October 27, 2019

M. Stephen Best, Forest Supervisor
Apache-Sitgreaves National Forest
P.O. Box 640
Springerville, AZ 85938

RE: Revised Draft Environmental Impact Statement for the Public Motorized Travel Management Plan

Dear Mr. Best,

On behalf of Arizona Sportsmen for Wildlife Conservation (AZSFWC), thank you for the opportunity to comment on the Revised Draft Environmental Impact Statement for Public Motorized Travel Management Plan (RDEIS).

Forest Service lands, including the Apache-Sitgreaves National Forest (Forest), provide a myriad of hunting, angling, wildlife watching, dispersed camping and other recreational opportunities for our members and constituents. These endeavors also generate millions of dollars of economic activity that benefit local communities and the state's economy as a whole.

As you are certainly well aware, motorized travel is an essential element of public access for recreation on the Forest as well as management efforts undertaken by the Arizona Game and Fish Department (AGFD) in the course of fulfilling its public trust responsibilities. AZSFWC understands the need to bring the Forest into compliance with the 2005 Travel Management Rule (TMR) and expects that this will be done in a manner that provides the following:

- Reasonable access for recreation,
- Reasonable access for resource management purposes,
- Establishes clear and consistent guidelines for the recreating public,
- Protects resource values.

We also expect that this planning effort will be fully informed by input from your cooperating agencies; the AGFD and the Eastern Arizona Counties Organization, as well as remain consistent with recent court decisions.

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AZSFWC has reviewed the RDEIS and unfortunately, found the aforementioned expectations have not been met at this point. The RDEIS and the proposed Alternatives therein are based on a fatally flawed NEPA process and ultimately fail to deliver a range of reasonable alternatives to the recreating public.

Our concerns fall into the following categories:

1. The Proposed Action reflects a questionable interpretation of the Travel Management Rule and is inconsistent with a recent court precedent in assessing Motorized Big Game Retrieval (MBGR). The proposal reflects an incomplete understanding of the need for motorized retrieval, drastically curtailing MBGR based on speculative assertions of negative impacts that are solidly contradicted by other information in the RDEIS.

2. The NEPA process for preparing the RDEIS has significant, if not fatal flaws that compromised effective public involvement and disclosure of effects.

3. The baseline assessment of Existing Conditions is based on incomplete data and erroneous assumptions, resulting in incomplete disclosure of effects and an invalid NEPA analysis.

4. The Proposed Action fails to provide reasonable motorized access for dispersed camping and will likely increase, rather than decrease adverse resource impacts.

5. The Proposed Action fails to provide reasonable and required motorized access for fish and wildlife management activities by AGFD.

6. The Proposed Action does not provide clear and consistent regulations readily understood by the recreating public.

1. Questionable Interpretation of the Travel Management Rule and Inconsistency with Recent Legal Precedent relative to MBGR

Comment: AZSFWC notes that during original scoping for the TMP, AGFD and others identified the need for MBGR for deer, bear, and elk. This provision was appropriately carried forward into the Proposed Action in the 2010 TMP draft DEIS, but drastically reduced in the 2019 RDEIS, which allows MBGR for elk only on a portion of the Forest. This change appears based at least in part, on the Forest's interpretation of "Limited Use" language in the TMR. AZSFWC questions this interpretation, as the entire Forest is currently open to MBGR for any harvested big game species, with no limitation on the number of trips!

The original 2010 provision provides reasonable access for MBGR, while dramatically reducing cross-country travel; an approach that clearly meets the standard of "Limited Use."

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The RDEIS [Vol. 1, p. 22] indicates that an Alternative for increased MBGR (including deer and bear) was not carried forward due to potential adverse environmental effects (as cited in the TMR Regulation, 36 CFR 212.55), as well as asserted disturbance to other hunters. However, this conclusion is directly contradicted by numerous statements throughout the RDEIS, indicating that adverse impacts of MBGR to cultural, soil, water, wildlife, vegetation, and other resources are essentially nonexistent, "negligible," or "have not been documented." The RDEIS likewise fails to present other credible evidence of neither negative resource impacts from MBGR, nor the asserted disturbance impact to other hunters. As an organization that represents thousands of hunters, many of whom regularly pursue big game on the Forest, we can state unequivocally that MBGR disturbance of other hunters is a rare event, one that has no bearing whatsoever on the conclusion to drastically restrict MBGR.

