

8. MINERALS

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Restricting Mineral Development

1. The Forest Service should address whether or not this policy will restrict mining.

Response: None of the alternatives examined in the DEIS or FEIS would withdraw any lands or change any laws or policies related to mining exploration and development on National Forest System lands. Under all alternatives, an exception to the road construction and reconstruction prohibition is included for ongoing activities. Future mineral development, governed by the General Mining Law (the Act of May 10, 1872 [17 Stat. 91, as amended]), would not be prohibited by the rule.

The proposed rule, as discussed in the DEIS (pp. 3-144 through 3-145 and 3-194 through 3-197) has the potential to affect future mineral leasing. In the FEIS, the effects on mineral leasing are examined in more detail. In addition, the effects of a proposed mitigation measure to allow road construction and reconstruction for mineral leasing are also examined.

The Forest Service regulates extractive activities on the national forests and grasslands as consistent with governing legislation and with land allocations determined through the forest and grassland planning process. These activities are managed to minimize environmental damage, and restoration is undertaken when necessary.

2. Mining should be banned on Federal lands because it causes pollution and long-term destruction of our national resources; and

3. This policy should restrict mining in our forests.

Response: The right to explore for and develop locatable mineral resources is provided by the General Mining Law. The Mineral Leasing Act of 1920 (41 Stat. 437, as amended) provides for exploration and development of leasable minerals. To generally restrict or prohibit development of these resources would require Congress to abolish or amend these laws. To prohibit development of these resources in inventoried roadless areas would necessitate that these lands be withdrawn from appropriation under these laws. This is not proposed by the Roadless Area Conservation Rule for reasons described on p. 2-18 of the DEIS.

4. The Forest Service should not allow mineral and/or petroleum mining because they will never make a net return.

Response: Mineral and petroleum values are a function of market demand and subject to change at any time. Therefore, this assessment of the general economic value of mineral or petroleum deposits is speculative. Also see Response 2.

5. The Forest Service should monitor, control, or eliminate grazing and mining;

6. The Forest Service should eliminate all mining and grazing permits in roadless areas to reduce fire hazard and protect watershed values for the future; and

7. The Forest Service should comply with the Organic Act as it pertains to mining.

Response: The Forest Service does comply with the Organic Act. The authority for 36 CFR 228, Subpart A, regulations used to administer mining activities on NFS lands, is the Organic Act.

For grazing-related issues, refer to the section of Responses on Livestock Grazing in this volume.

8. We should not allow oil and gas developments on national forests, and should use alternatives to fossil fuels; and

9. Oil and gas development and mining that degrade roadless areas should be prohibited.

Response: The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) expresses agency policy on mining.

... that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries ... and the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

The Act defines "minerals" as used in this section to include all minerals and mineral fuels including oil, gas, coal, oil shale, and uranium.

Furthermore:

It is the goal of the United States in carrying out energy supply and energy conservation research and development – to strengthen national energy security by reducing dependence on imported oil ...” (42 U.S.C. 13401).

Also, see Response 2.

Surface Management

10. The DEIS relies on outdated surface management regulations for mining in inventoried roadless areas.

Response: The surface management regulations at 36 CFR 228.4(f) specifically recognize the requirement to conduct the appropriate level of NEPA analysis for any particular proposal. They are not intended to duplicate the objectives of NEPA, nor is the Roadless Area Conservation proposal intended to override the 36 CFR 228, Subpart A regulations. The surface management regulations, NEPA, and the Roadless Area Conservation Rule will work with one another to accomplish the environmental objectives expressed in this concern.

This comment is also addressed in Responses 5, 14, and 23.

11. The Forest Service should update regulations used for surface mining; and

12. The Forest Service mining regulations should be revised and subject to public review under the National Environmental Policy Act.

Response: The Forest Service has not yet revised its regulations at 36 CFR 228, Subpart A. Revision of these regulations is beyond the scope of this EIS.

