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The Future of Natural Resources Law and Policy
(Summer Conference, June 6-8)

2007

6-8-2007

SLIDES: Forests and Grasslands

Federico Cheever

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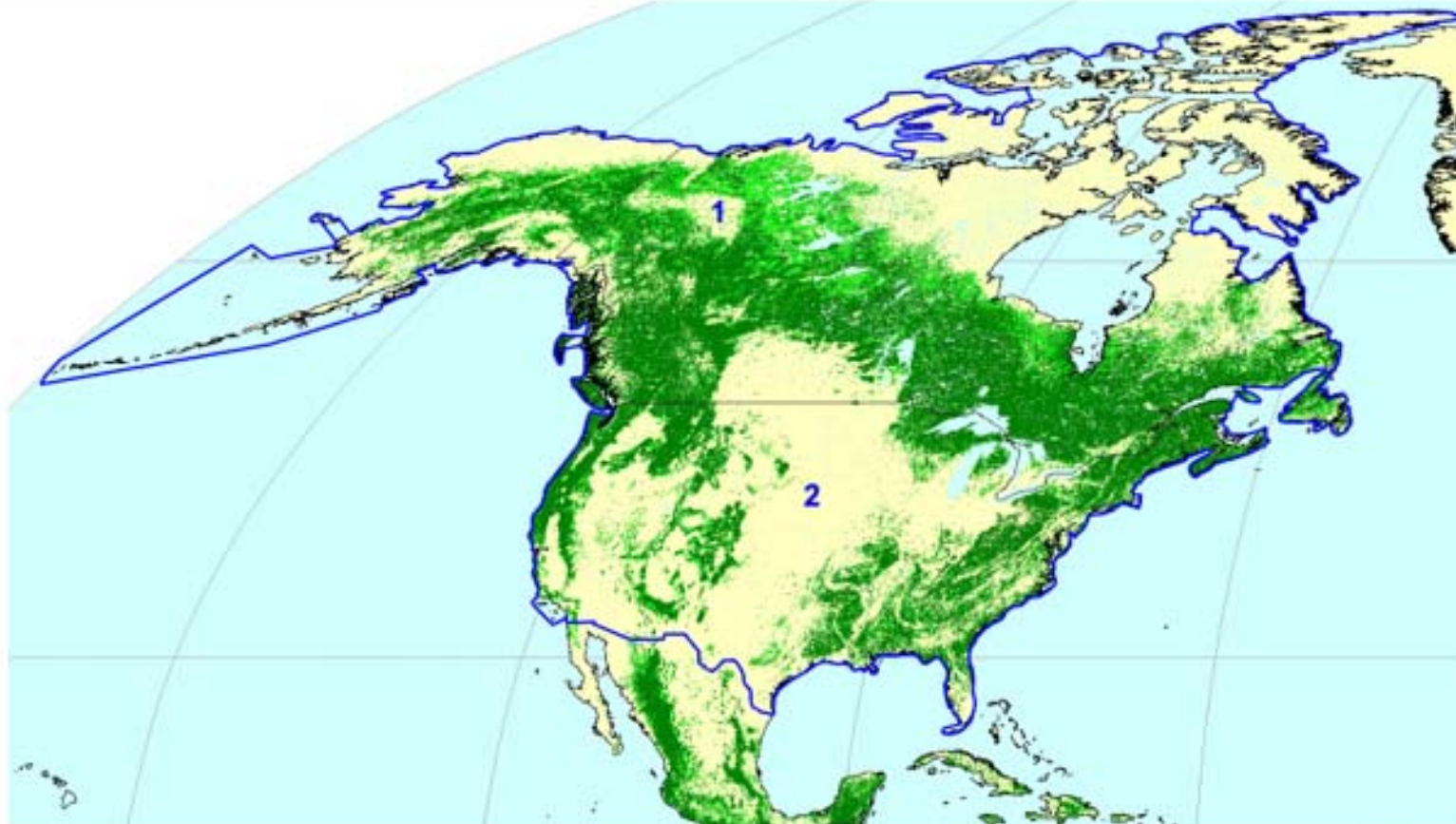
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Forests and Grasslands



