December 7, 2017

Craig Trulock
Acting Forest Supervisor
Shoshone National Forest
808 Meadow Lane Ave.
Cody, WY 82414
Submitted via email to: travel_management_comments@fs.fed.us

Re: WildEarth Guardians Comment on Shoshone National Forest Travel Management, November 2017 Scoping Document

Dear Acting Supervisor Trulock:

WildEarth Guardians respectfully submits these comments to the U.S. Forest Service concerning the scope of the agency's environmental analysis of the Shoshone National Forest Travel Management proposal under the National Environmental Policy Act (NEPA). WildEarth Guardians submitted extensive organizational scoping comments on the Shoshone National Forest's originally proposed Travel Management project on July 27, 2016.[1] Guardians also submitted a citizens' comment letter on behalf of over 8,700 concerned citizens on July 27, 2016.[2] We reiterate the relevant portions of each of those comment letters and hereby incorporate them by reference. The additional comments below emphasize some of our concerns with the revised proposal.

The Forest Service explains that its revised proposal set forth in the November 2017 Scoping Document differ from the 2016 proposal by, *inter alia*, (1) incorporating Subpart A of the Travel Management Rule into this travel management effort; (2) adding access routes to various dispersed sites and a POW camp; (3) modifying road segments to be consistent with what is proposed as the minimum road system; (4) re-routing MT14 to avoid wet areas, and decommissioning the existing trail; (5) converting certain roads to off-highway vehicle trails open to all vehicles (including ATVs and UTVs); (6) modifying maps to be more realistic; and (7) removing high and low elevation winter area designations. Under the new proposal the Forest Service would add 17 miles of motorized routes, increase the allowable width on 35.5 miles of motorized trails to 64 inches, convert 10 miles of existing roads to motorized trails, add 241 miles of seasonal restrictions, close 25 miles of road,

[1] Hereafter, 2016 Guardians Scoping Comment.
[2] Hereafter, 2016 Citizens Scoping Comment. The November 2017 Scoping Document states the Forest Service received "a total of 332 individual comments" on its May 2016 proposed action, but fails to acknowledge that one of those comments included over 8,700 Americans concerned about protecting the Shoshone's wild landscape and wildlife from the harms associated with off-road vehicle use. The Forest Service should in the very least acknowledge as part of the public record this overwhelming public support for protecting imperiled wildlife like lynx and grizzly from the harmful impacts of motorized use.

add 11 miles of ungroomed snowmobile trails, limit the size of tracked vehicles on groomed snowmobile trails, and establish winter use seasons.

WildEarth Guardians is a non-profit organization with offices in six states and over 183,000 members and supporters across the United States and the world. Guardians works to protect and restore wildlife, wild places, wild rivers, and the health of the American West. WildEarth Guardians has and continues to be deeply engaged in all levels of travel planning on our National Forests, with a particular focus on reconnecting wildlife habitat and restoring water quality by reducing the motorized footprint. The Shoshone National Forest provides amazing backcountry and wilderness, unique to the entire country. This rugged landscape provides important wildlife habitat for lynx, grizzly, and elk, and should be protected from the harmful impacts as a result of increasing off-road vehicle use.

1. We support the Forest Service's efforts to create a resilient future road network.

We applaud the Forest Service's efforts to address resource concerns and create an environmentally and economically sustainable minimum road system. The Forest Service states that it relied on the original scoping effort for travel management, the travel analysis process, the resulting travel analysis report, and public input to develop the initial proposal for the minimum road system. We applaud the Forest Service for stepping back to incorporate Subpart A and consider the Shoshone's travel analysis report as a part of this travel management effort. This is consistent with guidance from the Forest Service's Region 2 office.[3] We are very encouraged to see the Forest Service considering the Shoshone's road system on a landscape scale. We strongly support the agency's thoughtful, strategic approach to improving public access to the forest, reducing negative impacts from forest roads to water quality and aquatic habitats, and improving watersheds and forest resiliency.

