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Director, Recreation Staff

U.S. Forest Service

1400 Independence Avenue SW

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Via electronically: <https://cara.ecosystem-management.org/Public/CommentInput?project=ORMS-2619>

Dear Recreation Staff Director:

The following comments come from Wilderness Watch on the Forest Service's proposed changes to the Forest Service Manual regarding e-bikes. Wilderness Watch is a national wilderness conservation organization focused on the protection and stewardship of the 111 million-acre National Wilderness Preservation System. We have 60,000 members and supporters nationwide.

We oppose the proposed changes to the Forest Service Manual (FSM) to open up our National Forest lands to additional e-bike use for the following reasons:

1. E-bikes must continue to be treated as motor vehicles, not bicycles.

We understand that the proposed change does not explicitly change this, but the proposed policy also directs the Forest Service to expand e-bike opportunities on National Forest lands. While looking to expand e-biking opportunities, the Forest Service must continue to treat all e-bike use as motor vehicle use, and allow e-bikes ONLY where motor vehicles are permitted.

E-bike technology is rapidly evolving. New e-bikes are being developed now that will drive up to 55 mph. E-bikes must travel only where motor vehicles are allowed.

2. The proposed changes appear to set up conflicts with the Forest Service's Travel Management Rule (36 CFR 212 et seq).

The proposal threatens to violate the Travel Management Rule (TMR) (36 CFR 212 et seq.). E-bikes should only be allowed where motorized use is allowed and prohibited where motorized use is prohibited. E-bikes have a motor and are self-propelled, so they fall into the definition of a "motor vehicle", and the TMR has provisions that specifically require actions associated with motorized vehicles. See 36 CFR 212.1; Subpart B generally. The Forest Service already properly recognizes that e-bikes fall into the TMR's definition of motorized vehicles and that e-bikes do not fall into an exception to that definition. USDA, Forest Service (2016), USDA, Forest Service (2017). Both the Forest Service's 2016 memo and 2017 briefing paper recognize this.

Yet the vaguely worded proposed change directs the Forest Service to open up additional areas for e-bike use. This directive in the proposed policy change would seem to head the Forest Service toward a conflict with the TMR, since existing motor vehicle routes on the National Forests are well-known and already open to e-bike use.

3. This proposed change suggests likely environmental impacts that should be fully evaluated through an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA).

Not only would this change in policy likely violate the TMR, but the change will lead to increased environmental impacts that must be analyzed under the National Environmental Policy Act (NEPA). There is considerable uncertainty surrounding the impacts of e-bikes, and this policy proposal makes no effort to consider or include any science or identify the gaps in knowledge. The silence of e-bikes will have the same kind of impacts that mountain bikes do, but a motor will contribute some of the same impacts that motorized vehicles inflict. Because the motorized impacts will augment the mechanized impacts, treating e-bikes as anything less than motorized use will have significant environmental impacts.

NEPA requires, in pertinent part, that agencies "include in every . . . major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on- (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented." 42 U.S.C. § 4332(C).

4. All bicycle uses on trails should be subject to the same requirements for public involvement and environmental review as e-bikes, and this review should be done retroactively.

A "Bicycle" definition has now also been included under FSM 7705, which is long overdue. Non-motorized bicycles or mountain bikes, however, are not included in the criteria section at FSM 7715.5 for public involvement or environmental analysis when their use is allowed on a NFS trail, which we believe is a major oversight. The "7715.5 - Criteria" should be enlarged to include other types of technologies that are not motorized, including human-powered bicycles or mountain bikes. The conflicts, displaced users, and adverse environmental effects have been clearly documented, and similar to motorized or e-bike uses, have the same potential effects on NFS trails.

Because most trails that have been designated for bicycle use on NFS trails in the past have not gone through the proper public involvement or environmental analysis process, the Forest Service must first go through a public and environmental review process for bicycles before it even considers allowing e-bikes to on NFS trails.

We urge the following changes to the FSM 7715.5 Criteria to include bicycle uses:

Add at end of introductory paragraph: "Moreover, in considering use by bicycles, the specific criteria in 36 CFR 212.55(b) apply to trails."

Add under "1. General Criteria for Roads, Trails, and Areas":

d. In designating NFS trails for bicycle use, consider effects on NFS natural and cultural resources, public safety, provision of recreation opportunities, access needs, conflicts among uses of NFS lands, the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated, and availability of resources for maintenance and administration.

Change text in "2. Specific Criteria for Trails and Areas" to read (changes underlined):

In addition to the general criteria in FSM 7715.5, paragraph 1, when designating bicycle use, motor vehicle use, or OSV use on NFS trails and areas on NFS lands, consider and document the effects on the following, with the

objective of minimizing:

\* \* \*

c. Conflicts between bicycle use, motor vehicle use, or OSV use and existing or proposed recreational uses on NFS lands or neighboring Federal lands; and

d. Conflicts among non-mechanized uses, bicycle uses, and different classes of motor vehicle uses or OSV uses on NFS lands or neighboring Federal lands.

\* \* \*

e. Compatibility of bicycle use, motor vehicle use, or OSV use with existing conditions in populated areas, taking into account sound, emissions, and other factors, such as traffic-generated dust and the proximity of residences, parks, and schools.

Change text in "3. Specific Criterion for Trails" to read (changes underlined):

In addition to the general and specific criteria in FSM 7715.5, paragraphs 1 and 2, consider and document existing Trail Management Objectives (TMOs) before making designations of bicycle use, motor vehicle use under Subpart B, or OSV use under Subpart C that would add vehicle classes on NFS trails.

