

USDA Forest Service
Rocky Mountain Regional Office
Attn: Objection Reviewing Officer
PO Box 18980
Golden, CO 80402

Submitted electronically via <https://cara.ecosystem-management.org/Public/CommentInput?Project=48214>

Re: Objection to Pike & San Isabel National Forests Motorized Travel Management (MVUM) Analysis

To Objection Reviewing Officer,

Objectors, Quiet Use Coalition, WildEarth Guardians, Rocky Mountain Wild and Wild Connections file this objection to the Pike & San Isabel National Forests Motorized Travel Management proposed project (Project), Final Environmental Impact Statement (FEIS), draft Record of Decision (DROD) and Forest Plan Amendment, noticed November 6, 2020. Diana Trujillo, Pike & San Isabel Forest Supervisor, Responsible Official.

The Quiet Use Coalition, WildEarth Guardians, Rocky Mountain Wild and Wild Connections filed timely comments on this project on September 8, 2016, November 4, 2019. We have standing to object, and our objections pertain to the substantive issues that we raised during scoping and in our comments on the project's draft EIS. As required by 36 C.F.R. § 218.8(d), the lead objector is as follows:

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We offer the following objections and resolutions to improve the final decision:

I. Failure to properly identify a minimum road system and unneeded roads

The Travel Management Rule (TMR) under Subpart A directs, in part, that the Forest Service must identify a minimum road system (MRS) that provides for the protection of National Forest Service System lands, and that such as system will meet applicable forest plan objectives, meet applicable statutory and regulatory requirements, reflect long term funding expectations, and minimize adverse environmental effects associated with road construction, reconstruction, decommissioning, and maintenance. 36 C.F.R. § 212.5(b)(1). The rule also directs the agency to identify roads no longer needed and therefore should be decommissioned or considered for other uses. 36 C.F.R. § 212.5(b)(2). A Montana District Court recently ruled that when identifying the minimum road system, the four factors present in 36 C.F.R. § 212.5(b)(1) must be present in the NEPA documentation. See *Friends of Bitterroot v. Marten*, No. 9:20-cv-00019-DLC, 2020 WL 5804251 (D. Mont. Sept. 29, 2020).

The draft ROD fails to comply with 36 C.F.R. 212.5(b) because the minimum road system under the selected alternative does not provide for the protection of Forest Service System lands primarily due to its reliance on insufficient analysis demonstrating compliance with regulatory requirements and over-reliance on design criteria. The proposed MRS also fails to reflect long-term funding expectations, and fails to minimize adverse environmental impacts associated with road maintenance. It also relies on ineffective road treatments, so decommissioning also fails to minimize impacts. These systemic flaws also preclude the agency from properly identifying unneeded roads.

A. Insufficient Analysis demonstrating compliance with regulatory requirements

In previous comments, we explained that the Forest Service failed to provide sufficient analysis to satisfy NEPA generally, and specifically, to support the identification of the minimum road system. For example, we questioned why the agency only utilized a 100-foot buffer to analyze the potential impacts to fish-occupied streams when the best available science supports the use of a 300 ft buffer and the agency's own hydrology analysis provides a table showing the miles of open routes within 300 feet of perennial and intermittent streams for all the alternatives, including the number of miles that are within 300 feet of a 303(d) stream segment.

In response to our comments, the Forest Service explained that its analysis was supplemented, improved, or modified. FEIS at D-2. Yet, the FEIS and associated biological evaluation (BE), as well as the USFWS's biological opinion (BiOp) continued to use the 100 ft buffer for fish species. FEIS at 3-45, BE at 19, BiOp at 41.

In addition, we asked the agency to analyze the potential sedimentation of fish occupied streams, in particular the nine fish-bearing streams in the decision area that are protected for greenback cutthroat trout. We offered the WEPP and GRAIP models as tools the agency routinely uses for such analysis and could easily use here, but the Forest Service replied they were not appropriate for this size and scale of analysis. FEIS Appendix D at D-2. The agency has discretion regarding its analysis tools, but they must properly measure the issue indicators. By using only a 100-foot buffer, the Forest Service constrained its analysis of road impacts to fish-occupied streams, a flaw compounded by the agency's failure to properly analyze potential sedimentation to these same streams.

In fact, the Forest Service appears to limit its analysis to just the soil erosion potential, which does not address actual sedimentation to fish-occupied streams that would occur from soil erosion. The Forest Service also limited its effects analysis for soil erosion. We previously commented how the agency only considered soil erosion values at or above 4.9 Kw even though values above 4.0 are considered highly erosive. The Forest Service responded that our comment was considered but that no changes were needed.

We disagree. Not only should the agency have included the 2,800 acres with a 4.3 Kw in its soil erosion analysis, it should have also included moderately erosive soil ratings as well as accounted for the 789,700 acres that lacked sufficient data. *See* FEIS at 3-182, Table 3-55. (The analysis only includes soils with a 4.9 Kw.) In other words, the Forest Service failed to properly measure soil erosion potential under each of the alternatives, or utilize any method for measuring potential sedimentation, which undermines any determination that the MRS would not result in adverse environmental impacts to fish, and in particular, Greenback cutthroat trout.

Another major concern in which we commented upon was that the Forest Service combined publicly open roads with motorized trails to arrive at the total miles of motorized routes, which fails to differentiate between roads and trails and omits special use, administrative, and closed system roads. The agency arbitrarily assumes these roads will have no effect on the greenback cutthroat trout or other fish species. The lack of differentiation between roads and trails is consistent throughout the FEIS and serves as a fatal flaw in the agency's analysis that undermines any determination that the MRS under Alt. C would provide for the protection of NFS lands or minimize adverse impacts.

In fact, the agency omits all system roads not publicly available for use in its analysis of select threatened and endangered species, resulting in a failure to take a hard look at habitat fragmentations and wildlife connectivity, which undermines any determination that the selected alternative will not adversely affect the species or its critical habitat. The issue of habitat fragmentation and connectivity require serious considerations for a number of species.

For example, for the Preble's Meadow Jumping Mouse "[h]abitat fragmentation limits the range and abundance of the Preble's. In general, as animal populations become more fragmented and isolated, it

becomes more difficult for them to persist... Therefore, maintaining the connectivity of riparian habitats between stream reaches is crucial to maintaining the security of Preble's populations faced with an increased incidence of flooding. BiOp at 29, 31.

For Mexican Spotted Owl, "[h]abitat fragmentation from the continued ***presence*** of roads would make the habitat less functional by potentially impeding the owls' ability to make necessary daily, seasonal, or dispersal movements (USFWS 2012)." BiOp at 44-45, emphasis added. And for Canada lynx, "[t]he ***continued presence*** of roads through lynx habitat (Table 3-14) may reduce it by perpetuating the existence of bare ground that may otherwise provide forest cover (Ruediger et al. 2000); this would result in habitat fragmentation. Human-caused fragmentation of the already naturally patchy pattern of lynx habitat can affect lynx by reducing their prey base and creating edge habitats that may promote co-occurrence with potential competitors (USFWS 2017)." FEIS at 3-39, emphasis added.

The bottom line is that the habitat fragmentation occurs from the mere presence of roads, which harm habitat connectivity and reduces habitat security. While the Forest Service did include habitat fragmentation as an issue indicator in its wildlife analysis, it failed to utilize a measurement that would properly analyze fragmentation and connectivity that accounts for the presence of all roads. We recognize that the Forest Service includes tables that contain "[m]iles (and acres) of routes not pertinent to public motor vehicle use use," but they appear to only include "decommissioned routes and routes converted to nonmotorized trails." FEIS at 3-40, Table 3-3-14, at 3-54, Table 3-17, at 3-73, Table 3-21. It remains unclear how the Forest Service accounts for the presence of all system roads on habitat fragmentation and connectivity for threatened and endangered species, as well as for all other wildlife.

The failure to include all system roads in the analysis or include an appropriate measure for habitat fragmentation precludes the Forest Service from claiming Alt. C fully complies with the Endangered Species Act, and with the minimization criteria (TMR at 36 CFR 212.55(b)). In sum, the proposed MRS provided under Alt. C fails to comply with NEPA, the ESA, and due to an over-reliance on design criteria (discussed below), the Forest Service fails to account for sediment increases in 303(d) listed stream segments in violation of the Clean Water Act.

On the latter, the Forest Service explains that for the selected alternative, "there would be 74.42 miles of routes open to public motor vehicle use within 300 feet of 303(d)-listed streams (Table 3-56)," which amounts to just a 3.9 percent decrease of miles compared to the No Action Alt. Missing from this discussion is how much sedimentation would occur in the 74.42 miles of 303(d)-listed streams. The Forest Service failed to connect the dots of road-caused soil erosion to stream sedimentation to compliance with any Total Daily Maximum Load thresholds. All together, these violations preclude the agency from asserting the MRS identified under Alt. C complies with regulatory requirements, which equates to violation of the TMR.

B. Over-reliance on design criteria without supporting evidence of their efficacy

The Forest Service cannot rely on best management practices or design criteria as a rationale for retaining roads as part of an identified MRS as proposed under Alt. C without demonstrating their efficacy. Our 2019 DEIS comments previously cautioned the Forest Service against conflating mitigation with

minimizing adverse impacts or relying on them to support MRS determinations that provide for the protection of NFS lands. In response, the Forest Service states that “[a]dditional explanations of where routes vary from the MRS are included in the EIS. The design criteria apply to all routes, including those with moderate risk determinations.” FEIS at D-265. Such a response does not actually address our comment.

Specifically, the Forest Service explains that if a high-risk road for watersheds is within 100 feet of a perennial stream, then the MRS screening criteria recommends rerouting the road if possible, but only for Alternatives B, D, and E. For the selected Alt. C, the agency states:

As described previously, the MRS management recommendations were subject to a further site-specific analysis for Alternative C. This could result in differing management for road status changes. Additionally, where MRS management recommendations do not propose a road status change to minimize risk—for example, reinforce and harden stream crossing or install fencing—Alternative C addresses these resource risks with a range of potentially applicable design criteria, described in Appendix B.

