

# Helena Lewis and Clark National Forest Plan Objection

Attention: Objection Review Officer

USDA Forest Service, Objection Reviewing Officer  
Northern Region  
26 Fort Missoula Road  
Missoula, MT 59804

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CBU objects to the Helena Lewis and Clark National Forest Plan for the following reasons:**

## **Objection #1**

The new HLCNF Plan has failed to address comments (Exhibit A) Citizens for Balanced Use (CBU) submitted during the comment periods by not providing an alternative which increases access for both motorized and mechanized use. The demand for motorized and mechanized use has increased and this fact has been acknowledged by the Forest Service in their documents (one example on page 1, FEIS Summary), yet no such alternative was given to the public. The plan states on page 2 of the FEIS Summary that the USDA FS Strategic Plan: Fiscal Year 2015-2020 contains 4 "outcome-oriented goals but only provides 2 of the 4 goals are mentioned or considered in the new Forest Plan. By using only 2 of the 4 goals while ignoring other important goals in the USDA FS Strategic Plan, the new HLCNF Plan is flawed.

Below are excerpts from the USDA FS Strategic Plan which I believe the HLCNF Plan must consider in their decision but failed to address.

### *Deliver Benefits to the Public*

*Recognizing the importance of forest stewardship, our country set aside the national forest reserves in 1897 to "improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber." In 1960, the Multiple-Use Sustained-Yield Act declared that the national forests should be managed "for outdoor recreation, range, timber, watershed, and wildlife and fish purposes."*

*Delivery of forest-related goods and services is integral to our mission at the Forest Service, stimulating tangible economic benefits to rural communities, such as private-sector investment and employment*

*opportunities. The economic activity we support is directly attributable to the natural resource investments we make and the use of national forest and grassland resources that result in marketable products associated with outdoor recreation, hunting, fishing, timber production, livestock grazing, mineral production, land stewardship, and other activities.*

#### *Strategic Objective F. Connect people to the outdoors*

*We are broadening the scope of our recreational services to include more Americans, giving a wider range of access to the national forests and grasslands. We are making recreational facilities on the national forests and grasslands more accessible to everyone, including the estimated 57 million Americans with disabilities. Nationwide, we have more than 23,000 accessible recreational sites, such as campsites and picnic areas, and 8,000 accessible recreation buildings. By making our facilities more accessible, we are also providing additional recreation opportunities for senior citizens, large family groups, and families with infant strollers or young children. We are committed to inclusive participation in recreation opportunities for all people, regardless of age or ability.*

The Forest Service has been selective in what National Strategic planning direction they have included in the new Forest Plan. The National Strategic Plan clearly provides direction in increasing access and additional recreational opportunities for *senior citizens, large family groups, and families with infant strollers or young children*. The Forest Service has ignored this National directive and instead has created a plan that reduces access opportunities. The HLCNF failed to follow the National Strategic Plan and even selectively removed some of the National goals in the new Forest Plan FEIS. This action has created a Forest Plan which should be considered arbitrary and capricious. I request review the Forest Plan for consistency with National policy and remand the decision until consistency is achieved.

#### **Objection #2**

In a letter dated April 23, 2019 (Exhibit B) from Region 1 Supervisor Leanne Martin, to Director, Ecosystems Assessment and Planning, she states "Any Regional memos, letters, or supplements guiding Land Management Plan revision dated before January 30, 2015 are suspended. A subsequent letter dated August 6, 2019 (Exhibit B) from Forest Service Chief Victoria Christiansen to Idaho Senator Crapo, Senator Risch, Congressman Fulcher, and Congressman Simpson states:

*Thank you for your letter of June 13, 2019, cosigned by your colleagues concerning management of recommended wilderness areas in the U.S. Department of Agriculture's Forest Service Northern Region. I apologize for the delayed response.*

*I understand the perception that the Northern Region has a policy that differs from the national direction, based on guidance that was issued by former Regional Forester Thomas L. Tidwell before the 2012 planning regulations. I assure you the Northern Region is following national policy. Enclosed is a memo signed by current Regional Forester Leanne Martin dated April 23, 2019, that clarifies that national direction implementing the 2012 planning regulations provides the policy and procedures for all land management planning efforts—all prior direction has been superseded.*

*I appreciate your ongoing collaborative engagement in land management planning and implementation efforts across the state of Idaho. The national policy provides a responsible official the discretion to*



*implement a range of management options, provided the allowed activities and uses do not reduce the wilderness potential of an area. Government and public engagement in decisions affecting the National Forest system is critical as responsible officials apply their discretion to the management of these areas.*

*Thank you for your interest in the management of your National Forests. A similar response is being sent to your colleagues.*

Previous guidance from Regional Forester Thomas Tidwell was to remove all motorized and mechanized use in areas recommended as wilderness. This guidance has been suspended. Helena Lewis and Clark National Forest Supervisor Bill Avey has reinstated this blanket policy in the new Forest Plan as stated throughout the plan. For example, see below an excerpt from the Draft Record of Decision.

### *Draft Record of Decision*

*Page 27*

*A significant issue in the analysis was whether or not motorized and mechanized recreation uses affect wilderness characteristics and the potential for Congress to consider these areas as additions to the National Wilderness Preservation System. I reviewed the alternatives analyzed in the final EIS, some in which mechanized means of transportation in recommended wilderness were suitable and some in which these uses were unsuitable. I decided that motorized uses (including snowmobiles) and mechanized means of transportation (mountain biking) are unsuitable in recommended wilderness. This decision preserves the wilderness characteristics, including the sense of remoteness and the opportunities for solitude in recommended wilderness, recognizing that ample opportunities for motorized uses and mechanical means of transportation (mountain biking) are available outside of recommended wilderness. I arrived at my decision on recommended wilderness after extensive engagement with my staff, local governments, tribes, commenters, our public and consideration of all sides of the issue. There are those who prefer additional acres recommended as wilderness to protect places they consider special, or because they believe recommended wilderness management is the best strategy to protect wildlife and aquatic resources. There are also those that prefer I don't recommend any additional areas because they believe management and access in recommended wilderness is too restrictive. I considered the existing uses, current allowable uses, and the protections afforded by other management overlays. I decided on recommending wilderness areas that are manageable, currently have little to no motorized and/or mechanized means of transportation uses, and which truly add value if designated as wilderness by Congress in the future. Although several commenters expressed concern that the management of recommended wilderness creates "de facto wilderness areas" in lieu of action by Congress, the Plan does not create wilderness. The Forest Service has an affirmative obligation to manage recommended wilderness areas for the social and ecological characteristics that provide the basis for their recommendation until Congress acts. There is currently limited motorized and mechanized use within recommended wilderness areas. I have determined that this use is inconsistent with a future wilderness designation. The areas I have recommended for wilderness currently have 8 miles of open road, <1 mile of motorized trail, 8,046 acres of motorized over snow use, and 135 miles of non-motorized trails open to mechanized means of transportation (including bicycles). However, these routes receive little, if any, use based upon our monitoring and what we've heard from the public. This decision reflects public comment in favor of ensuring these areas remain suitable for inclusion in the National Wilderness Preservation System, should Congress make that decision. While motorized and mechanized uses are unsuitable under*



*the Plan, I will initiate site-specific NEPA decision per the Plan's suitability direction to close these uses within the recommended wilderness areas within 3 years from the date of this decision.*

The plan states that no specific current travel plans will be impacted and on page 1 of the Summary it states: *"The Forest Plan does not authorize site-specific projects or actions"* yet the deciding officer states in the Draft Record of Decision that he will close these areas of recommended wilderness to historic use of motorized and mechanized use within 3 years. The supervisor does have discretion as stated by Chief Christiansen's August letter, but the proposed HLCNF Plan is implementing a blanket closure of motorized and mechanized use in areas of recommended wilderness without proper analysis of these current uses on wilderness character. I request this action be reviewed and at a minimum the Forest Service should complete site specific analysis of the impact of the current use of motorized and mechanized use in these areas of recommended wilderness before making the decision to remove these uses. The forest wide decision to remove motorized and mechanized use in areas of recommended wilderness without site specific analysis is both arbitrary and capricious.

Motorized and mechanized use provide access opportunities that follow the National Strategic Plan of increasing access for all people, regardless of age and ability as seen in the following statement from the National Strategic Plan. *"we are also providing additional recreation opportunities for senior citizens, large family groups, and families with infant strollers or young children. We are committed to inclusive participation in recreation opportunities for all people, regardless of age or ability."*

The HLCNF Supervisor has strayed for the National Strategic Plan by in fact reducing access to most people. Only the young and physically fit can walk or hike long distances into and on our federally managed public lands without assistance from motorized and mechanized transport. Even the Forest Service's own surveys show an astounding %97 percent of the people recreate on lands open to multiple use while less than %3 recreate in designated wilderness or lands closed to motorized and mechanized use. The proposed HLCNF Plan will remove even more access opportunities. Again, the Forest Service failed to provide an alternative to the public which would have increased motorized and mechanized use. NEPA requires a "wide range" of alternatives for the public to comment on during the process but no alternative to increase access for senior citizens, families with young children, the physically challenged, or the disabled was provided to the public. This was a specific request made during the scoping process of the plan but was ignored. This is a clear violation of NEPA and I request the proposed plan be remanded until the plan is supplemented with an alternative that increases access opportunities for all people. This is the purpose of having a National Strategic Plan. Local decision makers and planning teams must not ignore national direction, but in the case of the HLCNF, they have ignored the national direction of increasing access for all people.

### **Objection #3**

CBU provided comments to the HLCNF in regards to the continued loss of access and am disappointed the HLCNF Plan provided false information by their statement in Chapter 3 of the FEIS. The following statement under:

### **3.17 Recreation Opportunities**



**3.17.1 Introduction** *To address both the challenges and opportunities in recreation management, the FS strives to provide a set of recreation settings, opportunities, and benefits that are sustainable over time. Sustainable recreation is defined as the set of recreation settings and opportunities on the NF that are ecologically, economically, and socially sustainable for present and future generations.*

**Issues:** *There were no issues raised for recreation opportunities during the scoping period for the proposed action and/or comment period on the DEIS.*

Many comments, including comments from CBU to the Forest Service during the scoping and development of the DEIS, raised the need for additional recreation opportunities. Concerns over past closures were communicated to the Forest Service during the scoping and comment periods. Past actions of closures to access in Montana has even received attention from our state legislature. The 2015 Legislature passed HJ 13 to assess the loss of access to our public lands in Montana. The final report can be found at <https://leg.mt.gov/content/Committees/Interim/2015-2016/EQC/Committee-Topics/hj-13/hj13-finalreport.pdf>

The results of this study showed an astounding 22,000 miles of roads closed by the Forest Service in Montana since 1995, a short 20-year period. The closures of roads and access have caused concern throughout Montana and numerous comments were made to the HLCNF during the scoping and drafting period of the DEIS. The statement contained under "issues" 3.17 "Recreation Opportunities" is false, and the Forest Service has ignored public comments they received raising this issue. I request the Forest Service remand the decision and address the numerous public comments they received about the lack of, and loss of recreation opportunities in the HLCNF by providing an additional alternative increasing multiple use recreational access.

#### **Objection #4**

The Forest Service failed to comply with the President's Council on Environmental Quality (Exhibit D) by omitting a cumulative impact analysis in the HLCNF FEIS. The CEQ requires the Forest Service to take a hard look at the cumulative impacts of their actions and the HLCNF has failed to include this information.

CBU requests the Forest Service complete a comprehensive and programmatic impact analysis of past, current, and proposed actions that have affected access to and on the HLCNF. One forest closure may not be significant but multiple closures on multiple forests must be looked at in a comprehensive analysis to ascertain a clear picture of impacts. These impacts include social, economic, historical use, and cultural needs of the population. Cumulative impacts could also affect environmental conditions such as fuel load increases, poor wildlife habitat in overgrown forests, loss of water retention due to increased transpiration, and excessive tree numbers per acre. This analysis should include the loss of ground water recharge and the cumulative effect this loss has on municipal water delivery, irrigation, and vegetation. The HLCNF has failed to include actions of other neighboring forests in their analysis of cumulative impacts.

