



# CORE

COLORADO OFF ROAD ENTERPRISE  
PIKE-SAN ISABEL NATIONAL FOREST CHAPTER

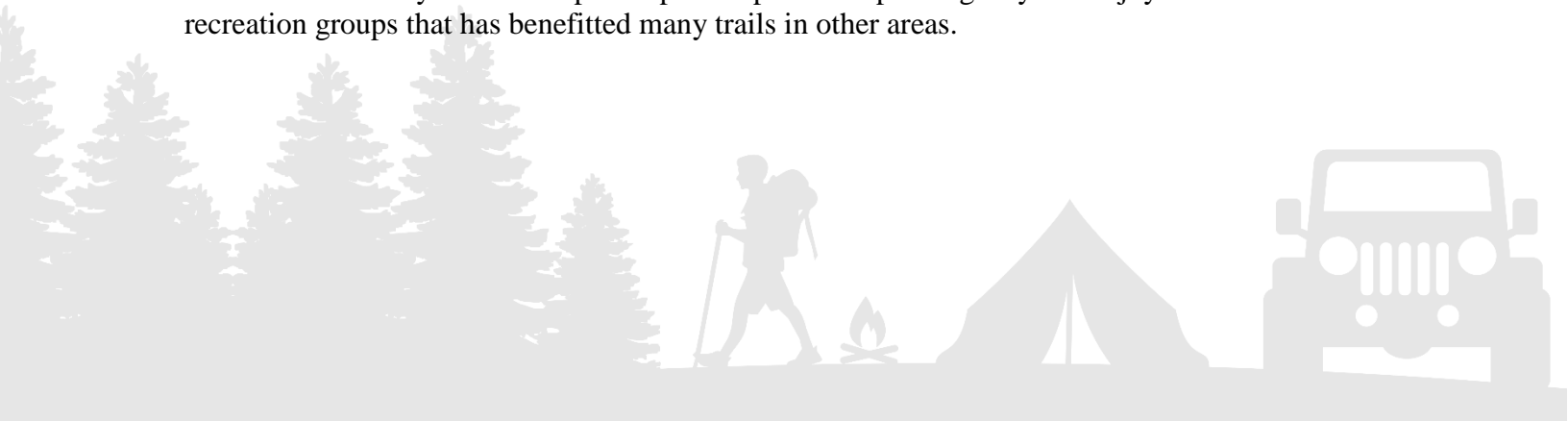
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## Executive Summary

Prior to 2002, Wildcat Canyon in the Pike and San Isabel National Forests was nationally known for its four-wheel drive roads. After a 2002 fire that had low burn severity in Wildcat Canyon, the U.S. Forest Service (USFS) closed those roads to assess the impact of the fire pursuant to an environmental assessment (EA) conducted under the National Environmental Policy Act (NEPA). The EA concluded that keeping the roads *closed* was harmful to the environment. The USFS therefore decided to open the roads but do so pursuant to agreements with local counties to maintain them using local motorized recreation groups because the agency wished to use its funds for other purposes. The EA concluded doing so was “a good balance of recreation access and natural resource concerns to the burn area.” The first agreements were quickly approved and those roads promptly reopened.

Several USFS employees, however, opposed the decision in the EA and engaged in a campaign to ensure the roads in Park County *were never reopened to motorized recreationists*. Notably, this opposition was not based on any scientific analysis. Nor was it consistent with the agency’s admission that the previously opened roads were being maintained very well by motorized user groups. Notwithstanding that Park County agreed to maintain the roads and repeatedly filed an application to take over their management, the USFS employees refused to grant those applications. The employees also blocked any new environmental analysis of motorized use of the roads as part of an ongoing NEPA analysis. This effort including blocking any such analysis prepared pursuant to the travel management regulation. Instead, these employees are taking quiet but illegal steps to install physical barriers to ensure that the roads will never be used by motorized recreationists again. These efforts were deliberately not disclosed to the public, which even Forest Service employees recognized was contrary to the agency’s goal of building public trust.

We believe the current situation in Wildcat Canyon is the result of unfair treatment of motorized recreationists. We also believe the Forest Service employees involved have failed to properly engage with and keep motorized recreationists informed of their decisions and actions. The following chronology reveals a deliberate failure by the agency to embrace and take advantage of the tremendously successful public/private partnership the agency has enjoyed with motorized recreation groups that has benefitted many trails in other areas.



## *Background*

By way of background, it is important to know that many four-wheel drive trails in Colorado have, for many years, been jointly managed by both the US Forest Service (USFS) or BLM and trail adopting groups so that recreationists can enjoy the federal lands while the USFS incurs no costs associated with the trails. This management includes inspecting the trail, performing trail maintenance, removing snow and evaluating if the trail is passable before any use occurs. In addition, many of these trails are seasonally controlled via gates the trail adopter manages which further ensures safe and appropriate use.

This management through a public/private partnership has an extremely high success rate because it allows for the trails to stay open and be enjoyed while ensuring the resource is protected. This partnership also allows the federal agency to partner with groups who are not only capable of performing trail maintenance, but who also are able to educate the four-wheel drive user groups (often their own members) as to trail etiquette and when and why the trails are closed. This results in much less controversy when trails do in fact have to be closed for a particular reason.