FEIS at 2-8. The analysis does not provide a summary table displaying how many high-risk roads under Alt. C differ from the MRS management recommendations, but the selected alternative would retain approximately 781 miles of roads with high risks to watersheds, of which 44 miles have a high/high risk rating. *See* FEIS Appendix C. Under the selected alternative, the Forest Service would change mitigation or maintenance techniques on roughly 52 miles, presumably to implement design criteria listed in the FEIS Appendix B. Looking more closely at those design criteria, they include applying seasonal restrictions, applying water bars and culverts, and installing barriers to keep people on routes, among others. FEIS Appendix B at B-1. “Additional design criteria may be employed from the National Best Management Practices for Water Quality Management on National Forest System Lands and the Watershed Conservation Practices Handbook (FSM 2509.25) as needed.” *Id.*

Attachment A of this objection includes a report titled, “The Environmental Consequences of Forest Roads and Achieving a Sustainable Road System (March 2020).”¹ Section III of this report details the inconsistencies and ineffectiveness of utilizing mitigation measures, which indicates a strong need for more detailed analysis in an EIS to support the Forest Service's reliance on its design criteria. Specifically, when considering how effective BMPs are at controlling nonpoint pollution on roads, both the rate of implementation, and their effectiveness should be considered.

The Forest Service tracks the rate of implementation and the relative effectiveness of BMPs from in-house audits. This information is summarized in the National BMP Monitoring Summary Report with the most recent data being the fiscal years 2013-2014. Carlson et al. 2015. The rating categories for implementation are “fully implemented,” “mostly implemented,” “marginally implemented,” “not implemented,” and “no BMPs.” “No BMPs” represents a failure to consider BMPs in the planning process. More than a hundred evaluations on roads were conducted in FY 2014. Of these evaluations, only about one third of the road BMPs were found to be “fully implemented.” *Id.* at 12.

¹ *See* Attachment A.

The monitoring audit also rated the relative effectiveness of the BMP. The rating categories for effectiveness are “effective,” “mostly effective,” “marginally effective,” and “not effective.” “Effective” indicates no adverse impacts to water from project or activities were evident. When treated roads were evaluated for effectiveness, almost half of the road BMPs were scored as either “marginally effective” or “not effective.” *Id.* at 13.

Further, a technical report by the Forest Service entitled, “Effectiveness of Best Management Practices that Have Application to Forest Roads: A Literature Synthesis,” summarized research and monitoring on the effectiveness of different BMP treatments for road construction, presence and use. Edwards et al. 2016. The report found that while several studies have concluded that some road BMPs are effective at reducing delivery of sediment to streams, the degree of each treatment has not been rigorously evaluated. Few road BMPs have been evaluated under a variety of conditions, and much more research is needed to determine the site-specific suitability of different BMPs (Edwards et al. 2016, also see Anderson et al. 2011). Edwards et al. (2016) cites several reasons for why BMPs may not be as effective as commonly thought. Most watershed-scale studies are short-term and do not account for variation over time, sediment measurements taken at the mouth of a watershed do not account for in-channel sediment storage and lag times, and it is impossible to measure the impact of individual BMPs when taken at the watershed scale.

When individual BMPs are examined there is rarely broad-scale testing in different geologic, topographic, physiological, and climatic conditions. Further, Edwards et al. (2016) observes, “[t]he similarity of forest road BMPs used in many different states’ forestry BMP manuals and handbooks suggests a degree of confidence validation that may not be justified,” because they rely on just a single study. *Id.* at 133. Therefore, ensuring BMP effectiveness would require matching the site conditions found in that single study, a factor land managers rarely consider.

Climate change will further put into question the effectiveness of many road BMPs (Edwards et al. 2016). While the impacts of climate will vary from region to region (Furniss et al. 2010), more extreme weather is expected across the country which will increase the frequency of flooding, soil erosion, stream channel erosion, and variability of streamflow (Furniss et al. 2010). BMPs designed to limit erosion and stream sediment for current weather conditions may not be effective in the future. Edwards et al. (2016) states, “[m]ore-intense events, more frequent events, and longer duration events that accompany climate change may demonstrate that BMPs perform even more poorly in these situations. Research is urgently needed to identify BMP weaknesses under extreme events so that refinements, modifications, and development of BMPs do not lag behind the need.” *Id.* at 136.

Significant uncertainties persist about BMP and design criteria effectiveness as a result of climate change, all of which are compounded by the inconsistencies revealed by BMP evaluations suggesting that the Forest Service cannot simply rely on them to mitigate project-level activities. This is especially relevant where the Forest Service relies on the use of BMPs and design criteria instead of fully analyzing potentially harmful environmental consequences from road design, construction, maintenance and use, in studies and/or programmatic and site-specific NEPA analyses.

Ultimately, it is arbitrary and capricious for the Forest Service to assume 100 or even 80 - 90 percent proper BMP and design criteria implementation and effectiveness. More so, the Forest Service fails to demonstrate how BMP and design criteria effectiveness will be achieved and maintained in the long term, especially given the lack of adequate road maintenance capacity, which is a serious omission given the agency's deferred maintenance backlog.

In addition, the Forest Service proposes to implement or revise seasonal closures for 525 miles of road under Alt. C, including 241 miles as a means to minimize adverse impacts to wildlife. FEIS at 2-7. Yet, the Forest Service fails to provide evidence for, or demonstrate the success of, current seasonal use restrictions. Though we previously commented on the need to analyze effects from unauthorized motorized use, which includes use of closed roads, the Forest Service rejected the need for such analysis. FEIS Appendix D at 262 ("The PSI consistently monitors its routes open to public motor vehicles for appropriate use. However, unauthorized route use or illegal camping may occur. Decisions related to monitoring and enforcing unauthorized route use or creation is beyond the scope of this undertaking)."

We strongly disagree. The Forest Service expects closure devices such as gates and other methods of blocking road entrances to effectively mitigate adverse environmental impacts for a range of wildlife, and as such, the issue of enforcement and unauthorized use are crucial for ensuring the MRS provides for the protection of NFS lands and the minimization of impacts, as required by the TMR. Dismissing the issue as outside the scope of this planning process is arbitrary and capricious, and a violation of NEPA and the TMR.

C. Failure to identify a minimum road system that provides for the protection of NFS lands

Our previous submitted comments explained that the proposed action would retain numerous high and moderate risk roads, as well as those with low benefits, resulting in an identified MRS that fails to protect NFS lands. Looking at the FEIS Appendix C spreadsheet, the proposed MRS under Alt. C includes 975 miles of road with high and high/high wildlife risks, as well as 781 miles of road rated high and high/high for watershed risks. In fact, there are approximately 517 miles of road that have high and high/high risks for both wildlife and watersheds. In addition, there are 573 miles rated high and high/high for risks to both wildlife and watersheds. The spreadsheet shows other high-risk roads with just moderate benefits also being included in the proposed MRS, on which we raised a concern in previous comments.

In response, the Forest Service states, "[a]dditional explanations of where routes vary from the MRS are included in the EIS. The design criteria apply to all routes, including those with moderate risk determinations." FEIS at D-16. Such a reply illustrates the agency reliance on design criteria and bias towards retaining roads to provide for motorized recreation. For example, FSR #431.2C rates high for risks to both watersheds and wildlife, has low benefits for all other categories except recreation, and the agency proposes to mitigate the adverse impacts through seasonal road restriction instead of decommissioning the road. Similarly, FSRs #344H and #344I both have high wildlife risks, moderate recreation benefits, and low for all other benefit categories, yet the Forest Service proposes to keep the road status unchanged in Alt. C.

Recognizing the adverse environmental impact, the agency would decommission these roads under Alt. E, which demonstrates the selected alternative does not provide for the protection of NFS lands. In fact, the agency admits its bias towards providing motorized recreation, explaining that if a high-risk road has high or moderate motorized recreation benefits, then the management recommendation would be to convert the road to a trail. FEIS at 2-8,9. Since the aforementioned roads would be part of the MRS under Alt. C, it is clear the direction in the FEIS was not consistently applied, but our objection is to the fact that these roads should have been identified as unneeded and recommended for decommissioning.

We do not support converting high risk roads to motorized trails since that does little to minimize adverse impacts. Rather, all high-risk roads should be decommissioned if the risks cannot be adequately mitigated, or stored if truly needed over the life of a forest plan, generally 10-15 years, and the risks can be adequately mitigated.

Overall, the Forest Service identified a MRS under the selected alternative that is only 4 percent smaller than the existing system without adequately demonstrating how doing so provides for the protection of NFS lands. FEIS at 2-15 Table 2-4 and Appendix C, (percentage based on subtracting NFS reduction in Alt. C from the total road miles in INFRA displayed in Appendix C).

D. Failure to identify a minimum road system that reflects long-term funding expectations

In past comments we provided a detailed and extensive explanation on the need to analyze the Forest Service's ability to maintain its transportation system in order to identify a MRS that reflects long-term funding expectations. The selected alternative fails to do so. In response to our concern, the Forest Service explains that it will convert roads to trails and utilize cooperator agreement in order to complete any requisite maintenance activities. FEIS at 1-25. The agency road maintenance analysis discloses there is an anticipated maintenance backlog of \$1,446,359 representing 64.33 percent of the annual maintenance costs. FEIS at 3-199. The selected alternative does little to address this backlog. Specifically, the anticipated road maintenance needs under Alt. C total \$2,034,504. *Id.* at 3-201. The Forest Service acknowledges the result would be an average annual maintenance backlog of 60.64 percent with the cost reductions resulting primarily by converting roads to trails, not actually removing them.

Other cost reductions would result by changing maintenance levels on 108.06 miles of roads. *Id.* at 3-204. The agency's disclosure demonstrates that it cannot currently meet its Road Management Objectives due to lack of adequate maintenance, and the backlog will continue to grow. The Forest Service did not disclose its current deferred maintenance backlog, so it is unclear how much the lack of annual maintenance will contribute to this number and affect the agency's overall ability to maintain the identified MRS. The analysis demonstrates the agency has identified a MRS that it cannot afford to maintain and therefore fails to reflect long-term funding expectations.

Further, the Forest Service cannot address the lack of adequate maintenance by relying on design criteria as it proposes. *Id.* (Stating, "the PSI would choose from the range of design criteria included in Appendix B to minimize impacts for specific roads with issues identified in Appendix C.") The agency did not explain how it would fund implementation or long-term maintenance of specific design criteria (e.g. culverts and waterbars), and it continues to rely on the erroneous assumption that the design criteria will

be 100 percent effective; a concern we commented upon previously and that the Forest Service failed to properly address in the FEIS.