The HLCNF is not an island but rather a part of a bigger landscape of multiple forests. An action by the HLCNF has a direct and significant effect on other forests managed by the Forest Service. The HLCNF has failed to address the cumulative impacts of their actions and how it affects management and access in

other forests such as the Custer Gallatin, Lolo, and Beaverhead Deerlodge. The HLCNF also includes 17 counties with jurisdiction and land within the project area.

#### **Objection #5**

Under 40 CFR 1506.2 the Forest Service is required to describe inconsistencies with local plans and describe how the Forest Service will reconcile any inconsistency. The HLCNF failed to include discussion of the inconsistencies or a description of how the agency would reconcile their proposed action with the local plans. Their statement in the FEIS summary on page 6:

“While certain components may not be fully consistent, the HLC NF will continue to work with these entities to address the impacts and benefits from forest management.” is insufficient. The Forest Service has failed to comply with the requirements of 40 CFR 1506.2. I request the Forest Service remand the decision and supplement their document with a complete list of inconsistencies identified in the local plans of the 17 counties and how they will reconcile these inconsistencies.

CBU has included (Exhibit E) a list and brief summary of all federal coordination and cooperation policies (statutes, regulations, presidential executive orders, agency directives, handbooks and guides) that require cooperation and coordination with local and state governments.

#### ***Project or activity planning***

*(3) resolving inconsistency,*

Below is the required law the Forest Service must follow in reviewing local Resource Plans and Growth Policies.

*40 CFR 1506.2 (USFS 25.2) - Elimination of Duplication with State and Local Procedures.*

*(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. (40 CFR 1506.2)*

On page 6 of the HLCNF FEIS the following statements are made:

#### ***Government agency involvement***

*The 2012 Planning Rule (36 CFR § 219.4(b)) requires the review of the planning and land use policies of other Federal agencies, state and local governments, and Indian tribes. As part of that outreach effort, a number of discussions with representatives from those agencies were initiated, and ongoing dialogue continues..... While certain components may not be fully consistent, the HLC NF will continue to work with these entities to address the impacts and benefits from forest management.*



## Objection #6

This following objections relate to issues that arose after all the formal comment periods closed.

36 CFR 219.53 allows an individual to object to a plan based on an issue, or issues, "that arose after the opportunities for formal comment."

### **219.53 Who may file an objection.**

*(a) Individuals and entities who have submitted substantive formal comments related to a plan, plan amendment, or plan revision during the opportunities for public comment as provided in subpart A during the planning process for that decision may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment. The burden is on the objector to demonstrate compliance with requirements for objection. Objections that do not meet the requirements of this paragraph may not be accepted; however, objections not accepted must be documented in the planning record.*

### **Issues arising after release of the FEIS**

#### **#1**

The Forest Service has violated 36 CFR 219.52 in not providing an email address or fax number to submit objections in the release of the FEIS. This issue arose after the release of the FEIS. 36 CFR 219.52(c)(3) clearly states the Forest Service **must** provide an email address. The Forest Service has provided a web site with a comment form, but not an email address as required under 36 CFR 219.52. The website form is identified as a comment form, not an objection. This has created confusion and denied the public a clear and defined process for submitting an objection.

*§ 219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.*

*(c) The content of the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision before approval (§219.16(a)(3)) **must**:*

*(3) Include the name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street, postal, fax, and email address; the acceptable format(s) for objections filed electronically; and the reviewing officer's office business hours for those filing hand-delivered objections.*

An email address would allow an individual to submit an objection and receive confirmation the objection was received. It would also allow an individual to draft their objection over time and attach the objection to their email sent to the Forest Service for submission.

The Forest Service has violated 36 CFR 219.52 and in doing so has denied public participation in this process and violated NEPA.

Also, the Forest Service failed to provide a fax number to the public until June 18, 2020 and only after contacting Senator Daines to assist in obtaining the fax number did the Forest Service provide this information.

## #2

On June 12, 2020, Secretary Purdue issued a memorandum (Exhibit C) to the Chief of the Forest Service with the purpose to establish vision, priorities, and direction on:

- *Increasing the productivity of National Forests and Grasslands*
- *Valuing our Nation's grazing heritage and the National Grasslands*
- *Increasing access to our National Forests*
- *Expediting environmental reviews to support active management*

The new directive was released after all opportunities for public comment have closed on the Helena Lewis and Clark National Forest Plan.

The memorandum highlights "Increasing access to National Forest System Lands" and specifically states:

*"It is imperative for the Forest Service to manage the National Forests and Grasslands for the benefit of the American people. These lands provide a multitude of public benefits, including diverse recreational opportunities, access to world-class hunting and fishing, and forest products that support America's traditions and way of life. Accordingly, the Forest Service will:*

- *increase access to Forest Service lands by streamlining the permit process for recreational activities and embracing new technologies and recreation opportunities;*
- *open public access to National Forest System lands with currently limited access where feasible in cooperation with States, counties, and partners; and*
- *improve customer service by modernizing and simplifying forest products permitting and the Forest Service land exchange process."*

The new Helena Lewis and Clark National Forest Plan contradicts the new directive from Secretary Purdue by in fact reducing access opportunities for recreation. The new plan proposes to close thousands of acres to winter snowmobile use and hundreds of miles of roads and trails currently open to motorized and mechanized use.

I request the proposed Forest Plan be remanded and the agency consider developing a plan that is consistent with the June 12, 2020 directive from Secretary Purdue.

## #3

The new plan has false statements such as on page 1 of the FEIS Summary. Specifically it states "the Forest Plan does not authorize site-specific projects or activities" when in fact the plan on page 27 of the FEIS Record of Decision it states: "I will initiate site-specific NEPA decision per the Plan's suitability direction to close these uses within the recommended wilderness areas within 3 years from the date of this decision." In fact, the plan has made site specific decisions by identifying areas of "Recommended Wilderness" and then removing the historic and established motorized and mechanized use in these areas. This is clearly a site-specific decision which has been included in the new Forest plan.

The public was told during the development of the FEIS that this Forest Plan would not make site-specific decisions. The public was told the Forest Plan was much like a zoning document and would not

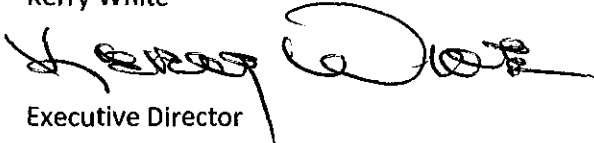


affect current use. The public was not aware the new Forest Plan would in fact make site-specific decisions.

The new Helena Lewis and Clark National Forest Plan FEIS has violated several laws and regulations including NEPA. These violations have resulted in a document which is both arbitrary and capricious. CBU is looking forward to meeting with the objection review officer to discuss these issues and violations of law.

Sincerely,

Kerry White

A handwritten signature in black ink, appearing to read "Kerry White", with a large, stylized loop at the end.

Executive Director

Citizens for Balanced Use

# **Exhibit**

**A**



**Citizens for Balanced Use**  
Box 606, Gallatin Gateway, MT 59730  
[www.balanceduse.org](http://www.balanceduse.org)  
1-406-600-4CBU

Helena Lewis and Clark Forest Supervisor  
2880 Skyway Dr.  
Helena, Montana 59602

Please accept these comments on the Helena Lewis and Clark National Forest DEIS on behalf of Citizens for Balanced Use (CBU). CBU has over 8000 active members and represents over 100,000 citizens in the state of Montana through our 68 supporting organizations.

The work horses of the federally managed land in Montana are the motorized community. There is no secret that the multiple use of our public land in Montana is under attack. Well-funded and organized anti-access groups want nothing more than to return our land to a prehistoric state claiming that this is the natural way. The people of Montana and around the nation deserve better.

Motorized recreationists have far less opportunity on a user per mile basis and non-motorized recreationists have a far greater opportunity. (93,088 miles of non-motorized trails versus 31,853 miles of motorized in entire national forest system. [http://www.fs.fed.us/recreation/programs/ohv/travel\\_mgmt\\_schedule.pdf](http://www.fs.fed.us/recreation/programs/ohv/travel_mgmt_schedule.pdf) ).

National forests are not managed for motorized recreation at the same level as non-motorized recreation. All other uses are elevated above motorized recreation. In order to meet equal opportunity obligations, an equal number of miles times a quality factor of motorized trails must be provided. The current balance sheet is significantly in the favor of non-motorized opportunities and is contrary to the actual visitors and their needs. In too many cases a small number of non-motorized users have been able to displace hundreds of motorized users. A decision that allows a few non-motorized recreationists to convert a motorized trail used by hundreds of motorized recreationists for their exclusive use is not reasonable.

**List of Current and Immediate Past Actions Affecting Multiple-Use  
Recreation**

United States Court Of Appeals for the Ninth Circuit

No. 01-35690 D.C. No. CV-96-00152-DWM  
 Every Resource Management Plans and Planning Actions  
 (inter-agency) Grizzly Bear Recovery Plan  
 (inter-agency) ICBEMP  
 (inter-agency) Northern Rockies Lynx Amendment  
 (inter-agency) 3-States OHV Strategy  
 B-DNF Continental Divide Trail near Jackson, MT  
 B-DNF Whitetail Pipestone Travel Plan  
 B-DNF 2003 Forest Plan Update  
 B-DNF Analysis of the Management Situation  
 B-DNF Continental Divide trail near Feely  
 B-DNF Continental Divide trail near Whitetail-Pipestone  
 B-DNF Social Assessment  
 B-DNF Mussigbrod Post Fire Roads Management  
 B-DNF & BLM Flint Creek Watershed Project  
 BLM Blackleaf Project EIS  
 BLM Dillon Resource Management Plan  
 BLM Headwater Resource Management Plan  
 BLM Arizona Strip Travel Plan  
 BLM Bruneau Resource Area Travel Plan  
 BLM Escalante Grand Staircase Monument  
 BLM Missouri Breaks Monument  
 BLM Moab Resource Management Plans  
 BLM National OHV Strategy  
 BLM National Mountain Biking Strategic Action Plan  
 BLM San Rafael Travel Plan  
 BLM Sleeping Giant Travel Plan  
 BLM Whitetail/Pipestone Rec. Management Strategy  
 BLM Lake Havasu RMP  
 BLM Sustaining Working Landscapes Initiative  
 BLM Rocky Mountain Front Scenery Evaluation Project  
 BLM Kanab Resource Management Plan  
 Bitterroot NF Fire Salvage EIS  
 Bitterroot NF Post-fire Weed Mitigation EIS  
 Bitterroot NF Sapphire Divide Trail  
 Bitterroot NF Forest Plan Revision  
 Caribou NF Travel Plan  
 Custer National Forest Travel Plan  
 EPA Tenmile Creek Watershed Plan  
 Flathead NF Robert Wedge Post Fire Project  
 Flathead NF West Side Reservoir Post Fire Project  
 Flathead NF Forest Plan Revisions  
 Flathead NF Moose Post Fire Road Closures  
 Flathead NF Spotted Bear Road Closures  
 Gallatin NF 2002 Travel Plan Update  
 Helena NF Blackfoot Travel Plan



Helena NF Blackfoot Water Quality Plan  
Helena NF Cave Gulch Fire Salvage Sale  
Helena NF Clancy-Unionville Plan  
Helena NF North Belts Travel Plan  
Helena NF North Divide Travel Plan  
Helena NF Noxious Weed Plan  
Helena NF South Belts Travel Plan  
Helena NF South Divide Travel Plan  
Helena NF Continental Divide National Scenic Trail  
Humboldt Toiyabe NF Charleston-Jarbridge Road  
Humboldt Toiyabe NF Spring Mountains NRA  
Kootenai NF Bristow Restoration Project  
Kootenai NF McSwede Restoration Project  
Kootenai NF Forest Plan Revisions  
Lolo NF Forest Plan Revision  
L&CNF Judith Restoration Plan  
L&CNF Rocky Mountain Front Travel Plan  
L&CNF Snowy Mountain Travel Plan  
L&CNF Travel Plan update  
Montana State Wolf Plan  
Montana State Trail Grant Program PEIS  
Montana State Trail Plan PEIS  
Montana FWP Statewide Outdoor Recreation Plan  
Nez Perce NF Travel Plan Revisions  
NPS Salt Creek Road Closure  
NPS Yellowstone Winter Plan (snowmobile closure)  
Payette NF Travel Plan Revisions  
Sawtooth NF Travel Plan Revisions  
USFS National OHV Policy and Implementation  
USFS Forest Plan Amendments for Grizzly Bear Habitat Conservation  
USFS National Strategic Plan 2003 Update  
USFS Roadless  
USFS Roadless Rule II  
USFS Roads Policy  
USFS National Land Management Plan Revisions  
USFWS Bull Trout Recovery Plan  
USFWS Westslope Cutthroat Trout ESA  
USFWS CMR National Wildlife Refuge Road Closures  
USFWS Sage Grouse Plan

A conflict of uses is routinely used to create non-motorized routes and close motorized routes yet there is no significant documental evidence to support conflict of uses on individual routes, i.e., there are not 100 reports of conflict of uses within

any travel management area. A conflict of uses is routinely used to create non-motorized routes and close motorized routes yet sharing of resources is a reasonable alternative and reasonable expectation that would keep routes open for all visitors.