Mineral Withdrawals

13. The proposed rule should comply with the Forest Service Manual for mineral withdrawal;

14. The Forest Service should explain why conserving roadless characteristics could increase the number of areas recommended for mineral withdrawal;

15. The Forest Service should institute mineral withdrawal procedures whenever possible in all the remaining roadless areas of 1,000 acres or more;

16. The Forest Service should give full consideration to instituting formal mineral withdrawal procedures at the national level. If that is again deemed inappropriate or too onerous a task, then each Regional Forester and Forest Supervisor should be directed to undertake an immediate analysis of each forest's roadless areas with the goal of withdrawing from mining all areas that have any potential for ecologically destructive mining activities;

17. The Forest Service should withdraw roadless areas from mineral entry and require valid existing rights determinations on mining claims within them before processing mining plans of operations; and

18. The Forest Service should withdraw all mining rights from inventoried roadless areas and other roadless areas.

Response: Withdrawals are not proposed as part of the Roadless Area Conservation Rule. See p. 2-18 in the DEIS. This alternative was considered but dismissed from detailed consideration because specific requirements must be followed for mineral

withdrawal and would be difficult to do in an agency-wide proposal. However, mineral withdrawal for specific inventoried roadless areas could be proposed through the forest planning process or specific project proposals.

19. *The Forest Service should address the perception of the Roadless Area Conservation proposal as a “de facto withdrawal” from mineral entry.*

Response: This comment was addressed in part in Responses 14 and 23. As discussed in the effects of action Alternatives 2 through 4 in the Minerals and Geology section of the DEIS and FEIS, the action alternatives will have the likely effect of increasing the cost of doing business for exploration and development of locatable mineral resources. They would preclude the development of saleable mineral resources in inventoried roadless areas. They could preclude future leasing of mineral resources where exploration or development activities require road construction or reconstruction in inventoried roadless areas; however, a social and economic mitigation measure has been developed that, if selected, would allow construction or reconstruction of roads necessary for exploration and development of leasable minerals. Also see Response 52.

20. *The proposed rule should be consistent with existing laws and court rulings by requiring the discovery of a valuable mineral deposit in inventoried roadless areas.*

Response: This comment assumes that the Roadless Area Conservation proposal will impose a mineral withdrawal. The action alternatives do not propose a mineral withdrawal. See Response 14.

21. *The Forest Service should use SRNRA regulations as a model for roadless areas conservation.*

Response: Congress established the Smith River National Recreation Area (SRNRA) and included a mineral withdrawal in the legislation. The Roadless Area Conservation proposal does not have the same objectives as the SRNRA. See the Purpose and Need in the DEIS on pp. 1-10 through 1-12.

22. *The Forest Service should modify section 294.13 in the final rule to require evaluation of*

mineral withdrawal in the rule implementation process.

Response: The new 36 CFR 219 Planning Regulations provide direction on evaluating inventoried roadless areas during forest and grassland plan revisions. Mineral withdrawal is one of a number of actions that can be considered for a particular land management unit during this process.

General Mining Law and Related Laws

23. *The Forest Service should comply with the General Mining Law of 1872;*

24. *The Forest Service should comply with the Organic Act as it pertains to mining;*

25. *The Forest Service should address the Multiple Use Sustained Yield Act as it pertains to mining claims;*

26. *In light of the clear legal provisions that provide for access to minerals on the public lands, the Forest Service should more thoroughly address how access for minerals will be provided for under the proposal. It is NOT enough to say that the agency will protect “valid existing rights.” The mining law guarantees access to public lands to search for undiscovered and unclaimed mineral deposits – even if there are no preexisting claims and no “valid existing rights;” and*

27. *The Forest Service should develop regulations for “grandfathered-in” mining claims in roadless areas. The Sand Creek Area should be protected from mining.*

Response: It is not the intent of the Roadless Area Conservation proposal to withdraw lands from entry and location under the general mining laws. It recognizes the right of access provided by the General Mining Law of 1872, as amended. In addition, both the Organic Act and the Multiple-Use Sustained Yield Act allow for mining on NFS lands. The term “valid existing rights” is no longer used with reference to minerals in the FEIS.

28. *The final rule should comply with Federal laws governing mining by requiring that valid existing rights apply only to a discovery of a valuable mineral deposit.*

Response: The General Mining Law also authorizes mineral exploration on public lands. This activity does not presume the existence of a discovery.

29. The Forest Service should use the updated 2000 mining moratorium of Wisconsin, not 1872 law.

Response: The right to explore for and develop locatable mineral resources on Federal lands is provided by the General Mining Law, which also applies to lands reserved from the public domain under the Organic Act. On acquired lands, exploration and development of these types of mineral resources is directed by the Mineral Leasing Act for Acquired Lands (Act of August 7, 1947 [61 Stat. 913, as amended]). The cited reference is not an amendment to either of these laws. Rather, the Wisconsin Mining Moratorium Law (1997 Wisconsin Act 171) provides an additional requirement that a mining applicant must meet in order to receive a State permit for the mining of a sulfide ore body in Wisconsin. This is not applicable in this rulemaking.