Further, the agency proposes to reduce maintenance on several roads with high watershed risks where, under the selected alternative, the routine maintenance would only occur once every 9 years. These include FSRs #120, #138A and #125. In total, there are 27 miles where roads open to the public would have a 9-year maintenance schedule, a number that grows to 57 miles for roads converted to administrative use only. The Forest Service does not disclose the current maintenance schedule for these roads, or if a 9-year rotation will meet current Road Management Objectives, or how a 9-year maintenance cycle will actually minimize adverse impacts, especially for those roads with high watershed risks.

Suggested Resolution: 1) conduct a new travel analysis process to inform an SEIS that properly identifies a MRS that fully provides for the protection of NFS lands by minimizing impacts as required by the TMR; 2) decommission all high risk and also low benefit roads; and 3) store or decommission enough miles of road to stay within annual maintenance budgets.

REFERENCES THIS SECTION

Carlson, J. P. Edwards, T. Ellsworth, and M. Eberle. 2015. National best management practices monitoring summary report. Program Phase-In Period Fiscal Years 2013-2014. USDA Forest Service. Washington, D.C.

Edwards, P.J., F. Wood, and R. L. Quinlivan. 2016. Effectiveness of best management practices that have application to forest roads: a literature synthesis. General Technical Report NRS-163. Parsons, WV: U.S. Department of Agriculture, Forest Service, Northern Research Station. 171 p.

II Failure to demonstrate compliance with the ESA.

Overall, due to flaws in its analysis and over-reliance on design criteria, it is arbitrary and a violation of the ESA for the Forest Service and USFWS to assert the draft decision is not likely to jeopardize the continued existence of the Mexican spotted owl (see detailed discussion below), Pawnee montane skipper, and the Preble's meadow jumping mouse. In addition, the ESA's consultation requirement applies "to all actions in which there is discretionary Federal involvement or control." 50 C.F.R. § 402.03. If species listed under the ESA may be present in the area of agency action, the action agency must prepare a "Biological Assessment" or "Biological Evaluation" to determine whether a listed species may be affected by the proposed action. See 16 U.S.C. § 1536(c)(1); 50 C.F.R. § 402.12. If the action agency concludes in the Biological Assessment that the activity is not likely to adversely affect the listed species or adversely modify its critical habitat (if any is designated), and FWS concurs with that conclusion in a "Letter of Concurrence," then the consultation is complete. 50 C.F.R. §§ 402.12; 402.14(b).

Here, the Forest Service prepared a Biological Assessment dated July 20, 2020, that determined the Pike San Isabel Travel Plan may affect, but is not likely to adversely affect Canada lynx and the Greenback

cutthroat trout. In its Sept. 23, 2020 Biological Opinion, FWS concurred with the Forest Service's determination. This completed the Forest Service's and FWS's consultation duties under the ESA. The question then becomes whether the Forest Service's "not likely to adversely affect" determination is sound. As we discussed above, the agency omitted system roads not publicly available for use from its analysis and failed to properly account for how the presence of roads contributes to habitat fragmentation and reduces connectivity under the action alternatives. Further, the lack of sedimentation analysis and reliance on design criteria precludes the Forest Service from making a "not likely to adversely affect" determination for the Greenback cutthroat trout.

III. The Proposed Action Would Not Adequately Protect Mexican Spotted Owl

Objectors previously addressed this issue in their comments on the DEIS dated November 19, 2019, including Attachment D to those comments. We incorporate these comments by reference here. For this section, we incorporate by reference the discussion in section I above regarding the effectiveness of road closures and other mitigation measures as they affect wildlife, and general problems in the proposed action's compliance with the ESA.

Selected alternative C would increase the mileage of routes open to motorized use in habitat for Mexican spotted owl (MSO). In critical habitat for this ESA-listed threatened species, 127.24 miles of routes would be open to motorized use, almost 11 miles above what is currently open (under no action alternative A). 2020 Biological Assessment (BA) at 38. The figure for alternative C is the second most among all alternatives. Ibid.

In protected activity centers (PACs), 1.34 miles of routes would be open to motors, .06 miles more than under no action. Ibid. Part of each PAC is a 100-acre nest/roost core area which

should receive maximum protection by limiting activities that have a high likelihood of disturbing owls or causing abandonment (primarily habitat alteration and certain forms of mechanical noise).

USFWS, 2012 at 260-261. Generally, management activities should not occur in nest/roost core areas during the breeding season, March 1 through August 31. Id. at 262-263. The FEIS and BA do not say if the route(s) within PACs are in or near core areas.

In MSO recovery habitat outside of critical habitat, 255.30 miles of routes would be open, just slightly (8.26 miles) less than under no action. 2020 BA at 38.

As we demonstrated in our comments, MSO habitat can be altered and fragmented by roads and trails open to human use. Owls can be adversely affected by disturbance from human use, especially if such use is near nests and/or is frequent. See Attachment D to our DEIS comments, in which we cited several passages from the MSO Recovery Plan (USFWS, 2012). Note that the Recovery Plan states: "[t]he potential for recreation-related impacts to the owl is relatively high". Id. at 47.

The analysis of impacts in the 2020 BA acknowledges that the continued presence and use of roads and trails would cause habitat to be less functional, and that disturbance from such use could cause owls to flush and alter their behavior. *Id.* at 36. However, there is no site-specific analysis of how MSO would be protected, particularly in critical habitat.²

Under the Travel Management Rule (TMR), the Forest Service, in deciding which routes to designate for public use, must minimize impacts to a variety of resources, including “[h]arassment of wildlife and significant disruption of wildlife habitats”. 36 CFR 212.55(b)(2). The analysis of impacts to MSO in the FEIS does not show how impacts to this species would be minimized. Indeed, the mileage of routes open to public motor vehicle use would increase in critical habitat and PACs under selected alternative C, as is discussed above. That would indicate impacts would *increase* with implementation of the proposed action.

In its comments of November 3, 2019, Wild Connections specifically asked that the following routes in MSO habitat, many in critical habitat, be closed or converted to non-motorized trails:

336.A, 353, 353.A, 354, 357, 358, 359, 365, 383 (two segments), 389, 390, 1314, 1321 (two segments), 1322, 1323 (two segments), 1325, 1333, 1333.A, 528.E, 1334, 1384, 1387

However, a large majority of these routes would be open year-long to at least some motor vehicles under proposed action Alternative C.

Closing routes seasonally is predicted to “limit the potential for noise and other disturbance associated with human presence during the nesting season”. FEIS at 3-56. See also 2020 BA at 36. Applying seasonal restrictions is listed as a design criterion for threatened and endangered wildlife. FEIS at B-1. However, the analysis does not state precisely when routes would be seasonally closed, nor how effective the closures might be, nor how such closures, if effective, would insure that impacts to MSO are minimized.

The 2020 BA states that

Seasonal use restrictions in early spring to late summer/early fall would reduce disturbance and harassment of owls and nests during the breeding season. This may ultimately help increase the species’ reproductive success. ...The Forest Service would have the authority to close roads at its discretion. Additional roads could be closed at the site-specific level as needed to minimize impacts to this species.

Id. at 36-37. The specific closure dates are not stated, and the stated range of possible closure dates is rather broad, so closure time adequate to protect MSO is not assured.³ The analysis of how to protect

² FEIS Appendix C has a spreadsheet with the screening criteria used for potential routes. One of the criteria is critical habitat. However, for the routes that pass through critical habitat, it is not specified how much of the route goes through critical habitat, nor does it state what species has/have critical habitat adjacent to any given route. For example, one route segment in critical habitat, Rampart Range, FSR 200, is 35.79 miles long. The maps in Appendix D of the Biological Assessment are difficult to read, especially the numbers of individual routes.

³ It is not clear if the closure dates would cover the entire breeding season, March 1 through August 31. See USFWS, 2012 at 262-263.

MSO is thus incomplete.

Note that proposed action alternative C has by far the most route miles proposed to be seasonally closed within critical habitat – 59.74 miles. 2020 BA at 38. There are many additional miles (66.52 miles in alternative C, second most among alternatives) that would be seasonally closed in MSO habitat outside of critical habitat. Thus comprehensive analysis and disclosure of the effectiveness and possible benefits of these closures for MSO is very important.

For a resource as important as a species like MSO, which is listed as threatened under the federal Endangered Species Act, the Forest Service has a responsibility to the public to fully disclose impacts to the species, and to show how the proposed project meets the requirements of both the ESA and the TMR.

The 2020 BA states as a “general assumption[.]” that “[u]se of unauthorized routes is not included in this analysis”. Id. at 20.⁴ A further assumption is:

Public motor vehicle use would be limited to those routes and areas proposed under the alternatives for inclusion in the MVUMs.

Ibid.

However, as the Forest staff well knows, use of unauthorized routes is a regular occurrence and an increasing problem on the Pike-San Isabel National Forest. Such use can adversely affect MSO and other ESA-listed species. Note that the 2012 Recovery Plan specifically notes that off-highway vehicle use occurring off-road (which would be unauthorized on the P-SI, since use is confined to designated routes) had increased considerably since the completion of the previous recovery plan in 1995. Id at 47, 55. OHV use has likely increased further since 2012. Such activity can easily scare owls out of nest and roosts, and lead to nest or reproductive failure.

Also, “non-system routes are being converted to system routes.” E-mail from Felix Quesada, Pike-San Isabel National Forest, to Leslie Ellwood, U. S. Fish and Wildlife Service, September 8, 2020. This was a response to a September 3 e-mail from Ms. Ellwood with questions about the project. See Exhibit Wildlife - 1 below. Use of unauthorized routes could be generated, encouraged, or increased by designation and use of open routes, especially ones that were illegally created by users, with an increased adverse impact to various wildlife species. Designating routes created illegally by users, for example, encourages creation of more illegal routes because the perpetrators know that any routes they create may eventually become official, system routes.

In its response to comments, the FEIS states:

Decisions related to monitoring and enforcing unauthorized route use or creation are beyond the scope of this undertaking.

⁴ See also FEIS at D-2, which states: “Decisions related to monitoring and enforcing unauthorized route use or creation are beyond the scope of this undertaking.” This is further discussed below.

Id. at D-2.

However, note the following required terms and conditions from the Biological Opinion for this project:

USFS shall monitor for unauthorized motor vehicle use of non-system trails in habitat for the Mexican spotted owl, Pawnee montane skipper, and Preble's mouse, and shall take measures to close non-system trails, as appropriate.

USFS shall conduct Mexican spotted owl surveys in the St. Charles PAC to evaluate occupancy by the owl, and will identify nest and roost trees if occupied. The USFS shall coordinate further with the Service if the existing motor vehicle routes are within a 100-acre core area around nest or roost areas in the PAC.