AZSFWC asserts that the Forest's approach to MBGR in the RDEIS is inconsistent with the other National Forest plans in Arizona. It is also inconsistent with the March 2019 U.S. Ninth Circuit Court of Appeals Decision in "WildEarth Guardians v. Provencio" concerning MBGR on the Kaibab National Forest.

AZSFWC notes that the Forest appears to have limited understanding of the role of MBGR, which is treated as a mere convenience for the hunting public and ignores other important issues. For example, the RDEIS [Vol. 1, p. 22] justifies its decision to exclude deer from MBGR in part because deer are smaller animals and thus easier to pack out. This Forest should be aware that a large proportion of Arizona hunters are older and may lack the physical ability to pack or drag an animal more than a short distance.

The RDEIS [Vol. 1, p. 22] also indicates that MBGR for bear was not provided because of lack of "demand" compared to elk. This argument is entirely counter-intuitive. As previously noted, the RDEIS repeatedly cites a lack of resource impacts from MBGR. Including a much smaller number of motorized bear retrievals would therefore be inconsequential.

The Forest must understand that hunters who waste big game by failing to remove edible portions from the field are in violation of state law and subject to citation and civil penalties. The proposed curtailment of MBGR will create obstacles for hunters, especially during early season hunts, where temperatures well above historical averages and associated spoilage risk have become the "new normal." The Forest should also be aware that motorized retrieval plays a key role in hunter success and in meeting population objectives for big game species.

These were a source of controversy in the past, one that AGFD has worked to resolve so as to meet desired recreational opportunities and habitat conditions developed in coordination with the Forest. The RDEIS clearly fails to analyze and disclose these effects on hunter compliance with state law and the ability to meet big game population objectives.

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The RDEIS [Vol. 1, p. 22] also notes that restricting MBGR to elk-only is needed to ensure consistency with other National Forests in the Southwestern Region. The rationale for this highly restrictive "one size fits all" approach is unstated and ignores the tremendous differences across Forests with respect to big game species that are hunted, timing of hunting seasons, road density, distance to roads from preferred hunting areas, topography, elevation, and other factors that affect the need for motorized retrieval. AZSFWC understands that AGFD has likewise asserted the need for MBGR consistency across Arizona forests, albeit in a more reasonable fashion that accommodates these factors.

In summary, AZSFWC asserts that statements, analysis and conclusions in the RDEIS concerning MBGR are inaccurate, unsupported, and wholly speculative, rendering the decision to eliminate MBGR for deer and bear an arbitrary and capricious decision by the Forest. Moreover, we assert that the Proposed Action will place an unreasonable burden on big game hunters and compromise attainment of population management objectives.

Remedy: the Forest must base its NEPA analysis on defensible information, rather than speculation, presenting a consistent, complete, and properly supported assessment of effects of MBGR provisions in the Alternatives. Absent inclusion of new, relevant information on adverse impacts, the Forest must allow MBGR for deer, bear, and elk, as originally proposed in the 2010 TMP DEIS, on a "one-trip-in, one trip-out" basis, within a 1 mile distance of all open roads and motorized trails, as long as this is done in a manner that does not cause unacceptable resource damage.