The forest travel plans that are going on around Montana are using generated, estimated and false data to forward an agenda of locking people out of the forest. The economic impact of these closures will be significant and devastating to small communities throughout Montana. **As required by the President's Council on Environmental Quality, some degree of effort must be used by the Forest Service to gather true on the ground data from businesses and individuals that use our public lands. This has not been done by your forest in preparing the travel plan document. Please use actual local data as to the economic and social impact of your proposed closures.**

The Helena Lewis and Clark National Forest is using the IMPLAN Pro input-output modeling system for the economic analysis. CBU finds that the input amounts do not reflect the true economic data that would be used if actual surveys of businesses were used. We see no effort being made by your forest to gather true information as required by the CEQ. The output from the IMPLAN modeling system can only be as good as the data that is plugged into the model. Arbitrary results from estimated and generated input data should not be used. True on the ground economic data must be collected and used.

Wildlife studies from the past are full of possible scenarios that at the time were all that a biologist had to predict the possible impact of multiple uses on wildlife. The last few years have brought us actual true data that must be used by the Forest Service and the old antiquated predictions must be discarded. If the **"Best Available Science"** is not used in formulating the DEIS document your conclusions will be arbitrary and capricious.

Heart monitors were put on elk in **Yellowstone Park and the heart rate and flight distances were recorded as snowmobiles and cross country skiers went by.** (Ward, A. L. and J. J. Cupal. 1976. Telemetered heart rate of three elk as affected by activity and human disturbance. USDA Forest Service, Rocky Mountain Forest and Range Experiment Station. Laramie, WY. 9 pp.) Elk were disturbed twice as much from non-motorized as from motorized. This discovery can be transferred to ATV and motorcycle use in the summer in relation to hikers and not to mention the impact on wildlife from dogs. Motorized users rarely take pets with them and as in Bozeman we are seeing a huge impact from dogs on our public land. The Forest Service must take this information in to account when deciding the allowed uses of our federally managed public land.

A lynx study was completed in the Seeley Lake area that showed no adverse impact to Lynx from winter snowmobile use. The results of this study and the true data that was collected must be used in evaluating areas open or closed to snowmobiles. The closure of any area because of winter motorized impact to lynx is not valid and therefore must not be used to initiate closures.

The Grizzly Bear study in the Swan Valley of Montana shows that 99 percent of the bears spent 99 percent of their time on Plum Creek property. This property has been heavily logged resulting in the growth of grasses and bushes that support bears. Thick and overgrown timber does not allow for the grasses and ground cover to grow. As we now see by this study, critical bear habitat is quite different than what was once assumed. Starved for sunlight and moisture, the unmanaged areas are ripe for fires that will destroy watersheds and wildlife, sterilize soils and pollute our air. Because of the true science that has been gathered by this study on the bears in the Swan valley, I request that the Forest Service discard the original "road density guidelines" and initiate new guidelines that reflect the habitat most critical for bears as one that is timber harvested and roaded. Old outdated science formulated by mere predictions and assumptions must not be used when true science and actual data is available.

The EPA issues warning after warning in Montana year after year for poor air quality. Is this the management practice that the FS is going to impose on the people of this state in the years ahead? If the FS is going to have a policy burning the forest and the renewable resource that lies in that forest, I request that a plan be put in place to deal with these fires before they occur. Pre-fire planning must be improved and access to prepare and initiate initial attack on these fires must be provided. The smoke from catastrophic fires contains large amounts of mercury and is very hazardous to anything that breathes along with depositing these particulates and mercury into streams and lakes.

Roads are being decommissioned on the premise of reduced sediment production; however, research has shown that decommissioning actually increases sediment production (Sediment Production From Forest Roads In Western Montana, Brian D. Sugden and Scott W. Woods, Paper No. J05063 of the Journal of the American Water Resources Association (JAWRA)). The large amounts of recommended wilderness in the DEIS coupled with the policy to remove all motorized and mechanized use in these areas will result in decommissioning and obliterating motorized and mechanized trails and roads, increasing sedimentation to our rivers and streams.

Every action starts and ends with a proposal to close motorized opportunities (Gallatin, Clancy-Unionville, North Belts, South Belts, Little Belts, Rocky Mountain District, Custer, Beaverhead-Deer lodge, Dillon RMP, Butte RMP, etc.)



and provide considerably less motorized and mechanized access and recreation. There has not been one action that included an alternative to increase existing motorized opportunities, mitigate for cumulative effects and create motorized recreational opportunities to address the growing needs of the public. Motorized recreationists are put at an immediate disadvantage in every process and that disadvantage is carried through to the end. An obvious sign of a process that is biased to produce motorized closures regardless of the facts and needs of the public.

The DEIS for the Helena Lewis and Clark did not take into account the available area of wilderness for non-motorized opportunity for solitude. When creating a balanced of user opportunity on a forest, the existing non-motorized areas in wilderness must be used in the comparison for more accurate matrix of user opportunity which will show the actual amount of available use types throughout the entire forest. To close areas of multiple use without taking the wilderness areas into consideration is unacceptable.

Any measurable impact from OHV use is judged to be significant. Why? OHV impacts are a small fraction of natural actions. Nature should be used as the standard for comparison of OHV impacts. Wildfires managed by the agency produce incredibly large amounts of smoke, particulates, vegetation damage, carbon dioxide, sediment, wildlife deaths, etc. which is presented by the agency as acceptable. In comparison, relatively insignificant impacts by motorized use in the same categories are judged to be significant and unacceptable. The evaluation and magnitude of impacts on erosion and wildlife from motorized recreation is held to a much higher standard than non-motorized recreation or even naturally occurring events such as fires and floods. Studies indicate significantly more disturbance to wildlife from non-motorized yet these impacts are not used to close areas to non-motorized.

We know that the fires will come and yet we spend millions on protecting structures and putting the fires out when they start. Would it not make more sense to prepare for these fires with fire breaks in strategic locations? This would require a plan to be formulated and initiated that takes into account all related issues of fire and the management of fire as a tool. Catastrophic fires are very destructive and their effect on wildlife, air and watersheds are devastating. The FS has done a very poor job in planning for these fires and the time has come for this action to change.

Federal direction has changed and now the FS is required to put forward a fire plan. CBU believes that trails and roads in the Helena Lewis and Clark National Forest should be part of this plan and until such a plan is created, the FS should not close the door on any opportunity for trails and roads to be open to multiple use recreation, fire management, search and rescue, weed control, wildlife management, etc.

A survey conducted by the Beaverhead-Deerlodge National Forest shows that less than 3 percent of the forest users recreate in **wilderness** areas. There are more exclusive non-motorized/wilderness areas and trails (both quality and quantity) than OHV areas even though NVUM statistics for all national forests show that there were 8,602,000 wilderness visits and 239,415,000 multiple-use visits or 3.59% wilderness and 96.41% multiple-use ([http://www.fs.fed.us/recreation/programs/nvum/revised\\_vis\\_est.pdf](http://www.fs.fed.us/recreation/programs/nvum/revised_vis_est.pdf)).

It stands to reason that this information on the BDNF would apply to the other National Forests in Montana. The effort by the Forest Service to create more **wildernesses** will only result in more impact to the reduced amount of multiple use areas that remain. With the lack of funding to the Forest Service because of the reduction of timber sales that have occurred over the last 30 years and the reduction of mills from around 60 in the state to the present number of about 8 has placed the Forest Service in a position of a non-receipt agency and reduced infrastructure to meet the needs of active forest management. Lost jobs, less economic benefit to communities, and more private property and lives put at risk. This trend goes against the "Organic Act" and the "Multiple Use Sustained Yield Act" and must be changed. If the Forest Service is to be able to maintain the roads and trails it must form partnerships that include the work horses of the public lands which is the motorized and multiple use community.

Take for example the Gallatin Valley Snowmobile Association located in Bozeman. Last year this club cleared, repaired and maintained 192 miles of trail. In addition to this summer work this club groomed over 2000 trail miles for everyone to use. These are the best kept trails on the Gallatin National Forest. When comparing these multiple use trails to the trails in **wilderness** areas, we find that the **wilderness** trails are full of down timber resulting in switchback cutting by hikers and erosion from lack of maintenance. A trail inventory and assessment that was done by the Gallatin National Forest revealed that 85 percent of the renegade or user created trails in the GNF were created by **non-motorized** users. With this information on the GNF, it only stands to reason that this would be the case on every forest in Montana.

**Non-motorized** users prefer the multiple use trails as they are the best maintained and provide the best recreational experience. The problem comes when the FS does not properly sign the trails. When a picture of a motorcycle, 4x4, ATV and snowmobile are shown at the trailhead with a circle and red strike through them, it portrays to the **non-motorized** user that this trail is closed to motorized users. Many people do not notice the dates that are associated with the sign showing when the motorized closure applies. The conflict between users is being caused by the agency and its disregard for the need of clear signage. A standardized multiple use sign for these areas must be posted to clearly inform people of the uses



allowed in these areas. This corrective action would stop many complaints that the FS receives on user conflicts.

All the studies that CBU has been able to find show a significant increase in both motorized and mechanized use and an increase in demand for these opportunities. The recreation specialist report on the scoping document in the Custer Gallatin National Forest acknowledges the fact that motorized and mechanized use is growing significantly and recommends additional opportunities be identified and provided to the public. The Helena Lewis and Clark DEIS must recognize this fact and prepare an alternative that increases motorized and mechanized opportunities. NEPA requires a broad range of alternatives be provided to the public for comment. The Helena Lewis and Clark NF has failed to provide the motorized and mechanized public land users an alternative that reflects their current and future needs.

Motorized use on public lands is the fastest growing type of recreation in the U.S. today. The USDA Southern Research Station validated the growing popularity of OHV recreation in their Recreation Statistics Update Report No. 3 dated October 2004 (<http://www.srs.fs.usda.gov/trends/RecStatUpdate3.pdf>). This document reports that the total number of OHV users has grown to 49.6 million by the fall 2003/spring 2004 out of a total population of 214,022,000. Therefore, the overall percentage of OHV recreationists in the country is 23% and it is much higher in Rocky Mountain States often approaching 30%.