Recreational Mining

30. The Forest Service should not allow recreational placer mining in roadless areas because it is not protected under the 1872 Mining Law.

Response: While many people refer to gold panning, small-scale sluicing, and suction dredging as recreational activities, there is no legal provision for removing precious metals from National Forest System lands by any other means except under the provisions of the General Mining Law. Therefore, these activities can only be conducted in inventoried roadless areas or on any other NFS lands as provided by law. The suggestion is beyond the scope of the roadless area conservation proposal.

Paleontological Resources

31. The Forest Service should allow road access for the excavation and preservation of paleontological resources.

Response: The effects of road access to these paleontological features have been identified and added to the FEIS, Chapter 3, Minerals and Geology section.

Geologic Areas

32. In Part 294.13(a) of the proposed rule, "geological areas" should be added to the list.

Response: As described in FEIS Chapter 1, the agency has determined that roadless area characteristics are appropriate for consideration in the context of forest and grassland planning under the new 36 CFR 219 Planning Regulations. Geologic areas could be considered in land and resource management planning of inventoried roadless areas.

Valid Existing Rights

33. The Forest Service should explain why mineral activities with "valid existing rights" would be required to prepare an EIS. The preparation of an EIS for mining exploration and development would take years and cost and waste money.

Response: This has been clarified in the discussion of the effects of the prohibition alternatives in the locatable minerals section of Chapter 3 of the FEIS. Also see Response 34.

34. The Forest Service should explain the meaning of valid existing rights and address the impacts of the prohibition of road construction and reconstruction in roadless conservation areas as it pertains to mineral withdrawal and valid existing rights determinations;

35. The Forest Service should explain valid existing rights in the context of mining claims and the Federal Mining Law of 1872. The statutory right of exploration under the Mining Law extends even to a prospector who has not yet staked mining claims. A mining claimant has a statutory right to conduct surface disturbance, including necessary road construction, in the search for valuable minerals on public lands open to mineral entry;

36. The DEIS should include an analysis of the effects of the application of valid existing rights to tens of millions of acres of lands otherwise open to exploration and mining claim location pursuant to the 1872 Mining Law. It appears that Alternatives 2-4 will result in the DE FACTO withdrawal of all lands under consideration for mineral entry in the proposal; and

37. The Forest Service should explain contradictory language in the proposed rule regarding the right to build mining exploration roads.

Response: The reference to “valid existing rights” caused concern among many of the commentors. There is an exception to the prohibition of road construction or reconstruction in inventoried roadless areas for where a road is needed pursuant to reserved or outstanding rights or as provided for by statute or treaty. The term “valid existing rights” is no longer used with reference to minerals in this EIS. Also see Response 23.

38. The Forest Service should re-evaluate the use of Surface Use Determinations (SUD) for protection for roadless characteristics.

Response: The Forest Service is not required to perform Surface-Use Determinations of mining proposals. This is done at the discretion of the authorized officer.

As described in FEIS Chapter 1, the agency has determined that roadless area characteristics are appropriate for consideration in the context of forest and grassland planning under the new 36 CFR 219 Planning Regulations. Mineral activities could be considered in land management decisions affecting inventoried roadless areas.

Access for Mineral Exploration, Development

39. The Forest Service should address whether track-mounted core drills will be allowed to travel cross-country in inventoried roadless areas.

Response: The proposed rule does not prohibit the use of track-mounted core drills. It would prohibit construction or reconstruction of roads in inventoried roadless areas. It would not prohibit road construction or reconstruction necessary for mineral exploration or development conducted under the General Mining Law (Act of May 10, 1872 [17 Stat. 91, as amended]) or exploration or development associated with existing mineral leases. In addition, a social and economic mitigation measure may be applied to any of the prohibition alternatives that would except road construction or reconstruction necessary for exploration or development of leasable minerals if selected by the responsible official for inclusion in the final rule. See Response 52.

40. The statement on page S-20 of the Draft EIS, that "Prohibiting road construction may reduce exploration and development activity in response to higher access costs..." should be revised to state that it will in fact eliminate exploration and mineral extraction by 99.5%; and

41. The Forest Service should be aware that the preferred alternative does not impact access to locatable minerals; this is governed by the 1872 Mining Law.

