

USDA Forest Service, Rocky Mountain Region
Attn: Reviewing Officer, C/O Director of Strategic Planning
2nd floor, 1617 Cole Blvd. Building 17
Lakewood, CO 80401

Objections to the Grand Mesa, Uncompahgre and Gunnison National Forests Revised Land Management Plan and Final Environmental Impact Statement

Submitted on behalf of Colorado Offroad Trail Defenders and Patrick McKay
October 2, 2023

Project Name: Grand Mesa, Uncompahgre and Gunnison National Forests Revised Land Management Plan and Final Environmental Impact Statement

Project ID: 51806

Responsible Official: Chad Stewart, GMUG Forest Supervisor

Affected National Forest Units: Grand Mesa, Uncompahgre and Gunnison National Forests

Dear Objection Reviewing Officer:

Please accept these joint objections regarding the "Grand Mesa, Uncompahgre and Gunnison National Forests Revised Land Management Plan and Final Environmental Impact Statement" on behalf of Colorado Offroad Trail Defenders (COTD), as well as COTD Vice President Patrick McKay as an individual. These objections concern the GMUG National Forests Plan only.

These objections are submitted in accordance with 36 C.F.R. part 218. The **lead objector** and primary point of contact for these objections is Patrick McKay, address 5563 Sydney Place, Highlands Ranch, CO 80130. He can be contacted by email at patrick@fairusetube.org or by phone at 303-809-3613.

We formally request a resolution meeting in accordance with 36 C.F.R. § 218.11. We hereby authorize, and indeed encourage, the Reviewing Officer to extend the time for a written response to objections, particularly if it will facilitate a thorough effort to explore opportunities to resolve objections. See 36 C.F.R. § 218.26(b).

I. Statement of Interest and Standing to Object

Colorado Offroad Trail Defenders (COTD) is a 501(C)(3) non-profit organization founded in 2020, dedicated to keeping offroad trails open to full-size four wheel drive vehicles and maximizing opportunities for offroad motorized recreation in Colorado and surrounding states. It works closely with its partner organization, Colorado Offroad Enterprise, based in Buena Vista, CO, which focuses on trail adoptions and community outreach to preserve high quality opportunities for motorized recreation in the central Colorado mountains. CORE has adopted

numerous trails in the Buena Vista and Leadville areas and has done multiple trail work projects in the Gunnison National Forest.

COTD's board members regularly participate in motorized recreation on roads and trails in the GMUG National Forest, and have concrete and definite plans to continue doing so. COTD and its board members have recreational, aesthetic, and environmental interests in the GMUG National Forest that will be adversely affected by the aspects of the Revised Forest Plan that are the subjects of the objections set forth below.

Patrick McKay is the Vice President of COTD and an advisory board member of CORE. He regularly engages in motorized recreation on the GMUG National Forest and his individual recreational, aesthetic, and environmental interests will be harmed by the aspects of the Revised Forest Plan objected to below.

Standing to object is based on extensive comments submitted by Patrick McKay on behalf of both COTD and himself as an individual during the public comment period on the Draft EIS, dated October 23, 2021 and October 29, 2021. These comments and all attached documents submitted with them are incorporated by reference per 36 C.F.R. § 218.8(b)(4). These comments were timely filed prior to the end of the public comment period, and establish COTD's prior participation in the administrative process for purposes of standing to object. Both COTD as an organization and Patrick McKay as an individual therefore meet the requirements of 36 C.F.R. § 218.5 to qualify as objectors.

All of the issues discussed in COTD's objections were either first raised in our DEIS comments or are new issues that arose after the close of the last public comment period in the Forest Plan Revision process, either as a result of subsequent changes to proposed forest plan and associated maps and other documents, or are issues that COTD first became aware of after the last public comment period.

II. Standard of Review

We raise the following objections, which provide a legal basis for our requested changes to the Draft ROD.

The objection process necessarily anticipates the possibility of, and likelihood of success in, subsequent litigation brought by an objector. In such a challenge the Administrative Procedure Act (APA) waives the United States' sovereign immunity for those aggrieved by "final agency action." 5 U.S.C. §§ 702, 704; *Lujan v. National Wildlife Fedn.*, 497 U.S. 871, 882 (1990). APA section 706(2) provides the relevant standard of review: a reviewing court shall "hold unlawful and set aside agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; [or] (C) short of statutory right; [or] (E) unsupported by substantial evidence...."

This standard of review is "narrow" but the agency:

must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made....Normally, an agency rule

would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

Motor Vehicle Mfrs. Ass'n. v. State Farm Mutual Automobile Ins. Co., 463 U.S. 29, 43 (1983) (citations omitted). This is considered a deferential standard of review. However, as our objections will demonstrate, the objected to provisions of the Revised Forest Plan were based on important factual or legal errors and thus were arbitrary and capricious because “the agency has relied on factors which Congress has not intended it to consider”, “entirely failed to consider an important aspect of the problem”, or relied on erroneous map data in making its decision and therefore “offered an explanation for its decision that runs counter to the evidence before the agency”.

III. Objections

OBJECTION #1: UNLAWFUL DESIGNATION OF RECOMMENDED WILDERNESS AREAS ADJACENT TO CONGRESSIONALLY DESIGNATED WILDERNESS

A. Introduction and Connection to Prior Comments

Colorado Offroad Trail Defenders objects to the designation of all Recommended Wilderness (MA 1.2) areas designated in the proposed Forest Plan, on the grounds that these designations contravene the express intent of Congress as established by the Wilderness Act of 1964 and the authorizing legislation establishing the boundaries of each of the adjacent Wilderness areas, which in multiple instances prohibited the creation of protective buffer zones around them.

COTD’s prior comments included extensive discussion opposing recommended wilderness areas as inconsistent with Congressional intent, and the arguments made herein are an extension of those comments. Standing to object on these grounds is thus established.

B. Analysis

COTD objects to the designation of any Recommended Wilderness (MA 1.2) areas adjacent to existing designated Wilderness. The Draft Record of Decision states, “Each of the recommended areas is adjacent to existing congressionally designated Wilderness areas.” (Draft ROD, at 18.) Each of the Recommended Wilderness areas proposed in the Revised Forest Plan were selected specifically *because* of their adjacency to existing designated Wilderness and are to be managed “consistently with adjacent congressionally designated wilderness” (Final Forest Plan, at 113), or in other words, managed as if they were already designated wilderness themselves.