There are several examples in Colorado, including in areas where Wildcat Canyon is located, which validate the success of this type of joint management. These four-wheel drive trails with gates include:

**Chinawall** – Colorado Four Wheelers  
**Red Cone** – Mile-Hi Jeep Club  
**Poughkeepsie Gulch** – Western Slope 4Wheelers  
**Middle St. Vrain** – Trail Ridge Runners  
**Coney Flats** – Trail Ridge Runners  
**Kelly Flats** – The Mountaineers  
**Seven Mile Creek** – The Mountaineers  
**Moody Hill** – The Mountaineers  
**Slaughterhouse Gulch** – Mile Hi Jeep Club  
**Williams Pass** – CORE/Western Slope 4Wheelers

Most four-wheel drive trails across the State of Colorado have been adopted by a club of motorized recreationists. An excellent example of the benefits of a club adopting a trail to keep it open is 21 Road near Grand Junction. 21 Road was threatened with closure because the habitat of a unique toad, the Great Basin Spadefoot Toad, was in the drainage 21 Road paralleled and crossed. The Grand Mesa Jeep Club not only adopted the 21 Road but also the “21 Road Toad.” They re-routed some sections of the trail and have made a concerted effort to educate the public as to the toad and its habitat. This approach has been an incredible success story because, rather than the public treating the toad as a problem and something to resent, they actually embraced it as a treasured species and mascot, and took great pride in their ability to protect it.<sup>1</sup>



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<sup>1</sup> See <http://www.colorado4x4.org/vbb/showthread.php?213270-21-Road-Toad>.

There are many groups similar to Grand Mesa Jeep Club in the Wildcat Canyon area and several four-wheel drive groups currently have very active trail adoptions in place in the South Park District. These groups, their trails and annual hours for 2019 are as follows.

Mile-Hi Jeep Club – Browns/Breakneck Pass – 160 hrs  
Mile Hi Jeep Club – Wheeler Lake – 210 hrs  
Rising Sun – Chinawall – 36 hrs  
Rising Sun – Metburry Gulch – 32 hrs  
Rising Sun – Hackett Gulch – 223 hrs  
Rising Sun – Wheeler Lake – 167 hrs  
Colorado Four Wheelers – Chinawall/Badger Flatts – 340 hrs

The USFS has determined that each volunteer hour completed on USFS managed roads is valued at \$27. These groups have thus made \$31,536 in on-ground contributions, not including any money the trail adopter may have spent on equipment, supplies or logistics. Notably, the USFS only tracks the hours spent on the ground doing these projects, not all of the planning or logistical hours. Because of this, the overall time and resource commitment from four-wheel drive groups far exceeds the reported hours.

Statewide, volunteer hours reported in 2019 for four-wheel drive trail adopter groups total 13,121 hours. This involvement results in \$354,267 in on-ground value to the land management agencies (and savings to taxpayers). As noted above, this total does not include the significant time, value and cost of planning or logistical hours nor does it include the money spent on tools, supplies or signs that typically is paid for by volunteer groups.

This history clearly shows that four-wheel drive trail adopter groups are a significant asset which all land managers should actively seek out. They are the epitome of successful public/private partnerships that result in the leveraging of taxpayer funds. While these groups already provide a substantial portion of the maintenance funding each year to keep trails open and to manage four-wheel drive trails on USFS managed public land, they are willing to do even more.

### *The History of Four-Wheel Drive Recreation In Wildcat Canyon<sup>2</sup>*

Prior to 2002, the roads in Wildcat Canyon were very popular with four-wheel drive recreationists and known nationally. The roads in certain locations are near and cross over the South Platte River.

As the USFS has noted:

The Wildcat Canyon area was extremely popular because of the 4x4 challenge of the roads, the South Platte River destination point, the opportunity for long and scenic loop rides, the close proximity to the Colorado Front Range and the many

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<sup>2</sup> CORE would be happy to provide you upon your request with any of the documents cited to in this timeline as well as all documents that fully support the statements herein.

other dispersed recreational opportunities available in the area like fishing, hunting, camping, picnicking, and rock-climbing. Furthermore, many local OHV clubs were involved in the maintenance and upkeep of these roads through grant agreements with the Colorado State Parks OHV Fund and partnerships with the US Forest Service. Over the past 8-10 years, a considerable amount of volunteer hours and over \$100,000 in grant monies has been dedicated to hardening and rehabilitating four-wheel drive roads in the area, especially Longwater, Corral Creek and Hackett.<sup>3</sup>

*The Hayman Fire  
and subsequent decision to keep the Wildcat Canyon roads open*

In 2002, the Hayman Fire occurred in the area where the roads are located. A local environmental group, Wild Connections, noted that there was low burn severity from the fire in Wildcat Canyon. Nonetheless, the impacts of the fire resulted in the USFS closing the roads while it conducted an environmental assessment (EA) for the Hayman Fire Roads Management Project to carefully assess the full impact of the fire and how it would manage the roads in the area going forward.

