

111TH CONGRESS
1ST SESSION

S. _____

To provide lasting protection for inventoried roadless areas within the
National Forest System.

IN THE SENATE OF THE UNITED STATES

Ms. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. CARDIN, Mr. KAUFMAN, Mr. DURBIN, Mr. WEBB, Mr. MERKLEY, Mrs. BOXER, Mr. WHITEHOUSE, Mr. KERRY, Mr. SCHUMER, Mr. LAUTENBERG, Mr. AKAKA, Mr. DODD, Mr. BURRIS, Mr. MENENDEZ, Mr. HARKIN, Mr. WARNER, Mr. REED, Mrs. MURRAY, Mrs. HAGAN, Mr. BROWN, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide lasting protection for inventoried roadless areas
within the National Forest System.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Roadless Area Con-
5 servation Act of 2009”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) IN GENERAL.—Congress finds that—

1 (1) there is a compelling need to establish na-
2 tional protection for inventoried roadless areas of the
3 National Forest System in order to protect the
4 unique social and ecological values of those irreplace-
5 able resources;

6 (2) roadless areas protect healthy watersheds
7 and their numerous benefits including—

8 (A) protecting downstream communities
9 from floods and tempering the effects of
10 drought;

11 (B) ensuring a supply of clean water for
12 domestic, agricultural, and industrial uses;

13 (C) helping maintain abundant and healthy
14 fish and wildlife populations and habitats;

15 (D) providing the setting for many forms
16 of outdoor recreation; and

17 (E) providing drinking water to millions of
18 citizens from the more than 354 municipal wa-
19 tersheds found on roadless areas;

20 (3) maintaining roadless areas in a relatively
21 undisturbed condition—

22 (A) saves downstream communities mil-
23 lions of dollars in water filtration costs; and

24 (B) is crucial to preserve the flow of af-
25 fordable, clean water to a growing population;

1 (4) the protection of roadless areas can main-
2 tain biological strongholds and refuges for many im-
3 periled species by halting the ongoing fragmentation
4 of the landscape into smaller and smaller parcels of
5 land divided by road corridors;

6 (5) roadless areas conserve native biodiversity
7 by serving as a bulwark against the spread of non-
8 native invasive species;

9 (6) roadless areas provide unparalleled opportu-
10 nities for hiking, camping, picnicking, wildlife view-
11 ing, hunting, fishing, cross-country skiing, canoeing,
12 mountain-biking, and similar activities;

13 (7) while roadless areas may have many wilder-
14 ness-like attributes, unlike wilderness areas, the use
15 of mechanized means of travel is allowed in many
16 roadless areas;

17 (8) roadless areas contain many sites sacred to
18 Native Americans and other groups that use
19 roadless areas for spiritual and religious retreats;

20 (9) from the inception of Federal land manage-
21 ment, it has been the mission of the Forest Service
22 and other agencies to manage the National Forest
23 System for the dual purposes of resource extraction
24 and conservation;

1 (10) consistent with that dual mission, this
2 Act—

3 (A) protects social and ecological values,
4 while allowing for many multiple uses of inven-
5 toried roadless areas; and

6 (B) does not impose any limitations on the
7 use of, or access to Nation Forest System,
8 State, or private land outside inventoried
9 roadless areas;

10 (11) establishing a consistent national policy for
11 the protection of inventoried roadless areas—

12 (A) ensures that the considerable long-
13 term ecological and economic benefits of pro-
14 tecting roadless areas for future generations are
15 properly considered;

16 (B) diminishes the likelihood of con-
17 troversy at the project level; and

18 (C) enables the Chief of the Forest Service
19 to focus on the economic and environmental
20 benefits of reducing hazardous fuel buildups in
21 portions of the landscape that already have
22 roads;

23 (12) the National Fire Plan indicates that fires
24 are almost twice as likely to occur in roaded areas
25 as in roadless areas, because roadless areas are gen-

1 erally located further away from communities and
2 are harder to access;

3 (13) the report entitled “Protecting People and
4 Sustaining Resources in Fire-Adapted Ecosystems—
5 A Cohesive Strategy” (65 Fed. Reg. 67480) advo-
6 cates a higher priority for fuel reduction on land
7 that is near communities and readily accessible mu-
8 nicipal watersheds;