Response: Situations where a road is needed pursuant to reserved or outstanding rights or as provided for by statute or treaty, such as activities conducted under the General Mining Law of 1872, as amended, and activities conducted on existing leases, are excepted from the prohibition of road construction or reconstruction in inventoried roadless areas. In addition, a social and economic mitigation measure can be applied to any of the prohibition alternatives that would except road construction or reconstruction necessary for exploration or development of leasable minerals if selected by the responsible official for inclusion in the final rule. See Response 34.

42. The Forest Service should explain how the current DEIS addresses the unique, world-class palladium/platinum mineral resources on the Gallatin and Custer National Forests along the Absaroka-Beartooth Wilderness boundary within the Stillwater mineral complex.

Response: Undiscovered mineral resources are anticipated to occur in inventoried roadless areas or unroaded areas. Access to locatable minerals, such as palladium and platinum, is governed by the 1872 General Mining Law and would not be affected by any of the prohibition alternatives.

43. The statement in the Draft EIS that "Construction and reconstruction of roads considered reasonable and necessary for energy or mineral development on existing leases would be allowed as necessary to fulfill the terms of the lease" should be revised to state that access to, from, on and under the lease is allowable; and

44. The Forest Service should state who will determine what is “considered reasonable and

necessary” to develop a lease and how that determination will be made.

Response: The suggested revisions have been made in the Leasable Minerals section of the FEIS.

45. The Forest Service should define reasonable access as it relates to mineral development and discuss how it will preserve access for both existing and future exploration and mineral development activities in the affected Roadless Areas.

Response: Reasonable access was described on p. 3-143 of the DEIS as what is considered reasonable and necessary for the particular activity being proposed. For example, the construction of higher-grade haul roads would not be considered reasonable for exploration activities.

In response to public comments, a social and economic mitigation measure that would exempt road construction or reconstruction necessary for exploration or development of leasable minerals can be applied to any of the prohibition alternatives if selected by the responsible official for inclusion in the final rule. See Response 34.

46. The Forest Service should exercise its statutory authority (*Clouser v. Espy*) to restrict mode of access to valid mining claims and other valid existing rights by eliminating any road-building exemptions for mining activity.

Response: The referenced 9th Circuit Court decision, *Clouser v. Espy*, focused on mining claims and other lands located in an area that is legislatively withdrawn from mineral entry as part of the National Wilderness Preservation System. Withdrawals are not proposed as part of the Roadless Area Conservation Rule. Therefore, if road construction or reconstruction is necessary for exploration or development of locatable mineral resources in these areas, the Forest Service does not have the authority to prohibit such access.

47. The Forest Service should limit access to mining claims in inventoried roadless areas to non-motorized methods or helicopters.

Response: It is not the purpose of the Roadless Area Conservation proposal to generally limit access necessary for locatable mineral exploration or development in inventoried roadless areas to a level

that may not be reasonable. See the Purpose and Need in the DEIS, pp. 1-10 through 1-20.

48. The Forest Service should assure that the final rule will not restrict existing mineral leases such that lessees will require Federal compensation.

Response: The proposed rule provides for construction or reconstruction of roads that are reasonable and necessary for resource exploration and development on existing mineral leases. Also, see Response 52.

Future Leasable Mineral Activities

49. Oil exploration and inventory should be allowed in the national forests.

Response: Oil exploration, inventory, and development are allowed on National Forest System lands with certain exceptions. These include lands withdrawn from mineral leasing, limits imposed by forest or grassland plan that guide leasing, or irresolvable conflicts with other resource protection laws, such as the Endangered Species Act or Clean Water Act.

50. The Forest Service should consider the impacts of the proposed rule on existing and future coal, oil and gas, phosphate or other mineral leases overlapping inventoried roadless areas.

Response: The proposed rule allows, through exception, existing authorizations. Proposed expansion of coal, oil and gas, phosphate, or other mineral lease developments into inventoried roadless areas would be allowed to continue under existing Forest Service policies if the special use permits and leases are in existence and the proposed activities take place within boundaries established by the lease or special use authorization. Future coal, oil and gas, phosphate or other mineral lease expansions outside lease or special use permit boundaries in inventoried roadless areas could be affected, if the road prohibitions are applied to future leasing decisions. In the FEIS, an exception for mineral leasing is analyzed (Chapter 3, Minerals and Geology Section of Human Uses, and Energy and Non-Energy Minerals Section of Social and Economic Factors). If the exception is included in the final rule, local decision-makers would retain authority for allowing road construction and reconstruction in exploration and development for coal, oil and gas, phosphate,

and all other leasables, following existing processes and regulations.