USFWS, 2020 at 54.

If the analysis for the TMP does not address monitoring and enforcing road closures, then when will these important issues be addressed? And how can the Forest Service be sure that seasonal road closures designed to protect wildlife, like MSO, will be effective if it isn't monitoring and enforcing them, and evaluating how effective they are?

For the TMP, there is no inventory or analysis of the use of unauthorized routes, yet some of these routes are being converted to system routes. This contradiction needs to be addressed.

The 2012 Recovery Plan states:

Noise impacts are most likely to occur at the level of individual owls and/or PACs, and they may be important to small isolated populations. We believe that disturbance should be avoided when practicable during the nesting season...

Id. at 56. The population(s) of MSO on the P-SI is/are likely small and may be isolated from other populations. Thus it is important to protect them, to give them a chance to recover to full, viable populations. It should be practicable to close, seasonally or permanently, many routes in MSO critical habitat to avoid disturbances to nesting owls, now and in the future. Even PACs and critical habitat that are currently unoccupied should be protected because MSO may recolonize these areas in the future.

The TMP does not appear to provide sufficient protection to MSO. Even if the proposed action complies with ESA requirements, it does not appear to meet the TMR's minimization criteria.

CONSERVATION MEASURES NOT INCLUDED

The BO for the TMP project has seven terms and conditions that the Forest Service must follow. One states:

USFS shall ensure that proposed conservation measures (outlined in the biological

assessment) are formally adopted and implemented.

USFWS, 2020 at 55.

However, we do not see any conservation measure listed in the 2020 BA, or at least any measures so labelled or clearly intended to be conservation measures. The earlier version of the BA (September, 2019) does not contain any such measures, either.

Suggested Resolutions:

Any route(s) in or close to PACs should be decommissioned and obliterated. If any routes in critical habitat remain open to public motorized use, it should only be during the non-breeding season. In addition, the Forest Service must determine that each route to be open, even seasonally:

- is truly needed to meet management objectives,
- is the option least damaging to MSO and its habitat, and
- cannot be relocated outside of PACs without an even greater overall impact.

The analysis must discuss the possible impacts of the use and maintenance of motorized routes in critical habitat, especially any that are near nest/roost core areas. The use of these routes open to motor vehicles, if needed to meet objectives, must be shown to minimize impacts to MSO, and if not, be closed and obliterated.

The FEIS must provide an analysis of possible impacts to MSO from unauthorized use, i. e., motorized use by any type of motor vehicle, off of designated routes, and how this, in combination with the routes designated for public motorized use, would affect MSO, and how such impacts would be minimized.

If seasonal route closures are approved, project documents must clearly state in the narrative what parts of what routes will closed and during what time period(s). The analysis of impacts must evaluate the potential effectiveness of these closures, and how they will be enforced. It must also show how such closures, if effective, would help insure that impacts to MSO are minimized, and that MSO populations are retained and will have a chance to reach full viable levels in the future.

Conservation measures must be added to the Biological Assessment.

REFERENCES this section

USFWS, 2012. Mexican Spotted Owl Recovery Plan, First Revision. U. S. Fish and Wildlife Service, Southwest Region, Albuquerque, NM, September, 2012.

USFWS, 2020. Biological Opinion for the “Public Motor Vehicle Use Project”⁵ on the Pike-San Isabel National Forest. September 23, 2020, U. S. Fish and Wildlife Service, Lakewood, CO.

⁵ The Forest Service named the project “Motorized Travel Management (MVUM) Analysis”, but the FWS uses this name in the opening paragraph of the BO.

EXHIBIT WILDLIFE -1

E-mail exchange between Felix Quesada, USDA, and Leslie Ellwood, USFWS, September, 2020:

From: Quesada, Felix N -FS
To: Davis, Mary - FS
Subject: FW: Questions
Date: Thursday, December 10, 2020 4:12:00 PM
Attachments: EIS_AppendixB_TableB_1.pdf
EIS_Table3_59.pdf
From: Quesada, Felix N -FS
Sent: Tuesday, September 8, 2020 3:37 PM
To: Ellwood, Leslie <leslie_ellwood@fws.gov>
Subject: RE: Questions

Hi Leslie,

Please see the additional information in green text, and the attached Table B-1. If these questions or concerns are not adequately addressed, please let me know. Thank you

From: Ellwood, Leslie <leslie_ellwood@fws.gov>
Sent: Thursday, September 3, 2020 10:20 AM
To: Quesada, Felix N -FS <felix.quesada@usda.gov>
Subject: Questions on MVUM BA (new question)

Felix,

I've added an additional question on to our existing list (see below - Question #7)

1. I wanted to make sure that I'm clear on what the proposed action is that we are consulting on. I know we are consulting on designation of routes, and assume this includes the use and maintenance of the existing routes plus the new parking areas (that are generally being established in areas of existing disturbed sites), is that correct? Yes, motorized roads and trails, and parking areas are being designated. The parking areas are generally disturbed sites but some management actions to define these areas (e.g., fencing, signage, etc.) is expected. Maintenance of all of these features is also assumed. The analysis of effects groups maintenance with general use. Attached are pages from the EIS that describe the types of maintenance. Additional analysis or specifics can be provided, if needed. Would you prefer that this information be provided as a supplement to the BA or would an email suffice?

In regard to the maintenance of routes or parking areas, a variety of management actions are proposed. The EIS (Appendix B, Table B-1) identifies a range of maintenance actions that may be employed to address resource concerns (see attached). However, since specific maintenance needs are not necessarily known, understanding the extent of potential impacts to T&E species is difficult. In particular, the habitat of the Preble's meadow jumping mouse is susceptible to being impacted by

these management actions. In order to address this issue, we will incorporate the following requirement into the draft Record of Decision: “If management actions collectively impact greater than 400 ft² of Preble’s Meadow Jumping Mouse habitat, additional consultation with the U.S. Fish and Wildlife Service will be required.”

2. Are we also consulting on the construction of new routes? I see from Table 3 in the BA that there are 14.59 miles of new routes. Maybe I missed it in the BA, but if there is new construction, do we know if any of that occurs in T&E habitat? I tried to look at the maps but that was a little overwhelming! There are no new routes being constructed. However, the status of routes is changing. Routes are already existing that are being formally designated under Alternative C. For example, some current administrative routes will now be open for public use. In addition, non-system routes are being converted to system routes. The contractor may be able to provide more information about the route “additions” that overlap T&E habitat, if needed.

3. Question on acres within the MSO PACs. Table 1 says there are 174,000 acres in the PACs outside of CH, and 7,500 acres in the PACs within CH. But then Table 15 says there are 7,600 acres total in the PACs. Maybe you can help clear up the number of acres in the PACs. There are a few errors in Table 10. Under the heading *Habitat Type – Within Critical Habitat Boundaries - PACs* at 7,500 acres should be 7,600 acres. Also, under the heading *Habitat Type – Outside of Critical Habitat Boundaries* – the acres for *PACs* and *Forested foraging/nonbreeding habitat* are in the incorrect rows. So, *PACs* should be 100 acres and *Forested foraging/nonbreeding habitat* should be 174,800 acres.

4. If I understand correctly, there will be a series of parking locations established along the edge of the St. Charles PAC, but just outside the PAC, is that correct? Yes, parking areas are highlighted in red of the attached screenshot. These parking areas were buffered by the 0.5 miles for effects analysis purposes. Note that the highlighted areas do not reflect the 0.5 mile buffers.

5. I checked on Google and see that the draft EIS went out on August 2019. I’m assuming that the final EIS is not out yet, is that correct? Correct, the final EIS will not be published until the BO is received and the applicable information is incorporated.

6. I’d like to include Figure 1-1 from the EIS into the BO. I tried to copy it but didn’t get the entire figure to copy. Would it be possible to get a copy of that figure? Figure attached as a jpg. file

7. I understand that the new parking areas would generally be built in areas of existing surface disturbance, but am trying to get a sense of how much each of the sites have existing disturbance so that I can provide incidental take. I see that the actual combined footprint of the new parking areas is 37 acres. Can you estimate how much of that would be new disturbances that result in the removal of vegetation? For instance, would you say that there would be no additional disturbances or maybe half of each site would need additional clearing, or some other amount, etc.? We estimate that 25% (i.e., ~ 9.25 acres) or less of these parking areas would experience new ground disturbance. The parking areas could be expanded or reduced in size to better define the boundaries. Potential management actions that would cause ground disturbance include grading, ripping, rock placement, minor tree removal, fence or barrier

construction, sign installation, etc. The need for these ground disturbing actions would depend on site-specific conditions (e.g., slope, natural barriers, drainage concerns, functionality, etc.).

Thanks,

Leslie

Leslie Ellwood

Senior Fish and Wildlife Biologist

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IV, The draft plan fails to adequately consider motorized use on and connecting to the CDNST.

This draft plan fails to adequately consider motorized use on the Continental Divide National Scenic Trail (CDNST) for trail segments that occur on Salida District and Pike and San Isabel National Forest lands. These include all segments of Trail 531 the Monarch Crest Trail, Trail 486 the Summit Trail.

The draft plan also fails to adequately consider motorized use on routes that connect to or cross the CDNST, including Trail 1412 the Greens Creek Trail, and in allowing motorcycles to use road 225.F that connects to the CDNST, and other routes such as road 131 on the Leadville District.

The draft plan fails to adequately consider a Continental Divide Trail management area as a potential designation or special designation and motorized use within that area.

The relevant USFS regulations pertaining to this include policy in the 2009 Continental Divide National Scenic Trail Comprehensive Plan, 36 CFR 212.55a, Executive Order No. 11644 and Executive Order No. 11989, and FSM 2353.42 and 2353.44.

Although the plan mentions the National Trail System Act of 1968 with regards to CDNST management, the plan fails to consider additional USFS policy from the 2009 CDNST Comprehensive Plan. The National Trail System Act of 1968 authorized creation of a national trail system and requires the preparation of a comprehensive plan for national trails. (16 U.S.C. § 1244). The 2009 CDNST Comprehensive Plan describes the nature and purpose of the CDNST and sets forth direction to guide the development and management of the CDNST. The draft plan fails to recognize that additional policy for management of the CDNST is contained in the 2009 CDNST Comprehensive Plan and FSM 2353.42 and 2353.44, so relying on the National Trail System Act alone is insufficient.