The EA stated that the purpose of the project was:

to restore needed roads to a safe, environmentally sound condition, and decommission (obliterate) unneeded roads and those causing excessive erosion, water degradation and/or habitat degradation. There is a *need* to provide a safe transportation network in the burn area that is responsive to public needs, realistic to projected budgets, and sensitive to wetlands, riparian areas, and wildlife habitat.<sup>4</sup>

(Emphasis added.) The EA was finished in 2004 and was very thorough (121 pages). It reviewed the impact of continued use of the roads on the South Platte River as well as on various sensitive species including the Preble's Meadow Jumping Mouse and the Pawnee Montane Skipper. The EA found that continued use and maintenance of the roads at issue "would reduce the cumulative sediment load coming out of the project area"<sup>5</sup> and, while the use of the roads may affect the two sensitive species, it was not likely to adversely affect them.<sup>6</sup>

In its Decision Notices after review of that EA, the USFS determined that some roads should be decommissioned and their site returned to a natural state, and some roads should remain open.

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<sup>3</sup> EA at 3-17.

<sup>4</sup> EA at 1-3.

<sup>5</sup> EA at 4-4.

<sup>6</sup> EA at 2-7.

The USFS concluded that the roads at issue in Wildcat Canyon should remain open to four-wheel drive road recreationists, but also that they needed to continue to be maintained to ensure they do not have adverse impacts on the South Platte River, mostly due to the increased risk of sedimentation as a result of the fire.

After a careful review of the EA, the USFS concluded in its Decision Notices that keeping the roads open and maintained would be just as beneficial as decommissioning the roads.<sup>7</sup> The USFS concluded that keeping the roads open to motorized recreation would have no “significant effects on social, economic, cultural, and natural resources as documented by the EA” and that “[o]verall, this project will have **a long-term beneficial impact on the environment.**” (Emphasis added.)<sup>8</sup>

The USFS further found in the Decision Notices that “the rehabilitation and/or decommission of roads, especially those with a moderate or high risk rating for aquatics [] **will help reduce erosion and stream sediment loading and will result in a long-term beneficial impact to water quality ([], riparian areas [], downstream fisheries [] and aquatic habitat [].**” (Emphasis added.)<sup>9</sup>

Even though it recognized that the roads should be open for four-wheel drive road recreationists, the USFS felt it did not have sufficient funding to maintain the roads itself based on its other priorities. So rather than re-opening the roads itself, the agency conditioned opening them on local jurisdictions being given an easement pursuant to which they would be responsible for ensuring the roads are maintained. In other words, the USFS gave over control of allowing this important recreation on the national forest to the local community as well as passing the cost of it on to them as well.

Around this time, the USFS also completed an assessment of the South Platte River with regard to its qualifying as a Wild and Scenic River. Notably, the USFS concluded that the river was eligible as scenic, but not wild status. This conclusion was important because by having scenic status, motorized activities could continue near the river.<sup>10</sup>

*Teller and Douglas Counties’ easement applications are promptly granted*

Also around this time and in response to concerns the USFS might try to close these roads, Teller County began an assessment of whether the County had a legal right of way over the roads pursuant to RS 2477, a federal statute that protected any historic use the public had made of

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<sup>7</sup> Decision Notice for Wildcat Canyon in South Park RD at page 5; Decision Notice for Wildcat Canyon in South Platte RD at page 5.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> As discussed later, this conclusion shows that the river’s Wild and Scenic status in no way precludes the continued use of these roads by four-wheel drive recreationists.

certain roads on federal lands. Teller County concluded that it had a legal right of way over the roads at issue under RS 2477.

The emails we have obtained make it abundantly clear that the USFS was very concerned about any local county claiming this legal right of way.

Rather than pursue their legal rights to use of the roads under RS 2477, Teller and Douglas County applied for easements from the USFS in 2005, agreeing to maintain those roads at issue which lay in those counties. The USFS promptly granted those easements, thus removing the counties' need to pursue legal rights to use of the roads under RS 2477.<sup>11</sup>

The roads opened in Teller and Douglas County have been maintained primarily by Jerry Panek, a local four-wheel drive enthusiast who also operates a local four-wheel drive service and parts store, Predator4WD. The USFS biologists have personally inspected the quality of the maintenance on those roads and found they were in very good shape and they hoped the group “would be able to continue their work to maintain sustainable routes.”<sup>12</sup>

*Park County's easement application is deliberately delayed*

Even though the roads at issue in Park County should have been opened and maintained by the USFS as federal recreation sites, they continued to remain closed and unmaintained at this time even though the USFS had found continuing road maintenance was needed to avoid environmental harm.<sup>13</sup> The agency apparently had no concerns over this on-going harm as long as the roads were officially closed.<sup>14</sup>

Four-wheel drive road recreationists pursued having Park County also apply for an easement for those sections of the roads in Park County. Park County had not aggressively pursued its legal rights to use of the roads under RS 2477, and the USFS was aware of this fact. It also appeared getting these easements was not a high priority for Park County.

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<sup>11</sup> Email from Mike Hessler to Sara Mayben dated Dec. 18, 2012 (stating that the USFS issued the easement to Teller County because it “exerted its 2477 or whatever authority” and indicating that the USFS treated Park County’s application differently because it had not made any such threats.

<sup>12</sup> Email from Mikele Painter, USFS, dated June 18, 2015.

<sup>13</sup> The EA stated that “[t]hese roads, as well as others, that are hydrologically-connected, will continue to erode if they are not rehabilitated.” EA at 4-2. In fact, Ms. Painter’s email cited in footnote 11 above specifically recognized the stark contrast between the good conditions in Teller County where the roads were maintained and the bad conditions in Park County where they were not.