The Revised Plan’s intent to administratively enlarge existing Congressionally designated Wilderness contravenes the express intent of both the Wilderness Act itself and the authorizing

legislation for each of the individual wilderness areas these Recommended Wilderness areas are intended to extend.

The Wilderness Act of 1964 makes it quite clear that new Wilderness areas are supposed to be designated by Congress, not created by administrative agencies. Indeed, the creation of new de facto wilderness areas by administrative agencies was precisely what the Wilderness Act was intended to prevent. As the U.S. District Court for the District of Wyoming explained in *State of Wyoming v. United States Department of Agriculture*, No. 01-CV-86-B, at *1 (D. Wyo. July 14, 2003) (reversed on other grounds):

The Wilderness Act declared it the policy of Congress to "secure for the American people of present and future generations the benefits of an enduring resource of wilderness." 16 U.S.C. § 1131 (a). To effectuate this policy, Congress established the National Wilderness Preservation System ("NWPS"), which would be composed of congressionally designated "wilderness areas." *Id.* The Wilderness Act also immediately designated certain areas as wilderness, *id.* § 1132(a), and provided the procedure for future designation of wilderness areas, *id.* § 1132(b). In establishing the NWPS, Congress unambiguously provided that "no Federal lands shall be designated as 'wilderness areas' except as provided for in [the Wilderness Act] or by a subsequent Act." *Id.* § 1131(a).

Therefore, Congress has the sole power to create and set aside federally designated wilderness areas pursuant to the Wilderness Act. *Parker v. United States*, 309 F. Supp. 593, 597 (D. Colo. 1970), *aff'd*, 448 F.2d 793 (10th Cir. 1971). In fact, the primary purpose of the Wilderness Act was to provide:

[a] statutory framework for the preservation of wilderness [that] would permit long-range planning and assure that no further administrator could arbitrarily or capriciously either abolish wilderness areas that should be retained or make wholesale designations of additional areas in which use would be limited.

Id. (quoting H.R. Rep. No. 88-1538). To this end, the Wilderness Act removed the Secretary of Agriculture's and the Forest Service's discretion to establish de facto administrative wilderness areas, a practice the executive branch had engaged in for over forty years. *Parker*, 309 F. Supp. at 597, *aff'd*, 448 F.2d at 797. Instead, the Wilderness Act places the ultimate responsibility for wilderness designation on Congress. *Id.* 16 U.S.C. § 1131 (a). In this regard, the Wilderness Act functions as a "proceed slowly order" until Congress — through the democratic process rather than by administrative fiat — can strike the proper balance between multiple uses and preservation. *Parker*, 448 F.2d at 795. This statutory framework necessarily acts as a limitation on agency action. *Id.* at 797.

The quote from the Congressional Record in the case above is particularly relevant, as it clearly establishes that the intent of Congress in passing the Wilderness Act was to "assure that no future administrator could arbitrarily or capriciously either abolish wilderness areas that should be retained **or make wholesale designation of additional areas in which use would be limited.**" H.R. Rep. No. 1538, 88th Cong., 2d Sess., reprinted in 1964 U.S. Code Cong. Ad. News 3615, 3616-17. In other words, Congress intended to entirely remove both the designation and abolition of wilderness-type areas from the purview of administrative agencies

like the Forest Service. Such designations and their equivalents were intended to be under the sole jurisdiction of Congress itself.

While the Forest Service may manage areas to preserve existing wilderness character, it is beyond the Forest Service's authority and contrary to the Wilderness Act to use "recommended wilderness" status to effectively create large de facto wilderness areas where Congress has not chosen to do so. The creation of administrative wilderness areas managed identically to adjacent designated wilderness is precisely what Congress intended to prohibit when it passed the Wilderness Act.

To allow the Forest Service to create such areas would be to allow agencies to circumvent the clear intent of the Wilderness Act simply by changing the name of such areas to "recommend wilderness." The designation of each of the recommended wilderness areas in the Revised Forest Plan is therefore contrary to law and based "on factors which Congress has not intended it to consider", rendering such designations arbitrary and capricious as well.

The Recommended Wilderness designations in the Revised Forest Plan also violate the express language of the authorizing legislation which established each of the adjacent Wilderness Areas. Several of the wilderness areas the Revised Forest Plan would extend were created by legislation that included an express prohibition on establishing buffer zones around those wilderness areas. For example, H.R. 5487, the "Colorado National Forest Wilderness Act of 1980", which established both the Raggeds Wilderness and Mount Sneffels Wilderness (both of which are proposed to be extended by Recommended Wilderness areas in the Revised Forest Plan) stated:

Congress does not intend that designation of wilderness areas in the State of Colorado lead to the creation of protective perimeters of buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

The creation of administrative "recommended wilderness" areas immediately adjacent to existing designated wilderness managed identical to designated wilderness functionally enlarges them and establishes exactly the kind of protective perimeters or buffer zones that Congress intended this language to prohibit. Therefore, the designation of recommended wilderness areas adjacent to the Raggeds and Mount Sneffels Wilderness, as well as any other wilderness areas whose authorizing legislation included similar anti-buffer language, is unlawful. Any attempt by the Forest Service to create such buffer zones in the form of recommended wilderness managed identically to designated wilderness is also arbitrary and capricious because it is based on factors that Congress has not intended the agency to consider.

C. Conclusion and Requested Resolution

For the reasons stated above, the designation of Recommended Wilderness adjacent to designated wilderness, as proposed in the Revised Forest Plan, is both unlawful and arbitrary and capricious. Such designations are barred by the clear intent of both the Wilderness Act and the authorizing legislation for many of the individual wilderness areas that would be effectively

extended by the creation of large areas of administrative de facto wilderness along their boundaries.

Congress designated the precise boundaries of each of these wilderness areas for particular reasons, and to administratively enlarge them without Congressional authorization contravenes the express intent of Congress. The designation of Recommended Wilderness which effectively enlarges existing congressionally designated wilderness is therefore beyond the scope of the GMUG National Forest's legal authority.

To resolve this objection, COTD requests that the Reviewing Officer remand the Draft Record of Decision back to the Forest Supervisor of the GMUG National Forest with instructions to remove all Recommended Wilderness area designations from the Final Forest Plan.

