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Director, Recreation Staff,
1400 Independence Avenue SW
Washington, DC 20250–1124

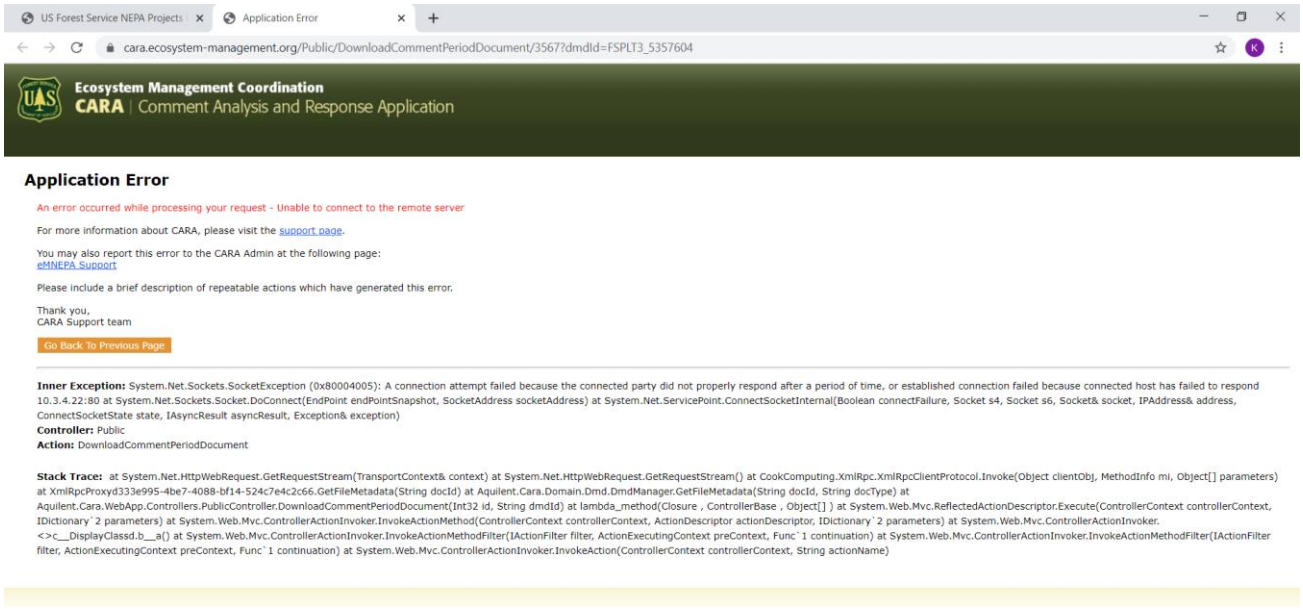
October 12, 2020

Via electronically: *https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-2619.*

Dear Recreation Staff Director:

The following comments are in response to the Forest Service's proposed policy for e-bikes under Forest Service Manual for Travel Management, published in the Federal Register at 85 Fed Reg. 60123 (Sept. 24, 2020). I submit them on behalf of my client, Friends of the Clearwater. The policy as worded in the public notice is vague. This policy change also appears to provide possible conflicts with the Travel Management Rule (36 CFR 212 et seq) and has the potential to impact the environment, so the agency should be analyzing such a proposal under the National Environmental Policy Act. FOC requests notice of this final policy decision; you can send it to me at the email address in my signature block.

The policy is vague—there is no language in the Federal Register as to how the USFS is planning to define the categories or e-bikes, what guidance the Forest Service plans for designating e-bike use on trails, where the Forest Service would promote e-bike use, etc. In the Federal Register notice, when one clicks on the link to get to the comment page, that individual is directed to the reading room (not the comment room). After finding a link on the reading room that directs to the comment room, there are (for the first time) proposed policy changes listed that appear as if they can be downloaded. When I clicked to download these policy changes, I kept landing on the webpage below. This happened for multiple proposed policies listed and using more than one search engine. Each click took me to the below result, and my colleagues experienced the same result:



According to Jancer (2020), interpretations of e-bike classes differ slightly across retailers and manufacturers' websites. Other than separating e-bikes into three classes, there was no available guidance on what each class contains. This constructively frustrates specific meaningful comment on those classifications.

