

CONDITIONS ON SUSPENSION OF ROAD CONSTRUCTION
ACTIVITIES IN ROADLESS AREAS OF NATIONAL FOREST
SYSTEM

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OCTOBER 12, 1998.—Ordered to be printed
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Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3297]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3297) to suspend the continued development of a roadless area policy on public domain units and other units of the National Forest System pending adequate public participation and determinations that a roadless area policy will not adversely affect forest health, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CONDITIONS ON SUSPENSION OF ROAD CONSTRUCTION ACTIVITIES IN ROADLESS AREAS OF NATIONAL FOREST SYSTEM.

(a) IMPLEMENTATION DELAYED PENDING PUBLIC PARTICIPATION.—(1) Except in accordance with this section, no interim rule or final rule to suspend, or to temporarily suspend, road construction activities, including the construction of temporary roads, in roadless areas on public domain units and other units of the National Forest System may be issued.

(2) An interim rule referred to in paragraph (1) includes, but is not limited to, the notice of proposed interim rule published in the Federal Register on January 28, 1998 (63 Fed. Reg. 4351).

(b) EXCEPTION AFTER PUBLIC PARTICIPATION AND REPORT.—Subsection (a) shall be effective with regard to each interim rule and final rule described in subsection (a) until the Secretary of Agriculture—

(1) conducts a public hearing on the rule in each public domain unit and other unit of the National Forest System (and at which the regional forester for the region in which the unit is located, or the Chief of the Forest Service, is in attendance); and

(2) issues and submits to Congress a report, based on the record of each hearing conducted under paragraph (1), which details the effect of the rule on each of the following:

(A) Forest health in each public domain unit and other unit of the National Forest System.

(B) Multiple use activities in each public domain unit and other unit of the National Forest System.

(C) States, counties, and local communities dependent on a public domain unit or other unit of the National Forest System.

(D) Such other issues as may be raised in the public hearings.

(c) LOCATION AND PURPOSE OF PUBLIC HEARING.—(1) The public hearing for each public domain unit and other unit of the National Forest System shall be held at a location in the unit that will facilitate the widest possible public participation. If there is no suitable location in the unit for the public hearing, the Secretary of Agriculture may hold the hearing at a suitable location near the unit.

(2) The public hearing for a public domain unit or other unit of the National Forest System shall serve as a forum to discuss the potential effect of the suspension of road construction activities on the unit generally, on multiple use activities in the unit, on forest management and forest health, and on States, counties, and local communities dependent on the unit.

(d) EFFECT OF ISSUANCE BEFORE ENACTMENT.—If an interim rule or final rule described in subsection (a) is issued before the date of the enactment of this Act, the Secretary of Agriculture shall immediately suspend the operation of the rule until the Secretary complies with the conditions specified in this section.

(e) FEDERAL OBLIGATION.—Any implementation or application of an interim rule or final rule described in paragraph (a) concerning road construction in roadless areas in public domain units or other units of the National Forest System shall not in any way affect Federal obligations, including contracts, leases, and permits.

PURPOSE OF THE BILL

The purpose of H.R. 3297 is to suspend the continued development of a roadless area policy on public domain units and other units of the National Forest System pending adequate public participation and determinations that a roadless area policy will not adversely affect forest health.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3297 would suspend the U.S. Forest Service's Roadless Area Moratorium initiative, that would halt construction of roads in national forests until public hearings are held in each unit of the National Forest System to allow for adequate public input. The Forest Service announced the Roadless Area Moratorium initiative on January 22, 1998. Under the initiative, the Forest Service plans to place a moratorium on the building or reconstruction of roads in roadless areas and other "special areas" in national forests for 18 months. It will also revise the regulations concerning the management of the National Forest System transportation system to address changes in how the road system is developed, used, maintained and funded.

On February 24, 1998, the Forest Service announced that the public comment period on the proposed interim regulation to temporarily suspend road construction in roadless areas has been extended until March 30, 1998. The Forest Service is conducting 25 "open houses" nationwide rather than one in each national forest.

These “open houses” provide a forum for the Forest Service to educate the public about their proposed action rather than allowing for substantive comments from interested individuals. In response to the Forest Service’s lack of commitment to allow for proper public input from interested and affected citizens, Congressman John Peterson (R-PA) introduced legislation that would compel the Forest Service to hold such hearings.

COMMITTEE ACTION

H.R. 3297 was introduced on February 26, 1998, by Congressman Peterson. The bill was referred to the Committee on Agriculture and in addition to the Committee on Resources. Within the Committee on Resources, the bill was referred to the Subcommittee on Forests and Forest Health. On March 17, 1998, the Subcommittee held a hearing on H.R. 3297, where the Administration testified in opposition to H.R. 3297, stating that they believe the Administrative Procedure Act provides adequate flexibility to address public participation, and that they have moved to broaden public participation opportunities. They do not believe that holding public hearings in each national forest is appropriate.

On March 25, 1998, the Committee on Resources met to consider H.R. 3297. The Subcommittee on Forests and Forest Health was discharged from further consideration of the bill by unanimous consent. Congressman Peterson offered an amendment in the nature of a substitute which requires the Forest Service to detail the impact of the moratorium on the forest health, multiple-use and state and local communities. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by a rollcall vote of 18–14, as follows:

Roll No. 1.

