December 3,

 Subject: Cuddy’s comments on Lemmon Gulch EA

To:

Purpose and Need (PN)

the Proposed Action (Alt 2) was developed in a large part to address the need for downhill biking, and it proposes 40 miles of trails to address this need, however, the Preferred Alternative (Alt 6), only proposes 18 miles(45%of Alternative 2”s) of downhill trails to meet the Need, the **fewest** of all the action alternatives. The Environmental Consequence section of the EA provides no supporting evidence to support this amount of trail reduction especially since it falls far short of meeting the stated PN.

Key Issues and Alternatives

To begin with, the Proposed Action identified in the FS scoping process, has already been modified in the EA (Alt 2)to address a number of the livestock concerns (EA page 12). The EA provides an extremely speculative analysis of potential impacts for all of the Action Alternatives. All of the action alternatives, including Alternative 2, include a robust suite of resource protection measures (pages 10-12) that would minimize any negative impacts on the environment. These include the best management practices detailed in Appendix B; road and trail closure from December 1 to May 1 to protect wildlife winter range; and a phased implementation, monitoring, and adaptive management plan in Appendix C. These measures thoroughly address all resource concerns; therefore, it is not necessary to select a reduced mileage alternative (i.e., Alternatives 3, 4, 5, or 6) in order to further minimize impacts.

In fact, the EA demonstrates no environment concerns that would even necessitate the development of alternatives to Alternative 2, except for the No Action Alternative. See also environmental effects discussion below.

The range of Alternatives considered is not only arbitrary(no environmental reasons for their development) but does not provide a true range, i.e., all Alternatives to Alternative 2 ,provide, at most, 56% of the total trails and only 51% of the downhill trails as does Alternative 2, falling far short of a legitimate range of Alternatives, especially in light of the professed lack of environmental effects, the need to use surrogates in place of actually environmental effects, and even the admission that the some of the surrogates used are even counter productive and provide erroneous data for comparing Alternatives and estimating environmental effects(see EE below)!

Environmental Consequences

Almost all the environmental effects measures used for both wildlife and range, are at a scale that renders them meaningless in terms of disclosing actual environmental impacts . As your own OGC (Office of General Council) lawyers have argued in lawsuits brought against other ONF NEPA decisions, ‘yes, it is true, that at the tip of the shovel there is obviously going to be impacts but at that scale it is meaningless to the resource being analyzed’. This obviously holds true for both the ‘wide-ranging’ wildlife species and domestic livestock management, being considered in this analysis, i.e., using the project area(3,200ac) and the scope of the proposed activities (x acres of actual ground disturbance) as the basis to describe the effects to wide ranging wildlife species and cows is analogous to considering the impacts at the ‘tip of the shovel’

As stated above, for range, as well with the wildlife analysis , the scale of the actually project area as it relates to the need of the wildlife species, 0r livestock management, is so small as to render the effects unmeasurable for all practical purposes. For instances, in the Mill Creek Allotment there are 4 water developments in the project area of a total of 19 in the pasture or 60 in the allotment as a whole. Yet, even though you have not even discovered any research or evidence that mtn bikes may impact the use of a water development you arbitrarily develop a trail to water development distance criteria(buffer) and then apply it to 4 out of 60 developments; the geographic scale of the project area and the scope of the actions in Alternative 2 are so small in relation to the resource as to render any potential environmental effects meaningless, and of little to no value In determining the value of one Alternative over another’s, i.e., you could fence cows out the entire project area and not have a reduction in permitted AUMs or in increase in resource damage from cows. The same hold true for ‘wide ranging’ wildlife (anything with legs or wings), it is meaningless at the scale of the project area and the scope of the activities being proposed, so why even bother trying to measure it

Another example demonstrating the scale of any of the action alternatives is so small in relation to the scale of the key resources as to likely render any environmental effects unmeasurable and indistinguishable from natural variability. For key issue #1, grazing, the project would affect a maximum of 18.7 acres (Table 5, page 20), while the allotment is over 51,000 acres. In addition, trails would be within 0.5 mile of only 4 water developments out of 60 in the allotment, in addition, the analysis notes that there is no credible evidence that mountain bikers negatively impact water development or salt block usages at any distance! For key issue #2, wildlife, the trails and roads would be closed to protect winter habitat and the project area is not important summer habitat (as required by the purpose and need), so impacts on big game wildlife would be minimal under all of the alternatives.

The EA states that there is potential Bumble Bee habitat (all of x acres, I wonder if any bees could find it?)and it probably been compromised like most bee habitat in the west has been due to fire exclusion and livestock grazing, but, we do not know if that is true here, so we will assume that 100% of potential habitat is actually habitat so we can talk about differences in effects between Alternatives. Again, this is not appropriate means of disclosing environmental consequences.

