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First name: John

Last name: Gust

Organization:

Title:

Comments: See attachment for comment.

Dear Mr. Best:

We are writing to comment on the Apache-Sitgreaves Public Motorized Travel Management Plan #22692, which was opened for public comment at the end of August, 2019. We are distressed to note that the preferred Alternative #2 fails to address an important concern that we have brought up to the Forest Service multiple times over the many years that the travel plan has been under development. In particular, Alternative #2 opens for public travel Road 8486 and Road 8486A. Opening Road 8486 to public travel is in violation of our priority rights to this right-of-way as established by a permanent, recorded easement granted by the Forest Service, and will expose the Forest Service to liability for damage to our pipeline that lies in this roadbed. If Alternative #2 is adopted, it should be modified to close Road 8486 to public travel, and to close Road 8486A as well, because it will no longer lead anywhere. Alternatives #1 and #3 do not suffer from this deficiency.

Our family owns a 115 acre parcel surrounded by the National Forest located in Section 11, Township 9 North, Range 25 East and associated water rights as reflected in State of Arizona Water Right No. 623. Since at least 1957, we have had a Special Use Permit from the Forest Service for a pipeline acknowledging our rights to bring water from Gust Spring on Pulcifer Creek approximately 6000 feet to our property, where it has long been and is currently used for, among other things, agriculture, livestock, supplying water to two ponds and a wet meadow that are managed partly as havens for wildlife inhabiting the area, and for domestic use. The ponds and land are enrolled under the Partners for Wildlife program of the US Fish and Wildlife Service, with additional support from the Arizona Game and Fish Department. In 1999, under the Ditch Bill, the Forest Service confirmed to us a permanent easement for the pipeline. Copies of the easement and accompanying map are attached. It is vital to keep this pipeline in operation to satisfy these uses.

When the current pipeline was installed, replacing a prior pipeline, it was buried under Road 8486. This was done with agreement from the Forest Service to close Road 8486 to public travel. The road had previously been in use in conjunction with a timber sale, which was then complete. The closure was intended to prevent damage to the underlying plastic pipeline. At present, Road 8486 is designated as [ldquo]open to administrative use only[rdquo] (see map of Alternative #1). A new barrier blocking the road was installed by the Forest Service after the San Juan Fire. However, there are currently no closed signs or barriers, and the road has been used by highway and off-road vehicles. At times, these vehicles have eroded the roadbed and nearby areas, exposing the pipeline. The pipeline has been broken at least three times by damage to the road.

Morgan Gust has brought these considerations up to the Forest Service several times during the period that the Travel Plan has been under development, and provided extensive documentation.

We can supply copies of these comments and the documentation in the event that they are required. The material consists of:

1. Letter to Monica Fleiderer, USFS, from M. Gust, dated 12/6/2012.
2. ASNF Travel Management Plan Comment by M. Gust, dated 12/7/2010.
3. Correspondence among M. Gust, Ryan Domsalla, and Paula Cote concerning travel plan, dated June, 2010.

4. Letter to ASNF Travel Management from M. Gust, dated 1/3/2008.
5. Letter to Chris Bielecki, ASNF, dated 15 May, 2007.
6. Deeds to subject property.
7. Certificate of Water Right, date of priority 1894.
8. Recorded survey map showing Gust Spring, Gust Reservoir, pipeline, and ditch from reservoir, dated 11/14/1996.
9. USFS issuance of permanent easement for pipeline and associated system, dated 3/3/1999.
10. Correspondence between Devens Gust Sr. (our father) and District Ranger William L. Chapel concerning approval of road closure, with dates from 1973 to 1975.

As mentioned, the following actions would satisfy these issues:

1. Adopt Alternative #2, but change it so that Roads 8486 and 8486A remain closed, but giving us access for maintenance of Gust Spring, the pipeline, Gust Reservoir and the associated ditch, as we currently have, and the Forest Service for administrative purposes.
2. Adopt Alternative #1, leaving Road 8486 open only for administrative purposes, including access by us for maintenance of Gust Spring, the pipeline, Gust Reservoir and the associated ditch.
3. Adopt Alternative #3, but leave Road 8486 open only for administrative purposes, including access by us for maintenance of Gust Spring, the pipeline, Gust Reservoir and the associated ditch.

These actions are necessary for us to continue to use our vested water rights, which predate the creation of the National Forest, and also for us to maintain one of our uses of our property, as a wildlife haven and source of game for the surrounding National Forest. We believe that this is more beneficial to all users of the National Forest than would be opening up another short section of road to public vehicle travel.

There are two related matters that we want to bring to your attention. First, although it is unclear from the Plan maps available to us, we want to confirm that the Plan does not contemplate a [ldquo]dispersed camping[rdquo] location immediately adjacent to the access to our property by Roads 2 and 8483. Our buried pipeline and ditch go right through this area and one of our ponds is immediately adjacent to this location. A camping location here would obviously result in serious conflicts including encouraging trespass to the pond and the breaking down of our fences (problems we already fight), likely damage to the pipeline and ditch, and shooting of firearms near our house and improvements. A dispersed camping location here is unnecessary as there are many others quite close along Road 61. Second, we also own land located in Section 7, T1N, R28 E which is surrounded by the National Forest. Alternative #3 would close off the only access to this land by closing the very short Road 217Q. We are sure this is just an oversight on the part of the Forest Service, but it needs to be remedied if Alternative #3 is adopted.

Other than the above issues, we support the Forest Service adopting a Travel Management Plan to protect the forest resources from further degradation caused by indiscriminate use of off-highway vehicles. Thank you for your consideration.

John Devens Gust Jr.