The Montana Business Quarterly Volume 52, number 3, autumn 2014 reported OHV use has quadrupled from 1995 to 2014 with registered owners increasing in that time from 20,000 to nearly 80,000 in Montana. According to that same study snowmobile registration has tripled from 1991 to 2013 with registered owners increasing from 15,000 to nearly 55,000 on Montana. According to the American Recreation Coalition and the 2017 Outdoor Recreation Outlook OHV spending nationwide contributed nearly \$109 billion dollars of direct spending and over 1.5 million jobs. Over 60,000 new snowmobiles were sold in the U.S. in 2016 with a growth in this activity of 10%. According to a March 2018 article in the Billings Gazette by Brett French outdoor recreation generated \$373.7 billion dollars to the GDP in 2016, larger than oil and gas extraction. The largest portion of this spending came from motorized recreation spending at \$59.4 billion dollars. Boating and fishing were second at a mere \$38.2 billion. The article further states that backpacking, climbing and other activities associated with non-motorized use accounted for \$10 billion dollars.

Nearly 6 times the spending on recreation comes from motorized recreation yet the Helena Lewis and Clark National Forest is closing addition areas to motorized use. The HLCNF clearly has ignored the statistics and trends in recreation and has determined their alternatives in an arbitrary and capricious manner. If the HLCNF were to adhere to the clear demand and significant increases in OHV and

snowmobile use needs they would at the very least provide an alternative to the public for comment that reflects these increased needs. The current NEPA document is flawed and CBU requests a supplemental DEIS alternative be provided to the public for comment that identifies increased opportunities for motorized use.

One of the reasons for the increased need for motorized use is the ageing population and the retirement of a segment of the population known as the "baby boomers". These people have money to spend and time to recreate. Many of these people are physically challenged and need some sort of transportation to assist them in the ability to enter our public lands. Many of the public land areas of Montana are restricted to motorized use at this time and any more area closures without justification are simply wrong. Motorized trail inventories that were conducted on the GNF show little to no resource damage has occurred and I am sure that this is the case on every forest in Montana. The HLCNF has failed to complete an assessment of resource damage on this forest and this lack of information forms the basis of a decision, not based on fact, but based on assumption and flawed of missing data. Unsubstantiated decisions are considered to be arbitrary and capricious. CBU requests a complete inventory and analysis on any and all resource damage caused by motorized recreation. The analysis should include possible mitigation actions to address any identified resource damage before actions to remove these uses are implemented. Any more loss of multiple use trails in Montana will severely impact the ageing population of the entire U.S. and this action is completely unnecessary. The FS must consider this very large population and their needs.

CBU requests that an alternative be made available that increases motorized and mechanized opportunities. A reasonable pro-recreation motorized alternative was not developed during the process even though the number of motorized recreationists is significant and growing. At the same time a number of non-motorized and conservation alternatives were developed. All of the ongoing planning projects have one common critical flaw: a lack of an alternative that adequately addresses the growing need for motorized recreation. At the same time, all of these planning actions more than adequately addressed a false public preference of non-motorized recreation.

A motorized travel plan is a plan that specifically designates roads, trails and areas for motorized and mechanized use, designates which vehicles will be allowed on which routes and if seasonal restrictions apply. These travel plans are designed to be site specific. A Forest Plan revision is a board based document much like a zoning plan where areas of the forest are designated as appropriate for specific uses including motorized, mechanized, mining, grazing, timber harvests, and other activities. The conflict arises when the Forest Plan revision designates areas



appropriate for specific uses without any site specific analysis. Areas identified as areas recommended for wilderness in the Forest Plan will then restrict motorized and mechanized use in these areas because of a philosophy or policy being developed over time from Region 1, but implemented without any site specific analysis.

The HLCNF informs the public that the new Forest Plan is not and does not make site specific decisions on roads and trails available for motorized and mechanized use. This is a false statement when in fact areas in the Forest Plan identified as not suitable for motorized and mechanized use or areas recommended for wilderness will result in future decisions where site specific road and trail analysis is not done before closures to these uses occur. CBU requests the Forest Service identify areas currently being used by motorized and mechanized users and adjust the proposed boundaries of these areas to remove them from recommended wilderness and areas not suitable for motorized and mechanized use.

CBU also requests the Forest Service complete a comprehensive NEPA analysis engaging the public on the policy or philosophy of removing all motorized and mechanized use in recommended wilderness areas. This NEPA analysis was never completed on this particular significant action which has been implemented only in Region 1.

Common signs posted by the Forest Service state "Non-motorized Uses Welcome". We have never seen a sign that says "Motorized Uses Welcome". A not so subtle sign of bias.

Congress is the Government body that is elected by the people and must answer to the people for their actions. As representatives of the people, this body decides what areas of our National Forest will be designated as **wilderness**. The proposed language to be used that is known as "RWA" is only a way for the FS to circumvent the authority of congress and its responsibility to designate **wilderness**. The "RWA" designation that the FS is proposing will create illegal defacto **wilderness** areas that are off limits to motorized and multiple uses. The use of this term and the action taken by the FS that results in more closures is unacceptable.

The new verbal directive from Region 1 to remove all motorized and mechanized use in Recommended Wilderness Areas is an action by the Forest Service beyond their authority. This action of creating "defacto wilderness" without the consent of congress is circumventing the legislative intent of the 1964 Wilderness Act. FS agencies frustration with the lack of congress to take action on wilderness designations should not embolden them to a point where they act illegally. CBU will continue to monitor these acts outside the scope and authority

of the agency and take appropriate action when necessary to force the agency to comply with the appropriate laws, regulations and Acts.

In a time when resources are vital to our nation's economy and jobs, and our federally managed public land is one of tremendous potential for the development of these resources, the FS must recognize that timber is a renewable resource. The action by the FS to allow millions of acres of timber to burn every year is a waste. President Bush and Congress put forth the "Healthy Forest Initiative" yet the FS has delayed many projects due to frivolous lawsuits brought forth by environmental groups. The amount of timber harvested each year from our National Forests does not even come close to the amount of new growth that occurs every year. The wasteful practices of the FS must stop. There are over 290 million board feet of timber sales tied up in litigation today in Region One.

The FS should be required to use "Best Management Practices" in their approach to forest management. If a forest district does not bring forth plans to deal with the over grown condition of their forest region then funding to that district should be stopped. Because of the lack of receipts that the forest service produces, the general population of a county has to pick up the tab in the form of increased taxes. This is putting an undue burden on the tax payers of the state of Montana. The FS is no longer an agency that belongs in the USDA unless it can generate revenue. A better place for the FS may be in the Department of Commerce or Interior.

The list of federal laws and acts the HLCNF is violating includes the Multiple Use Sustained Yield Act (16 U.S.C. sec. 528), the Taylor Grazing Act of 1934, the Organic Act of 1897 (16 U.S.C. sec. 475), the Mining Law of 1872, the Mining and Mineral Policy Act of 1970, the Wilderness Act of 1964, the Endangered Species Act, Clean Water Act, Clean Air Act, and MEPA.

All these Acts and Laws have one thing in common that the Forest Service has ignored in the HLCNF Plan revision. The Forest Service has wrongly elevated wildlife and land conservation and preservation above what these laws and Acts intended. Surface resources in these laws and Acts were to be used for the benefit of the citizens.

Multiple Use Sustained Yield Act "to provide sustained yield" of products and services, Taylor Grazing Act "surface resources are just as important as other resources", Organic Act "to ensure a continuous supply of timber", Mining Act "Accessibility to the mineral resources located on these lands must be protected", Mining and Mineral Policy Act "while recognizing the environmental concerns, the benefit of mining to this country and its people must remain paramount",



Wilderness Act “we must insure in future planning, that other federal lands do not become defacto wilderness areas”, Endangered Species Act/Clean Water Act/Clean Air Act/MEPA “we must take care to insure that cumulative effects of these laws do not prohibit the management of our resources for future generations.”

The DEIS falsely claims the Forest Service has complied with these laws and Acts when in fact the proposed alternatives prohibit, curtain or restrict the use of our surface resources that benefit the people of the United States. CBU requests further explanation by the Forest Service in why they believe they have complied with these specific laws and Acts. Please explain how additional areas of recommended wilderness will not prohibit, restrict, or curtail access to the surface resources these Acts and laws were designed to protect and assure access to. The Forest Service has ignored these laws and Acts and has instead elevated other resources such as wildlife above those resources these laws and Acts were enacted to preserve.

What surface resources will be lost to the benefit of the people of the United States if the current proposed plan is implemented? What alternative did the Forest Service provide to the public as required by NEPA that protects access to all these surface resources? Please identify all surface resources that will be affected by lost access including the type, location and potential benefit.

The Forest Service must not diminish the importance of access to these surface resources as stated in these laws and Acts. Clearly congress intended the public lands at that time, and those managed by the Forest Service when it was formed, to be available to the public to access them and the use of the surface resources for the benefit of the people of the United States. CBU finds no alternative that complies with the clear language and intent of these laws and Acts. The Forest Service is arbitrary and capricious in ignoring these laws and Acts and the intent of congress when these laws and Acts were passed.

In formulating the new travel and management plans for this forest the FS must look at the cumulative effects (CEQ requirement) of past actions that have affected communities and motorized forest users. No past plan or action has affected non-motorized use so no cumulative effect analysis needs to be done for non-motorized users. The same is not true for the motorized and mechanized user. Many past actions have greatly diminished the recreational experience and opportunities of the motorized and mechanized users. **I request that your forest evaluate the past actions in the HLCNF and include other adjacent forests and BLM lands that have affected motorized users and ascertain an overall picture of what impact these past actions have had. CBU requests that a programmatic EIS be completed by Region 1 on the cumulative economic and social impact that the**

**closures proposed in all forest management plans and travel plans in Region 1 are having on small communities, local governments, and rural communities.**

Several forest districts across Montana are developing new forest plans and travel management plans. CBU finds no information in the HLCNF Plan proposal alternatives or documents that has been gathered and analyzed to address the impact that the proposed closures in the Helena Lewis and Clark NF will have on forest visitors from other areas of Montana. Many other forest districts have made statements that **“the impact of the closures they are proposing will have little effect as visitors will be able to drive a short distance to recreate in another forest”**. With similar closures in many forest districts in Montana going on at this time CBU finds this statement both arbitrary and capricious. A complete Programmatic EIS should be completed by Region 1 to address this issue

Has this forest complied with the 2001 3 state OHV Rule and completed a comprehensive trail inventory and analysis prior to this proposed management plan? CBU finds no evidence that the Helena Lewis and Clark National Forest completed a trail condition analysis as required by the 01 3 State Rule. This must be done prior to any travel planning actions. **Because your district did not comply with the requirement of the 01 3 State OHV Rule, we believe the proposed closures are therefore arbitrary and capricious.**

Even though the proposed forest plan does not address site specific roads and trails, this action when implemented will affect these uses going forward as subsequent travel plans will NOT analyze any of these roads and trails because of the fact the Forest Plan already has determined motorized and mechanized use in these areas is not appropriate or authorized. Even when historic motorized and mechanized use of these areas has been in existence, future planning decisions will be based on this Forest Plan. If the Forest Plan is to determine acceptable or allowable use in an area of the forest, all current roads and trails used by motorized and mechanized use must be analyzed during the Forest Plan revision. This analysis must be completed so that future decisions on site specific motorized and mechanized use will have gone through the proper NEPA process and the public has an opportunity to comment on the action. Without analysis being completed in this Forest Plan on specific roads and trails in an area deemed inappropriate in this Forest Plan for a specific use, the public will not be afforded the opportunity to comment in the future because the Forest Service will claim the future analysis is not required because the Forest Plan made this decision. A clear violation of NEPA.