The 2009 Comprehensive Plan states that Motor vehicle use by the general public is prohibited on the CDNST with limited exceptions. Motorized use on the trail could be allowed if designated in accordance with 36 CFR Part 212, Subpart B and “The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and

purposes of the CDNST (Comp. Plan Sec. 6. b. (5) page 20)

The nature and purposes of the CDNST are to provide for “high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.” (Comp. Plan, page 18)

Allowance of motorized use on the adjacent Gunnison National Forest Segments of the CDNST 531 and 486 was challenged in an appeal of that Gunnison Basin Travel Management Plan in 2010. That appeal was successful in that it was determined that that plan failed to adequately consider if motorcycle use on those segments of the CDNST will not substantially interfere with the nature and purpose of the trail. The USFS was directed to further analyze the CDNST in this area to determine if motorcycle use substantially interferes with the nature and purpose of the CDNST.

The draft plan fails to include any analysis, substantive evidence or determination that motorized use on segments of trail 531 or 486 will not substantially interfere with the nature and purposes of the CDNST.

We believe that motorized use on the CDNST already does substantially interfere with the nature and purposes of the CDNST. Motorized use on the CDNST results in conflicts with other users expecting a more primitive experience on this trail. The conflict between motorized users and quiet/non-motorized users of this trail is both real and perceived. Conflict results from not only noise but the physical presence, speed, sight, odor and behavior of motorized users on this trail. Some of those users have been displaced from using these segments of the CDNST due to motorized use. Motorized use adversely impacts wildlife along the CDNST. The visible scars of unauthorized motorized use off in alpine tundra areas of the CDNST on these segments of the trail also result in conflict. The wide two track nature of trail 486 due to unauthorized ATV use on the trail, and the wide clearing width of the trail in this area to accommodate questionable grooming for OSV use, results in conflicts with those seeking a more primitive single track experience. Rapid acceleration and hard braking loosens and displaces trail tread, which is another source of conflict for hikers and horseback riders.

We believe the installation of signage notifying trail users to expect and respect other users on the CDNST does very little to reduce actual conflict on the trail.

The draft plan fails to provide any analysis, substantive evidence or finding that all segments of Trail 531 or 486 were designated USFS trails and allowed motor vehicle use prior to November 10, 1978.

The trail 486 segment of the CDNST has never appeared on any Salida District Motor Vehicle Use Map. Recreationists seeking to avoid motorized use also use the ‘MVUM’ to find locations where that use is not allowed. CDNST users on this segment of trail reviewing the MVUM could reasonably expect not to encounter motorized vehicles in this area. The CDNST Comprehensive Plan states that motorized use on the CDNST is only allowed if it will not substantially interfere with the nature and purposes of this trail. The use of the word “will” instead of “does” implies that a determination of no substantial interference is necessary in advance of a future action to allow motorized use on the trail. The use of “will” also implies that any future changes in conditions on the trail, such as an increase in motorized use, can not result in substantial interference. We believe that the use of the word “will” means that the USFS must present

substantive evidence in advance of any action that allows motorized use on the CDNST to show that substantial interference is not going to result from that action in the future.

The CDNST Comprehensive Plan states that motorized use is prohibited on the CDNST, unless that use “is on a motor vehicle route that crosses the CDNST, as long as that use will not substantially interfere with the nature and purposes of the CDNST.” (Comp. Plan Sec. 6 b. (4) page 19)

The draft plan fails to provide any analysis, substantive evidence or determination that motorized use on Trail 1412, public motorized use on road 225.F, or motorized use on any other route that connects to or crosses the CDNST such as road 131 will not substantially interfere with the nature and purposes of the CDNST.

We believe that designating these connecting trails as open to motorcycle use will result in increased use of the CDNST if and where motorized use of the trail is allowed in on that trail. Increased motorized use on and adjacent to the CDNST will result in substantial interference with CDNST users and adversely impact the natural features and wildlife adjacent to the CDNST.

Quiet Use Coalition Comments submitted on the DEIS last year expressed concerns with unmanaged dispersed motorized camping where Forest Road 131 crosses the CDNST, and how that camping is negatively impacting desired user experiences and natural features adjacent to the CDNST, substantially interfering with the nature and purpose of the Trail. This unmanaged dispersed motorized camping is also impacting visual resources along the trail where the presence and use of these campsites can be seen from the trail. The explosion of public land use this year has resulted in the creation and use of new dispersed motorized camp sites directly adjacent to the trail where roads cross the CDNST, and or within the visual foreground of the trail. These locations include areas on forest roads 203, 243.G, 235, 230, 330, 390.A, off Lake County road 25 leading to USFS administrative road 179, 126.B, 110, 105.A as well as forest road 131.

The USFS is required to develop a CDNST unit plan and management area for the trail and areas adjacent to this trail (FSM 2353.44b) There is no unit plan for the CDNST in this area, and unless motor vehicle use is addressed and approved as a result of the development of a CDNST unit plan (FSM 2353.44b(2)&(11)) motorized use cannot be approved on this trail or in this area.

The 2018 PSI TMP Designated Areas specialist report states on page 10 that this plan was to consider “Special designations or potential special designations”. Table 1 on page B-3 of that document includes “potential special designations” as a Screening Criteria, and “Other potential special designation areas” as Specific Criteria to be considered, in order to ensure compliance with 36 CFR 212.55a. The Forest Plan Compliance Specialist report in Table 10 on page 41 mentioned the a CDNST corridor, but did not consider updated direction for Continental Divide National Scenic Trail management (including FSM 2353, the 2009 CDNST Comprehensive Management Plan, or regulations associated with the Travel Management Rule including 36 CFR 212.55. The 2009 CDNST Comprehensive Management Plan states on page 6 that “Land and resource management plans are to provide for the development and management of the CDNST as an integrated part of the overall land and resource management direction for the land area through which the trail passes.” The adjacent Rio Grande National Forest has included a

one half mile wide Continental Divide National Scenic Trail management area along the CDNST as a special designated area in its new 2020 Forest Plan. The adjacent Gunnison National Forest has recently included a similar CDNST management area in alternatives for its revised Forest Plan.

Since the draft plan mentions potential special designations, the CDNST is a Congressionally designated National Scenic Trail, and there is adequate USFS policy, direction and examples for a we believe that the draft plan and decision must adequately and fully anticipate the likely and probable designation of a CDNST management area. These specialist reports, and the draft plan as a whole, fail to consider the potential special designation of a required Continental Divide Trail management area, and management of that area.

The draft plan fails to consider required compliance with 36 CFR 212.55a when it fails to consider motorized use on the CDNST or on trails that connect to the CDNST with regards to a potential Continental Divide National Scenic Trail management area. The draft plan fails show how it will meaningfully apply and implement, and not just consider, Executive Orders No. 11644 and 11989.

Suggested Resolution: 1) Prohibit motorized use on CDNST trail segments on the Pike and San Isabel National Forest, including trails 531 and 486. These trails may be opened to motorized use if evidence proves they allowed motorized use prior to November 10, 1978 and a set of management plans and actions can be developed and implemented so that motorized use on the CDNST will not substantially interfere with the nature and purposes of that trail. A decision that permits motorized use to continue on the CDNST while management plans and actions are developed that will prevent substantial interference is unacceptable. The Gunnison National Forest has not taken any action in over a decade to evaluate substantial interference on their segment of the CDNST, as they were directed to do. We believe prohibiting motorized use on the Salida District segments of the CDNST will hopefully provide an incentive for the Pike and San Isabel and Gunnison National Forests to work together in developing a plan that might permit motorized use on the CDNST in this area. 2) Prohibit motorized use on routes that connect to or cross the CDNST on the Pike and San Isabel National Forest. These include trail 1412, administrative road 225.F and any other trails where motorcycle use may be allowed. These connecting routes may be opened to motorized use if a set of management plans and actions can be developed and implemented so that motorized use on these routes will not substantially interfere with the nature and purposes of the CDNST. 3) Properly evaluate any and all Forest Roads that cross the CDNST for their potential impacts to substantially interfere with the nature and purposes of the CDNST. 4) Prohibit dispersed motorized camping along roads that intersect with or cross the CDNST. We recommend that dispersed motorized camping be prohibited adjacent to any road within 200 meters of the CDNST, or up to ¼ mile away from the trail if that camp location is visible from the trail. 5) Properly consider and account for the potential special designation of a CDNST Management area, extending one half mile from either side of the trail, in all planning processes related to forest management. This would include the Travel Analysis Process reports, impact screening for routes in this management area, and a future Forest Plan revision.

V. The draft plan fails to adequately consider the impacts of motorized use on road 243.G

The draft plan fails to adequately consider the impacts of allowing public motorized use to continue on

road 243.G which is co-aligned with the Continental Divide National Scenic Trail. The draft plan fails to apply the minimization criteria Orders 11644 and 11989, and 36 CFR 212.55 with regards to the of allowing ATVs, UTVs and full sized motor vehicles on this road and the potential impacts on CDNST users. The Travel Analysis Process found this road to provide only a moderate benefit for recreational motorized use and we question that. Coalition members signing onto this letter spent two weekend days this summer at the nearby Hutchinson Cabin monitoring use of this road. The vast majority of use consisted of hikers and mountain bikers passing through on the CDNST. Of motorized use, the vast majority of use on this road was by ATVs, motorcycles and UTVs turning onto this road from Forest Road 200 and then completing a quick out and back of .8 miles total on this route. Much of this use occurred at relatively high rates of speed. We do not believe this route provides a meaningful motorized recreational experience as a relatively short dead end road. The road does not provide access to any significant views, natural features or any other desirable motorized recreational assets. This extra OHV use conflicts and interferes with desired experiences of CDNST users.

All of the other rated benefits of this road in he Travel Analysis Process could be accomplished if this road was open to administrative use only.

Suggested resolution: 1) Prohibit ATV and UTV use on this road and/or 2) convert this road to an administrative road that is co-aligned with the CDNST, permitting CDNST uses on this road. This would significantly reduce conflicts on this road.

We object to the use, scale and scope of Forest Plan Administrative Correction No. 1

We object to many aspects of Administrative Correction No. 1 to modify 3A area boundaries to permit public motorized use on certain routes.

This appears to be an attempt to modify the boundaries of, and or eliminate land currently managed as a 3A management prescription area, tbo allow certain motorized routes to legally exist to comply with the forest plan.