Natural Resources
Law Center,
Boulder, Colorado,
June 8, 2007





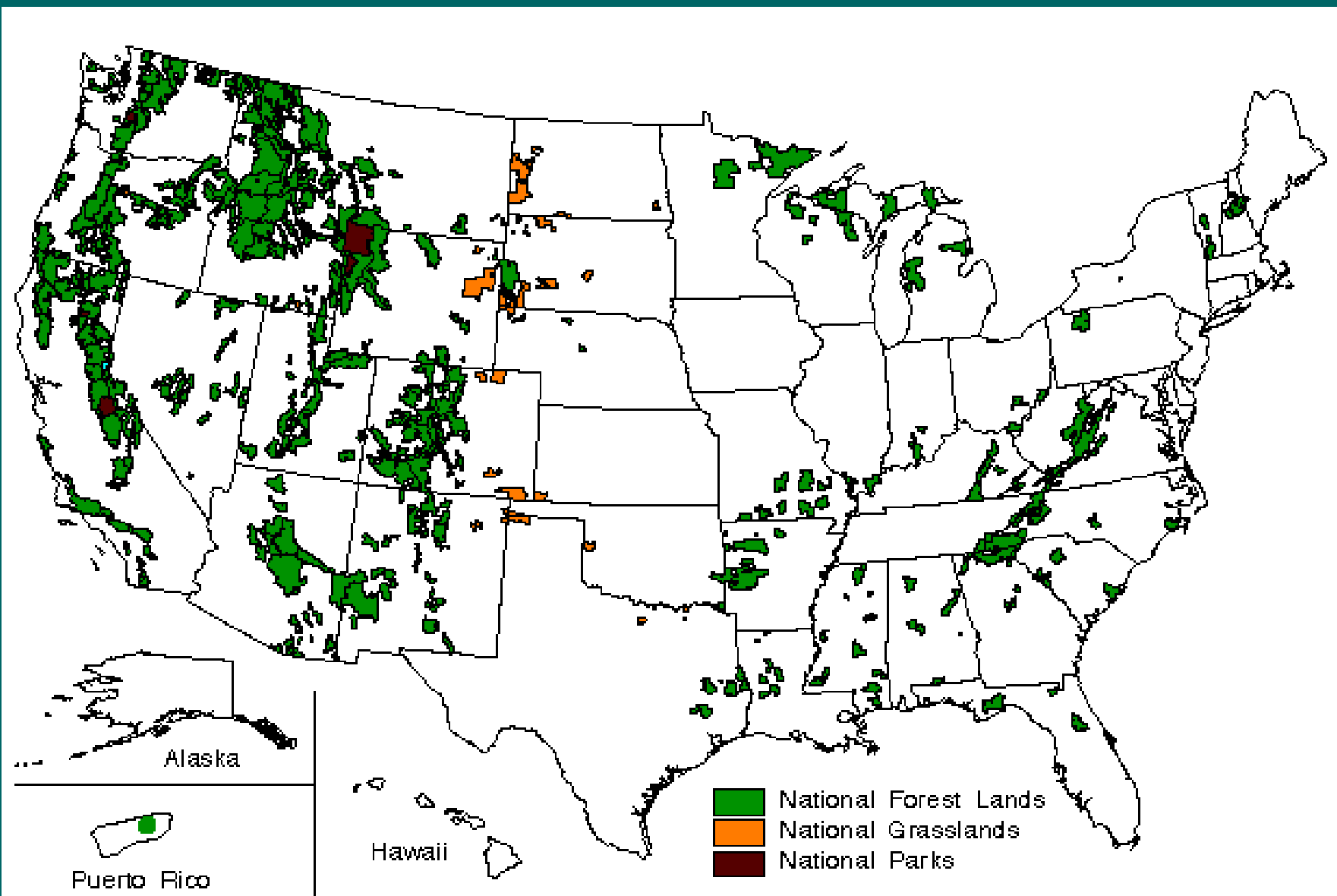
1. Canada
2. United States

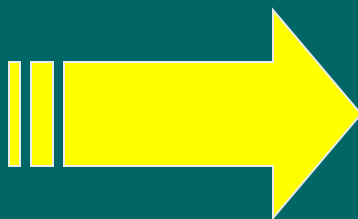
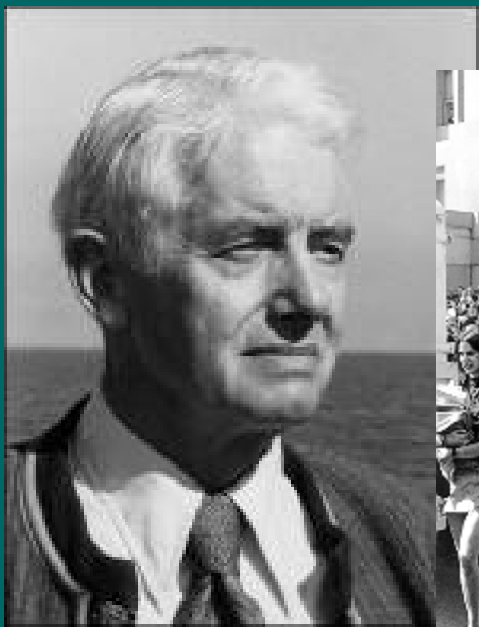
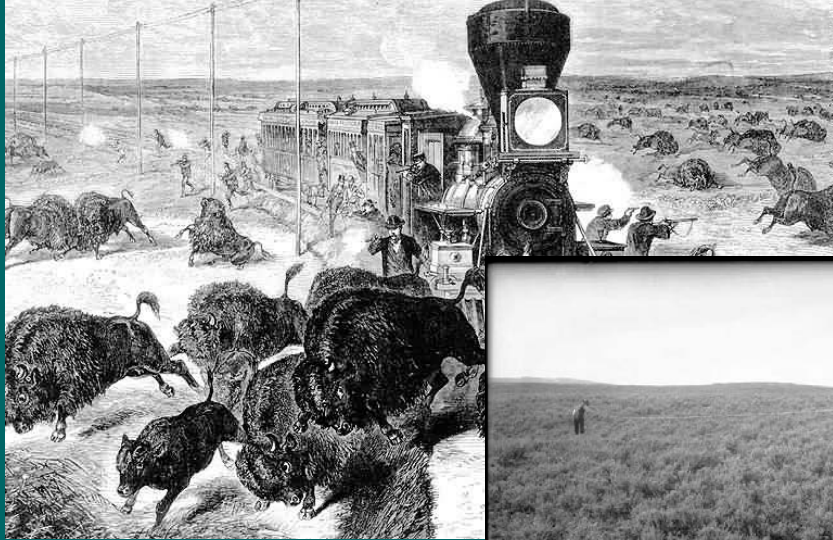
Forest cover according to FRA 2000 Map of the World's Forests 2000

-  Closed forest
-  Open and fragmented forest

Global Forest Resources Assessment

www.fao.org/DOCREP/004/Y1997E/y1997e24.jpg

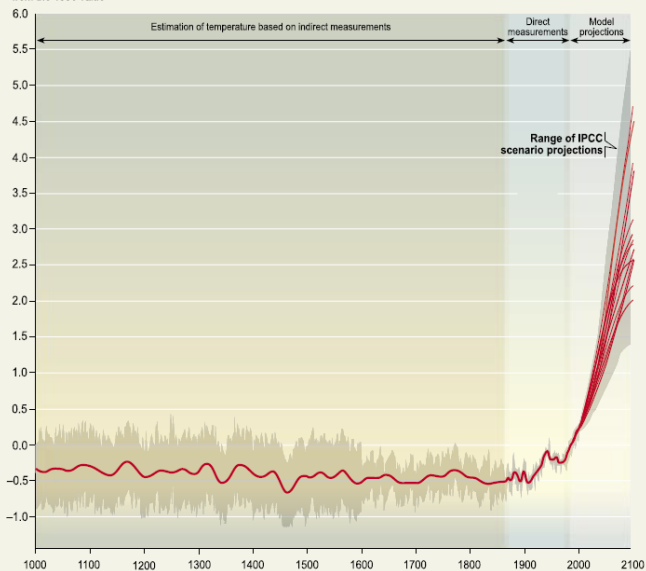




HISTORICAL AND PROJECTED VARIATIONS OF EARTH'S SURFACE TEMPERATURE

Estimated global temperature averages for the past 1,000 years, with projections to 2100 depending on various plausible scenarios for future human behavior.