<sup>14</sup> During this time, the USFS failed to install appropriate signage as to the roads being closed and was well aware that, as a result, motorized recreationists were in fact using the roads.

Park County finally agreed to submit an application for easements over the roads in 2008. Based on Teller County's experience, Park County expected its application to also be promptly approved.

However, unlike how it handled the easement applications by Teller County, the USFS returned the Park County application claiming it was missing certain information. It is our understanding the alleged issues were corrected in the application.

From 2008 to 2010, the USFS did nothing in response to the easement applications submitted by Park County. And the roads remained officially closed and unmaintained, and their condition worsened as a result.

Finally, in August of 2010, Park County submitted another application. The USFS had apparently alleged that it had somehow lost the first application. In that second application, Park County noted that the motorized recreation on the roads at issue generated a portion of the local economic base for Park County through tourism and that Park County "wanted to assure that these roads are available and maintained to accommodate current uses into the future." The application noted that the impact would be low given that there would likely be less than 20 vehicles on average per day. It also noted that the surface and ground water quality would improve due to increased maintenance. Referring to the EA, Park County correctly stated the project would have no negative impact.

Still nothing happened. The roads remained closed and unmaintained. And the environmental harms continued without the USFS expressing any concern.

In 2011, Park County submitted yet another easement application so that it could begin maintaining the roads and allow for them to be opened, apparently under the belief that the prior application had also been lost.

In 2012 and in response to inquiries by four-wheel drive road recreationists about the status of the application, the USFS claimed that the agency had "gotten stuck trying to figure out what the current status of those trails are" and stated it would make some calls to find out what was going on.<sup>15</sup>

When four-wheel drive road recreationists followed up a month later, the story changed. Now the USFS claimed that it had:

a substantial backlog of these kinds of applications due to a substantial lack of funding to this program area [so] it takes a long time to process this type of application, especially when there may be substantial environmental analysis to complete with a lack of funds and staffing to process these types of proposals [and] the work load associated with this application is not currently funded or scheduled

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<sup>15</sup> Email from Kristen Sexton, DR for South Park Ranger District, to Jerry Panek dated March 7, 2012.

for this year [but] we are still hopeful to at least begin the process to move forward with the county's proposal sometime this summer.<sup>16</sup>

We have sought all relevant agency emails at this time, and none of them referred to any other applications or to any budget shortfalls. In addition, in a 2012 email the USFS stated that the District Ranger, Ms. Mayben, was "really comfortable" that the NEPA analysis was "good."<sup>17</sup>

Instead, the internal emails indicated the agency regretted issuing the easements to Teller County because some of its staff falsely believed Teller County was not maintaining the roads. The emails also demonstrate the agency was now very reluctant to issue an easement to Park County and was basically looking for any excuse to stall in the hope that something would happen and cause Park County to just drop its request.

When these assertions about Teller County's alleged failures got to the District Ranger, Mr. Hickenbottom, he quickly informed the staff they were wrong and the "work was done" by Teller County and, notably, whenever any issues arose, the USFS contacted Teller County which then contacted Jerry Panek (who is the head of a local Trail Adopting Group) "who fixes it."<sup>18</sup>

Notably, Mr. Hickenbottom then stated that the only problems were where the USFS had no easements for the Park County portions of the road.<sup>19</sup>

The agency's own internal emails and Mr. Hickenbottom's statements indisputably demonstrate that, had the USFS granted the Park County application and allowed Mr. Panek to conduct the same maintenance on the roads in Park County, the roads in Park County would have been in "good shape." Thus, the USFS' own actions were why the roads in Park County were not in

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<sup>16</sup> Email from Kristen Sexton, DR for South Park Ranger District, to Jerry Panek dated April 19, 2012.

<sup>17</sup> Email from Mike Hessler included in email string ending on Dec. 18, 2012.

<sup>18</sup> Email from Randy Hickenbottom dated Dec. 19, 2012. Mr. Panek has been committed to maintaining these roads for many decades. Notably, later on in 2015 the USFS biologists actually visited the area and were extremely impressed by the maintenance that Mr. Panek had accomplished. One of the USFS' biologists admitted in an email she wrote after that visit:

Within Teller County I thought the existing roads looked pretty good for the most part. The routes were not terribly braided, waterbars were in good shape, and sections closed with post and cable had revegetated pretty well. I would say Jerry [Panek] and his people have done a good job, and I hope they are able to continue their work to maintain sustainable routes.

Email from Mikele Painter to Josh Voorhis dated June 16, 2015.

<sup>19</sup> *Id.*



good shape. (Frustratingly, later emails reveal that the USFS subsequently used a situation they themselves deliberately created, *i.e.*, the poor condition of the roads, as a basis to close these roads to four-wheel drive recreationists.)

In September of 2013, the USFS contacted Park County and stated that it had been “unable to locate” Park County’s second easement application and asked Park County to yet again resubmit a new application.<sup>20</sup> (We have numerous internal emails from the USFS discussing and analyzing Park County’s application as of 2012, which causes very serious concerns as to the agency’s good faith in once again claiming it had lost the easement application.)