In regards to the Elk studies that your district is using in the Forest Plan revision. The science being used is old and outdated. Current motorized and mechanized use in the HLCNF has not affected elk populations. Today Elk

populations are over target numbers in 64% of the 44 Elk Management Units in Montana yet you close areas for Elk security. Quentin Kujala, FWP Wildlife Management Bureau Chief, stated on December 8<sup>th</sup>, 2007 at the Elk Summit in Bozeman, “ Motorized access is important for hunter access and the control of elk population”. CBU requests that you address the ability to control the population of elk in your forest through hunting by increasing access by motorized vehicles. Game retrieval is a very important part of hunting and CBU requests that you make accommodations for game retrieval during the mid-day times.

Studies show that hunter numbers are decreasing, hunter age is increasing and elk populations are increasing and CBU requests that your Forest Plan address these facts. Private property owners are getting fed up with FWP’s lack of management of not only elk but wolves. Property owners are removing large areas of land from Block Management in an effort to get FWP to respond to their concerns. The private property owners are seeing an increase of 14% of ungulates moving from federally managed public land to their property. CBU has seen this to be the result of lack of active forest management practices on FS managed land that would have result in increased food source of grass for ungulates. Overgrown forests have resulted in a lack of grass and available food source for these animals and have forced these animals on to the private lands that have been correctly managed. This trend is causing a burden on those ranches and farms that must be addressed. The Helena Lewis and Clark DEIS does not address this situation and in fact exacerbates the problem by reducing multiple use access for recreation and management needs such as fuel load reductions.

Historic use of our federally managed public land must be preserved. If resource damage is documented and attempts to mitigate the documented damage have failed, then and only then should closures be an option. I see no attempt by this forest to work cooperatively in identifying and mitigating areas of concern including fuel load buildup, access for physically challenged, and trail or road maintenance.

Montana is currently experiencing the highest rate of suicide in the nation. The opioid epidemic in Montana is out of control. Our mental health system is not adequate to address this crisis and many communities are suffering. Is the Forest Service a partner in this situation? They should be. Is the Forest Service responsible for this situation? They could be?

A recent study conducted by Colorado has shown a direct connection between mental health and a connection to the outdoors. The Montana legislature passed HJ 13 in 2015 to look at the amount of roads closed by the Forest Service and BLM in Montana since 1995. The final report of this study can be found at:



<http://leg.mt.gov/content/Committees/Interim/2015-2016/EQC/Committee-Topics/hj-13/hj13-finalreport.pdf>

According to this report the Forest Service has closed nearly 22,000 miles of roads in Montana since 1995. Each and every one of these roads was important to some individual or family for not only recreation but for subsistence like food, wood providing supplemental heat source, or jobs. In Colorado and the connection between mental health and access to outdoor recreation and activity the state has initiated the idea of providing patience with an actual prescription, not for drugs, but for engagement in outdoor activity. The Colorado information is included in the supporting documentation with this comment cover sheet.

Also included with this cover document comment is the supporting information compiled by the Capitol Trail Riders Association located in Helena. I that information you will find many studies and information CBU requests the Forest Service analyze this information and include it in the administrative record.

In closing, a majority of voters in Montana want more active management of our public land and less smoke from wildfires. A majority of voters in Montana **don't** want any additional **wilderness** designated. This vote resonates from every citizen in Montana. Please follow the wishes of the majority of the public when deciding the future use of this forest.

We live in an uncertain world today, one of turmoil and fighting around the globe. A federal agency such as the Forest Service has the ability and an obligation to provide people with a place to safely recreate and escape the problems of their everyday lives. The forest in Montana is a special place to a vast number of people and the ability for all people to enjoy this area is of the utmost importance. Segregation of people and discrimination should not be supported by your agency yet this is what you are proposing to do. Bringing people together in responsible shared use recreation and responsible resource management must be the direction that your agency takes. Locking people out of the land that we have entrusted you to manage for our use and enjoyment is not acceptable.

Please accept these comments and the supporting documents from CBU in regards to the Helena Lewis and Clark National Forest Plan revision DEIS.

Thank you,

[REDACTED]  
[REDACTED]



## Addendum to CBU DEIS comment

The HLCNF plan revision is full of reference to climate change and many decisions are being made with the effects of climate change as a factor.

The Executive Order signed by President Trump, EO#13783 signed on 3-28-17, specifically directs federal agencies on the use of Climate Change in NEPA documents.

Specifically Section 3 (a) (i) Revoking EO#13653

and

Section 3 (c) "The CEQ shall rescind its final guidance entitled "Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews," which is referred to in "Notice of Availability," Fed. Reg. 51866 ( August 5, 2016) "

This new executive order clearly directs federal agencies to reframe for the use of climate change in the development of NEPA documents on significant actions. The HLCNF plan revision is a significant action. The HLCNF has developed a NEPA document in regards to this significant action. The HLCNF is in violation of Executive Order #13783 by including reference to climate change in this document.

Please remand the DEIS in order to comply with Executive Order #13783 and remove all reference to climate change in the NEPA document and adjust all actions relevant in the DEIS that were related to climate change before re-release of a new NEPA document and alternatives.

Thank You,

Kerry White  
Executive Director CBU



**Exhibit**

**B**



File Code: 2320; 1510 (8554403)

Date: AUG 06 2019

The Honorable James E. Risch  
United States Senate  
483 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Risch:

Thank you for your letter of June 13, 2019, cosigned by your colleagues concerning the management of recommended wilderness areas in the U.S. Department of Agriculture's Forest Service Northern Region. I apologize for the delayed response.

I understand the perception that the Northern Region has a policy that differs from national direction, based on guidance that was issued by former Regional Forester Thomas L. Tidwell before the 2012 planning regulations. I assure you the Northern Region is following national policy. Enclosed is a memo signed by current Regional Forester Leanne Marten dated April 23, 2019. This memo clarifies that national direction implementing the 2012 planning regulations provides the policy and procedures for all land management planning efforts—all prior direction has been superseded.

I appreciate your ongoing collaborative engagement in land management planning and implementation efforts across the State of Idaho. The national policy provides a responsible official the discretion to implement a range of management options, provided the allowed activities and uses do not reduce the wilderness potential of an area. Government and public engagement in decisions affecting the National Forest System is critical as responsible officials apply their discretion to the management of these areas.

Thank you for your interest in the management of your National Forests. A similar response is being sent to your colleagues.

Sincerely,

  
VICTORIA CHRISTIANSEN  
Chief

Enclosure

USFS 50-8554403





File Code: 1920

Date: April 23, 2019

Route To:

Subject: Region 1 Land Management Planning

To: Director, Ecosystem Assessment and Planning

With continued turn-over of personnel working on planning efforts within the Northern Region, I thought it was timely to clarify direction pertaining to policies and procedures to be used for all Land Management Planning efforts.

The final directives for implementing Land Management Planning, FSM 1920 and FSH 1909.12, became effective on January 30, 2015. The intent of these directives is to ensure an adaptive Land Management Planning process that is inclusive, efficient, collaborative and science-based to promote healthy, resilient, diverse and productive National Forests and Grasslands. These final directives support consistent approaches to achieving the legal requirements of the 2012 planning rule.

In the Northern Region, all Land Management Plan revisions or amendments since 2015 have, and will continue, to be done pursuant to the 2012 Planning Rule and the above referenced directives.

Any Regional memos, letters, or supplements guiding Land Management Plan revision dated before January 30, 2015 are superseded.

Please ensure that this information and direction is shared and followed.

LEANNE M. MARTEN  
Regional Forester







File Code: 2320; 1510 (8554403)

Date: AUG 06 2019

The Honorable Mike Crapo  
United States Senate  
239 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Crapo:

Thank you for your letter of June 13, 2019, cosigned by your colleagues concerning the management of recommended wilderness areas in the U.S. Department of Agriculture's Forest Service Northern Region. I apologize for the delayed response.

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LEANNE M. MARTEN  
Regional Forester





File Code: 2320; 1510 (8554403)

Date: AUG 06 2019

The Honorable Mike Simpson  
U.S. House of Representatives  
2084 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Simpson:

Thank you for your letter of June 13, 2019, cosigned by your colleagues concerning the management of recommended wilderness areas in the U.S. Department of Agriculture's Forest Service Northern Region. I apologize for the delayed response.

I understand the perception that the Northern Region has a policy that differs from national direction, based on guidance that was issued by former Regional Forester Thomas L. Tidwell before the 2012 planning regulations. I assure you the Northern Region is following national policy. Enclosed is a memo signed by current Regional Forester Leanne Marten dated April 23, 2019, that clarifies that national direction implementing the 2012 planning regulations provides the policy and procedures for all land management planning efforts—all prior direction has been superseded.

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LEANNE M. MARTEN  
Regional Forester





File Code: 2320; 1510 (8554403)

Date: **AUG 06 2019**

The Honorable Russ Fulcher  
U.S. House of Representatives  
1520 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Fulcher:

Thank you for your letter of June 13, 2019, cosigned by your colleagues concerning the management of recommended wilderness areas in the U.S. Department of Agriculture's Forest Service Northern Region. I apologize for the delayed response.

I understand the perception that the Northern Region has a policy that differs from national direction, based on guidance that was issued by former Regional Forester Thomas L. Tidwell before the 2012 planning regulations. I assure you the Northern Region is following national policy. Enclosed is a memo signed by current Regional Forester Leanne Marten dated April 23, 2019, that clarifies that national direction implementing the 2012 planning regulations provides the policy and procedures for all land management planning efforts—all prior direction has been superseded.

I appreciate your ongoing collaborative engagement in land management planning and implementation efforts across the State of Idaho. The national policy provides a responsible official the discretion to implement a range of management options, provided the allowed activities and uses do not reduce the wilderness potential of an area. Government and public engagement in decisions affecting the National Forest system is critical as responsible officials apply their discretion to the management of these areas.

Thank you for your interest in the management of your National Forests. A similar response is being sent to your colleagues.

Sincerely,

  
VICTORIA CHRISTIANSEN  
Chief

Enclosure





**File Code:** 1920  
**Route To:**

**Date:** April 23, 2019

**Subject:** Region 1 Land Management Planning

**To:** Director, Ecosystem Assessment and Planning

With continued turn-over of personnel working on planning efforts within the Northern Region, I thought it was timely to clarify direction pertaining to policies and procedures to be used for all Land Management Planning efforts.

The final directives for implementing Land Management Planning, FSM 1920 and FSH 1909.12, became effective on January 30, 2015. The intent of these directives is to ensure an adaptive Land Management Planning process that is inclusive, efficient, collaborative and science-based to promote healthy, resilient, diverse and productive National Forests and Grasslands. These final directives support consistent approaches to achieving the legal requirements of the 2012 planning rule.

In the Northern Region, all Land Management Plan revisions or amendments since 2015 have, and will continue, to be done pursuant to the 2012 Planning Rule and the above referenced directives.

Any Regional memos, letters, or supplements guiding Land Management Plan revision dated before January 30, 2015 are superseded.

Please ensure that this information and direction is shared and followed.

LEANNE M. MARTEN  
Regional Forester



**Exhibit**

**C**





THE SECRETARY OF AGRICULTURE  
WASHINGTON, D.C.  
20250-0100

**TO:** Victoria Christiansen  
Chief  
United States Department of Agriculture, Forest Service

**FROM:** Sonny Perdue  
Secretary  
United States Department of Agriculture

JUN 12 2020

**SUBJECT:** Secretarial Memorandum to the Chief of the Forest Service

**Purpose:** Establish vision, priorities, and direction on:

- Increasing the productivity of National Forests and Grasslands
- Valuing our Nation's grazing heritage and the National Grasslands
- Increasing access to our National Forests
- Expediting environmental reviews to support active management

As Secretary of Agriculture, it is my duty to ensure our National Forests and Grasslands are on a path to health and productivity so they can continue to meet the needs of citizens and communities, both now and into the future.