Differences in temperature in °Celsius from the 1990 value



Source: Intergovernmental Panel on Climate Change 2002

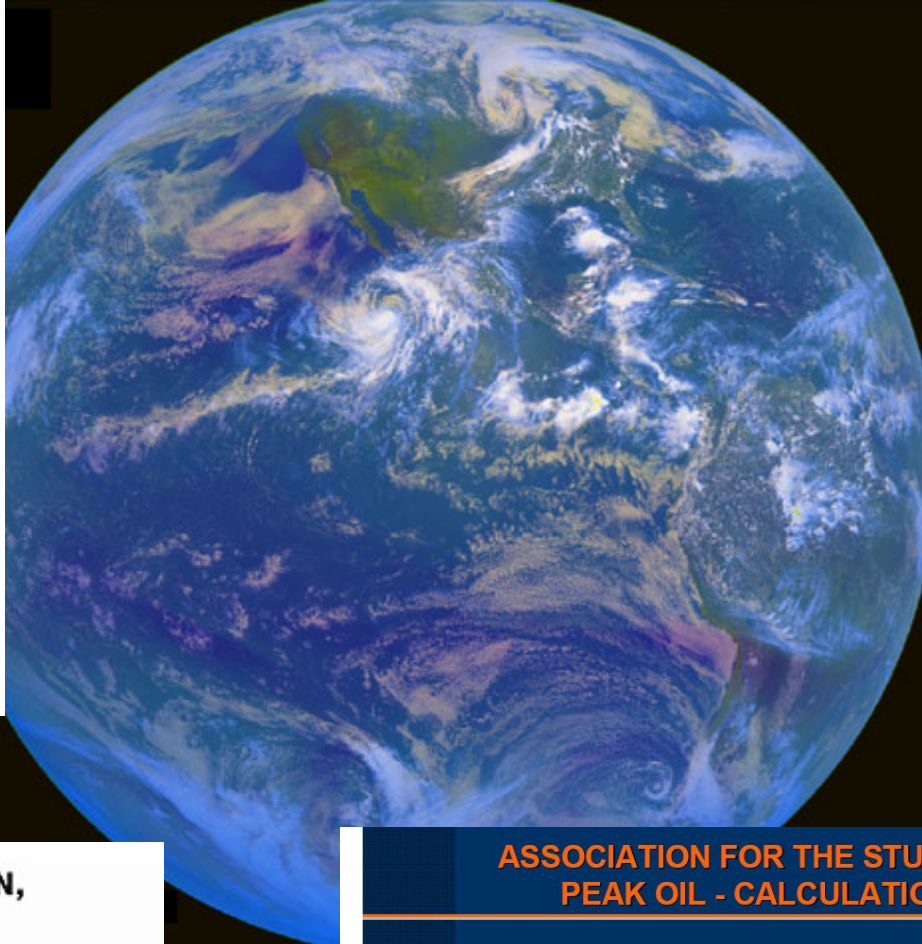
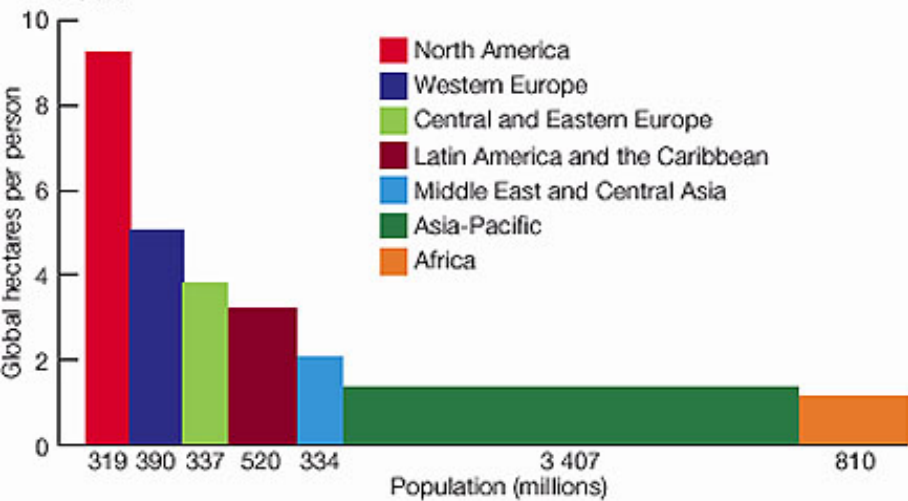


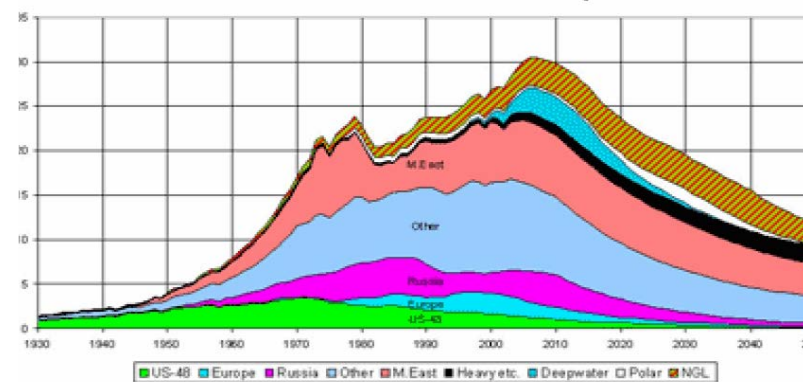
Fig. 17: ECOLOGICAL FOOTPRINT BY REGION, 2001