51. The Forest Service should consider allowing oil and gas development on a carefully controlled basis;

52. Roadless areas should remain open to mineral exploration activities, including mineral leasing and the construction of temporary access roads for test drilling;

53. A shortcoming of the preferred alternative is that it does not preclude oil and gas leasing, but does restrict road access for any new leases in roadless areas;

54. The Forest Service should allow access and road construction and reconstruction to leases to retrieve coal, oil, and gas reserves;

55. The Forest Service should not restrict future oil production activity in the North Dakota Grasslands. Road construction is necessary for drilling rigs, pipelines and other utility corridors;

56. The Forest Service should allow oil drilling in the Targhee National Forest; and

57. The Forest Service should make restitution for the investments in licensing and exploration costs that mining operations will not be allowed to recoup because of this rule.

Response: Several new exceptions were developed as a result of public comments of the DEIS. While similar in nature to the original exceptions, they act as social and economic mitigation measures that could be selected by the responsible official as part of the final rule. One of these mitigation measures would allow local responsible officials to authorize road construction or reconstruction in any inventoried roadless area when a road is necessary for permitted mineral leasing activities. See Response 50.

58. The Forest Service should exempt future leasing activities from the purview of the proposed rule. It is not possible to access and develop all leasable minerals in roadless areas by non-motorized or aerial means. The Forest Service should explain the effects of this rule on the

nation’s electricity supply, home heating prices and availability of motor vehicle fuels;

59. To avoid conflict with the National Materials and Minerals Policy, Research and Development Act of 1980, the Forest Service should give clear exceptions for both locatable and leasable minerals in the proposed Roadless Conservation Rule;

60. The Forest Service should create a leasable minerals alternative; and

61. The proposed rule should comply with the Leasing Reform Act.

Response: In response to public comments, a social and economic mitigation measure that would except road construction or reconstruction necessary for exploration or development of leasable minerals can be applied to any of the prohibition alternatives if selected by the responsible official in the final rule. See Response 52.

62. The Forest Service should not allow the following in inventoried roadless areas: new mineral leases, existing leases no longer able to meet “capable of production” standards, and communitization agreements.

Response: Administration of lease terms, “capable of production” standards, and communitization agreements are under the regulatory authority of the Bureau of Land Management and therefore outside the scope of the proposal. Also, see Responses 49 and 51.

63. The Forest Service should exempt lands exchanged under P.L. 105-335 from the proposed rule.

Response: The proposed rule at §294.12(b)(3) specifically provides for this type of exception and this provision is retained in the alternatives for the FEIS.

Other Laws or Programs

64. The government should support and encourage mining on the Public Lands because of its importance to local and State economies and National Defense.

Response: The Federal Government's policy for minerals resource management, as expressed in the Mining and Minerals Policy Act of 1970 is to:

... foster and encourage private enterprise in the... development of economically sound and stable industries, [and in] the orderly and economic development of domestic resources... to help assure satisfaction of industrial, security and environmental needs....

Within this context, exploration, development, and production of mineral and energy resources and reclamation of activities are part of the Forest Service management responsibility. The Forest Service will administer its minerals program to provide commodities for current and future generations commensurate with the need to sustain the long-term health and biological diversity of ecosystems.

65. The Proposed Rule conflicts with the Mining and Minerals Policy Act of 1970; and the National Materials Research and Development Act of 1980; and

66. Prohibition of road construction and reconstruction in the unroaded portions of inventoried roadless areas may cause a review of earlier forest plan decisions that identified certain NFS lands as being available for lease, or where these lands have been scheduled for lease sales after the proposed rule becomes final. The proposed action should not restrict the opportunity for exploration and development of presently undiscovered leasable mineral resources in inventoried roadless areas.

Response: The prohibition alternatives provide for construction or reconstruction of roads considered reasonable and necessary for resource exploration or development associated with the General Mining Law. The FEIS now provides an option for selection of a mitigation measure for road construction or reconstruction necessary for and reasonably incident to exploration and development of leasable minerals in the final rule. See Response 52.