We formally contested the use of this Administrative Correction with DEIS comments submitted November 2019. This Administrative Correction violates the National Forest Management Act 16 U.S.C. § 1604(i). This Act requires the agency to evaluate Forest Plan amendments as to whether they would constitute a significant change in the long-term goods, outputs, and services projected for an entire National Forest. Policy in FSM 1926.51 describes amendments that potentially are not significant. This Administrative Correction improperly applies and interprets 36 CFR 219.13.

The proposed modifications to 3A areas exceed any reasonable interpretation of an allowable administrative correction. We believe these modifications constitute substantive changes to the forest plan that would not be allowed as administrative corrections.

The following components of Administrative Correction No. 1('the correction') are or will result in substantive changes to the forest plan:

- The correction attempts to modify designated Colorado Roadless Rule lands to other management area prescriptions that are inconsistent and incompatible with Roadless Area lands as special designated

areas. Approximately 973 acres of Colorado Roadless Rule land currently under a 3A Management Area (MA) prescription are proposed to be converted to 2B, 2A and 6B MA lands in three separate locations as suggested in Attachment A and I. Both the new 2020 Rio Grande National Forest Plan and the alternatives for the GMUG Forest Plan include all Colorado Roadless Rule lands as a separate and distinct special designated management area prescription. As previously noted, the 2018 Designated Area Specialist Report for this draft plan includes language that specifies that potential special designated areas must be considered. Roadless areas as special designated areas take precedence over any other possible land MA prescription. The use of this Administrative Correction fails to consider the special designated areas that Colorado Roadless Rule lands will be.

- The correction seeks to modify 3A management areas, which now prohibit public motorized over snow vehicle use, to some other management area prescription, which would allow public motorized over snow vehicle use. The proposed conversion of 3A MA land to 2A, 2B, 6B and 7A MA land will modify the allowed areas where OSV use is allowed. Snowmobiles use is allowed when operating on snow according to general direction in the Forest Plan within 2A MAs (Plan at III-109), 2B MAs (Plan at III-119), 6B MAs (Plan at II-164) and 7A MAs (Plan at III-172). This is a substantive change and cannot be done without a NEPA process including full analysis and public involvement. 36 CFR 212.18 (b) and (d) both require public involvement when areas for OSV use are determined.
- The stated loss of 2560 loss of semi-primitive non-motorized 3A management area land, land that is closed to public motorized use, is a significant substantive change that adversely impacts quiet use recreationists, wildlife, adjacent private land owners, and natural resources. It also increases potentially increases conflict.
- A forest plan amendment is proposed for the modification of two 3A areas of land on which roads 126 and 398 exist that proposes to modify the management area prescription on 1100 acres of 3A land. An Administrative Correction is proposed to modify over 2560 acres of 3A land. The draft plan fails to provide evidence or an explanation why one modification requires an amendment while the other can be done with an administrative correction. The fact that an amendment is being proposed to modify more than half as many acres of land suggests that the administrative correction must also require a forest plan amendment.
- The correction improperly proposes that private non-USFS land be converted to some other USFS management area designation. Attachments A, G, I and likely J improperly include private non-USFS land in acreage calculations and visual depictions for USFS MAs proposed for conversion.

This is surprising since the “Administrative Correction” document states that “increases in technology have increased the accuracy of this data so that MA polygons can now be accurately matched up with ownership boundaries...” Arcmap drawings included in the document clearly indicate private land boundaries as black lines.

Other data, including USFS GIS data, landstat data, county assessor data and USGS map data clearly indicate that private land is included as part of the proposal to convert land into USFS MAs.

Apparently the USFS did not properly apply the increased new technology to accurately account for private land boundaries as part of this proposal.

The USFS does not have any jurisdiction over private land. To suggest otherwise may be interpreted as an odd application of eminent domain or a prescriptive easement. Management area prescriptions, and acreage calculations, should only apply to USFS public lands.

Approximately 994 acres of private land is incorrectly proposed to be managed as USFS land in this proposal. Private lands are clearly depicted and included on maps of the proposed corrections, and the

acreage of these private lands are also included as part of conversion totals. The USFS has no jurisdiction over or authority to modify use of private land.

- The proposed conversions will expose private property to OSV and potentially other trespass.

The current Forest Plan at III-126 prohibits any recreational motor vehicle use on 3A MA land. This must also apply to over snow motor vehicle use. USFS visitor maps have depicted almost all 3A areas as closed to snowmobile use. Any forest land managed as 3A land adjacent to private land might allow OSV use on that land with the correction.

Colorado Revised Statute 33-14-113 states that no snowmobile shall be operated on private property other than that owned or leased by the operator or except when prior permission has been obtained from the owner, lessee, or agent of the owner or lessee. Snowmobile trespass on private property in Colorado is thus more than a civil wrong, it is a criminal offense.

The conversion of 3A MA land adjacent to private land to other MA land will permit snowmobile use on those lands where none was allowed before. This will expose private property boundaries and private lands to new OSV trespass where none was legally possible prior to the conversion. This modification will place new burdens on private land owners to post land and take other actions to exclude unwanted OSV use from their land.

- The USFS is selectively interpreting the 1984 Travel Map, giving attention to certain aspects of the map while ignoring other aspects. For example, the Forest Service is selectively looking at roads on this map that were apparently open to motorized use, yet ignoring the 500+ roads that do not appear on the 1984 maps that were legally challenged as not open to motorized use.
- The more recent documented decision, the November 1984 Land and Resource Management Plan and Map, should take precedence over previous older documented decisions, such as the October 1984 Travel Map. The Land and Resource Management Plan and Map, as the more recent decision, should supersede and take precedence over the older decision reflected in the Travel Map
- The correction inconsistently suggests very different setback buffer distances for 3A area boundaries from roads (buffer setback varies from almost zero to over a mile). Modifying a 3A boundary line by over a mile does not constitute a non-substantive correction of a typographical, clerical or mapping error.
- The correction improperly suggests modification of 3A area boundaries located far from (over a mile), and minimally impacted by, any roads.
- The correction fails to consider any other potential alternatives, such as modifying 3A boundaries as road corridors through 3A areas, which would split one 3A area into two 3A areas. This should have been considered for Attachment A
- The correction fails to consider adjusting 3A management area boundaries in other locations and areas of the forest to compensate for the loss of 3A management area land in these areas near roads. 3A management areas are relatively uncommon and unique on the forest, and this limited land area designation should be preserved as much as possible.
- The correction fails to consider that permitted, administrative and other motorized routes not open to public motorized use can potentially exist within 3A areas.
- The correction did not consider that any need to modify the plan management areas would be unnecessary should the travel plan designate roads in these 3A areas as anything other than open to public motor vehicle use.

- The correction states that the relationship between the Management Areas identified in the 1984 LRMP and the Travel Map are described in the Monitoring and Evaluation section of the LRMP on page IV-16. Chapter IV Monitoring and Evaluation in the 1984 LRMP only contains nine pages, and there is not a page sixteen in that Chapter.

The final Planning Rule Federal Register Notice (Planning Rule, 77 Federal Register 21239) featured the following as a response to a public comment:

“Comment: Amendment verses administrative change. Some respondents felt the proposed rule was confusing regarding when an amendment and when an administrative change was to be used.

Response: Plan components are the plan’s desired conditions, objectives, standards, guidelines, suitability of areas, or goals described in § 219.7. An amendment is required if a change, other than correction of a clerical error or a change needed to conform to new statutory or regulatory requirements, needs to be applied to any of these plan components.

Administrative changes are made to correct clerical errors to plan components, to alter content in the plan other than the plan components, or to achieve conformance of the plan to new statutory or regulatory requirements. A clerical error is an error of the presentation of material in the plan such as phrasing, grammar, typographic errors, or minor errors in data or mapping that were appropriately evaluated in the development of the plan, plan revision, or plan amendment. An administrative change could not otherwise be used to change plan components or the location in the plan area where plan components apply, except to conform the plan to new statutory or regulatory requirements. Changes that could be made through an administrative change may also be made as part of a plan amendment or revision instead.”

The Administrative Correction claims to be needed as part of a clerical error. This response defines a clerical errors as a minor errors in data or mapping. Many of the proposed modifications, including those suggested as part of Attachments A and I, involve for more than minor mapping errors. The modifications to large acreages of land as suggested in Attachments A and I propose to significantly modify the location of the plan area where plan components apply, and an administrative correction is not allowed for such changes.

This Administrative Correction was apparently issued with no public notice and did not seek or permit public review or comment. The USFS improperly made a determination that the changes in this Administrative Correction were non-substantive. By failing to notify the public of these proposed modifications, and failing to seek or permit public review or comment on this proposal, the forest service was unable to make an accurate determination that the changes being proposed were non-substantive. The agency must allow and consider public input when making a determination as to whether or not anything is substantive or not.

Suggested resolution: 1) If modification of the Forest Plan management areas is desired, the USFS should initiate a NEPA process, that includes public involvement, to modify the Forest Plan. 2) The proposal should be revised to more consistently buffer the distance of any setback for 3A area boundaries away from any needed roads. We recommend any proposal include propose 3A boundaries be set back no more than 100 feet from the road centerline. This would allow any road maintenance activities to

occur, along with legal parking and motorized camping off of the road, while retaining as much of the 3A area land as possible.

VI. The Plan Fails to address the presence and use of unauthorized motorized routes.

The FEIS and draft decision fail to address management of the presence and use of unauthorized motorized routes. Although direction is provided to close unauthorized routes in TES species habitat in the DROD, insufficient direction is provided for other routes in other areas. The FEIS states at 1-25 that “The issue of prohibiting inappropriate motor vehicle use will be included in each alternative as an environmental protection measure.” There are no inclusions in any of the alternatives as environmental protection measures to prohibit inappropriate motor vehicle use. Thus this plan fails to include elements that the plan states will be included.

As stated in our previously submitted comments, PSI District Travel Analysis Addendum Reports acknowledge that unauthorized motorized use off of designated routes on the forest is a significant concern, and one report stated that unauthorized use would be addressed in future travel management NEPA analysis. Past court rulings support the need to analyze unauthorized use and in so doing not assume levels of illegal use will remain the same, or that providing additional motorized recreational opportunities will reduce instances of unauthorized use. *Sierra Club v. USFS*, Case No. 1:09-cv-131 CW (D. Utah March 7, 2012).