Identifying a resilient future road network is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliance recreational access, and operate within budgetary constraints. And it is a win-win-win approach: (1) it's a win for the Forest Service's budget, closing the gap between large maintenance needs and drastically declining funding through congressional appropriations; (2) it's a win for wildlife and natural resources because it reduces the negative impacts from the forest road system; and (3) it's a win for the public because removing unneeded roads form the landscape allows the agency to focus its limited resources on the roads we all use, *improving* public access across the forest and helping ensure roads withstand strong storms.

The Forest Service should consider and apply recommendations from the Shoshone's travel analysis report. Based on the factors defining a minimum road system at 36 C.F.R. § 212.5(b)(1), it should determine the minimum road system. In assessing specific road segments, the Forest Service should also consider the risks and benefits of each road as analyzed in the travel analysis report, and whether the proposed road management measures are consistent with the recommendations from the travel analysis report. To the extent that the final decision in this project differs from what is recommended in the travel analysis report, the Forest Service must explain that inconsistency. *See, e.g.*, *Smiley v. Citibank*, 517 U.S. 735 (1996) ("Sudden and unexplained change . . . or change that does

[3] Memorandum from Brian Ferebee, Regional Forester, to Forest and Grassland Supervisors, *Travel Management Rule (TMR) Implementation* (March 17, 2017) (Attachment 1).

not take account of legitimate reliance on prior interpretation . . . may be 'arbitrary, capricious [or] an abuse of discretion") (internal citations omitted).

The Forest Service proposes:

> In order to implement Subparts A and C (36 CFR 212), identify a minimum road system and designations of areas/roads/trails for over snow vehicles by following the Transportation Analysis Report (TAR) located at the following website: https://www.fs.usda.gov/detail/shoshone/home/?cid=fseprd540333. The Travel Analysis Report Maps for Subparts A and C are available at the above website as follows: NZ-01, WK-01, WR-01, NZ-A, WK-A, and WR-A; please also see the winter maps: Sho_SubPartC_CFNF, Sho_SubpartC_SFGB, Sho_SubPartC_WR, and Sho_SubPartC_WK.

2017 Scoping Document at 10. But there is nothing in the travel analysis report or the listed maps that has anything to do with Subpart C. The Forest Service must clarify in its analysis how it interprets the travel analysis report fitting in with winter motorized travel designations.

2. Prioritize unneeded roads for decommissioning.

There are approximately 926 miles of system roads open to the public on the Shoshone. The Forest Service explains that it has decommissioned an average of only six miles of roads—system and non-system—per year between 1990 and 2010. 2017 Scoping Document at 8. Here it proposes to close 25 miles of road. 2017 Scoping Document at 10. The Forest Service must prioritize roads identified as unneeded in its travel analysis report for decommissioning.

Subpart A of the Forest Service's own travel rules requires it to identify unneeded roads to prioritize for decommissioning or to be considered for other uses. 36 C.F.R. § 212.5(b)(2). *See also Center for Sierra Nevada v. U.S. Forest Service*, 832 F. Supp. 2d 1138, 1155 (E.D. Cal. 2011) ("The court agrees that during the Subpart A analysis the Forest Service will need to evaluate all roads, including any roads previously designated as open under subpart B, for decommissioning."). A decision to decommission roads should also consider recommendations from the forest-wide travel analysis report. 36 C.F.R. § 212.5(b)(2) (requiring decisions about which roads are needed to be based on "a science-based roads analysis at the appropriate scale.").

The agency should disclose its analysis of all roads in the project area. One possible way to do this is to provide a roads table that includes the objective maintenance level of the road segments based on any previous NEPA decisions, the recommended treatment under the forest-wide travel analysis report, the start and end mileposts of the road segments (as opposed to length of random segments, so the public can understand which are road spurs versus connector roads), and the proposed maintenance level or treatment under each action alternative:

Road Number	Milepost start & end	No Action Alternative (existing	Travel Analysis Report Recommendation	Alt A	Alt B	Alt C

		NEPA status[4])				

Where the proposed treatment under the action alternative differs from the recommendation in the travel analysis report or a previous NEPA decision that has yet to be implemented, the Forest Service must explain why it is changing the treatment approach.