67. The Forest Service should not ignore the Federal Coal Management Program regulations, or their statutory basis, by declaring vast amounts of public land off-limits to future coal leasing activities.

Response: In the context of the Roadless Area Conservation proposal, these areas may be considered for suitability for coal leasing in subsequent forest plan revisions and in response to lease applications submitted by industry. It is notable that unsuitability criterion number 1 of the Federal Coal Management Program regulations at 43 CFR 3461.5(a)(1) states that National Forests shall be considered unsuitable. However, a lease may be issued within the boundaries of any National Forest under the exceptions described in 43 CFR 3461.5(a)(2)(i). See Response 58.

Resource Inventories

68. The Forest Service has ignored RARE II's entire knowledge base of mineral potential in order to mislead the American public and Congress about the true effects of the proposed rule; and

69. The Forest Service should address the impacts of the proposed roadless conservation areas upon mineral activities, and impacts to the economy – both local and national. They should utilize the site-specific minerals and geologic data developed by the Forest Service, the Bureau of Mines, the U.S. Geological Survey, and the various State agencies. Those agencies responsible for regulatory management and change, and for keeping the public and Congress adequately informed, should attempt to provide timely, accurate information regarding how they manage their lands and the status of mining projects under their jurisdiction.

Response: Since the RARE II FEIS in 1979, detailed studies have been conducted on a forest-wide basis by USGS and Bureau of Mines. USGS Resource Assessments and Bureau of Mines Minerals Resource Surveys have been used in assessing the affected environment and effects of the prohibition alternatives in the Minerals and Geology and Social and Economic Effects on Energy and Non-Energy Minerals sections of the FEIS, particularly for leasable minerals. Also, see Response 70.

70. Using a single map of an entire geographic region of multiple States showing permissive tracts of undiscovered mineral deposits combined with a similar scale map of roadless areas results in a gross misunderstanding of the effects of the proposal upon minerals production and economics. The conclusion is incorrect on page G-14 of the

Socioeconomic Specialist Report; it states: “Therefore, little economic effect is expected in the short term...” Moreover, the detailed geologic and minerals data collected by the Forest Service, USGS, and BOM during the RARE II process and after are available, but have been ignored by the Forest Service. This indicates that the Forest Service is deliberately seeking to avoid acknowledging the adverse economic impacts of its proposal.

Response: For both locatable and leasable minerals, the FEIS (Chapter 3) has further developed the analysis of short-term economic effects of the action alternatives described in the DEIS.

The RARE II process identified roadless areas with existing energy resource or mineral production. RARE II also assigned, to each roadless area, energy resource and mineral potential ratings for selected commodities (RARE II Final Environmental Impact Statement, USDA 1979). Characterization of potential for each roadless area in RARE II was based on broad scale information and interpretation. Other than known producing mines, and geothermal or oil and gas fields, site-specific data for each RARE II area were not available.

Locatable Minerals - The roadless area conservation proposal provides an exception for road construction or reconstruction for exploration or development of locatable minerals. Therefore, the prohibition alternatives do not affect exploration or development of locatable minerals, and there is no need to display such information for locatable minerals.

Leasable Minerals - The discussion and associated tables in the FEIS for leasable minerals (Chapter 3, Minerals and Geology section) rely upon more recent assessments conducted by the U.S. Geological Survey (USGS) or site-specific information from the Bureau of Land Management (BLM) and Forest Service field offices. The prohibition alternatives would affect exploration and development of the leasable minerals in inventoried roadless areas, principally coal, oil and gas, and phosphate. The FEIS summarizes roadless acres for coal and oil and gas potential by Region. Although RARE II did display minerals information described above for individual roadless areas, this information had a high potential for misapplication and can lead to erroneous conclusions about any specific roadless area. To avoid these potential problems in this

analysis, this roadless EIS used information at a regional level. Further, a display of this information by individual roadless area would neither add to the economic analysis nor enable a better understanding of environmental effects. Therefore, the FEIS does not include such a display.

In order to be able to estimate economic impacts for leasable minerals, development scenarios specifying production levels and timing is required. Some specific information was available for coal production levels on the Grand Mesa-Uncompaghe-Gunnison National Forest and phosphate production levels on the Caribou-Targhee National Forest. Where this information was available, the FEIS displayed the potential economic effects. See the discussion of economic impacts of Alternatives 2 through 4 on coal and phosphate mining in FEIS Chapter 3, Energy and Minerals section.