This failure to provide forest wide direction on the management of undesignated unauthorized routes is inconsistent with the direction provided in recent smaller sub forest level travel management plans. The Draft Record of Decision for this forest wide plan specifically accepts the decisions of the 2020 Sheep Mountain Management Project and the 2018 Badger Flats Management Project as complying with all NEPA requirements. Thus, the decisions of these plans will be accepted. Both of these plans incorporate language that calls for the closure of unauthorized undesignated routes. The Sheep Mtn Plan prescribes rehabilitation of closed areas and elimination of user created routes (non-system roads and trails), using barriers and decommissioning. The Badger decision prescribes the use of barriers to prevent resource damage and use of unauthorized routes, and to define designated authorized routes.

FSM 7703.25 (1) states, “Unauthorized roads, temporary roads, and any NFS roads no longer needed for the use and management of NFS lands should be decommissioned”.

FSM 7703.24 (2) states, “After an administrative unit or ranger district has completed route and area designation, motor vehicle use is prohibited on unauthorized roads, and those roads may be decommissioned as funding permits.”

There are numerous examples on this forest where there has been a failure to address unauthorized motorized use on this Forest. Some of the more egregious occur in designated Wilderness Areas, which allows continued violations of 36 CFR 293.6. Unauthorized motorized use continues unabated in at least three areas off Forest Road 6 on the Salida Ranger District into the Sangre de Cristo Wilderness Area. On the Leadville District, unauthorized motorized use occurs in two locations near the end of Forest Road 390 into the Collegiate Peaks Wilderness Area.

Suggested Resolution: specifically include direction in the decision that Districts are to monitor for unauthorized motorized use, and that all undesignated/unauthorized routes receiving use by motor vehicles will be closed with structures and signage, and decommissioning where appropriate.

VII. The plan fails to adequately consider roads within Colorado Roadless Areas.

The Pike and San Isabel National Forests Public Motor Vehicle Use EIS, Designated Areas Report states in Table 3 on page 11 that .88 miles of road open for public use exist in Roadless Area as part of Alternative C.

The Designated Area Report states on pages 7-8 that “Management of IRAs must be compatible with the eight roadless area characteristics defined in 36 CFR D (294.41).” This is correct as 36 CFR 294.40 states “Activities must be designed to conserve the roadless area characteristics listed in § 294.41”. But the above statement fails to recognize that there are actually nine roadless area characteristics listed in § 294.41. The nine characteristics include:

- (1) High quality or undisturbed soil, water, and air;
- (2) Sources of public drinking water;
- (3) Diversity of plant and animal communities;
- (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species, and for those species dependent on large, undisturbed areas of land;
- (5) Primitive, semi-primitive non-motorized and semi-primitive motorized classes of dispersed recreation;
- (6) Reference landscapes;
- (7) Natural-appearing landscapes with high scenic quality;
- (8) Traditional cultural properties and sacred sites; and
- (9) Other locally identified unique characteristics.

36 CFR 294.40 states “Activities must be designed to conserve the roadless area characteristics listed in § 294.41”.

The Designated area report on page 11 states “Roads are generally prohibited from inventoried roadless areas”.

We know of three designated roads/road segments that exist within Designated Roadless Areas.

- A .1 mile segment of road 381 on the Leadville Ranger District within the Upper Tier Elm Mtn Collegiate North Roadless Area.
- The final ~.41 miles of Road 124 on the Salida Ranger District exist within the Methodist Mountain Roadless area.’
- The final ~.29 miles of road 212 on the Salida Ranger District and the parking trailhead area are within the Chipeta Roadless

The draft plan fails to properly consider and analyze the impacts of these roads on Roadless Area Characteristics.

Pike-San Isabel National Forest Roadless Area Profiles include specific characteristics for the Roadless Areas these roads exist within.

The Chipeta Roadless area characteristics include occurrences of Canada lynx, northern goshawk, elk and other species, and states that this area is within a state defined source water assessment area (municipal water supply). This road poses a high risk to watersheds due to the close proximity of the road to Pass Creek within the Roadless Area. The draft plan fails to fully consider the impacts of road 212 within this roadless area to these characteristics, and the plan fails to offer ways to conserve these characteristics.

The Elk Mountain-Collegiate North area characteristics include quality lynx habitat, bighorn sheep winter range and lambing area, and an elk migration corridor. This roadless area is within a state defined source water assessment area (municipal water supply). This road has long and deep fords of streams, including a segment within the Roadless Area, and this contributes to its high risk to watersheds rating. The draft plan fails to consider or conserve roadless area characteristics and the impacts of the segment of road 381 within this roadless area.

The Methodist Mountain roadless area characteristics include documented lynx presence, elk and mule deer winter concentration areas, elk production area and suitable northern goshawk habitat. The document also states "NFSRs 106 and 124 are adjacent to the CRA and contribute a minor amount of sediment to Sand Gulch and Kings Gulch." (page 44). The plan fails to consider or conserve roadless area characteristics for the elk production area, mule deer winter range, and other habitat for species dependent on large, undisturbed areas of land such as lynx, elk, mule deer and northern goshawk for the segment of road 381 within this roadless area.

Suggested resolution: Convert a segment of road 212 to trail 1411 as suggested in our previous submitted comments. Convert road 381 to a non-motorized trail. Convert road 124 to an administrative road or decommission the entire route

VIII. Failure to disclose prioritization of decommissioning, roads in Wildcat Canyon

We are submitting this objection primarily to support the draft decision closure and decommissioning of roads 540, 221, 220A and 220.B in the Wildcat Canyon Area. We would like to be able to participate in any objection resolution discussions or proceedings regarding these routes that may occur, and to have our status preserved in any future proceedings that may occur regarding these routes.

We do wish to object to the failure of the draft decision to specify the methods and timing used for decommissioning these routes, and to the lack of any specific implementation plan or schedule for this decision that could prioritize these and other routes for decommissioning. The FEIS references decommissioning methods and 36 CFR 212.5(b)(2) as a General Assumption on page 3-2, and as part of the definition of decommissioning on page 6-3.

36 CFR 212.5(b)(2) states "Activities used to decommission a road include, but are not limited to, the

following: reestablishing former drainage patterns, stabilizing slopes, restoring vegetation, blocking the entrance to the road, installing water bars, removing culverts, reestablishing drainage-ways, removing unstable fills, pulling back road shoulders, scattering slash on the roadbed, completely eliminating the roadbed by restoring natural contours and slopes, or other methods designed to meet the specific conditions associated with the unneeded road”. We believe that the above statement indicates that there are numerous actions as listed that must be included as part of decommissioning. The use of the words “include, but are not limited to” implies that other additional other methods that may also be included above and beyond the basic list of activities listed and included as part of road decommissioning.

The FEIS fails to adhere to 36 CFR 212.1 and 36 CFR 212.5(b)(2) regarding what decommissioning is and what must be included as part of decommissioning, when it states that “blocking the entrance to a route is the minimum requirement for decommissioning” (pages referenced above) 36 CFR 212.1 defines road decommissioning as “Activities that result in the stabilization and restoration of unneeded roads to a more natural state.” 36 CFR 212.5(b)(2) states that “Decommissioning roads involves restoring roads to a more natural state.” Decommissioning includes more than just blocking the entrance to a route. It involves taking specific action to restore the road to a more natural state. Blocking the entrance to a route is just one of the numerous activities specifically included and listed in order to decommission a route. The FEIS fails to consider or include the entire list of activities that are needed to restore roads to a more natural state as part of decommissioning.

We believe the FEIS and draft decision fail to disclose what, when, and how other methods might also be included as part of decommissioning specific roads.

36 CFR 212.5(b)(2) also states “Forest officials should give priority to decommissioning those unneeded roads that pose the greatest risk to public safety or to environmental degradation.” The draft plan fails to disclose if and how routes will be prioritized for decommissioning.

This discussion is especially relevant to any decommissioning activity that will occur in Wildcat Canyon. We believe that widespread unmanaged unauthorized motorized use of routes in this area pose some of the greatest risks to public safety and environmental degradation on the forest. We believe this unauthorized use is one of the most egregious and damaging examples of unmanaged recreation in the state. Strong previous forest service actions to block the entrance to closed roads in this area have been blatantly vandalized, ripped out, cut off, destroyed, bypassed, and ignored. We believe that this is an area that must be prioritized for decommissioning, and that substantial other actions must be used beyond merely blocking the entrance to these roads.

The Forest Plan at II-67 states, “Use of the roads rather than the roads themselves cause most of the impacts on other resource uses and activities.” All travel routes have use effects and presence effects. The plan states, and we agree, that the use effects generally result in the most adverse impacts and these are greater than the presence effects. Blocking the entrance to a road is one of numerous actions that will help eliminate the use effects of a route. Decommissioning a route and restoring it to a more natural state will help minimize the lesser presence effects of an unneeded route. It would thus follow that eliminating use of an unneeded route will result in the greatest benefits, and we believe this should be included the primary priority when seeking to minimize the impacts of an unneeded route. A focus on eliminating use

of unneeded routes first would appropriately recognize and implement this statement in the Forest Plan.

While we appreciate and support that the draft decision includes decommissioning as the prescribed action for unneeded routes, the goal should be to have routes return to a more natural state. Active decommissioning of routes is one way to achieve that goal, but may not always be necessary.

Suggested resolution: 1) Develop an implementation plan within 6 months of a finalization of the travel plan. Prioritize unneeded routes for treatment based on the risks they pose to environmental resources and public safety. 2) Focus on implementation actions that eliminate use of unneeded routes as the first priority. 3) Prioritize routes for decommissioning based upon what risks posed to environmental resources and public safety.

IX. We support proposed designations for Forest Road 126.

This is a friendly objection supporting the draft plan management for Road 126 on North Twin Cones. We are submitting this objection to preserve our standing with this route and to participate in any potential objection resolution discussions regarding this route.

Although a segment of this route that is open to public motorized use may still improperly intrude into a 3A management area, this is minor. The Administrative segment of this road may still legally exist within a 3A management area, as long as this segment of road does not permit public motor vehicle use.

We question any desire to amend the Forest Plan in this area if the configuration and allowed uses in this road and its segments remain the same. We will be submitting separate comments on the proposed Forest Plan amendment in this area.

This is another location where it will be crucial to properly design, install and monitor what we presume will be a locked gate and supporting fence to delineate the end of the segment of this road open to public motorized use and the administrative use segment. We have noticed that large boulders installed at this point in the last year or so have been moved which allows unauthorized use on this route.