The EA, page 76 suggest that the trails and trail use may “disperse cows to less productive areas”. Conversely, I would think, and even more likely scenario, since the Project area is very steep ( remember, the area was selected for its potential for downhill mtn biking) the trails would then facilitate cattle distribution and result in better utilization of hard-to-reach forage areas ,thus being a positive influence on range management(just saying).

As stated above, most of the effects discussed in the environmental effects section of the EA are not actually environmental effects! As the EA states ,in many cases they are surrogates to be used in lieu of effects, and therefore these surrogates will at least allow one to compare the Alternatives to one another. These surrogates’ comparisons (Alt 3 does less than 2 but more than Alternative 4 .) , although may be of some use to distinguish differences between Alternatives , they in no way disclose effects! Although effects should render themselves useful for comparing Alternatives, they still need to be actual environmental effects!

And then, to add insult to injury in regards to the surrogate (distance to water developments, salt blocks, cattle trailing trails and high use areas, the EA states “ these buffers in no way represent how far away these need to be away from a mountain bike trail for livestock to use them … only as a way to represent a range of potential effects …, it is also acknowledged that these buffers are not created equal, Due to their location ….., effects would potentially be different but cannot be quantified”!!!!! To summarize, your resource folks could not find any research or documentation of any kind to support that mtn biking negatively impacted livestock management, but you made up surrogates i.e., Distance to water developments, salting areas, cattle trailing trails, and ’high use’ areas, etc., and then state that not only is this surrogate completely useless for disclosing effects but that it is completely useless in comparing Alternatives! . It appears that you are trying your darndest to appear unbiased, but it is just putting the process in jeopardy without any upside.

And, in conclusion, if you actually happen toconsider actual environment effects criteria in your discussions, I think your conclusion regarding the effects on the Gray Wolf, sum up what should have been disclosed for most of the effects discussions. On pager 45 of the EA it states “Therefore, due to the scope and scale of the project, the abundance of suitable habitat located in close proximity to proposed activities, the limited duration of potential disturbance and exposure, and the lack of detrimental effects to prey species, any potential effects to wolves dispersing through the project area would be **insignificant and discountable**(emphasis added).

Implementation Plan

All Alternatives rely on the Implantation Plan(Appendix C) to address any unforeseen environmental concerns that could arise as the trails are built and used. On page 77 of the EA “yearly monitoring would be used to see if bikes are changing cow utilizatilization . And on Page 137 of the Implementation Plan, “Grazing Utilization: Are impacts to cattle distribution affecting the ability to meeting grazing standards? Specific utilization standards from the Forest Plan would be used to determine if standards are being met at established monitoring location (DMA) near Lemon Creek. If not, it could signify the cows are not moving in the way the permittee intends them to”. There is only one of these monitoring areas in the Project area! What have been the monitoring results to date, why does the FS think that if there are changes to this one area it may single out bikes being the cause. The permettee could easily manipulate the livestock to over utilize this area. The FS needs to drop this requirement from the Alternatives or really develop a comprehensive monitoring strategy for the entire project area and the Lemon Gulch pasture! One option to consider in this potential monitoring strategy would be to include the “high use” areas the permettee is concerned with. We imagine, just by their definition of ‘high use’, that currently these areas do not meet stubble height requirements or other Forest Plan Standards, but we digress. On a sider note, The EA does not disclose the location of salting areas, or ‘high-use’ areas so how did you estimate how many miles are within x distance to these areas? The Forest should identify these areas on the ground and then monitor these sites pre and post project implantation. And since the permettee is required, when cows are on the ground, to be on site 2days a week until July and one day a week thereafter, you need to require them to to submit, in writing, a diary noting the dates they were present in the vicinity of their livestock and their observations(livestock location, utilization levels, bikers chasing cows, etc.,). We assume the Forest could develop a monitoring plan that would help address this non-issue, but the cost would be prohibitive. Since the Forest could not find any information that mtn biking adversely impacted range management or has created safety issues, maybe these concerns would be better addressed by the FS Research Station, or maybe, they just aren’t real issues to be concerned with.

 In summary, the FS Preferred Alternative, Alternative 6, addresses the P&N the least positively of all the action Alternative .(reword). Alternative 2’s design, mitigation measures, BMPs, and the Implementation Plan, eliminate the need to develop Alternatives to it in order to reduce resource impacts. As a result, we ask that you decide to move forward with Alternative 2 or add additional trails to Alternative 6, so it better meets the P&N.

Sincerely

Paul Cuddy