Change heading in "4. Specific Criteria and Guidance for Designating E-Bike Use on Trails" to read: "4. Specific Criteria and Guidance for Designating Bicycle or E-Bike Use on Trails."

Change text under heading 4. to read (changes underlined):

In addition to the general and specific criteria in FSM 7715.5, paragraphs 1 through 3, when designating trails for bicycle or e-bike use (FSM 7705), consider and document the following:

Add under heading 4.:

d. Whether the potential exists that bicycle or e-bike use will conflict with other non-mechanical uses (such as hikers and horseback riders), the extent to which effects from bicycle or e-bike use are comparable to effects from non-mechanical uses, accounting for, as appropriate, differences in speed; potential effects from increased or concentrated use; and any site-specific considerations.

e. Apply the consideration of bicycle use retroactively to trails that have been designated for bicycle use where public involvement and the consideration of effects from differences in speed; potential effects from increased or concentrated use; and any site-specific considerations have not previously been considered.

We urge that the following criteria be deleted because all decisions should be site-specific and not generally applied in a programmatic analysis:

"c." regarding programmatic environmental analysis regarding similarity of effects.

Change the following paragraph to read (changes underlined):

Only after full consideration of trails for bicycle use, Consider designating a class or classes of e-bike use, as appropriate, on NFS trails managed for bicycle use or where bicycle use is allowed, where effects from e-bike use would be comparable to effects from bicycle use.

5. The 3-part e-bike classification system is unenforceable.

It is difficult if not impossible even for experienced observers to tell if a bike is an e-bike or not. It will be equally

impossible for observers to tell the difference between the three classes of e-bikes that the proposed changes define. It will simply be unenforceable.

As e-bike technology advances, the three-part classification system will almost immediately become obsolete. Drop this proposed classification system from the proposed policy.

6. E-bikes disturb wildlife in the backcountry to a greater degree than other users.

Because of their speed and quiet nature, e-bikes can travel much farther into the backcountry, and startle and disturb wildlife over far greater distances. E-bikes also conflict with other nonmotorized trail users like hikers, horseback riders, and bicyclists.

New research from British Columbia published in 2020 helps show the negative impacts of mountain biking and motorized vehicles on wildlife: "Across 13 species, only two negative associations between recreational activities and wildlife detections were observed at weekly scales: mountain biking on moose and grizzly bears. However, finer-scale analysis showed that all species avoided humans on trails, with avoidance strongest for mountain biking and motorized vehicles. Our results imply that environmental factors generally shaped broad-scale patterns of wildlife use, but highlight that recreational activities also have detectable impacts." (Robin Naidoo and A. Cole Burton, "Relative effects of recreational activities on a temperate terrestrial wildlife assemblage," *Conservation Science and Practice*, 2020; e271. <https://doi.org/10.1111/csp2.271>.)

7. E-bikes on trails will likely increase the displacement of other trail user that do not want the conflict or disruption of their experience of hiking or riding horses on trails without fear of conflict or potential collisions.

Most hikers that have encountered mountain bikes descending down single-track trails, even at lower speeds, have experienced the apprehension of the encounter, conflict, and fear of a collision with a bicycle, and do not wish to repeat it. Horseback riders have even greater apprehension of such an encounter. To avoid the conflict, many hikers and horseback riders will seek out trails where they will not encounter the conflict, and therefore are displaced from trails that have been opened up to mountain bikes.

With the potential for increased bike use from e-bikes, which could more easily ride uphill, the displacement of hikers and horseback riders will likely increase.

In the past, the Forest Service has unilaterally opened up NFS trails to bicycles without public involvement and without any environmental analysis or analysis of potential conflicts. This failure has been detrimental to hikers and horseback riders who have not been given any say about this change in use, which has often led to their displacement from popular hiking trails.

For example, in the Giant Sequoia National Monument of the Sequoia National Forest, the Nelson Trail is now so heavily used by mountain bikes that hikers and horseback riders avoid the trail altogether. Moreover, bike riders have even altered trail features to install jumps and even use downed giant sequoia logs to ride on. These are unsanctioned activities that also have environmental consequences, which have never been analyzed under NEPA.

8. Trespass into designated Wilderness will increase with this policy change.

Because there is almost no Forest Service enforcement now for trespass, illegal off-trail riding, and illegal trail development by some bikers, e-bikes will increasingly trespass into Wilderness and other protected areas with no consequences. This illegal use will degrade the wild character of these lands and should not be encouraged as this policy will do.

The Forest Service has allowed its professional wilderness ranger staff to be decimated over the last decades, and replaced them with volunteers. But volunteers cannot do law enforcement. Only professionally-trained Law Enforcement (LE) officers can conduct law enforcement actions in Wilderness. Volunteer trail groups just can't cut it, and obviously lack the authority to conduct law enforcement.

For all of the reasons stated above, Forest Service should withdraw this proposal.

Sincerely,

Kevin Proescholdt  
Conservation Director

#### REFERENCES

Naidoo, Robin, and A. Cole Burton, 2020. Relative Effects Of Recreational Activities On A Temperate Terrestrial Wildlife Assemblage. *Conservation Science and Practice*, September 2020. Available at: <https://onlinelibrary.wiley.com/doi/full/10.1111/csp2.271>

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