In January of 2014, Park County submits its fourth application for the easement. Once again, in that application, Park County reaffirms that the roads “generated a major portion of the local economic base” for that area through tourism. It further notes the “area is arguably the highest recreational area in eastern Park County and possibly the Front Range” and that “Park County wants to assure these roads are available and maintained to accommodate current and future users.”<sup>21</sup>

In the summer of 2014, the USFS’ biologists began a campaign to persuade the agency’s District Rangers that the impact of motorized use without any maintenance being allowed on the roads is problematic, even though no actual studies had been conducted which would contradict the very thorough 2004 EA that found opening and maintaining the roads for motorized use would be beneficial to the environment.<sup>22</sup> The agency staff also started to insist on excessive regulations and monitoring as a necessary condition for issuing the easement.

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<sup>20</sup> Email from Lisa Heagley to Tom Eisenman dated Sept. 18, 2013

<sup>21</sup> In addition, around this time it appears a grant that would have assisted in funding the maintenance on these roads was pursued by the USFS and may have been approved. However, we have also received information that the USFS may have subsequently taken action to terminate this grant. We are currently investigating this issue.

<sup>22</sup> In one internal email between USFS biologists, they display a strong bias against four-wheel drive road recreationists by describing a video that they had shown to a group of four-wheel activities “in the early 90s [which was 20 years ago] and it was jaw-dropping the damage that people were doing,” “there was a crowd the size of a small city with a ton of vehicles driving through,” “shooting next to the large crowd” and “all kinds of loud hooting and hollering,” “pretty shocking to all.” They also insisted, with absolutely no basis, that Park County will not be able to maintain and patrol the area so the USFS would need funds if it granted the easement and “would need to find a way to have a continual presence in Wildcat Canyon.” Email string ending Nov. 3, 2014. They described the meeting as “an awful meeting covering an awful topic” and express clear disdain for Mr. Panek. Email dated Nov. 5, 2014.

Internal agency emails also suggest the agency would only proceed with the easement application if they concluded Park County was going to pursue court action to obtain the easements.<sup>23</sup>

At this point, local environmental groups start putting pressure on the USFS to keep the roads closed.

Also at this point, the USFS begins communicating with Tom Eisenman, who is the Park County Manager but is not a member of the County Board of Commissioners.

In 2015, the USFS acknowledges in internal emails that, notwithstanding the USFS' communications with the County, it has not changed its position as to seeking the easements.

It appears from documents provided to us that the USFS applied for, and received approval for, a grant of funds needed to reopen the roads at issue which, their own documents state, "would allow access to the South Platte River for OHV and full size 4 x 4 enthusiasts that has been closed for over 10 years. As mentioned, these routes will offer a[n] exceptionally challenging experience for those looking to test their equipment and driving skills."<sup>24</sup>

If this grant was approved, we have no idea why these funds were not in fact used to reopen the roads, but we are concerned that they may have been returned by the USFS to prevent the roads from being opened. We are seeking additional information about this issue.

In March of 2015 the District Ranger for South Park Ranger District at this time, Josh Voorhis, sent an internal email noting that granting the easement "is a hot topic and lots of folks on both sides of the issue want to fight."<sup>25</sup>

The District Ranger then asked his NEPA specialist if the 2004 EA is still sufficient, and the NEPA specialist responds that the USFS can issue easements without new NEPA analyses if the required agreements are in place.<sup>26</sup> The agency's NEPA specialist also notes the 2004 Decision Notice said there were no adverse impacts on the Pawnee montane skipper, Preble's Meadow Jumping Mouse, Bald Eagles or the Mexican Spotted Owl.<sup>27</sup>

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<sup>23</sup> Email dated Nov. 19, 2014 (a USFS biologist sent comments to other staffers stating "RS 2477 would require litigation. Is Park County really serious about taking this to court?")

<sup>24</sup> Email string dated February 2, 2011. Notably, in the USFS' application for the funds, it acknowledges that maintenance efforts in a nearby area, Cedar Mountain, have been sufficient due to the "assistance of the Predator 4 x 4 [group, *i.e.*, Jerry Panek]."

<sup>25</sup> Email dated March 20, 2015.

<sup>26</sup> Email dated April 7, 2015; *see* Email dated April 9, 2015 (the District Ranger referred to Mr. Dow as the NEPA expert).

<sup>27</sup> *Id.* This finding had been confirmed by the U.S. Fish and Wildlife Service.

In April of 2015, Park County once again submitted an application for the easements. In an internal email, the District Ranger, Josh Voorhis, notes that Park County wants to open the roads but many groups oppose it, and he notes “the potential for lawsuits” if the USFS choose not to complete new NEPA analyses.<sup>28</sup>

*The USFS starts looking for excuses to keep the roads closed*

At this time, the USFS biologist who clearly opposed reopening the roads drafts a USFS Briefing Paper that sets out various allegedly science based problems with granting the easements even though no scientific analysis has occurred.<sup>29</sup>

Another USFS biologist urged the agency to “reject” Park County’s application to allow it to maintain and open the roads to motorized recreationists even though she had previously admitted three days earlier that, when local groups were allowed to maintain the roads in Wildcat Canyon in Teller County, they did a good job in maintaining sustainable routes.<sup>30</sup>

These emails show that the biologists were aware that if they allowed local groups to maintain the roads, those groups would do a good job. CORE is concerned that is why the biologists fought so hard not to allow this maintenance, because they simply did not want four-wheel drive recreationists in this area.