Road decommissioning may temporarily increase sediment to streams but has dramatic reductions in the long run. The Forest Service's Rocky Mountain Research Station has spent over a decade monitoring the effectiveness of road treatments. A 2012 report evaluating pre and post treatment of roads showed an 80% reduction in sediment delivery to streams when roads were decommissioned.[5] In addition, the 20-year monitoring report of the Northwest Forest Plan confirmed that watersheds that showed the most improvement in condition were those that completed road decommissioning.[6] Decommissioning road miles is consistent with the Forest Service's long-standing policy to "manag[e] access within the capability of the land."[7]

As forest road users and conservationists, we understand that a strategic reduction in road miles does not necessarily equate to a loss of access. Some roads are already functionally closed, either due to washouts, lack of use, or natural vegetation growth. Other roads receive limited use and are costly to maintain. Resources can be better spent on roads providing significant access than to spread resources thinly to all roads. This is why we urge a probing analysis of roads and the Forest Service to consider decommissioning at least some of the 926 miles of system roads.

3. Carefully consider direct, indirect and cumulative impacts.

NEPA requires the Forest Service to "[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment." 40 C.F.R. § 1500.2(d). A critical part of this obligation is presenting data and analysis in a manner that will enable the public to thoroughly review and understand the analysis of environmental consequences. NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most importantly, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail. 40 C.F.R. § 1500.1(b). The Data Quality Act

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[4] The Forest Service should clarify whether this is the objective maintenance level of each road as listed in INFRA, if there are differences between the objective maintenance level and status based on previous NEPA decisions, identify those previous NEPA decisions, and state whether or not they have been implemented.
[5] Nelson N., Black T., Luce C. and R. Cissel, U.S. Forest Service Rocky Mountain Research Station, LRT Monitoring Project Update 2012.
[6] Northwest Forest Plan—The First 20 Years (1994-2013): Watershed Condition Status and Trend (Draft, May 2015), pages 3, 5, 66, 68, *available at* https://reo.gov/monitoring/reports/20yr-report/GTR_AREMP_DRAFT_MAY_2015.pdf (last accessed April 14, 2017) (noting the "decommissioning of roads in riparian areas has multiple benefits according to our model by improving both the riparian scores and typically the sedimentation scores.").
[7] 66 Fed. Reg. at 3208, 3215 (highlighting in 2001 that the Forest Service was "shifting from developing new roads" and increasing "emphasis on maintaining existing roads and improving access in other areas.").

expands on this obligation, requiring that influential scientific information use "best available science and supporting studies conducted in accordance with sound and objective scientific practices." Treasury and General Government Appropriations Act for Fiscal Year 2001, Pub.L. No. 106-554, § 515.

Detailed, Site-Specific Information

Site-specific analysis is crucial. The Forest Service must conduct site-specific analysis as a part of its analysis. This includes explicitly delineating where system and unauthorized roads currently exist and the total mileage of each, which roads will be decommissioned or closed, and the resulting impacts of such activity on important Forest resources. Please provide a list or table of all road segments in the project area and proposed actions for those roads by alternative, and include the recommendations from the forest-wide travel analysis report. Detailed, site-specific information is essential to establishing an accurate baseline for comparing any proposed action alternatives and omitting this information would preclude meaningful public comment.

Impacts from Forest Roads

The best available science shows that roads cause significant adverse impacts to National Forest resources. *See, e.g.*, 66 Fed. Reg. at 3208 ("Scientific evidence compiled to date [2001] suggests that roads are a significant source of erosion and sedimentation and are, in part, responsible for a decline in the quality of fish and wildlife habitat."). A 2014 literature review from The Wilderness Society surveys the extensive and best available scientific literature—including the Forest Service's General Technical Report synthesizing the scientific information on forest roads (Gucinski 2001)—on a wide range of road-related impacts to ecosystem processes and integrity on National Forest lands.[8] Erosion, compaction, and other alterations in forest geomorphology and hydrology associated with roads seriously impair water quality and aquatic species viability. Roads disturb and fragment wildlife habitat, altering species distribution, interfering with critical life functions such as feeding, breeding, and nesting, and resulting in loss of biodiversity. Roads facilitate increased human intrusion into sensitive areas, resulting in poaching of rare plants and animals, human-ignited wildfires, introduction of exotic species, and damage to archaeological resources.