OBJECTION #2: CONFLICT BETWEEN THE LOTTIS CREEK PROPOSED WILDERNESS AND THE UPPER PORTION OF THE CROSS MOUNTAIN 4x4 ROAD

A. Introduction and Connection to Prior Comments

Colorado Offroad Trail Defenders objects to the boundaries of the Lottis Creek Proposed Wilderness as proposed in the Revised Forest Plan, which include the last 1.25 miles of NFSR 752.3A Cross Mountain. Due to a mapping error, this road segment, which crosses the southwestern corner of the Union Roadless Area, was mistakenly omitted from the route inventory used for the 2010 Gunnison Travel Management Plan and is not shown as an authorized route on the current MVUM, yet it is not signed or gated as closed on the ground and continues to be regularly driven.

While COTD did not comment on this specific issue during the DEIS comment period, we commented generally opposing recommended wilderness areas, and the designation of the Lottis Creek Proposed Wilderness was added to the preferred alternative after the DEIS comment period. Additionally, COTD only discovered the mapping error regarding the upper portion of this route in September 2023. Accordingly, this issue is a new issue that arose after the close of the last public comment period and COTD has standing to object on those grounds.

B. Analysis

The Cross Mountain Road has long been one of the most popular 4x4 roads in the southern Taylor Park area. It is listed in several of the most prominent online offroad trail guide websites including TrailsOffroad¹, OnXOffroad², and JeepTheUSA³, and is also promoted on the website of at least one ATV rental outfit in Taylor Park⁴. This road travels from the flat grassy rangeland of Union Park to a secondary summit of Cross Mountain, which was so named because of a longstanding local tradition of erecting crosses there to commemorate deceased loved ones.

¹ <https://www.trailsoffroad.com/scout-routes/2896-cross-mountain>.

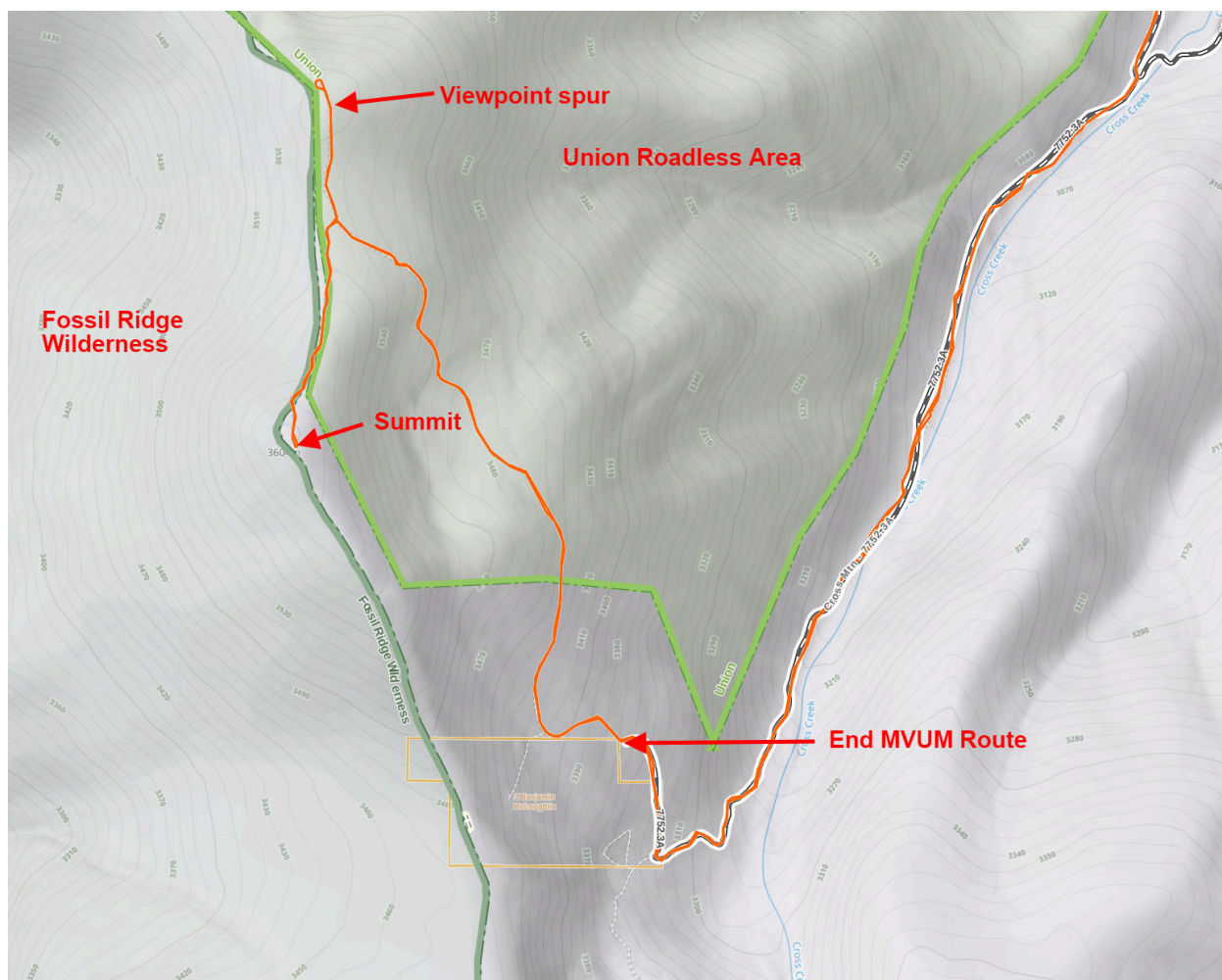
² <https://www.onxmaps.com/offroad/trails/us/colorado/cross-mountain>.

³ <https://www.jeeptheusa.com/cross-mountain-30.html>.