On September 21, 2015, the Park County Manager who District Ranger Voorhis met with often to apparently communicate his strong preference that Park County not seek any easements (Mr. Eisenman) abruptly sends an email to District Ranger Voorhis claiming that, as Mr. Voorhis had apparently desired, the Board of County Commissioners for Park County has changed its mind and he states his email is “to rescind Park County’s application for easements.”<sup>31</sup> However, there is no record of the Board of County Commissioners ever reaching any such decision to withdraw the easement applications, which suggests Mr. Eisenman’s email was not properly authorized. But the USFS accepted it without question.<sup>32</sup>

On August 19, 2016, Gary Morrison, a USFS Forest Engineer and Transportation Planner, emailed Mr. Voorhis and said:

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<sup>28</sup> Email dated April 9, 2015; *see* Email dated April 14, 2015 (the District Ranger worries about the “politics” of reopening the roads).

<sup>29</sup> Email dated April 27, 2015.

<sup>30</sup> Email dated June 15, 2015; Email dated June 18, 2015.

<sup>31</sup> Email dated Sept. 21, 2015.

<sup>32</sup> We have submitted a request to Park County for documents related to this action under Colorado’s Open Records law.

I just received some feedback from the public about the Wildcat Canyon roads in Park County on the South Park District (NFSR 220, 220.A & 220.B) and South Platte District (NFSR 221). I was told that Park County twice turned in easement requests to the Forest Service for the roads in Wildcat Canyon, and twice the Forest Service “lost” that paperwork. Can you confirm this statement, and if it is true, is the South Park District (and/or South Platte District) still working with Park County to get easements signed? If it is not true, can you provide me with some documentation that shows that the county refused to sign those easements? It has been my understanding that the county refused to take jurisdiction for these roads.<sup>33</sup>

Mr. Morrison apparently never received a response from Mr. Voorhis. Instead, Mr. Voorhis sent an email to Mr. Eisenman stating that he wanted to protect Mr. Eisenman from being “blindsided” by four-wheel drive road advocates at an upcoming meeting and asks to meet with him.<sup>34</sup> There apparently is no written record of their meeting.

In July of 2017, Mr. Morrison states that, based on input from the public, the USFS is planning on including in its ongoing environmental analysis related to the travel management regulation an assessment of reopening the roads in Park County, including a river crossing.

Mr. Voorhis then blocked that assessment of the environmental impacts of motorized recreation in the area because he claimed he and Mr. Banks got together and decided that, notwithstanding the public input, there would be no consideration or assessment of keeping the roads open to motorized recreationists and that the existing language “be removed” from the environmental assessment.

On September 5, 2017, Mr. Morrison again sends an email to District Ranger Voorhis stating:

Back in February, 2014, I received the following documents from the South Platte Ranger District. **It is clear evidence that Park County wanted an easement on the Wildcat roads, with the first request having been submitted in 2010, and this resubmittal in 2014. To my knowledge, no one ever followed through in granting them the easements.** The motorized community says that the Forest Service failed to do their job. These documents seem to back up their argument.

To my knowledge, I don’t remember seeing a letter from Park County that rescinded these requests. It would be wise to get a copy, if one actually exists, and put it in our electronic files for the record. If no such letter exists, then maybe the Forest Service should either follow through with the granting of

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<sup>33</sup> Email Aug. 19, 2016.

<sup>34</sup> Email Aug. 25, 2016.

easements per their request or else get something definitive in writing from Park County that says they changed their mind. What do you think?<sup>35</sup>

(Emphasis added.)

Mr. Voorhis never responded. Instead, he came up with a flawed interpretation of the 2004 EA and claimed that it would authorize him to formally close and decommission the roads if there was no agreement in place with Park County. However, a review of the 2004 EA shows that interpretation is simply not correct and the USFS cannot legally close the roads without a formal decision to do so.

Mr. Voorhis then struggled between simply closing the roads per his interpretation of the 2004 EA or implementing that decision after he allowed the environmental analysis to be completed. However, his strategy makes it clear that he had already decided to close the roads even if he made that decision pursuant to the environmental analysis.

Around this time, the USFS is communicating and meeting frequently with a representative of Wild Connections which supported keeping the roads closed to four-wheel drive recreationists but open to its members who hiked.<sup>36</sup> Later, the Wild Connections representative sent an email to Mr. Voorhis telling him they are working on “outreach” regarding Wildcat Canyon and asking for the “more impressive” photographs Mr. Voorhis had mentioned the agency has to help tell the story of motorized activity in Wildcat Canyon because “pictures go a long way” and she would appreciate “any help I can get” from the USFS for her outreach efforts.<sup>37</sup>

In April 2018, Mr. Voorhis decided to go ahead and declare that the 2004 EA is no longer valid and also assert that Park County has withdrawn its easement application and “is no longer interested in acquiring these roads.”<sup>38</sup>

On May 7, 2018, without any public notice, NEPA required analysis or a decision memo for an obviously highly contentious project near a public watershed, Messrs. Voorhis and Banks send a memorandum to their staffs stating that they had decided to secretly obliterate the roads at issue in Wildcat Canyon.<sup>39</sup> Mr. Voorhis misleadingly characterized his efforts as being to implement

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<sup>35</sup> Email dated Sept. 5, 2017.

<sup>36</sup> Email dated Sept. 14, 2017.