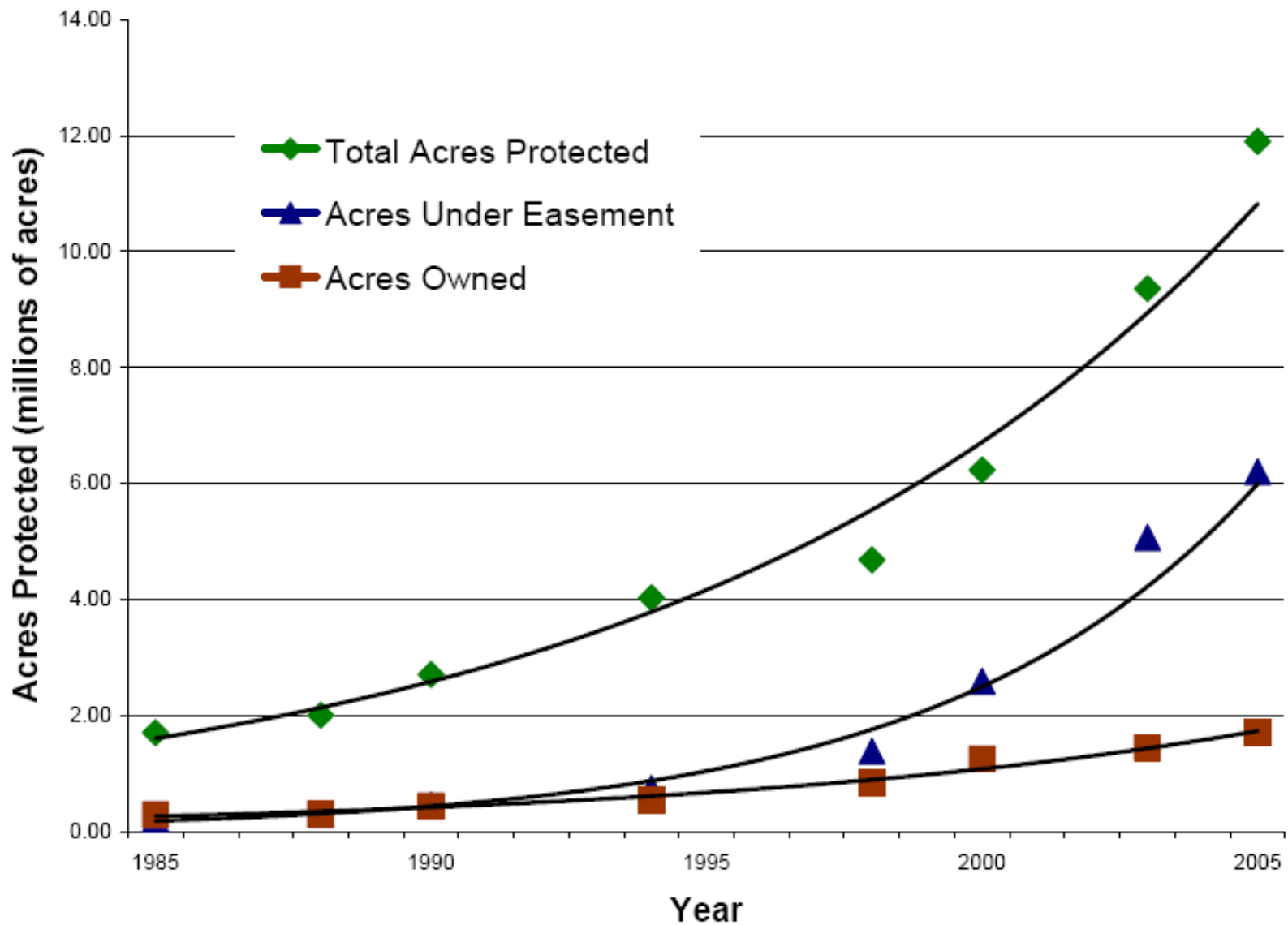
ASSOCIATION FOR THE STUDY OF PEAK OIL - CALCULATION

Source: Association for the Study of Peak Oil - ASPO

ASPO 2004: Oil and Gas Liquids







The total acres conserved in 2005 rose to 11,890,109 from 6,056,624 acres in 2000, a 96% increase.

The
Environmental
Tradition

The Land
Use
Tradition

The Public
Land
Tradition

The Land
Trust
Tradition

Federal



Local

The
Environmental
Tradition

The Land
Use
Tradition

The Public
Land
Tradition

The Land
Trust
Tradition

Federal



Local

The Environmental Tradition

The Land Use Tradition

Regulation Based



The Public Land Tradition

The Land Trust Tradition

Ownership Based

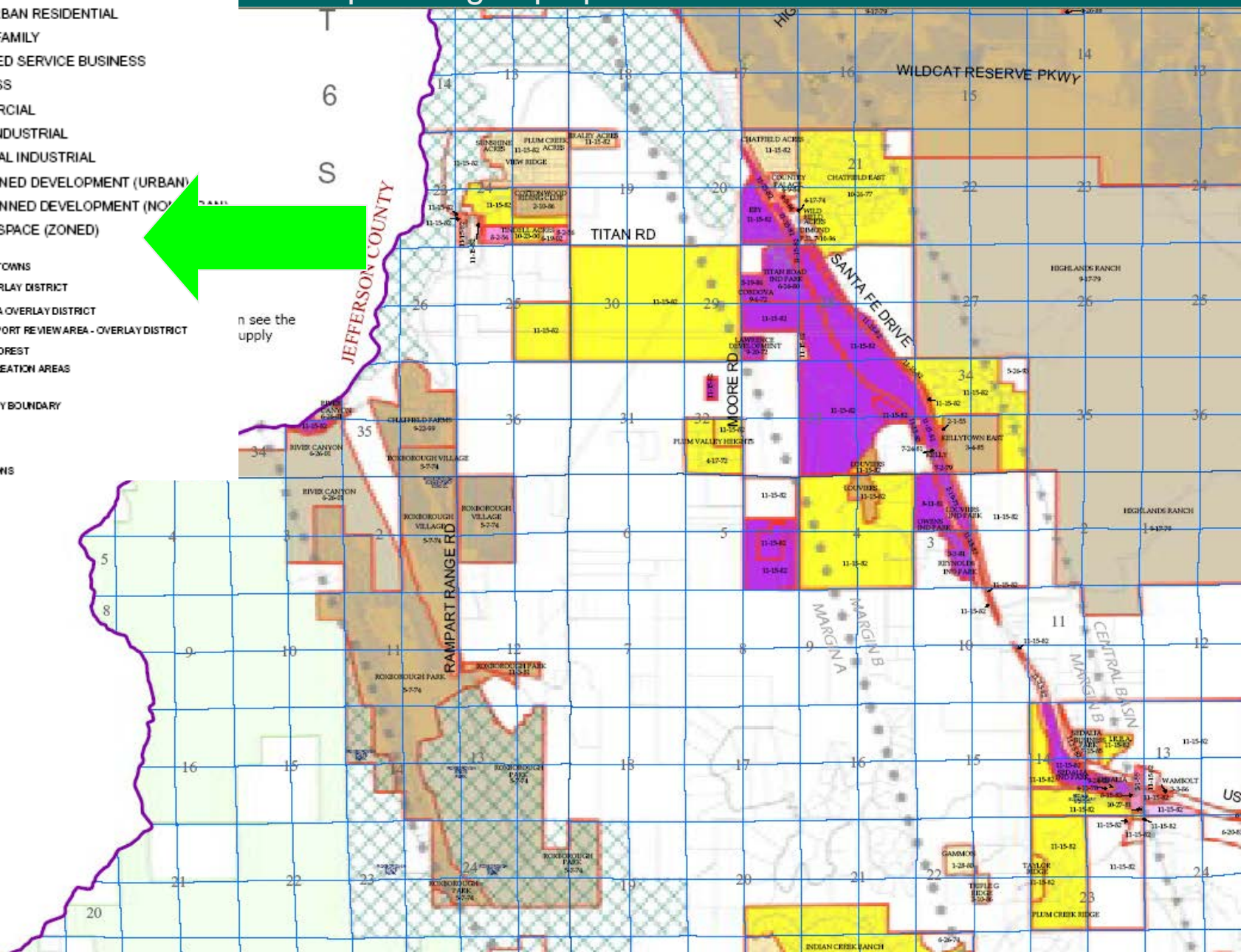


-  A1 - AGRICULTURAL ONE
-  LRR - LARGE RURAL RESIDENTIAL
-  RR - RURAL RESIDENTIAL
-  ER - ESTATE RESIDENTIAL
-  SR - SUBURBAN RESIDENTIAL
-  MF - MULTIFAMILY
-  LSB - LIMITED SERVICE BUSINESS
-  B - BUSINESS
-  C - COMMERCIAL
-  LI - LIGHT INDUSTRIAL
-  GI - GENERAL INDUSTRIAL
-  PDU - PLANNED DEVELOPMENT (URBAN)
-  PDNU - PLANNED DEVELOPMENT (NON-URBAN)
-  OS - OPEN SPACE (ZONED)