It is the first priority of the Forest Service to serve the American people and work in ways that exemplify the values of Shared Stewardship. We need modern systems and approaches and less complicated regulations to serve our customers and improve our delivery of the goods and services that the American people want and need from the Nation's Forest System.

The 193 million acres of public lands managed by the Forest Service provide important resources and recreational opportunities to the people of this great Nation. These lands are critical for the prosperity of rural communities, sustaining jobs and livelihoods in grazing, mining, oil and gas development, recreation and forestry — sectors that support our American way of life. These lands also furnish food and water that all life depends on.

While I am proud of the progress to promote active management, reduce hazardous fuels, work across boundaries and increase the resiliency of our Nation's forests and grasslands, I believe more can be done. Today, I am announcing a blueprint for reforms to further provide relief from burdensome regulations, improve customer service, and boost the productivity of our National Forests and Grasslands.

**Increasing the productivity of National Forests and Grasslands**

The American people rely on our National Forests and Grasslands for a variety of products and services that sustain jobs and livelihoods in rural communities, feed America, and supply the clean water that sustains life. I am directing the Forest Service to focus resources on activities that support the productive use of these lands to deliver goods and services efficiently and effectively to meet the needs of our citizens. The Forest Service will:

- streamline processes and identify new opportunities to increase America's energy dominance and reduce reliance on foreign countries for critical minerals;
- modernize management practices and reduce regulatory burdens to promote active management on Forest Service lands to support and protect rural communities, critical watersheds, and species habitat; and
- expedite broadband development on Forest Service lands to increase internet connectivity in rural America.

### **Valuing our Nation's grazing heritage and the National Grasslands**

The Forest Service manages 3.8 million acres of National Grasslands across 12 Western States. These lands are managed for a variety of sustainable multiple-use goods and services for the American people. The National Grasslands are a conservation success story; abandoned and infertile after the Dust Bowl in the early 20th century, they now support a thriving agricultural industry and provide important wildlife habitat. They are a symbol of pride for many Americans.

The National Grasslands play a vital role in the fabric of rural communities, supporting thousands of jobs, contributing hundreds of millions of dollars to the economy, and producing food for America and the entire world. They are managed sustainably with the help of ranching families, who pride themselves as conservationists, ensuring that these lands will remain productive for generations to come. To this end, the Forest Service will:

- establish in forest plans that grazing and support for grazing on the National Grasslands is essential for their management within the framework of their governing statutes;
- streamline renewal of range permits and range improvements on the National Forests and Grasslands; and
- enhance flexibility for Forest Service employees to work with ranching families and communities.

### **Increasing access to National Forest System Lands**

It is imperative for the Forest Service to manage the National Forests and Grasslands for the benefit of the American people. These lands provide a multitude of public benefits, including diverse recreational opportunities, access to world-class hunting and fishing, and forest products that support America's traditions and way of life. Accordingly, the Forest Service will:

- increase access to Forest Service lands by streamlining the permit process for recreational activities and embracing new technologies and recreation opportunities;
- open public access to National Forest System lands with currently limited access where feasible in cooperation with States, counties, and partners; and
- improve customer service by modernizing and simplifying forest products permitting and the Forest Service land exchange process.

### **Expediting environmental reviews to support active management**

Management activities on National Forest System lands require compliance with the National Environmental Policy Act and other applicable laws and regulations. Under this administration, the Forest Service has worked to streamline the corresponding processes while conserving public lands and ensuring the sustainable use of natural resources. I am directing the agency to further emphasize this effort through greater accountability for efficient decision making, succinct and understandable documentation of compliance, and focused and effective public engagement. The Forest Service will:

- set time and page limits on the completion of environmental documents, including categorical exclusions, environmental assessments, and environmental impact statements;
- streamline policy to ensure environmental reviews focus on analysis that is required by law and regulation;
- work across the government to initiate the development of policies for alternative procedures to streamline consultation processes and environmental reviews; and
- expedite compliance with State Historic Preservation Offices for vegetation management and facility and infrastructure improvements.

**Exhibit**

**D**






EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

June 24, 2005

MEMORANDUM

FROM: JAMES L. CONNAUGHTON   
CHAIRMAN

TO: HEADS OF FEDERAL AGENCIES

RE: GUIDANCE ON THE CONSIDERATION OF PAST  
ACTIONS IN CUMULATIVE EFFECTS ANALYSIS

I. Introduction

In this Memorandum, the Council on Environmental Quality (CEQ) provides guidance on the extent to which agencies of the Federal government are required to analyze the environmental effects of past actions when they describe the cumulative environmental effect of a proposed action in accordance with Section 102 of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332, and the CEQ Regulations for Implementing the Procedural Provisions of NEPA, 40 C.F.R. parts 1500-1508. CEQ's interpretation of NEPA is entitled to deference. *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

II. Guidance

The environmental analysis required under NEPA is forward-looking, in that it focuses on the potential impacts of the proposed action that an agency is considering. Thus, review of past actions is required to the extent that this review informs agency decisionmaking regarding the proposed action. This can occur in two ways:

First, the effects of past actions may warrant consideration in the analysis of the cumulative effects of a proposal for agency action. CEQ interprets NEPA and CEQ's NEPA regulations on cumulative effects as requiring analysis and a concise description of the identifiable present effects of past actions to the extent that they are relevant and useful in analyzing whether the reasonably foreseeable effects of the agency proposal for action and its alternatives may have a continuing, additive and significant relationship to those effects. In determining what information is necessary for a cumulative effects analysis, agencies should use scoping to focus on the extent to which information is "relevant to reasonably foreseeable significant adverse impacts," is "essential to a reasoned choice among alternatives," and can be obtained without exorbitant cost. 40 CFR 1502.22. Based on scoping, agencies have discretion to determine whether, and to what extent, information about the specific nature, design, or present effects of a past action is useful for the agency's analysis of the effects of a proposal for agency action and its reasonable alternatives.



Agencies are not required to list or analyze the effects of individual past actions unless such information is necessary to describe the cumulative effect of all past actions combined. Agencies retain substantial discretion as to the extent of such inquiry and the appropriate level of explanation. *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 376-77 (1989). Generally, agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions.

Second, experience with and information about past direct and indirect effects of individual past actions may also be useful in illuminating or predicting the direct and indirect effects of a proposed action. However, these effects of past actions may have no cumulative relationship to the effects of the proposed action. Therefore, agencies should clearly distinguish analysis of direct and indirect effects based on information about past actions from a cumulative effects analysis of past actions.

### III. Discussion

The CEQ regulations for the implementation of NEPA define cumulative effects consistent with the Supreme Court's reading of NEPA in *Kleppe v. Sierra Club*, 427 U.S. 390, 413-414 (1976). "Cumulative impact" is defined in CEQ's NEPA regulations as the "impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions . . ." 40 CFR 1508.7. CEQ interprets this regulation as referring only to the cumulative impact of the direct and indirect effects of the proposed action and its alternatives when added to the aggregate effects of past, present, and reasonably foreseeable future actions.

Agencies should be guided in their cumulative effects analysis by the scoping process, in which agencies identify the scope and "significant" issues to be addressed in an environmental impact statement. 40 CFR 1500.1(b), 1500.4(g), 1501.7, 1508.25. In the context of scoping, agencies typically decide the extent to which "it is reasonable to anticipate a cumulatively significant impact on the environment." 40 CFR 1508.27(b)(7). Agencies should ensure that their NEPA process produces environmental information that is useful to decisionmakers and the public by reducing the "accumulation of extraneous background data" and by "emphasiz[ing] real environmental issues and alternatives." 40 CFR 1500.2(b). Accordingly, the NEPA process requires agencies to identify "the significant environmental issues deserving study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement" at an early stage of agency planning. 40 CFR 1500.1(d). The Supreme Court has also emphasized that agencies may properly limit the scope of their cumulative effects analysis based on practical considerations. *Kleppe*, 427 U.S. at 414. The CEQ regulations provide for explicit documentation of such practical considerations when there is incomplete or unavailable information that is relevant to reasonably foreseeable significant adverse impacts. 40 CFR 1502.22. The extent and form of the information needed to analyze appropriately the cumulative effects of a proposed action and alternatives under NEPA varies widely and must be determined by the federal agency proposing the action on a case-by-case basis.

The analysis of cumulative effects begins with consideration of the direct and indirect effects on the environment that are expected or likely to result from the alternative proposals for



agency action. Agencies then look for present effects of past actions that are, in the judgment of the agency, relevant and useful because they have a significant cause-and-effect relationship with the direct and indirect effects of the proposal for agency action and its alternatives. CEQ regulations do not require the consideration of the individual effects of all past actions to determine the present effects of past actions. Once the agency has identified those present effects of past actions that warrant consideration, the agency assesses the extent that the effects of the proposal for agency action or its alternatives will add to, modify, or mitigate those effects. The final analysis documents an agency assessment of the cumulative effects of the actions considered (including past, present, and reasonably foreseeable future actions) on the affected environment.

With respect to past actions, during the scoping process and subsequent preparation of the analysis, the agency must determine what information regarding past actions is useful and relevant to the required analysis of cumulative effects. Cataloging past actions and specific information about the direct and indirect effects of their design and implementation could in some contexts be useful to predict the cumulative effects of the proposal. The CEQ regulations, however, do not require agencies to catalogue or exhaustively list and analyze all individual past actions. Simply because information about past actions may be available or obtained with reasonable effort does not mean that it is relevant and necessary to inform decisionmaking.

#### IV. Tools for NEPA Practitioners

##### a. Scoping:

It is not practical to analyze how the cumulative effects of an action interact with the universe; the analysis of environmental effects must focus on the aggregate effects of past, present and reasonably foreseeable future actions that are truly meaningful. Thus, analysts must narrow the focus of the cumulative effects analysis to effects of significance to the proposal for agency action and its alternatives, based on thorough scoping. A specific objective of scoping is to save time in the overall process by helping to ensure that draft statements adequately address the effects of the proposed action and alternatives that should be addressed. See Scoping Guidance (CEQ 1981) (<http://ceq.eh.doe.gov/nepa/regs/guidance.html>). Scoping provides the agency the opportunity to focus in on those cumulative effects that may be significant. The scope of the cumulative impact analysis is related to the magnitude of the environmental impacts of the proposed action. Proposed actions of limited scope typically do not require as comprehensive an assessment of cumulative impacts as proposed actions that have significant environmental impacts over a large area. Proposed actions that are typically finalized with a finding of no significant impact usually involve only a limited cumulative impact assessment to confirm that the effects of the proposed action do not reach a point of significant environmental impacts. Except in extraordinary circumstances, proposed actions that are categorically excluded from NEPA analysis do not involve cumulative impact analyses.

##### b. Incomplete and Unavailable Information:

The purpose of 40 CFR 1502.22 is to disclose the fact of incomplete or unavailable information, to acquire information if it is "relevant to reasonably foreseeable significant adverse impacts" and "essential to a reasoned choice among alternatives," and to advance decision-making



even in the absence of all information regarding reasonably foreseeable effects. The focus of this provision is, first and foremost, on "significant adverse impacts." The agency must find that the incomplete information is relevant to a "reasonably foreseeable" and "significant" impact before the agency is required to comply with 40 CFR 1502.22. If the incomplete cumulative effects information meets that threshold, the agency must consider the "overall costs" of obtaining the information. 40 CFR 1502.22(a). The term "overall costs" encompasses financial costs and other costs such as costs in terms of time (delay), program and personnel commitments. The requirement to determine if the "overall costs" of obtaining information is exorbitant should not be interpreted as a requirement to weigh the cost of obtaining the information against the severity of the effects, or to perform a cost-benefit analysis. Rather, the agency must assess overall costs in light of agency environmental program needs.