<sup>37</sup> Email dated April 2, 2018.

<sup>38</sup> Email dated April 16, 2018.

<sup>39</sup> Memorandum dated May 7, 2018; 36 C.F.R. § 220.6(e)(20); *id.* at (f) (requiring a decision memo be prepared for a project involving construction on a trail and that it be sent to affected parties). Pursuant to the view expressed by some of the Forest’s biologists that the area consisted of habitat of threatened or endangered species, extraordinary circumstances may exist precluding a CE. FSH 1909.15(31.2)(1).

“full closure” of the roads when in fact, as his own staff recognized, he was engaged in the unauthorized and illegal decommissioning of the roads.

Mr. Voorhis’ memorandum admits that Wildcat Canyon has been highly contentious for years and also contains numerous allegations of environmental harm which apparently were the basis for his decision. However, Mr. Voorhis *cites to no actual scientific analysis to support his assertions* even though he claims the problem has existed for years.

Mr. Voorhis also falsely suggested in his memorandum that motorized recreation is contrary to the area’s Scenic status under the Wild and Scenic Rivers Act. This assertion is patently false because the area’s Scenic (as opposed to Wild) status, which was set out in the ROD (June 21, 2004), specifically meant that motorized recreation could continue.

After seeing Mr. Voorhis’ memorandum, the USFS’ Engineering staff sent emails to each other stating that Mr. Voorhis’ efforts were illegal and apparently being done to minimize public input. Email from Caitlin Woods (“I’ve already told [Voorhis and Banks] that they can’t decommission roads with a CE”).<sup>40</sup> They also determined that his illegal plan would lead to further resource damage.<sup>41</sup>

Mr. Banks’ staff also concluded that his secret actions “will likely result in a further deterioration of the little trust that is left between the motorized recreation groups and the Forest Service.”<sup>42</sup>

Mr. Banks never disclosed his memorandum to the public.

In February of 2019, CORE notified Park County that it wanted to resolve the issue related to the use of the Wildcat Canyon roads. In response, the USFS hurriedly prepared and issued a document entitled “Supplemental Information Report” which alleges that the agency believes there may be new information which may require them to revise the prior 2004 EA before any roads in Wildcat Canyon can be opened.<sup>43</sup> However, a careful review of the document reveals that it is not based on any actual analyses and instead consists entirely of speculation to support the goal of closing the roads.<sup>44</sup>

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<sup>40</sup> Email dated May 9, 2018.

<sup>41</sup> Email dated May 30, 2018.

<sup>42</sup> Email dated May 30, 2018.

<sup>43</sup> Email dated April 25, 2019.

<sup>44</sup> The SIR makes no mention of the statement in the 2004 EA that “[r]oaded access would again become very important as these fuel loads increase and roads are needed to meet fire protection objectives and fire suppression needs.” EA at 3-32.

On April 16, 2019, Mr. Eisenman, the Park County Manager, issued a press release stating that Park County would defer to the USFS' decision as to allowing motorized recreation on the roads at issue and would support motorized use if the agency decided to allow it.

In the summer of 2019, Messrs. Voorhis and Banks purchased metal barriers to be installed on the roads so that they would be closed.

Upon learning of these efforts, Mr. Morrison, who was an engineer with the USFS, said in an internal email that it was clear that Messrs. Voorhis and Banks had made an illegal unilateral decision to decommission the roads without involving the motorized community. He then said:

If our leadership wants to know why the motorized community does not want to cooperate with the forest service, this is a great example of why they don't trust us. I don't blame them for their outrage.<sup>45</sup>

In August of 2019, the USFS completed a draft Environmental Impact Statement which it had agreed to prepare to resolve a lawsuit by an environmental group involving all of the roads across the Pike and San Isabel National Forests. In that DEIS, the USFS states that it has decided to formally and permanently close all of the roads at issue in Wildcat Canyon even though the USFS deliberately made sure the DEIS never studied the actual impact of motorized use on these roads.<sup>46</sup> However, as the record reveals, the USFS' decision was made based on the personal views of its staff because it had deliberately blocked any scientific analysis of the environmental impacts of motorized recreation on these roads.

The DEIS was also rigged in that the USFS gave the roads at issue a low score for recreational benefit value solely based on there being no current recreational activity on them, which obviously was due to the agency having closed them.

An internal USFS email sent in November 2019 stated that the agency had purchased the materials it needed to close the roads, but that Mr. Banks was having a hard time finding a construction company that would "install the steel pipe and concrete-set vehicle barriers" on the roads.

#### *CORE's concern*

CORE's concern is that the USFS' effective decision to close the roads was contrary to existing environmental analyses, was not based on an inability to obtain needed maintenance and was made to appease environmental groups and avoid being sued by those groups. We are also concerned that the agency, based on its stated view that these roads have been a "continual problem" for it, may be attempting to physically prevent any use of the roads in Wildcat Canyon

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<sup>45</sup> A copy of the complete email sent by Mr. Morrison is attached hereto.

<sup>46</sup> Among other issues, the USFS has Best Management Practices (BMPs) in place for installing stream crossings so that motorized use would have no measurable impact on the stream. These BMPs that could have been assessed in the EIS.

to ensure there can be no use even if it is established that the public has a right of way over the roads pursuant to RS 2477. We are also particularly concerned that the USFS may have actually had sufficient funds to reopen the roads in 2015, but deliberately and secretly returned those funds while publicly representing that lack of funding was part of the problem.

