [EA at 55].
- Good habitat for American Marten, fringed myotis, hoary bat, flammulated owl, Lewis' woodpecker, northern goshawk, olive sided flycatcher, and western bumblebee [EA at 64].
- 2.22 acres wetlands (1.45 acres PEM and 0.77 acres riparian land), 3 perennial creeks (2,797 linear feet of stream frontage – 1,973 of which on Johnny Creek [EA at 74]. These are natural wetlands that contribute to the integrity of the surrounding ecosystems.
- Cultural site eligible for NRHP listing [EA at 80].

The public has access to, and uses, Parcel 1.

- “Three hunting outfitter/guides are permitted to operate within the compartment that contains this parcel, and one outfitter occasionally uses the parcel area itself for his operations” [EA at 92].
- There are several public access points. One access is 0.3 miles cross country from East Fork Road (NFSR 667), including fording the river (EA at 4).

There are additional uses including three ditch headwaters, one authorized road and five unauthorized roads (EA at 87).

The Forest Service has the ability to manage and remove unauthorized roads. The presence of unauthorized roads is not a good reason to remove land from a roadless designation. The loss of this parcel further permits privatization of public land to encroach on the remaining CRA. Importantly, this is a beautiful, ecologically rich parcel that is currently enjoyed by the public.

Based on the existing CRA and suitable wild and scenic designations, the presence of valuable resources, and existing public use, this parcel should remain in Federal ownership.

PARCEL 2 – 0.66 acres

This is a small area of land; however, it is within the Turkey Creek CRA. It ensures the integrity of that parcel and the parcel corner. Losing the protected 0.66 acres has the potential to lead to further development and impacts in close proximity to the CRA, especially since the parcel includes a “private road easement to Bootjack Ranch” [EA at 98]. The parcel includes habitat for fringed myotis, Lewis' woodpecker, olive sided flycatcher and western bumblebee [EA at 64].

The parcel also connects the overall CRA to the river. The Turkey Creek CRA is adjacent to wilderness and serves as an extension of the protected area and a buffer to those wilderness lands.

Based on the existing CRA, the presence of resources, and proximity to the river, this parcel should remain in Federal ownership.

Trading away roadless area acreage as is proposed is not acceptable due to the two areas' intrinsic values.

3. PUBLIC INPUT

Public comments should be considered in their entirety. Closer inspection of the “form letters” indicates that signees often modified the content and/or added a personal message. A member of the public adding their name to a text should imply that the text reflects their opinions on the matter. The letter should be reviewed and considered, rather than dismissed out of hand. The exchange process is a dense one, and there are organizations willing to clarify that process and provide information to members of the public who perhaps don't have the experience or the time to navigate a lengthy Environmental Assessment document. There were over 346 scoping comments, mostly in opposition to the land exchange, in large part due to the proposal to remove acreage from the roadless areas.

- A point repeatedly made in the scoping comments is that in 2013 the USFS committed to protect the South San Juan Adjacent Roadless Area and Turkey Creek Roadless Area for the public benefit [2013 San Juan Forest Plan]. The overwhelming majority of the public comments reiterated this commitment, and people feel that this commitment is no longer being honored.

4. WILDERNESS QUALITY LANDS

The South San Juan Wilderness is among Colorado's wildest areas, and the lands within the adjacent roadless area included within the contemplated land exchange have been proposed for wilderness designation by conservation advocates for over 20 years. The San Juan National Forest previously deemed wilderness designation of this roadless area unnecessary because it was protected under the Colorado Roadless Rule. It is inappropriate and a betrayal of the public interest to remove the roadless protected status from these wilderness-quality lands simply because a private party wishes to acquire them.

5. ROADLESS AREA CONSERVATION RULE AND SAN JUAN NATIONAL FOREST PLAN

Forest Service 36 CFR Part 294 RIN 0596-AB77 states that the Roadless Area Conservation Rule is intended to prevent fragmentation of lands and provide protection for those lands.

“In the future, expanding urban areas and increased fragmentation of private lands make it likely that the largest and most extensive tracts of undeveloped land will be those in public ownership...”

“The intent of this final rule is to provide lasting protection for inventoried roadless areas within the National Forest System in the context of multiple-use management.”

Per this proposal, the Forest Service proposes to modify the South San Juan Adjacent Roadless Area and Turkey Creek Roadless Area boundaries, located in the San Juan National Forest, to remove approximately 176 acres of Federal Land. Removing lands from the Colorado Roadless Area designation would increase fragmentation and remove protection.

The San Juan National Forest Plan, Appendix 3 - Roadless Area Inventory states that:

- The Turkey Creek Roadless Area has good turkey habitat.
- The South San Juan Adjacent Roadless area is high in cultural and natural resources including many types of wildlife, and has wilderness characteristics.
- Both Roadless Areas have high oil and gas potential.

The Roadless Areas have been designated as such due to their valuable natural and habitat characteristics. In their current designation they are protected from oil and gas exploration or extraction. It is not appropriate to transfer them to private ownership.

6. THERE ARE NOT ADEQUATE “CHANGED CIRCUMSTANCES” TO REMOVE THE LANDS FROM CRA’S

The Forest Service is proposing to remove these areas from CRA’s for the reason of “Changed Circumstances”. The San Juan Citizens Alliance’s (SJCA) comment letter dated October 5, 2020, responded to the Valle Seco Land Exchange Environmental Assessment. Their section “6. The Forest Service Fails to Support Its Allegations of Changed Circumstances Concerning the South San Juan Adjacent CRA Parcel”, provides an analysis of previous CRA modifications and the details of their changed circumstances.

SJCA describes that the Forest Service has never defined what meets the test for “changed circumstance.” But in every prior case, the Forest Service has ensured that the same

roadless area that loses some acreage pursuant to a boundary modification gains at least some land back, or benefits in some other way, from the modification.

As SJCA did, COWPL urges that a “changed circumstance” must include a change within or pertaining to the parcel for which the modification is proposed, which appears to be how the Forest Service has interpreted the provision in every prior application. Further, any “change” should constitute something more than a desire to terminate protection for the area at issue.

The EA does not identify any changed circumstance associated directly with Parcel 1 since the San Juan National Forest confirmed its boundary in the 2012 Colorado Roadless Rule. None of the three “changed circumstances” noted in the EA has anything to do with changes to, or circumstances within, Parcel 1.

The reason that the Forest Service would like to change the CRA boundaries appears to be that the non-Federal proponent for the exchange wants those lands in exchange for giving the Forest Service the Valle Seco parcel (that the proponent threatened to otherwise develop as an elk farm). Removing previously protected lands from protected status and exchanging them to a private party seems like a double assault on the public’s trust.

CONCLUSION

COWPL is opposed to removing Parcels 1 and 2 (EA at 34) from their Colorado Roadless Area designations for the reasons stated above. COWPL appreciates the responsiveness of Forest staff to questions. We would very much appreciate the Forest considering purchase of the Valle Seco parcel, rather than allowing it to be used as a tool for exchanging publicly valuable and protected lands to non-Federal parties.

Yours sincerely,

A handwritten signature in black ink that reads "Stefanie Davis". The signature is written in a cursive, flowing style.

Stefanie Davis, Board Member
On behalf of The Colorado Wild Public Lands Board of Directors