Bill No. H.R. 3297.

Short title: Suspend development of roadless area policy on public domain units of National Forest System final passage.

Member	Yea	Nay	Present	Member	Yea	Nay	Present
Mr. Young (Chairman)	X	.....	.....	Mr. Miller .....	.....	X	.....
Mr. Tauzin .....	.....	.....	.....	Mr. Markey .....	.....	.....	.....
Mr. Hansen	X	.....	.....	Mr. Rahall .....	.....	.....	.....
Mr. Saxton	X	.....	.....	Mr. Vento .....	.....	X	.....
Mr. Gallegly .....	.....	.....	.....	Mr. Kildee .....	.....	X	.....
Mr. Duncan .....	.....	.....	.....	Mr. DeFazio .....	.....	X	.....
Mr. Hefley	X	.....	.....	Mr. Faleomavaega .....	.....	X	.....
Mr. Doolittle	X	.....	.....	Mr. Abercrombie .....	.....	X	.....
Mr. Gilchrest	X	.....	.....	Mr. Ortiz .....	.....	.....	.....
Mr. Calvert	X	.....	.....	Mr. Pickett .....	.....	.....	.....
Mr. Pombo	X	.....	.....	Mr. Pallone .....	.....	X	.....
Mrs. Cubin	X	.....	.....	MR. Dooley .....	.....	.....	.....
Mrs. Chenoweth	X	.....	.....	Mr. Romero-Barceló .....	.....	X	.....
Mrs. Linda Smith	X	.....	.....	Mr. Hinchey .....	.....	X	.....
Mr. Radanovich .....	.....	.....	.....	Mr. Underwood .....	.....	.....	.....
Mr. Jones	X	.....	.....	Mr. Farr .....	.....	X	.....
Mr. Thornberry	X	.....	.....	Mr. Kennedy .....	.....	X	.....
Mr. Shadegg .....	.....	.....	.....	Mr. Adam Smith .....	.....	X	.....
Mr. Ensign .....	.....	.....	.....	Mr. Delahunt .....	.....	.....	.....
Mr. Bob Smith .....	.....	.....	.....	Mr. John .....	.....	.....	.....
Mr. Cannon .....	.....	.....	.....	Ms. Green .....	.....	X	.....
Mr. Brady .....	.....	.....	.....	Mr. Kind .....	.....	X	.....
Mr. Peterson	X	.....	.....	Mr. Doggett .....	.....	.....	.....
Mr. Hill	X	.....	.....		

Member	Yea	Nay	Present	Member	Yea	Nay	Present
Mr. Schaffer	X	.....	.....		
Mr. Gibbons	X	.....	.....		
Mr. Crapo	X	.....	.....		

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 3297.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 3297. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 3297 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 3297 would affect direct spending, but this effect would be zero.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3297.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3297 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, April 3, 1998.

Hon. DON YOUNG,
 Chairman, Committee on Resources,
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3297, a bill to suspend the continued development of a roadless area policy on public domain units and other units of the National Forest System pending adequate public participation and determinations that a roadless area policy will not adversely affect forest health.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid.

Sincerely,

JUNE O. O'NEILL, *Director*.

Enclosure.

H.R. 3297—A bill to suspend the continued development of a roadless area policy on public domain units and other units of the National Forest System pending adequate public participation and determinations that a roadless area policy will not adversely affect forest health

Summary: H.R. 3297 would prohibit the Administration from issuing a rule to suspend road construction activities, including the construction of temporary roads, in roadless areas within the National Forest System. Under the bill, the prohibition would be in effect until the Secretary of Agriculture conducts public hearings on the rule in every unit of the National Forest System and reports to the Congress on those hearings. The bill also provides that if a rule to suspend road construction is issued before the bill is enacted, the Secretary shall suspend implementation of the rule until the hearings and reports described in the bill are completed.

CBO estimates that enacting H.R. 3297 would have no significant budgetary impact. It is possible, however, that enacting the bill would lead to significant changes in either discretionary spending or direct spending, depending on what actions the Administration would take under current law and under the bill. (The alternative scenarios are discussed below.) Because enacting H.R. 3297 could affect direct spending by increasing offsetting receipts, pay-as-you-go procedures would apply, but we estimate that the direct spending effect would be zero. H.R. 3297 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA).

Estimated cost to the Federal Government: The Forest Service has published in the Federal Register a proposed interim rule that would, if adopted, temporarily suspend road construction and reconstruction in certain roadless areas in the National Forest System. Under the current law baseline, CBO did not assume that the Administration would implement the proposed interim rule. Furthermore, we expect that the most likely outcome of enacting the bill would be that the Administration would not attempt to imple-

ment the proposed rule. Therefore, relative to the baseline, we estimate that enacting H.R. 3297 would maintain the status quo and would not affect either receipts from the sale of timber or discretionary spending by the Forest Service.