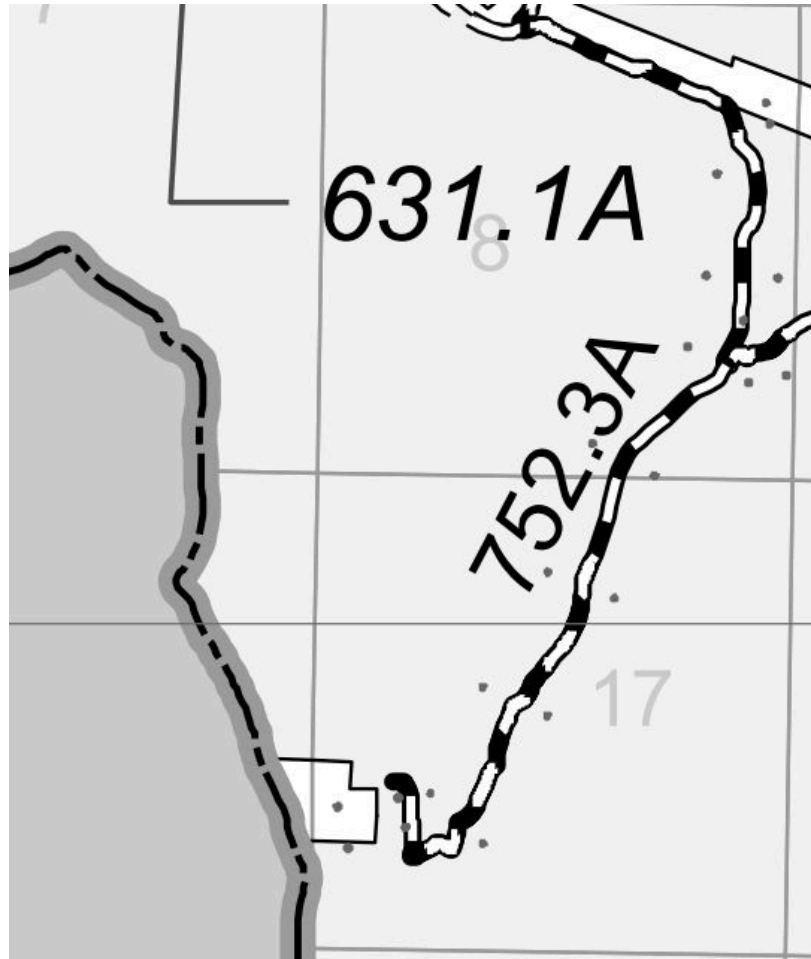
⁴ <https://silverplumerentals.com/2021/07/11/where-the-heck-is-cross-mountain/>.

Though the official summit of Cross Mountain is about a mile and a half to the south, this secondary summit is where that tradition has been carried out as it is the one that is accessible by road. The tradition of erecting memorial crosses there continues to this day, and Patrick McKay observed several recently placed memorials when he visited the summit in September 2023.

The road to the summit of Cross Mountain has always followed the drainage of Cross Creek up the mountain to the southwest, before turning north for final ascent to the ridge, and then back south along the ridgetop to the secondary summit where the memorial crosses can be found. This path (along with an optional short side spur to a scenic viewpoint along the ridge to the north) can be seen in the map below, generated using an OpenStreetMap based map layer in Gaia GPS. Notably, it passes through the southwestern corner of the Union Roadless area, ending next to the boundary of the Fossil Ridge Wilderness Area. The orange line is a GPS track representing the full road to the summit, recorded in September 2023. The MVUM route can also be seen from Gaia's MVUM layer, which uses official Forest Service GIS data.



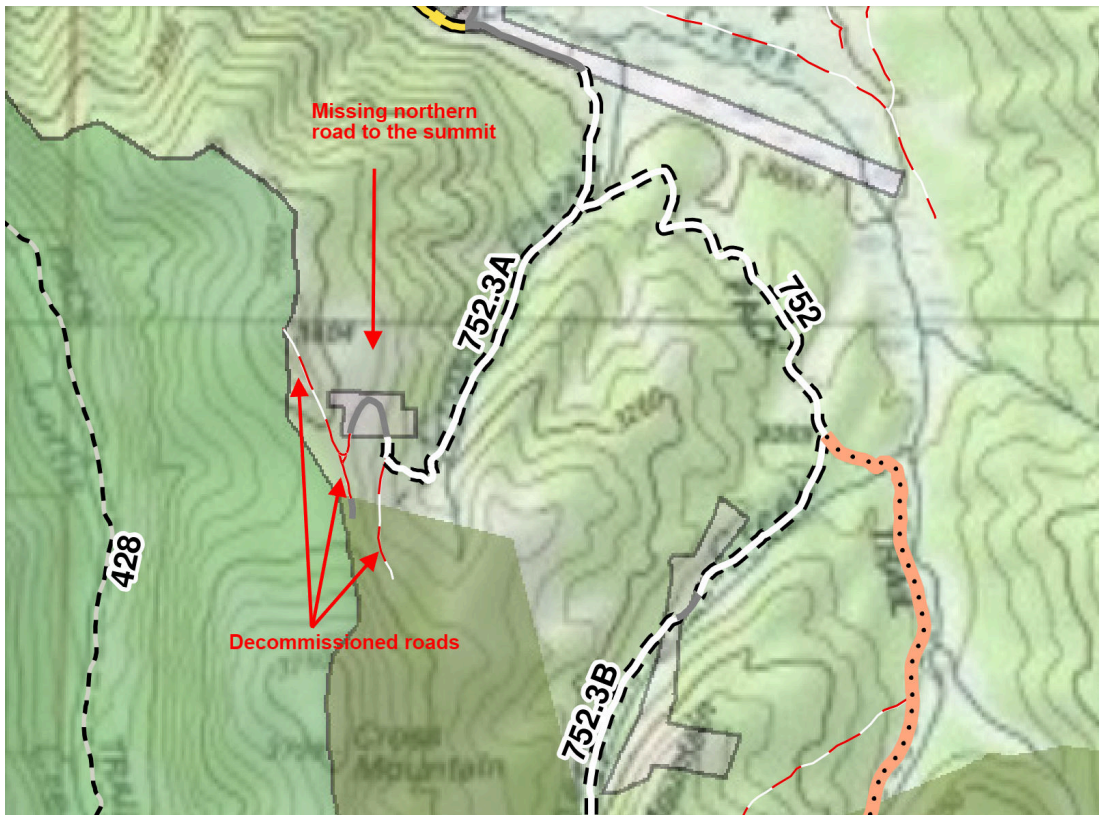
A screenshot of the same area from the current Gunnison District North MVUM (2017) can be seen below.