-  INCORPORATED TOWNS
-  PARKER IGA OVERLAY DISTRICT
-  CASTLE ROCK IGA OVERLAY DISTRICT
-  CENTENNIAL AIRPORT REVIEW AREA - OVERLAY DISTRICT
-  PINE NATIONAL FOREST
-  PARKS AND RECREATION AREAS
-  PARCELS
-  DOUGLAS COUNTY BOUNDARY
-  TOWNSHIPS
-  SECTIONS
-  QUARTER SECTIONS



n see the supply



PUBLIC ACCESS OPEN SPACE & PROTECTED LANDS

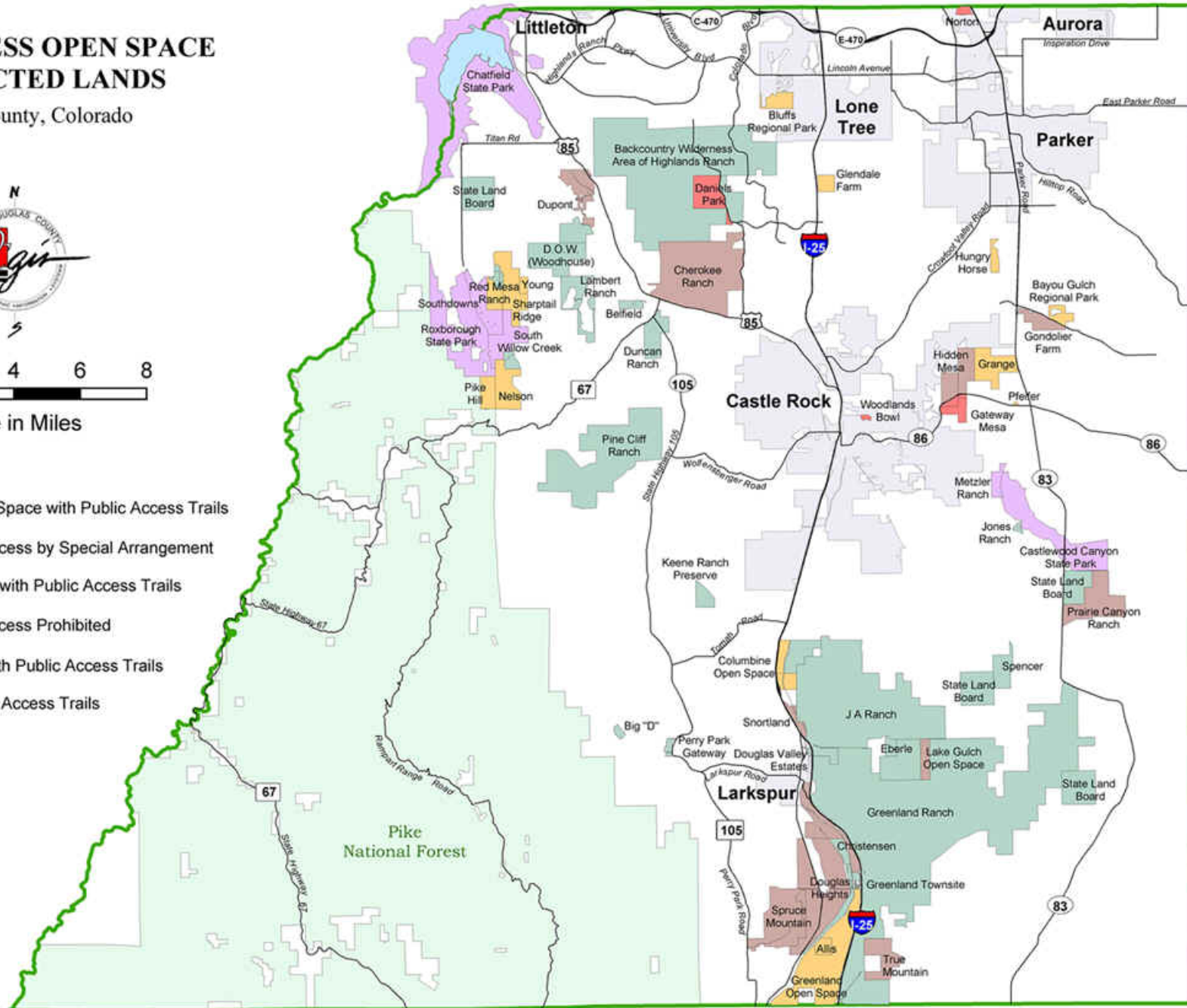
Douglas County, Colorado



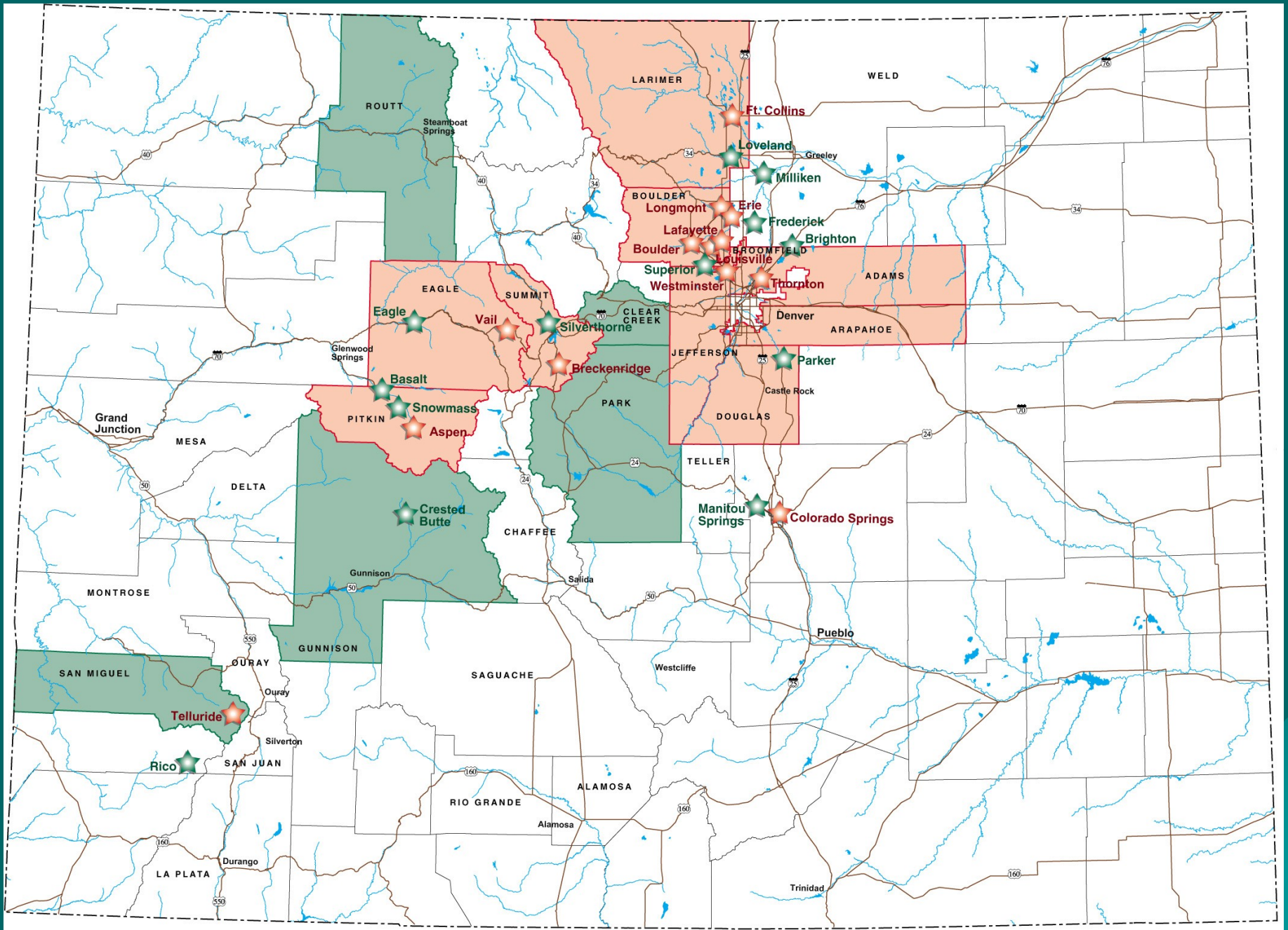
Scale in Miles

LEGEND

- Douglas County Open Space with Public Access Trails
- Protected Land with Access by Special Arrangement
- Municipal Open Space with Public Access Trails
- Protected Land with Access Prohibited
- Pike National Forest with Public Access Trails
- State Parks with Public Access Trails
- Municipal Boundaries
- Major Roads