71. *The Forest Service should study, investigate, and inventory for possible, probable, and/or actual occurrence of mineral deposits before designating proposed roadless areas; and*

72. *The Forest Service should provide baseline information on leasable minerals, geology, and hard rock minerals currently found on National Forest System lands.*

Response: The prohibition of road construction or reconstruction does not apply to exploration or development of locatable minerals or leasable minerals within existing leases; therefore, baseline information is not necessary for them. Information on important leasable mineral resources within inventoried roadless areas has been added to the Minerals and Geology and the Social and Economic Factors of Energy and Non-Energy affected environment sections of the FEIS. See Response 58.

73. *The Forest Service should provide a detailed analysis of the paleontological resources that are present in areas proposed for closure.*

Response: The Forest Service only recently began to inventory paleontological resources on National Forest System lands for purposes of land and resource management planning. The first effort is now occurring on the Dakota National Grasslands. It is likely, however, that paleontological resource information would not be available for those areas lacking roaded access. A statement to this effect has

been included in the Geological and Paleontological section in Chapter 3 of the FEIS.

Economic Effects

74. *The DEIS should analyze the effects of the rulemaking on coal production, exploration, or leasing opportunities in the Delta and Gunnison Counties of the GMUG National Forest in Colorado. The proposed Roadless Area Conservation Rule will cause negative impacts to the economy of the local communities, and to the ability of coal-fired power plants to obtain high quality, environmental "compliance" coal, and for the region as well due to the electric utilities who rely on this coal and the communities served by those utilities. The Forest Service should not delay decision-making because it can result in the by-pass of coal in the leasing and mining processes that may not ever become economic in the future, because the development infrastructure of the ongoing mining operation would be lost.*

Response: The effects of the prohibition alternatives on coal resources are discussed in the FEIS in the Social and Economic Factors of Energy and Non-Energy Minerals section. The effects to these Counties and to the area of the Grand Mesa-Uncompaghe-Gunnison National Forest are part of this discussion.

75. *The Forest Service should address the feasibility and cost of mining inside roadless areas or in areas surrounded by roadless areas.*

Response: The DEIS contained and the FEIS updated a qualitative discussion of the effects of the alternatives on possible exploration and development (FEIS Chapter 3). More specific predictions and comparisons of future feasibilities and costs of mining inside or outside roadless areas would be beyond the scope of this analysis.

Caves and Karst Features

76. *The Forest Service should not build logging roads or schedule timber harvest because of the negative impacts on karst formations and ultimately the destruction of the ecosystem.*

Response: Recognition of the existence of karst and cave resources on NFS lands was addressed on p. 3-

148 of the DEIS. The effects of construction or reconstruction of roads to these resources are addressed on p. 3-149 of the DEIS. The FEIS also includes further discussion in the Tongass section of Chapter 3. See Response 42 in the Tongass section of this volume.

Further Analysis

77. *The Forest Service should address possible access, lease and development restrictions the proposed rule may impose on mineral exploration and leasing in roadless and other unroaded areas.*

Response: The Roadless Area Conservation FEIS clarifies the right of access provided by the General Mining Law of 1872, as amended. The effects analysis in Chapter 3 of the FEIS has been expanded to address this comment. The decision on procedures for management of unroaded areas was made in the new Planning Regulations (36 CFR 219). See Response 58.

78. *The Forest Service should complete a site-specific analysis of the impacts of the proposed rule on mineral entry.*

Response: A site-specific analysis of the impacts of the proposed rule on mineral entry would not be necessary to analyze the effects of the alternatives because the Roadless Area Conservation proposal does not deny mineral activity. While it might limit the construction or reconstruction of roads that may be associated with mineral activities, those effects are discussed in Chapter 3 of the FEIS at the level appropriate for the decision being made.

Site-Specific Concerns

79. *The Forest Service should permanently protect the Rough & Ready South Kalmiopsis Area.*

Response: The suggested action would have to be done by mineral withdrawal. The proposed Roadless Conservation Rule does not address withdrawal from mineral entry for reasons discussed on p. 2-18 of the DEIS. This concern is more appropriately addressed in forest plan revision for the Siskiyou National Forest.

General Concerns

80. The Forest Service should adequately address oil and gas operations in the draft proposal.

Response: This has been clarified in the Minerals and Geology section of Chapter 3 in the FEIS. See Response 51.