Roads, Trails, and Invasive Species

Roads contribute to the spread of invasive species. Roads themselves—regardless of whether they are open or closed to the public—split apart the forest landscape, creating more buffers where invasive species are likely to grow. *See* 2016 Guardians Scoping Comment, Attachment I at 11. The Forest Service should include in its analysis an assessment of how the roads in the project area are likely to provide a vector for the spread of invasive species by fragmenting the landscape and creating buffers that are less resistant and resilient to stressors like invasive species. It should also disclose how the proposed use of those roads by OHVs and other motorists will further exacerbate the risk of spreading invasive species.

Forest Roads and Fire

[8] *See* The Wilderness Society, *Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review* (May 2014) (Attachment I to 2016 Guardians Scoping Comment).

Science shows that roads and trails play a role in affecting wildfire occurrence. *See* 2016 Guardians Scoping Comment, Attachment I at 9 (noting human-ignited wildfires account for more than 90% of fires on national lands and are almost five times more likely in areas with roads). What's more, closed roads that remain on the landscape can affect where and how forests burn. *Id.* Because closed roads remain on the landscape and thus continue to allow for human caused wildfires, this further supports considering decommissioning at least some of the unneeded system roads instead of changing those roads to ML1.

Climate Change & Forest Roads

Climate change is a major challenge for natural resource managers because of the magnitude of potential effects and the related uncertainty of those effects. A robust analysis under NEPA of the forest road system and its environmental and social impacts is especially critical in the context of climate change.

Climate change intensifies the impacts associated with roads. For example, as the warming climate alters species distribution and forces wildlife migration, landscape connectivity becomes even more critical to species survival and ecosystem resilience.[9] Climate change is also expected to lead to more extreme weather events, resulting in increased flood severity, more frequent landslides, altered hydrographs, and changes in erosion and sedimentation rates and delivery processes.[10] Many National Forest roads are poorly located and designed to be temporarily on the landscape, making them particularly vulnerable to these climate alterations.[11] Even roads designed for storms and water flows typical of past decades may fail under future weather scenarios, further exacerbating adverse ecological impacts, public safety concerns, and maintenance needs.[12] At bottom, climate change predictions affect all aspects of road management, including planning and prioritization, operations and maintenance, and design.[13]

The Forest Service has a substantive duty under its own Forest Service Manual to establish resilient ecosystems in the face of climate change.[14] More broadly, the Forest Service has a mission to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. The agency's own climate change science identified above demonstrates how climate change places ecosystems on our national forests at risk. Thus to fulfill its

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[9] 2016 Guardians Scoping Comment, Attachment I at 9-14.

[10] *See, e.g.*, Halofsky, J.E. et al. eds., USDA, Forest Service, Pacific Northwest Research Station, *Adapting to Climate Change at Olympic National Forest and Olympic National Park*, PNW-GTR-844 (2011), pages 21-27 (Attachment 2).

[11] *See, e.g.*, *id.* at 36-38.

[12] *See, e.g.*, Strauch, R.L. et al., *Adapting transportation to climate change on federal lands in Washington State*, Climate Change 130(2), 185-199 (2015) (noting the biggest impacts to roads and trails are expected from temperature-induced changes in hydrologic regimes that enhance autumn flooding and reduce spring snowpack).

[13] Attachment 2 at 35.