Regardless, this type of policy change also provides potential conflicts with the Travel Management Rule. Creating such specific classification is entirely superfluous unless the point is to create a scenario where e-bikes could, in the future, be considered for trails where motorized vehicles are prohibited. Otherwise, why bother with specific classifications? E-bikes are motorized and their top speeds are not faster than cars, motorized two-wheelers, or ATVs. It makes no sense to add such a classification system unless there the agency anticipates a future where it follows examples set by other agencies and allows e-bikes where motorized vehicles are prohibited. And such a scenario will run afoul of the travel management rule and undoubtedly lead to environmental impacts, so you must transparently disclose to the public that you are starting down that road and analyze those impacts now.

Despite vagueness on specifics, the current agency policy on e-bikes is the best policy and should not change. The proposal threatens to violate the Travel Management Rule (TMR) (36 CFR 212 et seq.). E-bikes should only be allowed where motorized use is allowed and prohibited where motorized use is prohibited. E-bikes have a motor and are self-propelled, so they fall into the definition of a “motor vehicle, and the TMR has provisions that specifically require actions associated with motorized vehicles. *See* 36 CFR 212.1; *Subpart B* generally. The Forest Service already properly recognizes that e-bikes fall into the TMR’s definition of motorized vehicles and that e-bikes do not fall into an exception to that definition. USDA, Forest Service (2016), USDA, Forest Service (2017). Both the Forest Service’s 2016 memo and 2017 briefing paper recognize this.

Not only would this change in policy likely violate the TMR, but the change will lead to increased environmental impacts that must be analyzed under the National Environmental Policy Act. There is considerable uncertainty surrounding the impacts of e-bikes, and this policy proposal makes no effort to consider or include any science or identify the gaps in knowledge. The silence of e-bikes will have the same kind of impacts that mountain bikes do, but a motor will contribute some of the same impacts that motorized vehicles inflict. Because the motorized impacts will augment the mechanized impacts, treating e-bikes as anything less than motorized use will have significant environmental impacts.

Like logging or mining, recreation is an ecosystem service, and all of these ecosystem services provide their own unique adverse impacts to the wild world, which are at odds with conservation. *See* Naidoo and Burton (2019); Larson et al. (2019). For example, trails fragment habitat and impact vegetation. To the extent you pave the way for increased use and accessibility, doing so will also increase impacts. For example, although recreation as a whole (including hikers, horseback riders, and people on motor bikes and mountain bikes) can adversely impact wildlife behavior such as elk movement, the motor and mountain bikers more greatly impact elk movement than hikers and horseback riders do because these vehicles can cover greater distances in the same time period. Wisdom et al. (2018). One of the more significant wildlife disturbances that mountain bikes contribute is their relative speed and silence, which can transport the user inside an animal's "fight or flight" zone before the animal can detect the biker. Quinn Chernoff (2010). While mountain bikes traveling downhill can reach speeds upwards of 25-28 miles per hour, e-bikes can match those speeds but on flat land or up hills, and even novice bikers would be able to travel at such speeds. So, e-bikes may likely increase the frequency of such wildlife disturbances and dangerous or fatal encounters. *See* Servheen et al. (2017) (Board of review report of a grizzly attack and death from a mountain bike collision with a grizzly bear).

Our gaps in knowledge about the impacts of mountain bikes may be amplified with e-bikes. For example, mountain bikes as the vectors for spreading non-native exotic plants remain largely unstudied. Quinn and Chernoff (2010). E-bikes can increase the frequency of any occurrence and the impacts more widespread because motors can get bikes further and faster for a greater segment of the population.

In summary, the vague proposed policy change could potentially violate the Travel Management Rule (36 CFR 212 Subparts A, B). Because e-bikes bring the impacts of mountain bikes accentuated by the impacts of motorized vehicles, the trajectory that this policy proposal introduces suggests likely environmental impacts that should be evaluated under the National Environmental Policy Act. For these reasons, the Forest Service should withdraw this policy proposal.

Regards,

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Works cited

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