Suggested Resolution: Manage this route as proposed in Alternative C the selected alternative.

X. Conversion of quiet use trail 1446 to a motorized trail is not fully considered

We object to the proposed conversion of the beginning of Trail 1446 the Twobit Gulch trail, which is co-aligned with administrative road 397, to a full sized motorized trail.

This .57 mile long administrative segment of route 397 was ranked as having low benefit and high risk in the 2012 Leadville District Travel Analysis Process Report Addendum.(page 6) The only benefit rating that was not low was fire/fuels access, which was rated as having a high benefit. Recreational use of this road was rated as low as closed to public motorized use.

In the MRS Screening Process on pages 2-8 and 2-9 of the FEIS, and the Minimization or Mitigation Techniques (or Other Means) to Address Screening Criteria column of Appendix B—Table 1. Applicable Regulations and Forest Service Guidance for Screening Criteria for TMIDT MRS Criteria and Overall Screening Criteria Process (page B-1), there is no recommended formula or conversion to change a low benefit, high risk road to a motorized trail open to all vehicles. Only roads with a moderate or high recreational benefit should be changed to a full sized motorized trail.

The final 170 yards of this route is steep, averaging over 37% slope with sections nearing 45%. There is not a suitable turn around point for vehicles at the end point of this route. The end point is steep, in a thickly forested area, and on a north facing slope that holds snow and moisture

The Turn around point is still over 180 yards from flatter ground and the start of the singletrack portion of the non motorized Twobit Gulch Trail 1446.

So the proposed action of opening this administrative road to all vehicles leaves vehicles in the middle of a narrow, steep north facing route with minimal opportunities to turn around.

The Twobit Gulch trail is a primitive Trail Class 2 trail, that leads into designated Wilderness. Users of this trail are expecting solitude and a primitive experience along its entire length. Conversion of the initial segment of the trail to motorized use will interfere with desired recreational experiences.

We do not believe that opening this short and dead end segment of administrative road to public motor vehicle use will provide significant and meaningful opportunity for motorized recreation.

The Twobit Gulch Trail Officially begins where the publicly open section of road 397 ends. This action did not fully consider the conflict with quiet non-motorized recreationists that would result by opening a .57 mile segment of non-motorized trail to a motor vehicle trail all vehicles.

No rational is provided for this conversion.

In 2014 the Quiet Use Coalition completed a volunteer project with USFS Leadville District approval to define and delineate the end point of public motorized use on 397 and the beginning of non-motorized Trail 1446. This was a two day project as we had to cover administrative road 397 and 397.C , and all unauthorized routes emanating from these routes, on foot to ensure that we were not trapping any unauthorized motor vehicles behind our the signage and barriers we installed. That work has held up well for over six years.

If that work is to be ripped out to implement the draft proposed action and open this segment of quiet use trail to motorized use, we request that a USFS Leadville District Staff member personally explain to all eight volunteers who worked on this project why there efforts are being suddenly reversed.

We believe converting of this designated segment of quiet use trail to a motorized trail does not meaningfully apply and implement the Executive orders 11644 and 11989 or fully consider 36 CFR

212.55. The draft plan fails to provide an analysis or explanation of how this proposed decision minimizes conflict.

Suggested Resolution: Keep administrative road 397 as is or convert it to a non-motorized trail.

XI. We object to the designation of road 110.J as a motorized trail open to all vehicles.

We oppose the use, scope and scale of Forest Plan Administrative Correction No. 1, which modifies over 45 acres of 3A semiprimitive non-motorized lands in the Elk Mtn Collegiate North Roadless area to semiprimitive motorized management prescription.

The upper basin of South Halfmoon creek is a sensitive riparian area. Motorized use on this route poses high risks to waterways with its frequent fords of creeks. This area provides important bighorn sheep habitat for lambing, and is also quality lynx habitat.

Hikers and climbers wishing to avoid crowns on the east side of Mt. Elbert favor this route. It is also the approach for climbs of Casco Peak and French Mtn.

This violates NFMA, misinterprets 36 CFR 219.13, and does not meaningfully apply and implement the Executive orders 11644 and 11989 or fully consider 36 CFR 212.55. No explanation is provided as to how this designation will reduce conflict with natural resources or other recreationists.

Suggested Resolution: Convert the first mile or so of this route to a trail open to all vehicles if and only if the adverse impacts to the ford of Halfmoon Creek can be adequately mitigated. Close and decommission this route where it meets South Halfmoon Creek.

XII. We object to the proposed conversion of Trail 1437 to an OHV trail.

Trail 1437, an existing .85 mile long trail to Pomeroy Lakes, has *never* appeared on a Salida District Motor Vehicle Use Map as open to motorized use. It has been managed as a non-motorized quiet use trail by the District for as long as anyone can remember. Various volunteer groups, including the Quiet Use Coalition with USFS assistance, have marked the beginning of this trail as closed to motorized vehicles.

This trail originally appeared on a draft Salida District MVUM as open to ATVs. QUC pointed out this error to the District, and it was removed from the final Salida District MVUM. This trail was also improperly depicted as open to ATVs on initial TMP maps for the no action alternative. QUC pointed out the error and the District agreed.

In all USFS screening spreadsheets for this trail, all alternatives state “keep trail as is”, but incorrectly list the trail as open to ATV use.

We believe there is an error in USFS data that incorrectly records this trail as open to ATV use. Proposing to keeping a trail that is not on the MVUM “as is” means that it should not become open to motorized use in this process.

The draft plan fails to provide any analysis, evidence or justification to allow motorized use on this trail.

Suggested Resolution: Continue to manage this trail as is and do not permit any motorized use on it.

XIII. We object to the keeping road 381 open to motorized use.

This is the perhaps the most problematic road on the entire forest.

Many of the concerns with this road were not properly or adequately evaluated as screening part of screening. Concerns include the following:

- Keeping this road opens allows continued unauthorized use of motor vehicles off this route into the Collegiate Peaks Wilderness area in three locations, a violation of does not meaningfully apply and implement the Executive orders 11644 and 11989 or fully consider 36 CFR 293.6. This road is cherry stemmed into Wilderness in a narrow corridor. Strong volunteer efforts that installed educational signage and barriers to deter unauthorized use into the Wilderness were quickly vandalized and removed.
- Conflict with motorized use in the Wilderness and on the administrative segment of this road at the end violates 36 CFR 212.55.
- Sections of this road on designated upper tier Roadless areas violate 36 CFR 294.40.
- There is unmanaged road braiding along this route.
- The long and deep creek crossings are usage and pose significant risks to users.
- Citizens are illegally and incorrectly maintaining routes without agency permission.
- Conflicts with wildlife, watersheds, designated areas, unauthorized motorized use on designated quiet use trails, erodible soils, etc. violate Executive Orders 11644 and 11989 and 36 CFR 212.55.
- Alternative C does not propose or suggest any meaningful actions to minimize or mitigate concerns and risks to waterways, Wilderness, conflicts, etc.
- The Leadville District does not have adequate resources to properly monitor and manage this road. Although a volunteer group has adopted the road they appear to only focus on some issues while ignoring others, and the signage they have erected suggests they do not understand the legal limits of motorized use on this road.

Suggested Resolution: Convert this road to a non-motorized trail.

XIV. The draft plan fails to propose consistent route spatial alignment designations.

Route map, GIS and existing on the ground management does not coincide for routes. What is correct? Which source of data will be used to manage the route in the future?

Example: in all alternatives, a route is labeled “keep as is” but the route endpoint and/or alignment varies between GIS, proposed map and managed conditions on the ground (Inaccurate GIS data?, Inaccurate maps? Actual changes are being proposed when none are to occur?)

Note: some changes according to GIS/map data would involve new road construction, if implemented.

The end points of Roads 230 and 296 are examples of locations where there are no changes proposed but map and GIS data are not the same

The confusing email below from John Dow on Nov 11. did little to inspire confidence or clear up the issue.

Good Morning,

Thanks for pointing out some errors between the mapped and tabular data in our Record of Decision. The likelihood of discrepancies increases with each separate data iteration. In our attempt to simplify the information for easier public understanding, some mapping projections changed, resulting in mislabeled routes. The base FEIS data and maps, and Draft ROD tabular data have not changed, and still remain the basis for our decision. We corrected the errors on our Draft ROD maps to match the Draft ROD tabular data, and those corrected maps now match the FEIS tabular and mapped information as well.

Unfortunately, the maps exceed the data limits for this program, otherwise I would attach them for your convenience.

This file

PSI_EIS_AltCposter_ROD_all_V07_02_Corrected contains the corrected Draft ROD maps.

The corrected Draft ROD maps are available under the decision tab here:

<https://www.fs.usda.gov/project/?project=48214>

Please be patient, our public facing webpage is processing the upload. Let me know if the new document doesn't appear by 12pm today.

Thanks!

John Dow

john.dow@usda.gov

719-250-5311

Suggested Resolution: Align on the ground management with map and GIS data.

XV. The draft plan fails to comply with the Forest Plan regarding seasonal closures for elk calving areas and big game winter range and proposals are confusing.

It is not known what type or duration of seasonal closure is being proposed. Dates and reasons are not provided.

How and when seasonal closures will be implemented on the ground is not provided.

There are CPW identified winter concentration areas for big game with routes in 5B areas that are not close (Road 183, Salida District).

There are numerous roads in CPW winter concentration areas, 5B areas, and elk calving areas that are not seasonal closed (road 124, Salida District).

There is inconsistent application of seasonal closures across the forest for elk calving areas (few on San Carlos District, potentially more on South Park District).

The method used to determine which routes were proposed for seasonal closure and which were not must be clarified and revealed.

- **Suggested Resolution:** Reevaluate winter range and elk calving area seasonal closures. Seasonally close all local roads in 5B areas, in winter concentration areas, and in elk calving areas. Consider closures of motorized trails in the same areas. Proposed seasonal closures dates for each route and the reason for the closure will be included. Seasonal closures will appear on the MVUM Seasonal closures will be implemented within 2 years of the plan becoming final via the installation and use of lockable gates across routes at closure points, and signage with those gates describing the dates the routes are closed, and supporting need for the closures. Consider seasonally closing routes to all user groups to protect wildlife and habitat and emphasize the need for the closure.

We thank you for considering these topics which we believe will help improve and clarify this Travel Management Plan.

We would welcome the opportunity to discuss these points in more detail and the potential resolution of these issues.

Sincerely



Tom Sobal
Quiet Use Coalition