2017 Gunnison North MVUM

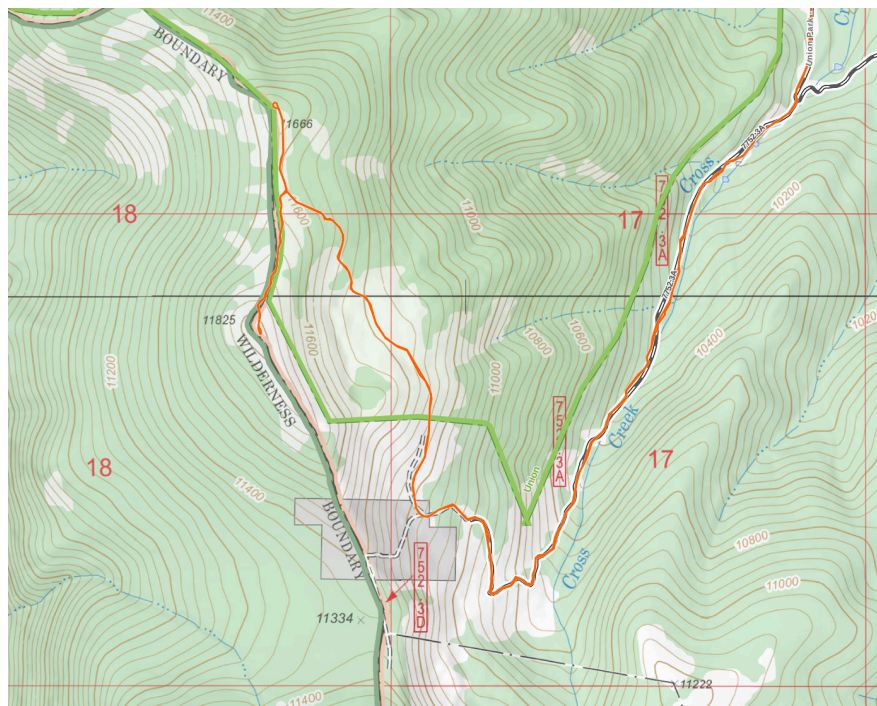
As these maps show, the MVUM route ends just after the route starts to veer north, near the corner of a parcel of private property. However, this endpoint was the result of a mapping error in the 2010 Gunnison Travel Management Plan and was not an intentional decision by the Forest Service.

Below is the final route designation map from the 2010 Gunnison Travel Management Plan. This map included several notable errors. First, it showed the wrong location for the parcel of private property, showing FR 752.3A entering it from the south, when in reality (as confirmed by maps from the Gunnison County Assessor) it skirts along the eastern and northern boundaries of the private parcel. Second, the Gunnison Travel Plan map decommissioned two side spurs off 752.3A, including one (listed as 752.3D in plan documents) that ascends to the summit from the south. In reality, this spur has always dead-ended at an old mine site below the ridge and never reached the top of the ridge or the summit. Third, and most importantly, the Gunnison Travel Plan map doesn't show the actual route to the summit which loops around to the north at all.



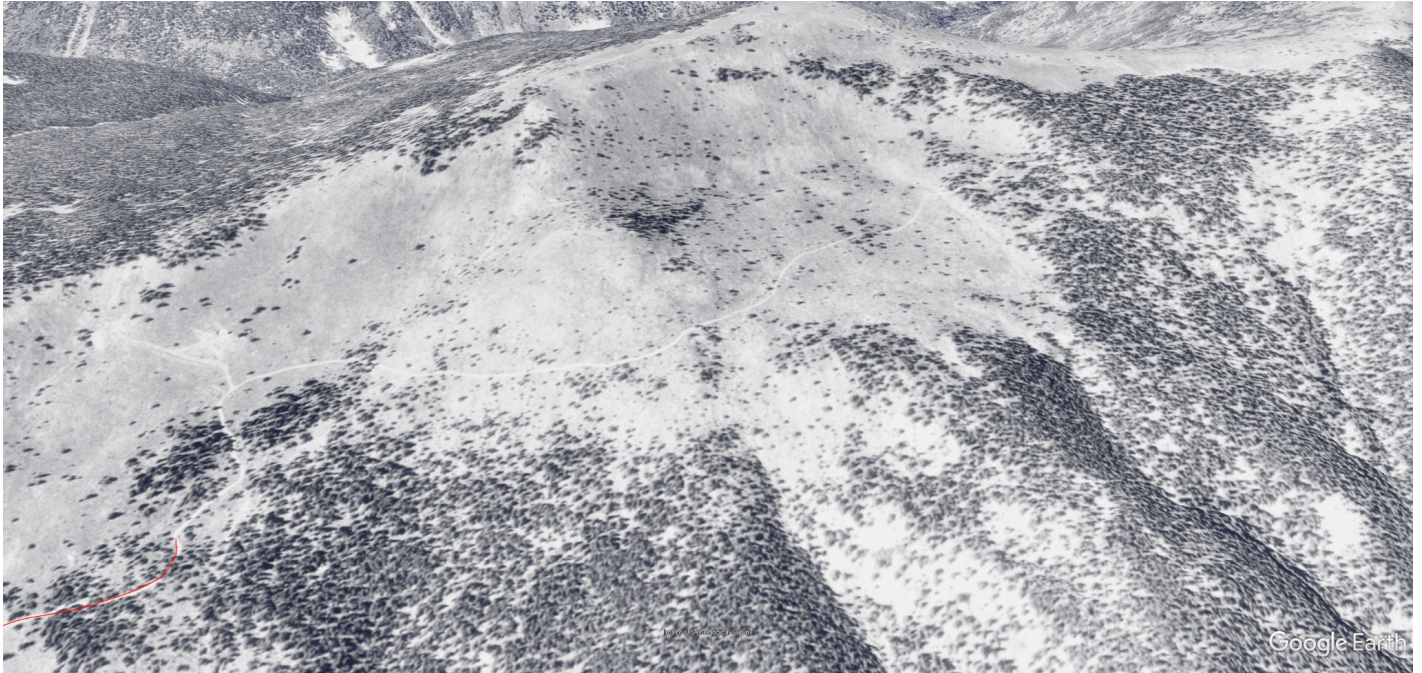
2010 Gunnison Travel Plan Final Route Map

Other Forest Service maps, such as the 2016 Forest Service Raster Map below, show part of the northern route segment, but show it simply dead-ending before it reaches the ridgetop.



2016 Forest Service Raster Map

We have not been able to find any official government map that correctly shows the final 1.25 miles of the Cross Mountain Road, and yet it is clearly visible in historical imagery in Google Earth going back to at least 1999. In the image shown below from 1999, the end of the MVUM route can be seen from the red line in the lower left corner, and the road to the summit can be clearly seen traveling across the eastern face of the mountain in the center.