The record shows maintaining the roads is far better for *both* the environmental and the local economy- this is a rare win/win situation. We believe the USFS should have found the funds to maintain the roads back in 2004 as part of its responsibility to ensure public recreation on federal lands, instead of putting that burden on Park County. Nonetheless, if federal funds are not available, CORE is committed to ensuring the roads are maintained under Park or Teller County control. In addition, we believe in the end it would cost the taxpayers more to obliterate the roads than to maintain them if you take into account the lost revenues to the local economy that would result from removing this recreational activity, as explicitly set out in Park County's application.



**From:** Morrison, Gary -FS  
**Sent:** 11 Jul 2019 14:04:53 +0000  
**To:** Statezny, James P -FS  
**Cc:** Davilman, Lacie - FS  
**Subject:** FW: Wildcat Canyon project

Jamie,

This is the kind of situation that makes me want to retire yesterday. The South Platte and South Park RDs have evidently made a unilateral decision to move forward in decommissioning these roads and they haven't adequately involved Engineering or the motorized community in that process. Where is this project in SOPA, and where is the NEPA? I'm embarrassed and ashamed when the public comes to me about a volatile and hot topic such as this and tells me things that I am completely unaware of. The motorized community is outraged that the district is decommissioning these roads without adequately addressing concerns from Park County, from the public and my own concerns that I have expressed in the past (see my emails dated 5/30/2018 and 7/20/2017) . If our leadership wants to know why the motorized community does not want to cooperate with the forest service, this is a great example of why they don't trust us. I don't blame them for their outrage.

I've looked in Pinyon and on our website for any information concerning Wildcat Canyon and have found nothing. Where is the NEPA analysis and the signed NEPA document? Where is the project folder? Why isn't there anything on our website about this project for the public to see? Why did they move forward with this project without involving the engineering shop?

I'd like some answers to these questions so that I can convey adequate information to the public when asked. Please let me know what you find out, and if possible, provide me with a public link on our website that I can point people to. Thanks.



**Gary Morrison, P.E.**  
**Engineer/Transportation Planner**

**Forest Service**  
**Pike/San Isabel National Forests & Cimarron/Comanche National Grasslands**

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**From:** Woods, Caitlin - FS  
**Sent:** Wednesday, July 10, 2019 2:10 PM  
**To:** Banks, Brian -FS <brian.banks@usda.gov>; Dollus, Scott -FS <scott.dollus@usda.gov>; Statezny, James P -FS <james.statezny@usda.gov>  
**Cc:** Morrison, Gary -FS <gary.morrison@usda.gov>; Voorhis, Josh -FS <josh.voorhis@usda.gov>  
**Subject:** RE: Wildcat Canyon project

Thanks Brian; I just chatted with Scott and we discussed potential future needs for contract work in order to button these roads up with proper drainage. Overall we thought that the best course of action would be to discuss as a group since there are so many different players and moving parts. I'd love to come next Weds but unfortunately I have a conflict.

Jamie – are you available next Weds? If not I can try to reschedule my meeting.

Thanks, Cait

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**From:** Banks, Brian -FS  
**Sent:** Wednesday, July 10, 2019 2:04 PM  
**To:** Woods, Caitlin - FS <[caitlin.woods@usda.gov](mailto:caitlin.woods@usda.gov)>; Dollus, Scott -FS <[scott.dollus@usda.gov](mailto:scott.dollus@usda.gov)>  
**Cc:** Statezny, James P -FS <[james.statezny@usda.gov](mailto:james.statezny@usda.gov)>; Morrison, Gary -FS <[gary.morrison@usda.gov](mailto:gary.morrison@usda.gov)>; Voorhis, Josh -FS <[josh.voorhis@usda.gov](mailto:josh.voorhis@usda.gov)>  
**Subject:** RE: Wildcat Canyon project

Hey Cait,

Scott is out today. We purchased metal barriers to close the eastern routes at the county line and were just awarded a SPEB grant for 20K to install those barriers. We are still in need of funding, or possibly operator time, to pull the signage and post and cable out of the riparian and re-contour Coral Creek on the west side. We have a field trip scheduled for next Wednesday to show SPEB members the implementation plan, you are welcome to join us.



**Brian Banks**  
**District Ranger**  
**Forest Service**  
**PSICC, South Platte Ranger District**

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**From:** Woods, Caitlin - FS  
**Sent:** Wednesday, July 10, 2019 12:39 PM  
**To:** Dollus, Scott -FS <[scott.dollus@usda.gov](mailto:scott.dollus@usda.gov)>  
**Cc:** Banks, Brian -FS <[brian.banks@usda.gov](mailto:brian.banks@usda.gov)>; Statezny, James P -FS <[james.statezny@usda.gov](mailto:james.statezny@usda.gov)>; Morrison, Gary -FS <[gary.morrison@usda.gov](mailto:gary.morrison@usda.gov)>  
**Subject:** Wildcat Canyon project

Hey Scott,

Just wanted to check in and see if there has been any movement on the Wildcat Canyon project that was initiated last year?

Thanks, Cait



**Cait Woods**  
**Pike Zone Engineer**

**Forest Service**  
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