S. 1891

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2011

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

A BILL

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

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Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE.

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This Act may be cited as the “Roadless Area Con-

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servation Act of 2011”.

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SEC. 2. FINDINGS AND PURPOSE.

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(a) IN GENERAL.—Congress finds that—
(1) there is a compelling need to establish national protection for inventoried roadless areas of the National Forest System in order to protect the unique social and ecological values of those irreplaceable resources;

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

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

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

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

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

(E) providing drinking water to millions of citizens from the more than 354 municipal watersheds found on roadless areas;

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

(A) saves downstream communities millions of dollars in water filtration costs; and

(B) is crucial to preserve the flow of affordable, clean water to a growing population;
(4) the protection of roadless areas can maintain biological strongholds and refuges for many imperiled species by halting the ongoing fragmentation of the landscape into smaller and smaller parcels of land divided by road corridors;

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

(6) roadless areas provide unparalleled opportunities for hiking, camping, picnicking, wildlife viewing, hunting, fishing, cross-country skiing, canoeing, mountain-biking, and similar activities;

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

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

(9) from the inception of Federal land management, it has been the mission of the Forest Service and other agencies to manage the National Forest System for the dual purposes of resource extraction and conservation;
(10) consistent with that dual mission, this Act—

(A) protects social and ecological values, while allowing for many multiple uses of inventoried roadless areas; and

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

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

(A) ensures that the considerable long-term ecological and economic benefits of protecting roadless areas for future generations are properly considered;

(B) diminishes the likelihood of controversy at the project level; and

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

(12) the National Fire Plan indicates that fires are almost twice as likely to occur in roadded areas as in roadless areas, because roadless areas are gen-
erally located further away from communities and
are harder to access;

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

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

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

(16) failure to maintain forest roads—
   (A) limits public access; and
   (B) causes degradation of water quality
   and wildlife and fish habitat; and

(17) protection of roadless areas—
   (A) will impact less than 0.5 percent of the
   national timber supply; and
   (B) will have a negligible impact on oil and
gas production because—
(i) the entire National Forest System provides only approximately 0.4 percent of
the quantity of oil and gas that is pro-
duced in the United States; and

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

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

SEC. 3. DEFINITIONS.

In this Act:

(1) CLASSIFIED ROAD.—

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

(B) INCLUSIONS.—The term “classified
road” includes a State road, county road, pri-
vately owned road, National Forest System
road, and any other road authorized by the
Forest Service.
(2) Inventoried roadless area.—The term "inventoried roadless area" means an area identified in a roadless area map.

(3) Responsible official.—The term "responsible official" means a Forest Service line officer or employee with the authority and responsibility to make decisions regarding the protection and management of inventoried roadless areas under this Act.

(4) Road.—The term "road" means a motor vehicle travelway over 50 inches wide, unless designated and managed as a trail.

(5) Road construction.—The term "road construction" means activity that results in the addition of classified road or temporary road miles.

(6) Road improvement.—The term "road improvement" means activity that results in—

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

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

(C) a change in the original design function of the road.

(7) Road maintenance.—The term "road maintenance" means ongoing upkeep of a road nee-
necessary to retain or restore the road in accordance with approved road management objectives.

(8) **ROAD REALIGNMENT.**—The term “road realignment” means an activity that results in—

(A) a new location for all or part of an existing road; and

(B) treatment of the old roadway.

(9) **ROAD RECONSTRUCTION.**—The term “road reconstruction” means an activity that results in improvement or realignment of an existing classified road.

(10) **ROADLESS AREA CHARACTERISTICS.**—The term “roadless area characteristics” means resources or features that are often present in and characterize inventoried roadless areas, including—

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

(B) sources of public drinking water;

(C) diversity of plant and animal communities;

(D) habitat for—

(i) threatened, endangered, candidate, or sensitive species, and species proposed for listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and
(ii) species dependent on large, undisturbed areas of land;

(E) primitive, semiprimitive nonmotorized, and semiprimitive motorized classes of dispersed recreation;

(F) reference landscapes;

(G) natural appearing landscapes with high scenic quality;

(H) traditional cultural properties and sacred sites; and

(I) other locally identified unique characteristics.


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

(13) TEMPORARY ROAD.—The term “temporary road” means a road that is—
(A) authorized by contract, permit, lease, other written authorization, or emergency operation; and

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

(14) UNCLASSIFIED ROAD.—The term “unclassified road” means a road on National Forest System land that is not managed as part of the forest transportation system, including—

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

(B) a road that was once under permit or other authorization and was not decommissioned on the termination of the authorization.

SEC. 4. PROHIBITION ON ROAD CONSTRUCTION AND ROAD RECONSTRUCTION IN INVENTORIED ROADLESS AREAS.

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

(b) Exceptions.—Road construction and road reconstruction may take place, including through the use of
appropriated funds, in an inventoried roadless area of the National Forest System if the responsible official determines that—

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

(2) a road is needed to conduct—

(A) a response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(B) a natural resource restoration action under—

(i) that Act;

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

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

(3) a road is needed pursuant to a reserved or outstanding right, or as provided for by law or treaty;

(4) a road realignment is needed—

(A) to prevent irreparable resource damage that arises from the design, location, use, or de-
terioration of a classified road that cannot be mitigated by road maintenance; and

(B) to provide for essential public or private access, natural resource management, or public health or safety;

(5) road reconstruction is needed to implement a road safety improvement project on a classified road determined to be hazardous on the basis of accident experience or accident potential with respect to the road;

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

(i) in the public interest; or

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

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

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

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

(ii) the issuance of a new lease issued immediately on the date of expiration of an existing lease described in clause (i);
(B) road construction or road reconstruction under this paragraph will be conducted in a manner that—

(i) minimizes the effects on surface resources;

(ii) prevents unnecessary or unreasonable surface disturbance; and

(iii) complies with all applicable laws (including regulations), lease requirements, and land and resource management plan directives;

and

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

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

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

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

SEC. 5. PROHIBITION ON TIMBER CUTTING, SALE, OR REMOVAL IN INVENTORIED ROADLESS AREAS.

(a) PROHIBITION.—Except as provided in subsection (b), timber may not be cut, sold, or removed in an inventoried roadless area of the National Forest System.
(b) EXCEPTIONS.—Timber may be cut, sold, or re-
moved in an inventoried roadless area if the responsible
official determines that the cutting, sale, or removal of the
timber is expected to be infrequent and—

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

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

(B) is needed—

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

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

(2) the cutting, sale, or removal of timber is in-
cidental to the implementation of a management ac-
tivity not otherwise prohibited by this Act;
(3) the cutting, sale, or removal of timber is needed and appropriate for personal or administrative use, in accordance with part 223 of title 36, Code of Federal Regulations; or

(4) roadless characteristics have been substantially altered in a portion of an inventoried roadless area as a result of the construction of a classified road and subsequent timber harvest, if—

(A) the road construction and subsequent timber harvest occurred after the area was designated an inventoried roadless area and before January 12, 2001; and

(B) timber is cut, sold, or removed only in the substantially altered portion of the inventoried roadless area.

SEC. 6. MODIFICATIONS TO ROADLESS AREA MAPS.

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

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

(1) make the modification in accordance with the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.); and
(2) to evaluate the effect of the modification,
prepare an environmental impact statement or simi-
lar analysis required under the National Environ-

SEC. 7. SCOPE AND APPLICABILITY.

(a) Effect.—This Act does not—

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

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

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

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

(b) Limitation on Revision.—The prohibitions and
restrictions established in this Act are not subject to re-
consideration, revision, or rescission in any subsequent
project decision or amendment or revision to any land and resource management plan carried out in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).