#### c. Programmatic Evaluations

In geographic settings where several Federal actions are likely to have effects on the same environmental resources it may be advisable for the lead Federal agencies to cooperate to provide historical or other baseline information relating to the resources. This can be done either through a programmatic NEPA analysis or can be done separately, such as through a joint inventory or planning study. The results can then be incorporated by reference into NEPA documents prepared for specific Federal actions so long as the programmatic analysis or study is reasonably available to the interested public.

#### d. Environmental Management Systems:

Agencies are encouraged at their discretion to consider whether programmatic coordination of cumulative effects analysis can be assisted through implementation of environmental management systems (EMS). See Executive Order 13148, 65 Fed. Reg. 24,595 (April 21, 2000); Memorandum from the Chairman of CEQ and the Director of the Office of Management and Budget to heads of all Federal agencies (<http://www.whitehouse.gov/ceq/memoranda01.html>). Pursuant to Executive Order 13148, agencies that choose to use an EMS to improve their cumulative analysis may find that the EMS can be designed and implemented to more efficiently meet NEPA requirements, improve public participation in the NEPA process, and provide a framework for cumulative effects analysis and adaptive management. By managing information collection on an ongoing basis, an EMS can provide a more systematic approach to agencies' identification and management of environmental conditions and obligations. Agencies can use an EMS to confirm assumptions, track performance, and increase confidence in their assessment of cumulative environmental effects.

#### d. Direct and Indirect Effects:

In some cases, based on scoping, information about the effects of past actions that were similar to the proposed action may be useful in describing the possible effects of the proposed action. In these circumstances, agencies should consider using available information about the effects of individual past actions that help illuminate or predict the direct or indirect effects of the proposed action and its alternatives. Agencies should clearly distinguish their use of past experience in direct and indirect effects analysis from their cumulative effects analysis.

# **Exhibit**

## **E**



# **US Forest Service Requirements to Coordinate and Cooperate with Local Governments**

Revised MAY 2010 – Veritas Research Consulting

**Preface:** This report contains a list and a brief summary of all the federal coordination and cooperation policies (statutes, regulations, presidential executive orders, agency directives handbooks and guides). This compendium of federal coordination, cooperation and consultation requirements was first assembled for the Catron County Comprehensive Land Plan. Stewards of the Range references were added to this original list.

## **1. US Forest Service Coordination and Cooperation Policies:**

**National Forest Management Act (16 USC §1604)**

**Forest and Rangeland Renewable Resources Planning Act § 6 (16 USC 1604(a))**

**Multiple Use Sustained Yield Act of 1960, §3 (16 USC §530)**

**The Healthy Forests Restoration Act of 2003 (Public Law 108-148, 117 Stat. 1887-1915)**

**U.S Forest Service 219 Planning Rule: Coordination with Other Public Planning Efforts (36 CFR §219.7)**

**43 C.F.R. §1610.3-1**

**Travel Management Rule (36 CFR §212.53)**

**National Environmental Policy Act §101(a), 102(c), (42 USC §4331(b)(5) & §4332(2))**

**Joint Planning (40 CFR §1506.2 (b))**

**Cooperating Agencies (40 CFR§1501.6)**

**40 CFR §1501.7**

**40 CFR §1503.1**

**President's Council on Environmental Quality Directive to Federal Agencies regarding Cooperating Agency, Feb. 2002.**

**US Forest Service Manual (FSM) 1921.63(a) and (FSM 1950.2)**

**Integrated Resource Management Process—the Road to Ecosystem Management (USFS Region 3, 4<sup>th</sup> edition, Appendix A)**

**2. Other Federal Coordination and Cooperation that Requires US Forest Service Compliance:**

**Soil and Water Resource Conservation Act (16 USC §2003 & §2008)**

**Regulatory Flexibility Act (5 USC §601-612)**

**Proper Consideration of Small Entities in Agency Rulemaking - Presidential Executive Order 13272**

**Intergovernmental Cooperation Act (§401 and 3 USC §301)**

**Intergovernmental Review of Federal Programs - Presidential Executive Order 12372**

**Facilitation of Cooperative Conservation - Presidential Executive Order 13352**

**Environmental Justice - Presidential Executive Order 12898 §302(d)**

**Resource Conservation Act (16 USC §3451 thru. §3455)**

**Soil Conservation Act (16 UC 590(d))**

**Outdoor Recreation Act (16 USC §4601)**

**National Trails System Act (16 U.S.C. 1241**

**Presidential Executive Order 13195: Trails for America in the 21<sup>st</sup>. Century**

**Use of Off-Road Vehicles on the Public Lands - Presidential Executive Order 11644**

**Wild & Scenic Rivers Act (16 USC §1271 thru. §1275)**

## **1. US Forest Service Coordination Policies:**

### **National Forest Management Act (16 USC §1604)**

**§ 1604** - National Forest System land and resource management plans: (a) Development, maintenance, and revision by Secretary of Agriculture as part of program; coordination: As a part of the Program provided for by section 1602 of this title, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

### **Forest and Rangeland Renewable Resources Planning Act (16 USC §1604(a))**

**§1604(a)** - Development, maintenance, and revision by Secretary of Agriculture as part of program; coordination As a part of the Program provided for by section 1602 of this title, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

### **Multiple Use Sustained Yield Act of 1960 (16 USC §530)**

**§530** - In the effectuation of sections 528 to 531 of this title the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

### **The Healthy Forests Restoration Act of 2003 (Public Law 108-148, 117 Stat. 1887-1915)**

Healthy Forests Initiative Administrative Improvements At Work Under President Bush's leadership, the federal land management agencies have implemented several administrative initiatives to help expedite projects aimed to restore forest and rangeland health, as called for under the HFI, including:

New procedures, provided under the National Environmental Policy Act, to allow priority fuels reduction and forest restoration projects identified through collaboration with state, local and tribal governments and interested parties to move forward more quickly. The

#### **Improved Coordination:**

In 2003, USDA and DOI formed the Interagency Wildland Fire Leadership Council to further implement the National Fire Plan and to combat wildland fires more effectively. The council provides a coordinated, seamless management structure to all aspects of wildland fire policy under the Healthy Forests Initiative and integrates federal fire activities with those of states, tribes and local governments, including land restoration and rehabilitation.

(from: USDA U Forest Service *Fact Sheet Progress Reported on Implementing President Bush's Healthy Forests Initiative*)

### **US Forest Service §219 Forest Planning Rule**

**§219.7** Coordination with other public planning efforts.

(a) The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the official or agency so designated by the affected State (including the Commonwealth of Puerto Rico). The same notice shall be mailed to all Tribal or Alaska Native leaders whose tribal lands or treaty rights are expected to be impacted and to the heads of units of government for the counties involved. These notices shall be issued simultaneously with the publication of the notice of intent to prepare an environmental impact statement required by NEPA procedures (40 CFR 1501.7).

(c) The responsible line officer shall review the planning and land use policies of other Federal agencies, State and local governments, and Indian tribes. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include--

(1) Consideration of the objectives of other Federal, State and local governments, and Indians tribes, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and,

(4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.

(d) In developing land and resource management plans, the responsible line officer shall meet with the designated State official (or designee) and representatives of other Federal agencies, local governments, and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the preferred alternative. Such conferences may be held in conjunction with other public participation activities, if the opportunity for government officials to participate in the planning process is not thereby reduced.

(e) In developing the forest plan, the responsible line officer shall seek input from other Federal, State and local governments, and universities to help resolve management concerns in the planning process and to identify areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

(f) A program of monitoring and evaluation shall be conducted that includes consideration of the effects of National Forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon National Forest management of activities on nearby lands managed by other Federal or other government agencies or under the jurisdiction of local governments.

#### **§219.14 Involvement of State and local governments.**

The responsible official must provide early and frequent opportunities for State and local governments to:

(a) Participate in the planning process, including the identification of issues; and

(b) Contribute to the streamlined coordination of resource management plans or programs.

#### **Travel Management Rule (36 CFR 212.53)**

##### **§ 212.53 Coordination with Federal, State, county, and other local governmental entities and tribal governments.**



The responsible official shall coordinate with appropriate Federal, State, county, and other local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System lands pursuant to this subpart.

#### **43 C.F.R. §1610.3-1**

Requires that a notice of intent to prepare, amend or revise a resource plan shall be submitted to Federal agencies, state and local governments and other local government units. This regulation also requires "coordination" with other Federal agencies, state and local governments and Indian tribes to keep appraised of other plans, to give consideration to these plans and to assist in resolving, to the extent practicable, inconsistencies between federal and non-federal plans.

#### **Travel Management Rule (36 CFR 212.53)**

##### **§ 212.53 Coordination with Federal, State, county, and other local governmental entities and tribal governments.**

The responsible official shall coordinate with appropriate Federal, State, county, and other local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System lands pursuant to this subpart.

#### **National Environmental Policy Act (42 USC §4331)**

**§101(a)** declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

**§102(c)** Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

NEPA directs federal agencies "...to improve and coordinate Federal plans, functions, programs, and resources to... achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities (42 USC § 4331 (b)(5)).

#### **Joint Planning (40 CFR 1506.2)**

**§ 1506.2** Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

- (2) Joint environmental research and studies.
- (3) Joint public hearings (except where otherwise provided by statute).
- (4) Joint environmental assessments.
- (c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.
- (d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

#### **Cooperating Agencies (40 CFR§1501.6)**

The purpose of this section is to emphasize agency cooperation early in the NEPA process... An agency may request the lead agency to designate it a cooperating agency.

**(a) The lead agency shall:**

Request the participation of each cooperating agency in the NEPA process at the earliest possible time. Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency. Meet with a cooperating agency at the latter's request.

**(b) Each cooperating agency shall:**

Participate in the NEPA process at the earliest possible time.

Participate in the scoping process (described below in Sec. 1501.7).

Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability. Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

#### **40 CFR §1501.7**

**(a) As part of the scoping process the lead agency shall:**

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under §1507.3(c). An agency may give notice in accordance with §1506.6.

(2) Determine the scope (§1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in §1502.25.

#### **40 CFR §1503.1**

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

**Memorandum for Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act**, , from James Connaughton, Chair, January 30, 2002.,states:

...to ensure that all Federal agencies are actively considering designation of Federal and non-federal cooperating agencies in the preparation of analyses and documentation required by the National Environmental Policy Act (NEPA), The CEQ regulations addressing cooperating agencies status (40 C.F.R. §§ 1501.6 & 1508.5) implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so "in cooperation with State and local governments" and other agencies with jurisdiction by law or special expertise. (42 U.S.C. §§ 4331(a), 4332(2)).

The benefits of enhanced cooperating agency participation in the preparation of NEPA analyses include: disclosing relevant information early in the analytical process; applying available technical expertise and staff support; avoiding duplication with other Federal, State, Tribal and local procedures; and establishing a mechanism for addressing intergovernmental issues. Other benefits of enhanced cooperating agency participation include fostering intra and intergovernmental trust (e.g., partnerships at the community level) and a common understanding and appreciation for various governmental roles in the NEPA process, as well as enhancing agencies' ability to adopt environmental documents.

It is incumbent on Federal agency officials to identify as early as practicable in the environmental planning process those Federal, State, Tribal and local government agencies that have jurisdiction by law and special expertise with respect to all reasonable alternatives or significant environmental, social or economic impacts associated with a proposed action that requires NEPA analysis.

The Federal agency responsible for the NEPA analysis should determine whether such agencies are interested and appear capable of assuming the responsibilities of becoming a cooperating agency under 40 C.F.R. § 1501.6. Whenever invited Federal, State, Tribal and local agencies elect not to become cooperating agencies, they should still be considered for inclusion in interdisciplinary teams engaged in the NEPA process and on distribution lists for review and comment on the NEPA documents.