2. Flaws in the NEPA Process

Comment: AZSFWC understands that the original TMP DEIS was revised in response to changed conditions, including completion of the new Forest Plan in 2015. However, we are extremely concerned that the RDEIS relied on scoping done prior to Forest Plan Revision (Scoping Letter dated October 23, 2007) and by the degree to which this revised plan constrained decision space for the 2019 TMP RDEIS. Specifically, the 2015 Forest Plan Final EIS and Record of Decision clearly state that travel management would be addressed separately and not in the Plan revision process:

> [Programmatic FEIS, Chapter 2, pp. 33-34] *The action alternatives limit motorized travel to a system of NFS roads and NFS trails*[9]*. They do not allow motorized cross-country travel, except where allowed by a written authorization (e.g., permit, right-of-way) issued under Federal law or regulation or in designated motorized areas.* ***The action alternatives do not designate motorized areas nor do they make changes to the current system of NFS roads or NFS***

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trails. Any new designated motorized cross-country areas or changes to roads or trails would be evaluated in a separate NEPA decision. [Emphasis added]

[Programmatic FEIS, Chapter 3, pp. 345] *In December 2005, the Forest Service issued regulations at the national level, known as the Travel Management Rule (TMR). The TMR was developed in response to the increasing effects of OHV recreation and the potential for OHV use to adversely affect forest and grassland resources. One of the primary purposes of the TMR is to designate roads, trails, and areas where motorized vehicle use can occur and to eliminate motorized cross-country travel on all national forests.* ***The designation of specific routes, trails, and areas for motorized vehicle travel on the Apache-Sitgreaves NFs will not be considered during the plan revision process. It will be addressed in separate analysis through future project-level decision-making, including implementation of the TMR.*** [Emphasis added]

[Apaches-Sitgreaves National Forests Land Management Plan, Record of Decision dated July 30, 2015, p. 12] *Potential changes to the Forests' transportation system would be evaluated in* ***separate project-level analyses including the implementation of the Travel Management Rule*** *(TMR) (36 CFR § 212*). [Emphasis added]

AZSFWC asserts that lack of transparency and disclosure in the NEPA process prevented the public from fully understanding how Forest Plan revision could affect motorized access and willfully or unintentionally discouraged input on those important issues. Moreover, the 2015 Forest Plan also designated large portions of the Forest as "Natural Landscapes," which in turn severely constrained areas subsequently considered for dispersed camping and MBGR in the 2019 TMP RDEIS. However, the 2015 Forest Plan FEIS is mute on this topic, failing to analyze or disclose effects of this Special Designation on motorized access. Collectively, these actions represent arbitrary and capricious decisions by the Forest.

Remedy: the Forest must re-open the Scoping process to facilitate public input and then incorporate that information in a revised DEIS that fully discloses effects of decisions in the 2015 Forest Plan affecting motorized travel, including designation of "Natural Landscapes." The Forest must also consider and prepare Forest Plan Amendments allowing reasonable access for dispersed camping and MBGR within designated "Natural Landscapes."

3. Deficiencies in the Assessment of Existing Conditions

Comment: the RDEIS indicates that the existing condition for motorized access on the existing road network (Alternative #1 - no action) is 3,421 miles [RDEIS Vol. 1, p. 12] but acknowledges that this is a "snapshot of the best available information" [RDEIS Vol. 1, p. 323]. This baseline for the NEPA analysis drastically underestimates actual conditions on the ground, including thousands of miles of roads that have been used for decades by the recreating public and are not marked or enforced as "closed" (e.g., the 1987 Forest Plan cites >8,000 miles of constructed roads on the Forest).

AZSFWC understands that this data deficiency has been repeatedly brought to the Forest's attention (including comments submitted on the 2010 TMP DEIS) and that more complete road data are available but were not used in the RDEIS analysis. It also appears that roads "added" to the system under the Proposed Action are existing roads that have been in use for decades and therefore represent part of the existing condition, not new, additive impacts.

Clearly, the Forest has failed to use the best available data and made invalid assumptions, resulting in a fatally flawed analysis of the Alternatives, presenting an incomplete and inaccurate disclosure to the public. More specifically, because of these flaws, the Forest's quantitative and qualitative assessments of the Alternatives grossly underestimate loss of motorized access, while overestimating potential impacts from dispersed camping and MBGR on a variety of resources.

Remedy: the Forest must redo its analysis of the Alternatives using baseline data that accurately reflect conditions on the ground, treating all existing roads used by the public (not just system roads) as part of the existing condition. Non-system roads that would be added to the system under one or more Action Alternatives must not be considered as additive effects in the analysis.