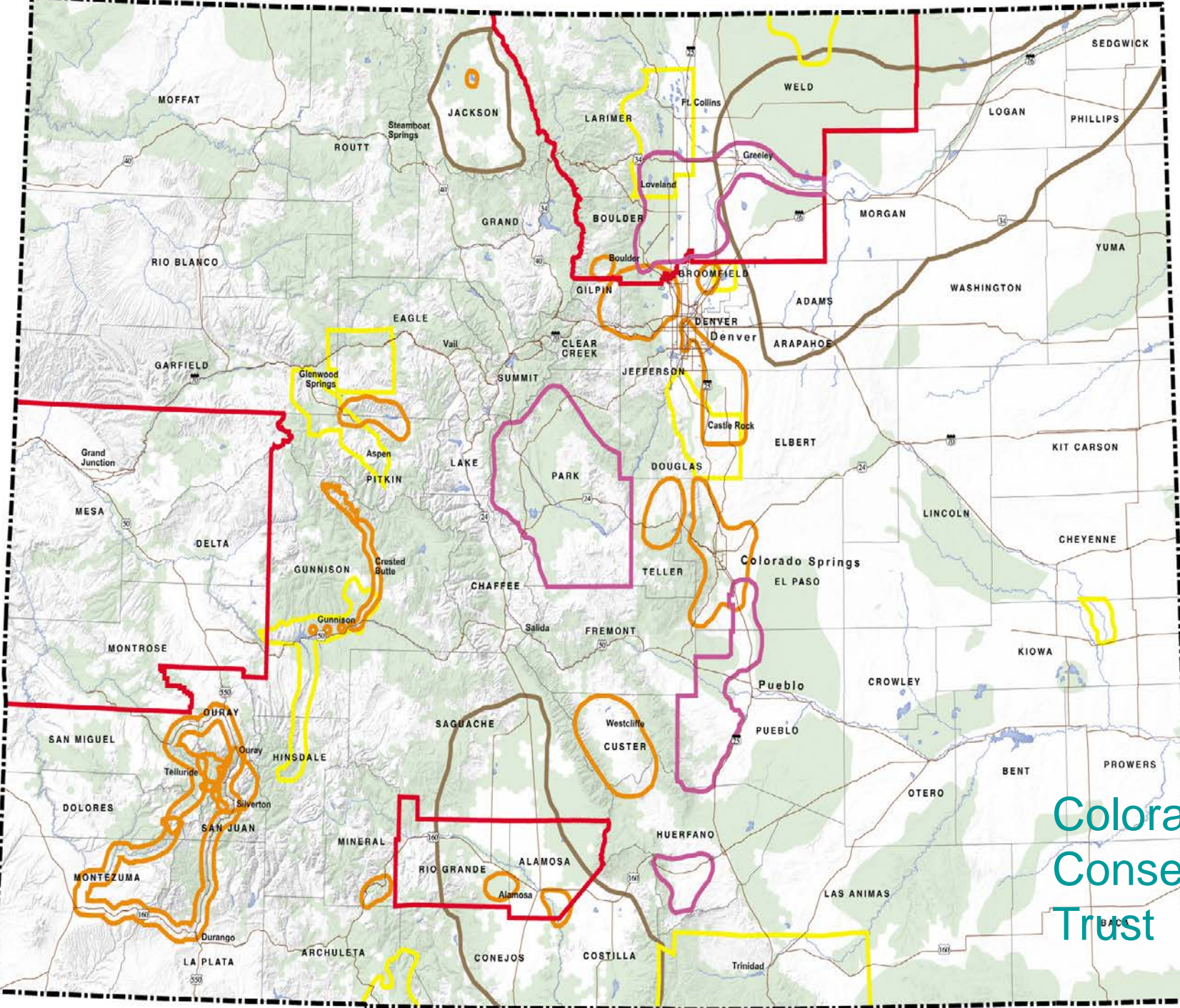


CCT Survey – Colorado Local Government Open Space Programs



NATIONAL LAND TRUST AREAS

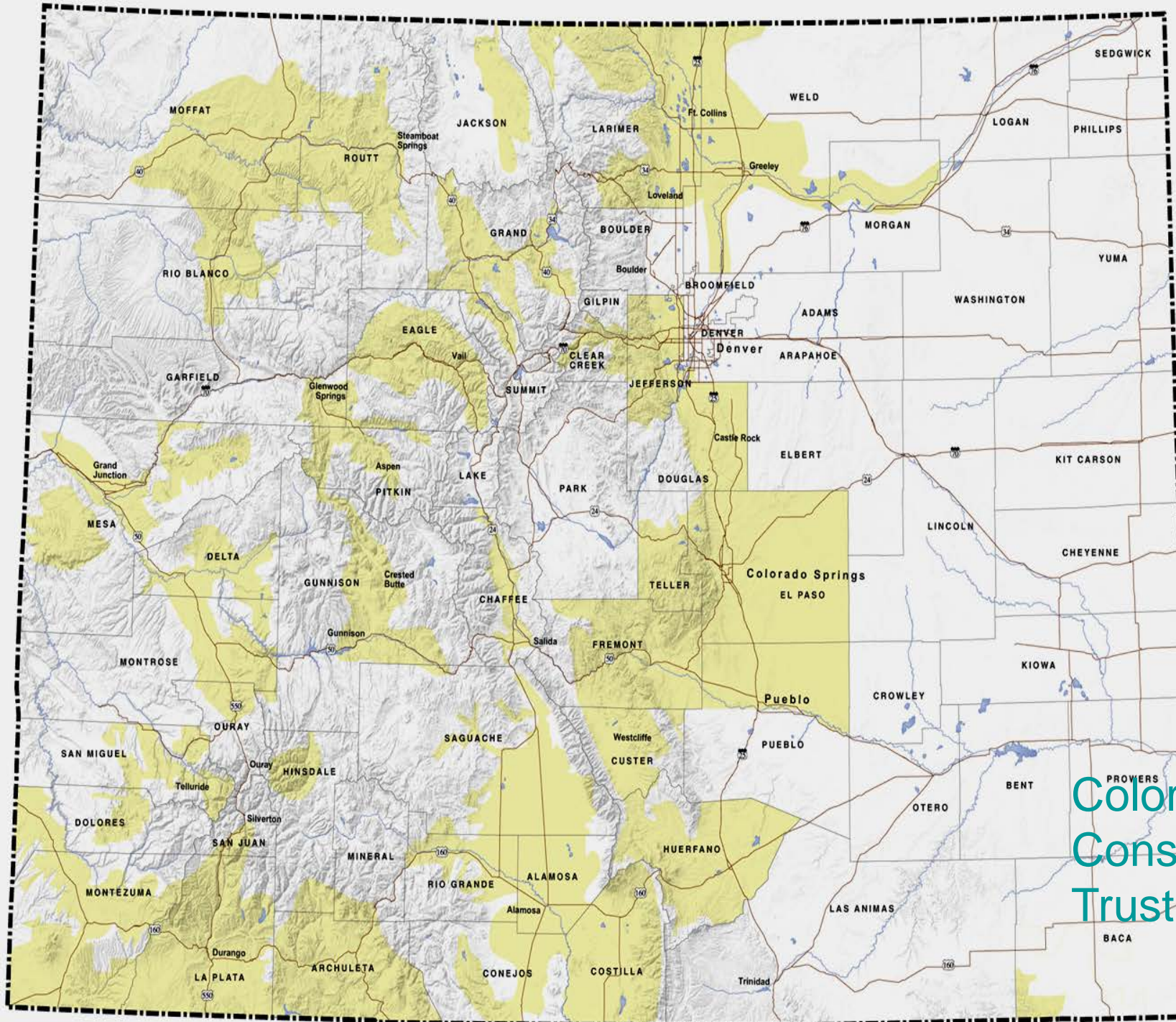
-  America Farmland Trust
-  The Trust for Public Land
-  Colorado Open Lands
-  Conservation Fund
-  Ducks Unlimited
-  Nature Conservancy



Colorado
Conservation
Trust

LOCAL COLORADO LAND TRUST AREAS

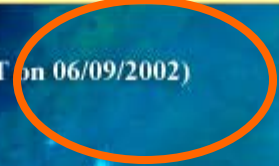
- Animas Conservancy
- Aspen Valley Land Trust
- Black Canyon Regional Land Trust
- Centennial Land Trust
- Clear Creek Land Conservancy
- Continental Divide Land Trust
- Crested Butte Land Trust
- Douglas County Land Conservancy
- Eagle Valley Land Trust
- Estes Valley Land Trust
- Gunnison Ranchland Conservation Legacy
- La Plata Open Space Conservancy
- Lake Fork Land Trust
- Land Trust of the Upper Arkansas
- Legacy Land Trust
- Manitou Institute / Crestone Baca Land Institute
- Mesa Land Trust
- Middle Park Land Trust
- Montezuma Land Conservancy
- Mountain Area Land Trust
- Rio Grande Headwaters Land Trust
- Roaring Fork Conservancy
- San Isabel Foundation
- San Miguel Conservation Foundation
- South Metro Land Conservancy
- Southern Plains Land Trust
- Southwest Land Alliance
- The Palmer Foundation
- Yampa Valley Land Trust



Colorado
Conservation
Trust



NOAA-15 HRPT RGB=CH3,CH2,CH1 06/10/2002 01:03 UTC (7:03 PM MDT on 06/09/2002)