9 (14) the Forest Service has an enormous back-
10 log of maintenance needs for the existing 386,000
11 mile road system of the Forest Service that will cost
12 millions of dollars to eliminate;

13 (15) no State or private land owner would con-
14 tinue to build new roads in the face of such an enor-
15 mous backlog;

16 (16) failure to maintain forest roads—

17 (A) limits public access; and

18 (B) causes degradation of water quality
19 and wildlife and fish habitat; and

20 (17) protection of roadless areas—

21 (A) will impact less than 0.5 percent of the
22 national timber supply; and

23 (B) will have a negligible impact on oil and
24 gas production because—

1 (i) the entire National Forest System
2 provides only approximately 0.4 percent of
3 the quantity of oil and gas that is pro-
4 duced in the United States; and

5 (ii) roadless areas provide only a frac-
6 tion of the quantity of oil and gas that is
7 produced in the National Forest System.

8 (b) PURPOSE.—The purpose of this Act is to provide,
9 within the context of multiple-use management, lasting
10 protection for inventoried roadless areas within the Na-
11 tional Forest System.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) CLASSIFIED ROAD.—

15 (A) IN GENERAL.—The term “classified
16 road” means a road wholly or partially within,
17 or adjacent to, National Forest System land
18 that is determined to be needed for long-term
19 motor vehicle access.

20 (B) INCLUSIONS.—The term “classified
21 road” includes a State road, county road, pri-
22 vately-owned road, National Forest System
23 road, and any other road authorized by the
24 Forest Service.

1 (2) INVENTORIED ROADLESS AREA.—The term
2 “inventoried roadless area” means an area identified
3 in a roadless area map.

4 (3) RESPONSIBLE OFFICIAL.—The term “re-
5 sponsible official” means a Forest Service line offi-
6 cer or employee with the authority and responsibility
7 to make decisions regarding the protection and man-
8 agement of inventoried roadless areas under this
9 Act.

10 (4) ROAD.—The term “road” means a motor
11 vehicle travelway over 50 inches wide, unless des-
12 ignated and managed as a trail.

13 (5) ROAD CONSTRUCTION.—The term “road
14 construction” means activity that results in the ad-
15 dition of classified road or temporary road miles.

16 (6) ROAD IMPROVEMENT.—The term “road im-
17 provement” means activity that results in—

18 (A) an increase of the traffic service level
19 of an existing road;

20 (B) an expansion of the capacity of the
21 road; or

22 (C) a change in the original design func-
23 tion of the road.

24 (7) ROAD MAINTENANCE.—The term “road
25 maintenance” means ongoing upkeep of a road nec-

1 essary to retain or restore the road in accordance
2 with approved road management objectives.

3 (8) ROAD REALIGNMENT.—The term “road re-
4 alignment” means an activity that results in—

5 (A) a new location for all or part of an ex-
6 isting road; and

7 (B) treatment of the old roadway.

8 (9) ROAD RECONSTRUCTION.—The term “road
9 reconstruction” means an activity that results in im-
10 provement or realignment of an existing classified
11 road.

12 (10) ROADLESS AREA CHARACTERISTICS.—The
13 term “roadless area characteristics” means re-
14 sources or features that are often present in and
15 characterize inventoried roadless areas, including—

16 (A) high quality or undisturbed soil, water,
17 and air;

18 (B) sources of public drinking water;

19 (C) diversity of plant and animal commu-
20 nities;

21 (D) habitat for—

22 (i) threatened, endangered, candidate,
23 or sensitive species, and species proposed
24 for listing, under the Endangered Species
25 Act of 1973 (16 U.S.C. 1531 et seq.); and

1 (ii) species dependent on large, undis-
2 turbed areas of land;

3 (E) primitive, semiprimitive nonmotorized,
4 and semiprimitive motorized classes of dis-
5 persed recreation;

6 (F) reference landscapes;

7 (G) natural appearing landscapes with
8 high scenic quality;

9 (H) traditional cultural properties and sa-
10 cred sites; and

11 (I) other locally identified unique charac-
12 teristics.