1999 Google Earth Imagery

Even though the last 1.25 miles of the Cross Mountain Road were not inventoried in the 2010 travel planning process and are therefore not shown as an authorized motorized route on the MVUM, the upper portion of the road has never been signed as closed or gated on the ground and has continued to be regularly driven by vehicles to the present day. COTD's President Marcus Trusty mentioned this discrepancy to the Gunnison Ranger District's engineers in September 2023 and they both agreed the omission of this route segment was likely a mapping error in the 2010 travel planning process, and recommended we file an objection on it.

The following photos show the road's condition as of September 2023:







As can be seen in the pictures above, the last 1.25 miles of the Cross Mountain Road to the summit of Cross Mountain appear open on the ground and are regularly driven by vehicles. Multiple crosses and other memorials, including some installed in 2023, are present at the summit.

While the upper portion of the road may not appear on the MVUM, the Forest Service does not appear to have managed it as closed at any time since the 2010 travel plan was adopted, and the general public regards it as open. A YouTube video produced by Silver Plume Rentals in Pitkin (https://www.youtube.com/watch?v=ctMBOa_8whM) shows the entire drive to the summit and the company advertises the Cross Mountain trail as an OHV destination on its website.

COTD believes the inaccurate mapping of this route caused part of it to be inadvertently included inside the boundaries of the Union Roadless Area when the 2001 Roadless Rule and the later Colorado Roadless Rule were adopted. This is clear from the fact that the secondary summit and the ridge to the south was excluded from the roadless area, matching the non-existent route shown on Forest Service maps approaching the summit from the south. Now, in the Revised Forest Plan, the GMUG National Forest is proposing to designate the Union Roadless Area as the Lottis Creek Proposed Wilderness, based to a large degree on the assumption that this area is roadless when in fact it is not.



Management area (left) and ROS area (right) designations in the Revised Forest Plan

The recommended wilderness designation for the Union Roadless Area creates a management conflict which we do not believe the Forest intended. Given that both the Recommended Wilderness management area and its attendant “primitive” and “semi-primitive non-motorized” ROS classes are incompatible with any motorized routes, and given that the Record of Decision states that the GMUG National Forest does not intend to close existing motorized routes, COTD believes this designation is in error. It is likely that the Forest Supervisor was simply unaware of the existence of the upper segment of the Cross Mountain Road within the area designated as the Lottis Creek Proposed Wilderness, and therefore was unable to take it into account when making his decision.

This is supported by the 2019 wilderness process report, which describes the area ultimately proposed for designation as the Lottis Creek Proposed Wilderness in detail, but makes no mention of a regularly used road crossing part of the Union Roadless area:

The area is adjacent to Fossil Ridge Wilderness to the west and Fossil Ridge Recreation Management Area to the south. The portion of the area adjacent to Fossil Ridge Wilderness is currently managed as Union Colorado Roadless Area. Range activity is established in the area and numerous inactive mining claims are located throughout the area. Existing rights and uses could potentially impact the ability to manage portions of the area in an unimpaired state. However, sizable sections of the area away from adjacent private properties could be managed to preserve its wilderness characteristics due to the rugged terrain, identifiable landscape features that could create effective boundaries, and partial adjacency to existing wilderness.⁵

Given that the Forest Service concluded the Union Park evaluation unit possessed only moderate wilderness characteristics and stated that, “Sights and sounds originating from nearby motorized use and Taylor Park are pervasive and detract from opportunities to experience solitude within some parts of the area”⁶, it is likely that the presence of a popular and regularly used motorized route cutting across the southwestern corner of the Union Roadless Area would have affected the Supervisor’s decision to designate that roadless area as the only Recommended Wilderness area from the Union Park wilderness evaluation unit.

The fact that the Forest Service was apparently unaware of the existence and regular use of the upper portion of the Cross Mountain Road within the Union Roadless Area, and therefore did not take it into consideration during the wilderness evaluation process, demonstrates that the Forest Service “entirely failed to consider an important aspect of the problem” in legal terms. For it to not take this into consideration now that it has been made aware of the inherent conflict between this road and the designation of the Lottis Creek Proposed Wilderness would be arbitrary and capricious.

C. Conclusion and Requested Resolution

While COTD is aware the GMUG National Forest is not making implementation level route designations as part of this management planning process, we strongly urge the Forest to craft the Forest Plan in such a way as to have the flexibility to correct the oversight regarding this route in the 2010 travel plan by designating the last 1.25 miles to the summit of Cross Mountain as a legally authorized route in the future.

Accordingly, our requested resolution to this objection is that the proposed Forest Plan be remanded to the GMUG Forest Supervisor with instructions to re-evaluate the Lottis Creek Proposed Wilderness in light of the presence of this road and to either (1) remove the Lottis Creek Proposed Wilderness designation from the final Forest Plan, or (2) modify its boundaries so as to exclude the full length of FR 752.3A to the secondary summit of Cross Mountain from the Recommended Wilderness management area. Furthermore, we request that the ROS areas

⁵ Revised Wilderness Evaluation Report, February 2019, <https://usfs-public.app.box.com/v/PinyonPublic/file/933991748487>, at 37.

⁶ Id. at 36.

be modified to ensure that the full length of the Cross Mountain Road is within a Semi-Primitive Motorized zone, ensuring that the full route could be legally designated in a future travel planning process to correct the omission of this segment from the 2010 planning process.