81. The Forest Service should clarify the term “existing lease”; and

82. The Forest Service should modify its definition of “existing lease” to mean “existing” at the time of issuance, not the time activity is approved to commence.

Response: A definition of “existing mineral lease” has been included in the FEIS Glossary. As suggested, it recognizes the issuance date.

83. The Forest Service has a hidden agenda to prohibit future mineral development to the maximum possible extent.

Response: The Roadless Area Conservation Rule Proposed is not intended to prohibit future mineral development to the maximum extent possible. It is intended to protect the characteristics of certain roadless areas within the National Forest System as described in Chapter 1 of the DEIS. Also see Response 58.

Other Concerns

84. Instead of using fossil fuels, the United States should develop solar power and wind power.

Response: This suggestion is beyond the scope of the Forest Service’s Roadless Area Conservation proposal. It lies within the realm of national energy policy.

85. The Forest Service should allow only mining by hand.

Response: This suggestion lies beyond the scope of the rulemaking because it would require a change in the relevant mining laws in order to implement.

86. The Forest Service should prohibit strip mining, which is more offensive than road construction.

Response: The agency is required by law to recognize where a road is needed pursuant to reserved or outstanding rights or as provided for by statute or treaty. Mineral rights are one type of these existing rights. A general prohibition of strip-mining on NFS lands is not within the scope of the Roadless Area Conservation proposal.

87. The Fiscal Year 2000 budget advice calls for prioritizing the administration of existing operations to standard over approving new operations. To be consistent with out-year budget requests, maintain agency credibility, and fulfill agency stewardship responsibilities, existing operations must be administered to standard before new proposals are introduced into the system. The Forest Service should not delay time frames for approval of mineral operations.

Response: The broad issue of the agency’s minerals and geology program is not within the scope of the Roadless Area Conservation proposal.

88. The Forest Service should consider the environmental impacts of mining and prospecting.

Response: The environmental impacts of any site-specific mineral development proposal are addressed in the required NEPA analysis as consistent with NEPA and the 36 CFR 228, Subpart A regulations. The effects of mining associated with the alternatives in this EIS have been addressed to a level appropriate for the decision being made.

89. The Forest Service should encourage the safe and sanitary disposal of mining and drilling tailings and toxic substances to safeguard our rivers, lakes, and aquifers.

Response: The Forest Service surface management regulations at 36 CFR 228, Subpart A have been designed to safeguard the environment including the disposal of mining and drilling byproducts. The agency must also meet the requirements of NEPA, the Clean Water Act, and other pertinent environmental laws. This issue is outside the scope of the Roadless Area Conservation proposal.

90. The Forest Service should end the 1872 Mining Act.

Response: This action is outside the agency's authority and the scope of this proposal. It would require an act of Congress.

has no relationship to the provisions of the Wilderness Act.

91. The Forest Service should purchase all mineral rights on National Forest System lands to stop oil and gas and hard rock mining; and

End of Minerals Section

92. To protect roadless areas, the Forest Service should discontinue current mining operations in roadless areas and eliminate claims through public purchase at fair market value.

Response: To enable the Forest Service to purchase mining claims in roadless areas nationwide would require legislation and appropriation of the necessary funds by Congress. This is beyond the scope of the Roadless Area Conservation proposal. Also see Response 2.

93. The Forest Service should limit the amount of methane wells allotted on a certain amount of acreage.

Response: This suggested limitation is beyond the scope of the Forest Service Roadless Area Conservation proposal.

94. The Forest Service should work with the Michigan Oil and Gas Association to develop a stable oil and natural gas development framework on national forest lands.

Response: This undertaking is more appropriately within the realm of national policy formulation for the development of oil and gas resources on National Forest System lands; therefore, it is beyond the scope of the Roadless Area Conservation proposal.

95. The Wilderness Act provides that the Secretary of Agriculture shall permit ingress and egress to valid mining claims within Wilderness by means that have been or are being customarily enjoyed with respect to other such areas similarly situated.

Response: The alternatives would not affect access to Wilderness mining claims. The prohibition alternatives include an exception to allow road construction or reconstruction in roadless areas if needed for outstanding or reserved rights (DEIS p. 2-4). See Response 34. The Roadless Area Conservation proposal addresses roadless areas, not designated Wilderness. Therefore, the rulemaking