Other outcomes are possible, however. Depending on what policy the Administration chooses to pursue, both under current law and under the bill, enacting H.R. 3297 could reduce direct spending by increasing offsetting receipts from timber sales, or increase discretionary spending by \$50 million or more over the next two or three fiscal years to cover the costs of conducting public hearings and issuing subsequent reports. The scenarios that would lead to those alternative budgetary results are as follows:

One might assume that, under current law, the Administration would implement its proposed rule. If so, offsetting receipts from timber harvesting and payments to states based on a percentage of such receipts would both likely decrease because timber purchasers would have restricted access to timber in roadless areas. If, under the constraints of H.R. 3297, the Administration would decide not to impose the proposed rule, the potential decrease in offsetting receipts would be avoided.

Alternatively, one might assume that the Administration would implement the rule it has proposed under current law and would seek to do so as well pursuant to H.R. 3297. Under this scenario, CBO estimates that enacting the bill would increase discretionary costs by \$50 million or more over the next two or three years to carry out public hearings and reports on those hearings for each of more than 225 units in the National Forest System. In addition, enacting the bill would delay the potential decrease in offsetting receipts from implementing the rule, and offsetting receipts would be higher over the next two to three years than would otherwise be the case.

Potential costs of this legislation would fall within budget functions 300 (natural resources and the environment) and 800 (general government).

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because enacting H.R. 3297 could affect direct spending by increasing offsetting receipts, pay-as-you-go procedures would apply. Relative to the CBO baseline, we estimate that enacting the bill would not change offsetting receipts from timber sales; therefore, we estimate that there would be no effect on direct spending.

Intergovernmental and private-sector impact; H.R. 3297 contains no intergovernmental or private-sector mandates as defined in UMRA. Because the proposed rule regarding roadless areas is not currently in force, enactment of this bill would not change the amount of timber receipts paid to states or otherwise affect the budgets of state, local, or tribal governments.

Estimate prepared by: Victoria V. Heid.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 3297 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 3297 would make no changes in existing law.

DISSENTING VIEWS

We strongly oppose this legislation as a transparent attack on the Forest Service's policies concerning new roadbuilding in roadless areas of our national forests.

The bill's mandate that Forest Service hold hearings in every national forest unit is unnecessary. Amendments to cut federal funding for new timber roads have been intensely debated in Congress and by the involved public. The Forest Service's proposal for a temporary moratorium on new road building was widely covered by the media when announced by the Forest Service in January. It is published in the Federal Register and available on a web site. Twenty-five public forums on the proposed policy by the agency have been conducted across the nation. Thousands of public comments have been received during an extended comment period.

Directing that over 120 additional public hearings be conducted, as the bill proposes, would unduly delay the rulemaking and add significant costs to the taxpayers. In seeking to establish this unprecedented barrier to agency action, the Majority ironically fails to follow its own standards, reporting legislation affecting national matters with only cursory public hearings and restricted numbers of public witnesses. Moreover, they incorrectly presume in the bill that only those people who reside near national forests have an interest in how federal tax dollars are spent and how those public lands are managed.

The driving force behind this legislation is not a new-found Majority obsession with public process. Rather, this bill is a vehicle to obstruct the Forest Service from developing new road system policies in order to continue the old ways of building environmentally harmful, taxpayer-subsidized timber roads.

The current leadership of the Forest Service has inherited a major fiscal and environmental mess with the maze of existing national forest roads. This road system covers over 373,000 miles, eight times the length of the Interstate Highway System, enough to circle the globe 16 times. The Forest Service estimates a \$10.5 billion backlog of maintenance and repair costs for the passenger vehicle roads which comprise 86,000 miles or only 23 percent of the system.

As Forest Service Chief Dombeck testified at the Subcommittee hearing on H.R. 3297 On March 17, 1998, "it simply does not make sense to construct new roads in roadless areas when we cannot take care of the road system we already have."

It also does not make sense to construct new, expensive roads in roadless areas when there is strong scientific evidence that roadless areas provide the cleanest water, the best fish and wildlife habitat, and valuable recreational opportunities. Road building causes extensive environmental harm, with the damage extenuated

when roads are not maintained. As the Forest Service stated when proposing the roadless area moratorium:

“A growing body of scientific information demonstrates that road construction in sensitive areas, such as roadless areas, may cause the introduction of exotic plant species, disrupt wildlife habitat, and otherwise compromise the attributes that make roadless areas ecologically important and often unique. Roadless areas are often aquatic strongholds for fish of great recreational and commercial value. These areas also often provide critical habitat and migration routes for many wildlife species. * * * The effects of road construction may persist for decades. Many of the remaining roadless areas within the National Forest System are in areas with steep slopes that surround headwater streams. Road construction increases the risks of erosion, landslides, and slope failure which may compromise critically important water quality.”

H.R. 3297 is an attempt to cloak the Majority's desires to continue logging and roadbuilding subsidies under a thin veil of public process. The Forest Service should be given the opportunity to develop new policies on roadbuilding—taking into account the extensive public comment already received—without additional hurdles promoted by those who seek to perpetuate the fiscally and environmentally irresponsible policies of the past. H.R. 3297 should be rejected by the House.

GEORGE MILLER.
MAURICE HINCHEY.
BRUCE VENTO.