13 (11) ROADLESS AREA MAP.—The term
14 “roadless area map” means an inventoried roadless
15 area map that is contained in the document entitled
16 “Forest Service Roadless Areas Conservation, Final
17 Environmental Impact Statement, Volume 2”, dated
18 November 2000.

19 (12) SECRETARY.—The term “Secretary”
20 means the Secretary of Agriculture, acting through
21 the Chief of the Forest Service.

22 (13) TEMPORARY ROAD.—The term “temporary
23 road” means a road that is—

1 (A) authorized by contract, permit, lease,
2 other written authorization, or emergency oper-
3 ation; and

4 (B) not intended to be part of the forest
5 transportation system and not necessary for
6 long-term resource management.

7 (14) UNCLASSIFIED ROAD.—The term “unclas-
8 sified road” means a road on National Forest Sys-
9 tem land that is not managed as part of the forest
10 transportation system, including—

11 (A) an unplanned road, abandoned
12 travelway, or off-road vehicle track that has not
13 been designated and managed as a trail; and

14 (B) a road that was once under permit or
15 other authorization and was not decommis-
16 sioned on the termination of the authorization.

17 **SEC. 4. PROHIBITION ON ROAD CONSTRUCTION AND ROAD**

18 **RECONSTRUCTION IN INVENTORIED**

19 **ROADLESS AREAS.**

20 (a) PROHIBITION.—Except as provided in subsection
21 (b), road construction and road reconstruction may not
22 take place in an inventoried roadless area of the National
23 Forest System.

24 (b) EXCEPTIONS.—Road construction and road re-
25 construction may take place, including through the use of

1 appropriated funds, in an inventoried roadless area of the
2 National Forest System if the responsible official deter-
3 mines that—

4 (1) a road is needed to protect public health
5 and safety in a case of an imminent threat of flood,
6 fire, or other catastrophic event that, without inter-
7 vention, would cause the loss of life or property;

8 (2) a road is needed to conduct—

9 (A) a response action under the Com-
10 prehensive Environmental Response, Compensa-
11 tion, and Liability Act of 1980 (42 U.S.C. 9601
12 et seq.); or

13 (B) a natural resource restoration action
14 under—

15 (i) that Act;

16 (ii) section 311 of the Federal Water
17 Pollution Control Act (33 U.S.C. 1321); or

18 (iii) the Oil Pollution Act of 1990 (33
19 U.S.C. 2701 et seq.);

20 (3) a road is needed pursuant to a reserved or
21 outstanding right, or as provided for by law or trea-
22 ty;

23 (4) a road realignment is needed—

24 (A) to prevent irreparable resource damage
25 that arises from the design, location, use, or de-

1 terioration of a classified road that cannot be
2 mitigated by road maintenance; and

3 (B) to provide for essential public or pri-
4 vate access, natural resource management, or
5 public health or safety;

6 (5) road reconstruction is needed to implement
7 a road safety improvement project on a classified
8 road determined to be hazardous on the basis of ac-
9 cident experience or accident potential with respect
10 to the road;

11 (6)(A) a Federal-aid highway project authorized
12 under chapter 1 of title 23, United States Code, is—

13 (i) in the public interest; or

14 (ii) consistent with the purposes for which
15 the land was reserved or acquired; and

16 (B) no other reasonable and prudent alternative
17 to the project exists; or

18 (7)(A) a road is needed in conjunction with—

19 (i) the continuation, extension, or renewal
20 of a mineral lease on land that is under lease
21 by the Secretary of the Interior as of January
22 12, 2001; or

23 (ii) the issuance of a new lease issued im-
24 mediately on the date of expiration of an exist-
25 ing lease described in clause (i);

1 (B) road construction or road reconstruction
2 under this paragraph will be conducted in a manner
3 that—

4 (i) minimizes the effects on surface re-
5 sources;

6 (ii) prevents unnecessary or unreasonable
7 surface disturbance; and

8 (iii) complies with all applicable laws (in-
9 cluding regulations), lease requirements, and
10 land and resource management plan directives;
11 and

12 (C) a road constructed or reconstructed under
13 this paragraph will be removed on the earlier of—

14 (i) the date on which the road is no longer
15 needed for the purposes of the lease; or

16 (ii) the date of termination or expiration of
17 the lease.