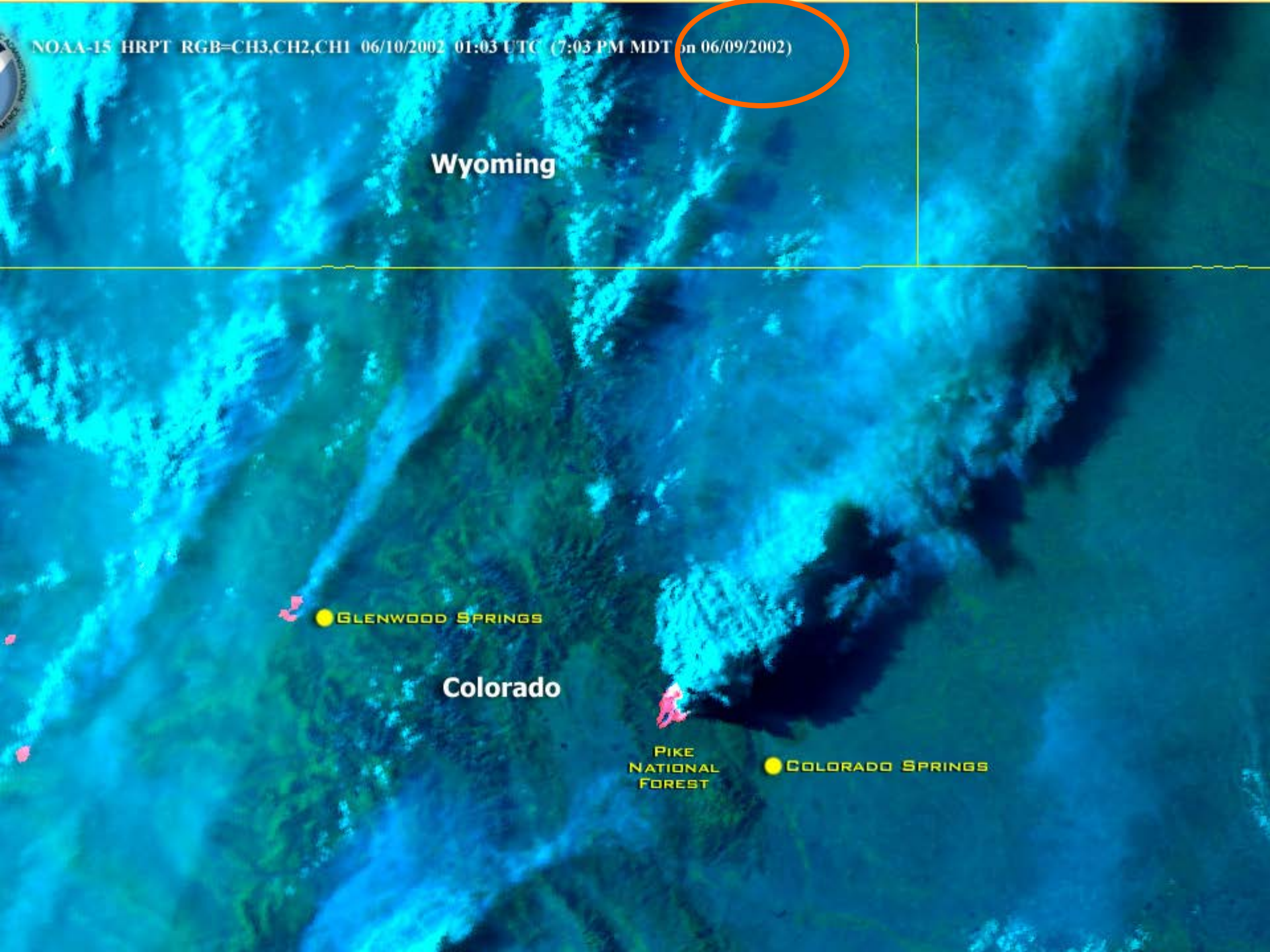
Wyoming

GLENWOOD SPRINGS

Colorado

PIKE NATIONAL FOREST

COLORADO SPRINGS



42 U.S.C. 4331

• • •

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to **use all practicable means**, consistent with other essential considerations of national policy, **to improve and coordinate Federal plans, functions, programs, and resources** to the end that the Nation may--

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation ;
- (4) preserve important historic, cultural, and natural aspects of our national heritage
- (5) achieve a balance between population and resource use. . . ; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures . . . which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(F) recognize the worldwide and long-range character of environmental problems . . . ;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

**AN IDEA (FROM INSIDE THE
AGENCY OR OUTSIDE)**



A “PROPOSAL”



1501.4 INITIAL DECISION



**NORMALLY DO
EIS 1501.4/1507.3**

**DO AN
ENVIRONMENTAL
ASSESSMENT TO
DECIDE 1507.3/1508.9**

**CATEGORICAL
EXCLUSION
1507.3/1508.4**



**DECIDE TO DO
EIS 1501.4(c)&(d)**

**PREPARE A FONSI
1501.4(e)/1508.13**

Undermining NEPA

- ◆ Technical Compliance “Too Hard”
- ◆ Categorical Exclusions for Regulations and Planning
- ◆ Categorical Exclusions for Timber Sales, Salvage Sales, You Name It . . .

.

“The Court finds that the Forest Service acted arbitrarily and capriciously in denying Wyoming, and the nine other states most affected by the Roadless Rule, cooperating agency status. This finding is not premised on a conclusion that the Forest Service had a duty to grant cooperating agency status to any of the states that requested that status, nor does it provide a judicial gloss on the lead federal agency's discretionary authority to grant cooperating agency status.”

Wyoming v. USDA, 277 F. Supp. 2d 1197, 1221
(D. Wyo. 2003)

“Rather, the finding is based on the fact that the Roadless Rule affected 53.37 million acres of land, or 92% of the total inventoried roadless areas, in those ten most affected states, and the Forest Service did not find it worth its time to explain why it was denying cooperating agency status to those states. Moreover, the logistics of coordinating with ten states would not have been insurmountable.”

Id.

§ 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not **individually or cumulatively** have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

.....

A final decision on a proposed action is viewed as causing effects on the resources when effects may occur without additional action by the agency For projects and activities, the final decision point is typically the decision to approve the project or activity

However, for land management plans . . . a cause-effect relationship of this nature typically does not exist. [T]o establish a "cause-effect relationship" . . . it is not sufficient to find that one or more plan components increase or decrease the likelihood of effects from future actions Rather, it is necessary to conclude that a plan component by itself, without further analysis and decision-making by the agency, will either allow otherwise disallowed, or prohibit otherwise unprohibited, actions. . . .

75 Fed. Reg. 75481 (December 15, 2006)

Land management plans developed under the 2005 planning rule will typically be strategic and aspirational. In 1998 and 2004, the Supreme Court issued decisions that support the Forest Service's conclusion that its land management plans developed under the 2005 planning rule typically will not have independent environmental effects, and thus, will not have significant environmental effects.

In *Ohio Forestry Ass'n v. Sierra Club* . . . (1998), the Supreme Court recognized that, in contrast to proposals for actions that approve projects and activities, the land management plan provisions at issue "do not command anyone to do anything or to refrain from doing anything; they do not grant, withhold, or modify any formal legal license, power, or authority; they do not subject anyone to any civil or criminal liability; they create no legal rights or obligations" In *SUWA*, the Supreme Court's description of the Bureau of Land Management's (BLM's) land use plan, developed under the Federal Land Policy and Management Act (FLPMA), is in accord with Forest Service land management plans developed under the 2005 planning rule.

This [Interim Directive] adds three such categories of actions to the agency's NEPA procedures that are applicable to small timber harvesting projects: Category 12 allows harvest of live trees **not to exceed 70 acres** with no more than 1/2 mile of temporary road construction; Category 13 allows the salvage of dead and/or dying trees **not to exceed 250 acres** with no more than 1/2 mile of temporary road construction; and Category 14 allows commercial and non-commercial felling and removal of any trees necessary to control the spread of insects and disease on **no more than 250 acres** with no more than 1/2 mile of temporary road construction.

68 Fed. Reg. 44598 (July 29, 2003)

“The National Environmental Policy Act of 1969 and the Water Quality Improvement Act of 1970 apply to all federal agencies in the performance of any of their responsibilities which may have an impact “on man's environment.” Thus, they provide a statutory basis to bring environmental quality into planning and decision-making **wherever gaps exist in previous laws**, even though an agency may have to obtain additional legislative authority before taking final action.”

Public Land Law Review Commission, *One Third of The Nation's Land* 67-68 (June 1970)