4. Motorized Access for Dispersed Camping

Comment: The Proposed Action drastically curtails access for dispersed camping to a degree that will significantly and adversely impact opportunity for Forest visitors. AZSFWC understands that AGFD conducted an exhaustive inventory of existing dispersed camping sites along roads that would have been designated as open under Alternative B in the 2010 DEIS and provided this data to the Forest for use in preparing the RDEIS, along with a recommendation that dispersed camping be allowed at these sites as well as within 300-ft corridors along all open roads.

AZSFWC also understands that a significant proportion of these existing sites (which reflect only a subset of those actually available in the analysis area) were excluded from the Proposed Action, along with the corridor recommendation. These arbitrary constraints imposed by the Proposed Action will result in a net increase, rather than decrease in resource impacts associated with dispersed camping, by concentrating use in a smaller number of areas. AZSFWC asserts that the Forest failed to incorporate the best available data into this decision, has

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set the stage for increased resource damage, and failed to deliver reasonable opportunities for dispersed camping to the recreating public.

Remedy: the Forest must allow dispersed camping on all existing sites identified in the AGFD inventory and in 300-ft corridors along all open roads, with the exception of sensitive areas vulnerable to resource damage (e.g., wet meadows).

5. Motorized Access for Management of Fish and Wildlife Resources

Comment: The Forest contains a large number of wildlife water developments, dams, lakes, and other infrastructure supporting fish and wildlife resources on the Forest, which are essential to maintain healthy wildlife populations and associated recreational opportunities.

Remedy: AZSFWC understands that AGFD will provide the Forest a detailed, site-specific list of access points and routes used to maintain these facilities and infrastructure. For those sites not accessible by system roads open to the public, the Forest must provide AGFD with administrative access.

6. Clarity and Consistency of Regulations for the Public

Comment: the Forest has failed to incorporate valuable lessons learned from implementation of TMR on other Arizona forests. The Proposed Action creates a complex, non-intuitive landscape for motorized visitors -- existing, well-traveled roads that are designated open or closed, but may lack appropriate signage; roads with camping corridors on one side, both sides, or no corridor at all; areas where MBGR is allowed and areas where it is not.

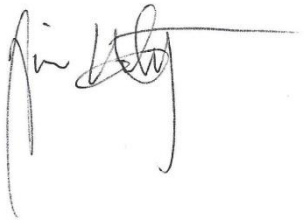
This presents an unreasonable burden on the recreating public, particularly those who make a good faith effort to comply. It also creates an unworkable situation for effective law enforcement. According to the RDEIS, Motorized Vehicle Use Maps (MVUM) will be the primary means of communicating new regulations to the public, stating that: "*Having the MVUM as a single source to identify where people are allowed to drive would ease enforcement and improve compliance*." [RDEIS Vol. 1, p. 318].

AZSFWC strongly disagrees with this notion, MVUM are a useful information source; however, many Forest visitors find them confusing, awkward to use, or have no idea that these maps even exist.

Remedy: the Forest must provide clear signage designating roads that are open vs. closed to the public, allow dispersed camping on all existing sites identified in the AGFD inventory and in 300-ft corridors along all open roads, and allow MBGR for deer, bear, and elk on a "one-trip-in, one trip-out" basis, within a 1 mile

distance of all open roads and motorized trails, as long as these occur in a manner that does not cause unacceptable resource damage.

Yours in Conservation,



Jim Unmacht
Executive Director

Arizona Sportsmen for Wildlife Conservation (AZSFWC) is a 501c-3 non-profit organization dedicated to wildlife conservation, habitat work, youth recruitment and retention, as well as educating sportsmen and women on issues important to their passions. AZSFWC consists of 41 member, affiliate, and associate groups that reach across the spectrum of hunting, angling, shooting, outdoor recreation and businesses from all across Arizona. Our member groups represent in excess of 10,000 sportsmen and women from Arizona.

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