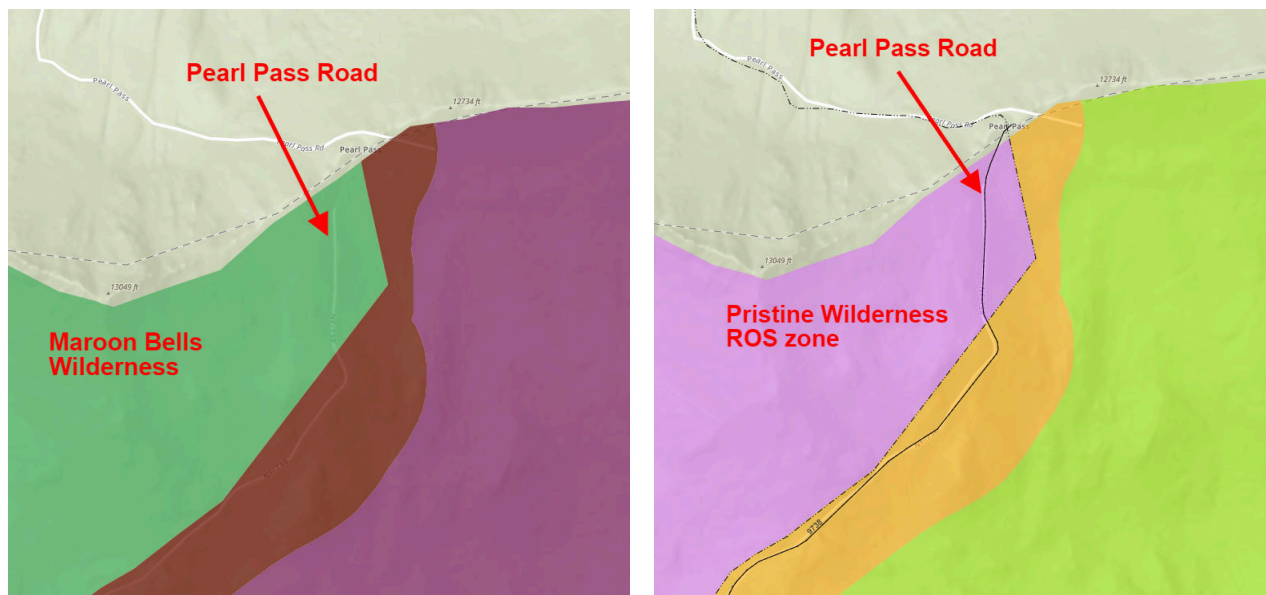
OBJECTION #3: WILDERNESS BOUNDARY ERRORS NEAR PEARL PASS AND TAYLOR PASS

A. Introduction and Connection to Prior Comments

Colorado Offroad Trail Defenders objects to the GMUG's failure to correct two serious errors in the management area and ROS area designation maps along the boundaries of the Maroon Bells and Collegiate Peaks Wilderness Areas near the summits of Pearl and Taylor Passes. These errors were described in detail on COTD's comments on the draft EIS, yet the GMUG failed to correct them in the final Forest Plan maps. COTD therefore has standing to object on this basis.

B. Analysis

COTD's DEIS comments discussed two major mapping errors in the Forest Plan maps caused by mapping errors in wilderness boundaries from the Forest Service's official wilderness areas GIS layer.



Management Areas (left) and ROS areas (right) around the summit of Pearl Pass

The first error is at the **summit of Pearl Pass Road** (designated on the MVUM as a trail open to all vehicles), where ROS map (top right) shows the semi-primitive motorized zone (orange area) that is supposed to follow Pearl Pass Road (NSFT 9738) in the wrong place. As a result, the road (black line) at the summit of Pearl Pass is shown as being inside a pristine wilderness zone (purple) instead. The same error occurs in the management area map for Alternative B (top left), where the summit of Pearl Pass Road is shown inside a Designated Wilderness management

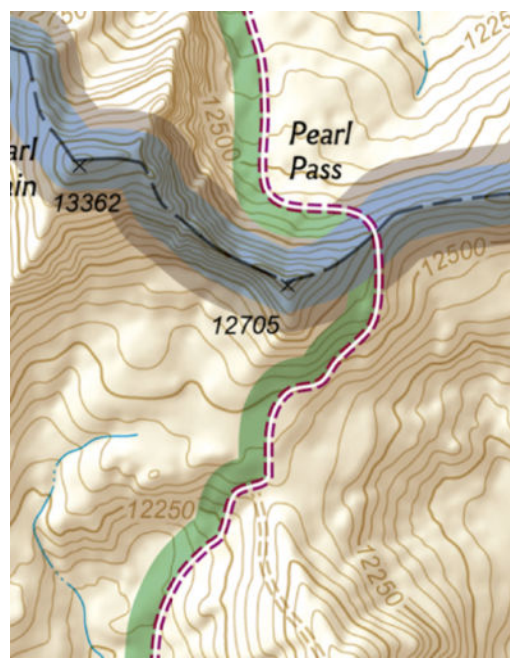
area (green), and the Recreation Emphasis Area corridor (brown) that is supposed to follow the road is shown in the wrong place.

This error appears to have resulted from an error in the Forest Service's GIS data for the Maroon Bells-Snowmass Wilderness, as both the semi-primitive non-motorized zone and the designated wilderness management area follows its boundaries. This error can be clearly seen when the Forest Service's publicly available Wilderness GIS layer is plotted on Google Earth against the MVUM trails GIS layer showing Pearl Pass Road, as seen on the following page.