[14] *See, e.g.*, FSM 2020.2(2) (directing forests to "[r]estore and maintain resilient ecosystems that will have greater capacity to withstand stressors and recover from disturbances, especially those under changing and uncertain environmental conditions and extreme weather events"); FSM 2020.3(4) ("[E]cological restoration should be integrated into resource management programs and projects . . . Primary elements of an integrated approach are identification and elimination or reduction of stressors that degrade or impair ecological integrity.").

mission, the Forest Service must address the risks of climate change when managing activities involving roadwork on our national forests.[15]

Here, the Forest Service must analyze in detail the impact of climate change and changing weather patterns on forest roads and forest resources. It should start with a vulnerability assessment, to determine the project area's exposure and sensitive to climate change, as well as its adaptive capacity.[16] For example, the agency should consider the risk of increased disturbance due to climate change when analyzing this proposed project. It should include existing and reasonably foreseeable climate change impacts as part of the affected environment, assess them as part of the agency's hard look at impacts, and integrate them into each of the alternatives, including the no action alternative. The agency should also consider the cumulative impacts likely to result from the proposed project, proposed road activities, and climate change.[17] In planning for climate change impacts and the proposed road activities, the Forest Service should consider: (1) protecting large, intact, natural landscapes and ecological processes; (2) identifying and protecting climate refugia that will provide for climate adaptation; and (3) maintaining and establishing ecological connectivity.[18]

4. Protect roadless areas.

To protect the Shoshone's niche as a backcountry forest, the Forest Service should not add new motorized trails within roadless areas. Here, the Forest Service proposes 3.7 miles of new motorized trail segments within an Inventoried Roadless Area (IRA). 2017 Scoping Document at 10. It states it will "offset" these impacts by closing 4.8 miles of existing roads in roadless areas. *Id.* It is unclear what authority the Forest Service claims to use "offsets" for authorizing new motorized routes in IRAs. This approach ignores the purpose of identifying and managing IRAs to preserve their roadless characteristics. The Forest Service must explain whether the existing roads proposed for closure are system roads. If the existing roads in roadless areas are not system roads, the agency already has an obligation to decommission these roads from the landscape and should not be able to rely on this action as an "offset" to creating new motorized routes in IRAs.

Setting aside the questions of whether the Forest Service should use "offsets" for new impacts to IRAs or whether the "offsets" in this case might be valid, in the very least the Forest Service should decommission the 4.8 miles of existing roads and not simply close the roads. The policy to prioritize decommissioning roads as opposed to closing them, as well as the disadvantages of closing roads as compared to long-term advantages of decommissioning roads, are explained above in section two. By proposing to add motorized route in IRAs, the trajectory of this decision runs directly contrary to Forest Service law and policy.

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[15] USDA, Forest Service, *National Roadmap for Responding to Climate Change* at 26 (2011), *available at* http://www.fs.fed.us/climatechange/pdf/Roadmapfinal.pdf, page 4 (outlining the agency's plans to respond to climate change through assessing risks and vulnerabilities, engaging to seek solutions, and managing for resilience).

[16] Attachment 2 at 36 ("potential climate change effects underscore the need to increase activity and be proactive in priority areas to avoid impacts associated with infrastructure failure.").

[17] *Id.* ("Managers will likely need to evaluate the density, location, design, and maintenance intensity of roads and related structures in the context of climate change to avoid escalating road maintenance costs associated with [climate change] impacts").

[18] *See* Schmitz, O.J. and A.M. Trainor, *Adaptation Approaches for Conserving Ecosystem Services and Biodiversity in Dynamic Landscapes Caused by Climate Change*, USDA Forest Service RMRS-P-71 (2014), pages 301-303.

5. Meaningfully apply the minimization criteria.

Our 2016 scoping comment urged the Forest Service must demonstrate in the record how it meaningfully applies the minimization criteria in designating both summer and winter motorized routes, areas and trails. 2016 Guardians Scoping Comment at 2-11. We noted the Forest Service could not adopt prior motorized designations without assuring that the decisions authorizing those motorized designations complied with the minimization criteria and NEPA. *Id.* at 3. Our comment emphasized that mitigation is not minimization, urging the Forest Service not to rely on "Project Designed Features" or offsets to achieve compliance with the Travel Management Rule. *Id.* at 4-5.