In order to assure that the NEPA process proceeds efficiently, agencies responsible for NEPA analysis are urged to set time limits, identify milestones, assign responsibilities for analysis and documentation, specify the scope and detail of the cooperating agency's

contribution, and establish other appropriate ground-rules addressing issues such as availability of pre-decisional information. Agencies are encouraged in appropriate cases to consider documenting their expectations, roles and responsibilities (e.g., Memorandum of Agreement or correspondence). Establishing such a relationship neither creates a requirement nor constitutes a presumption that a lead agency provides financial assistance to a cooperating agency.

**Forest Service Manual 1921.63(a):** The Responsible Official shall provide opportunities for coordination with State, local, and other Federal agencies and Tribal governments).

## **US Forest Service Manual 1950.2**

### **1950.2 - Objectives**

In meeting the requirements of the NEPA, the Forest Service seeks to:

1. Fully integrate NEPA requirements into agency planning and decisionmaking (36 CFR 220.4(c)(2));
2. Use a systematic, interdisciplinary approach to fully consider the impacts of Forest Service proposed actions on the physical, biological, social, and economic aspects of the human environment (40 CFR 1507.2(a), 40 CFR 1508.14);
3. Involve interested and affected agencies, State and local governments, Tribes, Alaska Native corporations, organizations, and individuals in planning and decisionmaking (40 CFR 1500.1(b), 40 CFR 1500.2(b) and (d), 40 CFR 1501.7, 40 CFR 1503.1, 40 CFR 1506.6); and
4. Conduct and document environmental analyses and subsequent decisions appropriately, efficiently, and cost effectively.

### **Integrated Resource Management Process—the Road to Ecosystem Management (USFS Region 3, Fourth edition), USDA, US Forest Service, Southwestern Region.**

The Following summarizes requirements for the Forest Service coordination with local government agencies under the implementing regulations for the National Environmental Policy Act (NEPA):

- Cooperate to develop joint planning, research, public hearings, and environmental assessments when there are duplications between NEPA and local requirements to the fullest extent possible.
- In environmental impact statements, discuss any inconsistencies between a proposed action and local plans or policies.
- Prepare joint environmental impact statements whenever possible.
- In environmental assessments discuss any inconsistencies between a proposed action and local plans or policies to the extent effects on local plans and policies have been raised as issues.
- Consult local governments early and invite their participation and comments on all proposed actions.
- Provide notice of public hearings or meetings.
- Consult on significance of preliminary issues with local governments.
- Inform local government of scoping results using personal contacts.
- Discuss possible effects of alternatives with local government.
- Provide copies of FONSI's and environmental documents.



- Consider designating local agencies as joint lead or cooperating agencies for EIS and EA preparation.
- Make monitoring results available.

To comply with all of the NEPA and NFMA requirements Forest Service employees should consider:

- Developing memoranda of understanding to define how joint planning will be carried out.
- Becoming familiar with local government requirements and the issues affecting local communities.
- Inviting local agency participation on all proposed actions in writing early in the process.
- Making an extra effort to keep local agencies informed as planning progresses.
- Recognizing and displaying the conflicts between proposed actions and local agency requirements.

## **2. Other Federal Coordination that Requires US Forest Service Compliance:**

### **Soil and Water Resource Conservation Act (16 USC §2003)**

**§2003(b)** - Full utilization of cooperative arrangements with State agencies

Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this chapter consistent with the roles and responsibilities of the non-Federal agencies, landowners and land users.

**§2003(c)** Attainment of policies and purposes. The Secretary shall promote the attainment of the policies and purposes expressed in his chapter by (2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources of the Nation consistent with the roles and program responsibilities of other federal agencies and state and local governments.

**§2008** – Utilization of available information and data: The Secretary shall utilize information and data available from other federal, state and local governments...

### **Regulatory Flexibility Act (5 USC §601-612)**

Requires federal agencies to consider the effects of their regulatory actions on small businesses and other small entities (defined as "small government jurisdiction").

**§601** – (c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda. .

**§604 (a)** – Final regulatory flexibility analysis: Each final regulatory flexibility analysis shall contain (5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes...

**§609** – Procedures for gathering comments:

(a) When any rule is promulgated which will have a significant economic impact on a substantial number of small entities (defined as "small government jurisdiction"), the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule...

(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter: (2) not later than 25 days after the date of receipt of the materials...the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule.

(e)(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

**Proper Consideration of Small Entities in Agency Rulemaking - Presidential Executive Order 13272** – General requirements. Each agency shall establish procedures and policies to promote compliance with the Regulatory Flexibility Act. Agencies shall thoroughly review draft rules to assess and take appropriate account of the potential impact on small businesses, small government...

#### **Intergovernmental Cooperation Act (§401 ( 3 USC §301))**

**§401** - The Intergovernmental Cooperation Act (ICA) requires federal agencies to coordinate and review with state and local governments, federal government programs and project plans:

...provides opportunities for strengthening the consultation and coordination between federal, local and state governments through coordination and review of proposed federal assistance and direct federal development programs.

#### **Intergovernmental Review of Federal Programs - Presidential Executive Order 12372**

Furthermore, the President of the United States issued Executive Order 12372 requires federal agencies to coordinate with state and local governments. The Executive Order states:

Section 1. Federal agencies shall provide opportunities for consultation by elected officials of those state and local governments that would provide the non-federal funds for or that would be directly affected by proposed federal financial assistance or direct federal development.

Section 2 (a)...federal agencies shall to the extent permitted by law: ...determine official views of State and local elected officials.

(b)Communicate with State and local elected officials' as early in the program planning cycle as is reasonably feasible to explain specific plans and actions.

(c)Make efforts to accommodate State and local elected officials' concerns with proposed federal financial assistance and direct federal development...where the concerns cannot be accommodated, federal officials shall explain the bases for their decisions in a timely manner.

#### **Facilitation of Cooperative Conservation - Presidential Executive Order 13352**

Presidential Executive Order 13352, Executive Order Facilitation of Cooperative Conservation

Section 1. Purpose. The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.

Sec. 3. Federal Activities. To carry out the purpose of this order, the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the Environmental Protection Agency shall, to the extent permitted by law and subject to the availability of appropriations and in coordination with each other as appropriate:

(a) carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

(i) facilitates cooperative conservation;

(ii) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;

(iii) properly accommodates local participation in Federal decisionmaking; and

(iv) provides that the programs, projects, and activities are consistent with protecting public health and safety;.

### **Federalism - Presidential Executive Order 13132**

§2 - Policies that have federalism implications' refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the states[including local governments], on the relationship between the national government and the states [including local governments], or on the distribution of power and responsibilities among various levels of government... The national government should be deferential to the states when taking action that affects the policymaking discretion of the states and should act only in the interest with the greatest caution where state or local governments have identified uncertainties regarding the constitutional or statutory authority of the national government.

§3(a) - Before the agency implements any such action, the agency must, to the extent practicable, consult with local officials. If an action limits the policymaking discretion of the states [or the local governments], there must be constitutional and statutory authority for the action... appropriate in light of the presence of problem of national significance.

§3(c) - Additionally, if the state or local government is responsible for implementing a federal program, the state and local governments should be given the maximum discretion possible and the agency should avoid intrusive federal oversight.

§4 - When an agency foresees the possibility of a conflict between state law and federally protected interests within its area of regulatory responsibility, the agency shall consult, to the extent practical, with appropriate state and local officials in an effort to avoid such a conflict.

§6 - Each agency must have an accountable process to ensure meaningful and timely input from state and local officials in the development of regulatory policies that have federalism implications.

§6(b) - Agencies are prohibited from promulgating regulations with federalism implications, not required by statute, that impose substantial direct costs on state and local governments unless (1) there is federal funding for the regulation or (2) the agency consults with state and local officials

§6(c) - Agencies are further prohibited, to the extent practicable and permitted by law, from promulgating regulations with federalism implications that preempt state law without consulting with state and local officials.

### **Environmental Justice - Presidential Executive Order 12898**

§302(b) - In carrying out the responsibilities in this section, each federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of

efforts through the use of existing data systems and cooperative agreements among federal agencies and with state, local and tribal governments.

**§4-102- Guidance.** Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

**Environmental Justice Guidance Under the National Environmental Quality Act**

C. Considering Environmental Justice in Specific Phases of the NEPA Process: Agencies should consider enhancing their outreach through the following means including Federal, state, local and tribal governments.

**USDA Departmental Regulation on Environmental Justice (5600-2):** Identifying interagency responsibilities for areas with environmental justice implications and working cooperatively within the Department as well as with other federal departments...and agencies of the state, tribal and local units of government.

**Resource Conservation Act (16 USC §3451 thru. §3455)**

**§3451 - Statement of purpose-**It is the purpose of this subchapter to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development.

**§ 3454.** Powers of the Secretary: cooperate with other departments and agencies of the Federal Government, States, local units of government, local Indian tribes, and local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans.

**§3455.** Authority of Secretary: In carrying out the provisions of this subchapter, the Secretary may -

- (1) provide technical assistance to any State, local unit of government, or local nonprofit organization within a designated area to assist in developing and implementing an area plan for that area;
- (2) cooperate with other departments and agencies of the Federal Government, State, and local units of government, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;
- (3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical and financial assistance to any State, local unit of government, or local nonprofit organization designated to receive such assistance by the Governor or legislature of the State concerned; and
- (4) enter into agreements with States, local units of government, and local nonprofit organizations, as provided in section 3456 of this title.

**Soil Conservation Act (16 USC §590(d))**

**§ 590(d).** Cooperation of governmental agencies; officers and employees, appointment and compensation; expenditures for personal services and supplies

For the purposes of this chapter, the Secretary of Agriculture may— (1) Secure the cooperation of any governmental agency;

**Use of Off-Road Vehicles on the Public Lands - Presidential Executive Order 11644**



Sec. 6. Enforcement: To the extent permitted by law, he[*respective agency head*] may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

### **Outdoor Recreation Act (16 USC 4601)**

**§4601-** An Act to promote the coordination and development of effective programs relating to outdoor recreation, and for other purposes: *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress finds and declares it to be desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and that it is desirable for all levels of government and private interests to take prompt and coordinated action to the extent practicable without diminishing or affecting their respective powers and functions to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people.

(c) Nationwide Plan --Formulate and maintain a comprehensive nationwide outdoor recreation plan, taking into consideration the plans of the various Federal agencies, States, and their political subdivisions.

(d) Technical Assistance --Provide technical assistance and advice to and cooperate with States, political subdivisions, and private interests, including nonprofit organizations, with respect to outdoor recreation.

### **National Trails System Act (16 U.S.C. §1241)**

An Act to establish a national trails system, and for other purposes.

**§1241- (a)** The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.

(i) The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system.

#### **Presidential Executive Order 13195: Trails for America in the 21<sup>st</sup>. Century**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of purposes of the National Trails System Act of 1968, to achieve the common goal of better establishing and operating America's national system of trails, it is hereby ordered as follows:

Section 1. Federal Agency Duties. Federal agencies will, to the extent permitted by law and where practicable -- and in cooperation with Tribes, States, local governments, and interested citizen groups -- protect, connect, promote, and assist trails of all types throughout the United States. This will be accomplished by:

(c) Coordinating maps and data for the components of the national trails system and Millennium Trails network to ensure that these trails are connected into a national system and that they benefit from appropriate national programs;

(l) Providing training and information services to provide high-quality information and training opportunities to Federal employees, Tribal, State, and local government agencies, and the other trail partners.

**Wild & Scenic Rivers Act (16 USC §1271 thru. §1275)**

**§1274** - Pertinent federal agencies must prepare a comprehensive management plan for rivers designated on or after January 1, 1986. The plan is to be prepared **after** consultation with State and local governments within three fiscal years after designation.

**§1281(e)** Additional opportunity for the involvement of local government is provided in the statutes. The pertinent federal agency administering any component of the national wild and scenic rivers system "may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State- or county-owned lands.

**§1282 (b)(1)** The spirit of the intended cooperation is further evidenced in the statutes with the following mandate by Congress: (1)The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the National Wild and Scenic Rivers System and to other rivers.