18 (c) ROAD MAINTENANCE.—A classified road in an
19 inventoried roadless area may be maintained.

20 **SEC. 5. PROHIBITION ON TIMBER CUTTING, SALE, OR RE-**
21 **MOVAL IN INVENTORIED ROADLESS AREAS.**

22 (a) PROHIBITION.—Except as provided in subsection
23 (b), timber may not be cut, sold, or removed in an inven-
24 toried roadless area of the National Forest System.

1 (b) EXCEPTIONS.—Timber may be cut, sold, or re-
2 moved in an inventoried roadless area if the responsible
3 official determines that the cutting, sale, or removal of the
4 timber is expected to be infrequent and—

5 (1) the cutting, sale, or removal of generally
6 small diameter timber—

7 (A) will improve or maintain 1 or more
8 roadless area characteristics; and

9 (B) is needed—

10 (i) to improve habitat for threatened,
11 endangered, candidate, or sensitive species,
12 and species proposed for listing, under the
13 Endangered Species Act of 1973 (16
14 U.S.C. 1531 et seq.); or

15 (ii) to maintain or restore the charac-
16 teristics of ecosystem composition and
17 structure, such as to reduce the risk of
18 uncharacteristic wildfire effects, within the
19 range of variability that would be expected
20 to occur under a natural disturbance re-
21 gime of the current climatic period;

22 (2) the cutting, sale, or removal of timber is in-
23 cidental to the implementation of a management ac-
24 tivity not otherwise prohibited by this Act;

1 (3) the cutting, sale, or removal of timber is
2 needed and appropriate for personal or administra-
3 tive use, in accordance with part 223 of title 36,
4 Code of Federal Regulations; or

5 (4) roadless characteristics have been substan-
6 tially altered in a portion of an inventoried roadless
7 area as a result of the construction of a classified
8 road and subsequent timber harvest, if—

9 (A) the road construction and subsequent
10 timber harvest occurred after the area was des-
11 ignated an inventoried roadless area and before
12 January 12, 2001; and

13 (B) timber is cut, sold, or removed only in
14 the substantially altered portion of the inven-
15 toried roadless area.

16 **SEC. 6. MODIFICATIONS TO ROADLESS AREA MAPS.**

17 (a) **AUTHORITY OF SECRETARY.**—The Secretary may
18 make 1 or more modifications to a roadless area map to
19 improve the accuracy or inclusiveness of the roadless area
20 map.

21 (b) **REQUIREMENTS.**—In modifying a roadless area
22 map under subsection (a), the Secretary shall—

23 (1) make the modification in accordance with
24 the National Forest Management Act of 1976 (16
25 U.S.C. 1600 et seq.); and

1 (2) to evaluate the effect of the modification,
2 prepare an environmental impact statement or simi-
3 lar analysis required under the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

5 **SEC. 7. SCOPE AND APPLICABILITY.**

6 (a) EFFECT.—This Act does not—

7 (1) revoke, suspend, or modify any permit, con-
8 tract, or other legal instrument authorizing the occu-
9 pancy and use of National Forest System land
10 issued or entered into before January 12, 2001;

11 (2) compel the amendment or revision of any
12 land and resource management plan;

13 (3) revoke, suspend, or modify any decision con-
14 cerning any project or activity made before January
15 12, 2001; or

16 (4) apply to road construction, reconstruction,
17 or the cutting, sale, or removal of timber in an
18 inventoried roadless area of the Tongass National
19 Forest if a notice of availability of a draft environ-
20 mental impact statement for such activity has been
21 published in the Federal Register before January
22 12, 2001.

23 (b) LIMITATION ON REVISION.—The prohibitions and
24 restrictions established in this Act are not subject to re-
25 consideration, revision, or rescission in any subsequent

1 project decision or amendment or revision to any land and
2 resource management plan carried out in accordance with
3 section 6 of the Forest and Rangeland Renewable Re-
4 sources Planning Act of 1974 (16 U.S.C. 1604).