We included a report from The Wilderness Society as Attachment A to our 2016 organizational scoping comments that recommends best practices for complying with Subpart B's substantive duty to locate motorized designations so as to minimize harm to natural resources, harassment to wildlife, and conflicts among uses. *See* The Wilderness Society, *Achieving Compliance with the Executive Order "Minimization Criteria" for Off-Road Vehicle Use on Federal Public Lands: Background, Case Studies, and Recommendations* (May 2016). The Forest Service should apply those recommendations when considering the location and design of the motorized routes proposed here.

For motorized summer travel management, this proposal would add 17 miles of motorized routes (roads and trails), increase the allowable width on 35.5 miles (19 miles of existing and 17 miles of new) of motorized trails to 64 inches, convert 10 miles of existing roads to motorized trails, and add 241 miles of seasonal restrictions. In sum, the proposed action would increase summer motorized routes to a total of 944 miles on the Shoshone. In terms of winter travel management, there are currently 272 miles of groomed and ungroomed snowmobile trails. About 528,000 acres of the more than 2 million acres on the Shoshone are available for winter motorized use. The Forest Service proposes to add 11 miles of ungroomed snowmobile trails, close 1,354 acres of cross-country skiing area to motorized uses, limit the size of tracked vehicles on groomed snowmobile trails, and establish winter use seasons. The Forest Service must conduct meaningful winter travel planning to support these designations.

We fully support the comments submitted by Winter Wildlands Alliance regarding winter travel management designations on the Shoshone. The low elevation winter areas should not be open to over-snow vehicles (OSVs) in the first place. These areas rarely receive sufficient snow to allow for motorized use and they are not places that people actually snowmobile in. Unless the Forest Service demonstrates a demand for winter motorized use in these low elevation areas, it should not designate them as open. Plus, the season restrictions fail to imperiled wildlife on the Shoshone, including grizzly bears. Guardians' 2016 comments included peer reviewed literature reviews of the best available science regarding OSV impacts to natural resources, wildlife, and human-powered uses, as well as best management practices for applying the minimization criteria. The Forest Service must consider those resources and explain how the proposed action reflects this best available science.

6. Statement of purpose and need.

Our original scoping comments asked the Forest Service to justify the claimed need for additional motorized routes, especially considering the agency's own recognition of the Shoshone National Forest's niche as a backcountry forest. *See* 2016 Guardians Scoping Comment at 13-14. In its revised proposal, the Forest Service states the project is needed because "[t]here is increasing demand for

motorized routes to a growing user group on the Forest, particularly, with regard to motorized loop opportunities." 2017 Scoping Document at 7. Again, we urge the Forest Service to demonstrate this assumed demand for additional motorized routes. The 2015 Shoshone Forest Plan call for an addition of only three new motorized loop opportunities over the duration of the entire Forest Plan (at least 10-15 years). The modified proposal presented here seeks to increase motorized use beyond that limited amount, increasing loop opportunities by approximately 77 miles from 252 miles to 329 miles. 2017 Scoping Document at 11. There is no data in the record to justify a demand for this increase.

Conclusion

Given the geographic scope of this proposal, the intensity and controversy of its impacts, and other significance factors, we are pleased the Forest Service intends to complete an environmental impact statement (EIS). We look forward to reviewing the draft EIS and working with the Forest Service to address the concerns identified above.

Sincerely,

Marla Fox
Rewilding Attorney
[redacted]

Attachments

Attachment 1: Memorandum from Brian Ferebee, Regional Forester, to Forest and Grassland Supervisors, *Travel Management Rule (TMR) Implementation* (March 17, 2017).

Attachment 2: Halofsky, J.E. et al. eds., USDA, Forest Service, Pacific Northwest Research Station, *Adapting to Climate Change at Olympic National Forest and Olympic National Park*, PNW-GTR-844 (2011), pages 21-27.