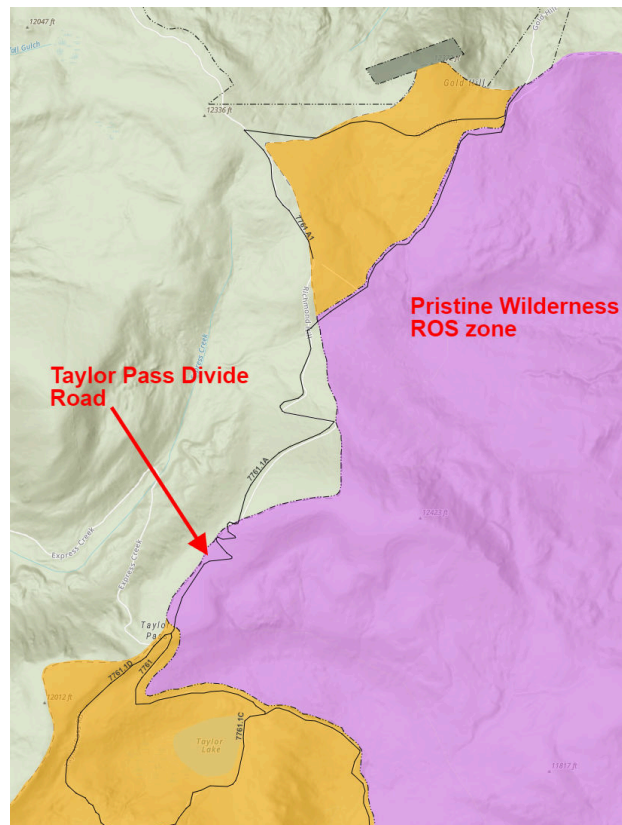
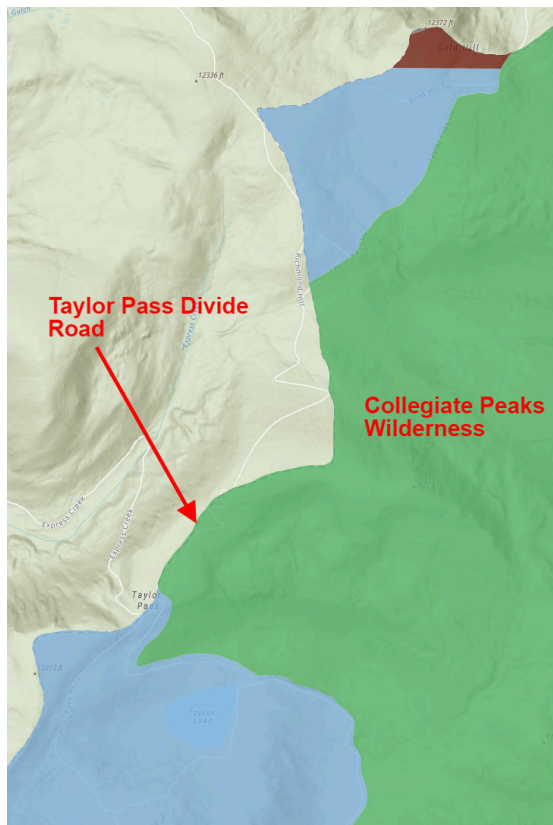
This is a critical error that must be corrected. Based on the fact that on both the north and south side of Pearl Pass, the Wilderness boundary follows the road, the road was clearly supposed to be outside of the Wilderness area. It would make no sense to have drawn the Wilderness boundary to exclude the road for its entire length, but then have the summit of the pass inside the Wilderness. This of course would force this segment of the road to be closed, making it impossible to drive Pearl Pass as a through route.

Other map sources correctly draw the Wilderness boundaries to exclude the entirety of Pearl Pass Road, including the summit. To the right is how the National Geographic Trails Illustrated map depicts the summit of Pearl Pass, with the Wilderness boundary (green) following and excluding the road.



It is critical that this error be corrected not only in the GIS data and maps for the Forest Plan revision, but the Forest Service's national Wilderness GIS layers as well. If this clear error in the Wilderness boundary, ROS zones, and management areas goes uncorrected, it could force the unintentional closure of one of the most popular motorized routes in the GMUG National Forest.

A similar error occurs at the **summit of Taylor Pass**, where NFSR 7761.1A: TAYLOR PASS DIVIDE is shown inside the Collegiate Peaks Wilderness Area and therefore inside a Designated Wilderness management area (below left) and semi-primitive non-motorized ROS zone (below right). The motorized ROS zone and general forest management area are both shown in the wrong location and do not actually include the road.

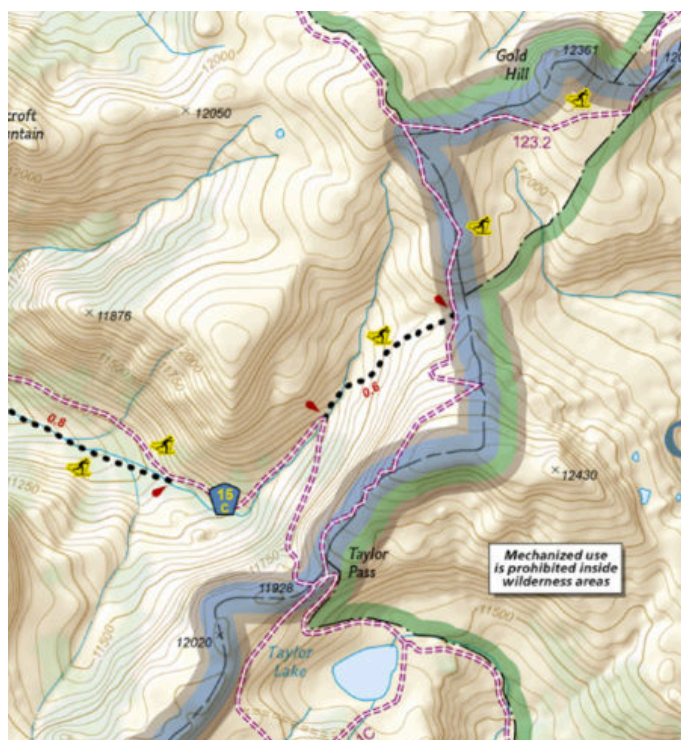


Management Areas (left) and ROS areas (right) around the summit of Taylor Pass

This issue can once again be seen in Google Earth imagery to be a clear error in the Wilderness Boundary, which should have been drawn to exclude the road.



This Wilderness boundary also is shown correctly in the National Geographic Trails Illustrated map.



This also is a clear error with the Forest Service's GIS data and must be corrected in the Wilderness GIS layer as well as the management area and ROS zone maps and GIS data for the new Forest Plan. Otherwise another important road could be forced to be closed without any deliberate decision to close it.

These mapping errors and the GMUG National Forest's failure to correct them after COTD's DEIS comments highlighted them demonstrate that the Forest "entirely failed to consider an important aspect of the problem" and "offered an explanation for its decision that runs counter to the evidence before the agency" because it relied on erroneous maps. These mapping errors therefore render the decision arbitrary and capricious and must be corrected.

C. Conclusion and Requested Resolution

Given that the Draft Record of Decision states there is no intent for any of the management area or ROS area designations in the Revised Forest Plan to result in the closure of existing designated motorized routes, it is critical that these two mapping errors be corrected.

Accordingly, to resolve this objection, we request that the Revised Forest Plan be remanded to the GMUG Forest Supervisor with instructions to correct the boundary errors discussed above near the summits of Pearl and Taylor Passes in the final Forest Plan maps.

IV. Conclusion

For the reasons discussed in each of our objections above, the Draft Record of Decision and Final EIS are arbitrary and capricious or otherwise contrary to law. Colorado Offroad Trail Defenders respectfully requests that these objections be affirmed and that the decision be remanded to the GMUG Forest Supervisor with instructions to correct these errors in the final Revised Forest Plan and its associated maps.

Thank you for your consideration.

Sincerely,



Patrick McKay, Esq.,
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