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**Testimony on “EXPLOSION OF FEDERAL REGULATIONS THREATENING JOBS AND
ECONOMIC SURVIVAL IN THE WEST”**
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Introduction

On behalf of the member counties of the Coalition of Arizona/New Mexico Counties (Coalition), I wish to thank the Chair and members of the House Natural Resources National Parks, Forests and Public Lands Subcommittee for the opportunity to present testimony on the U. S. Forest Service Travel Management Planning.

The Coalition is comprised of the Arizona Counties: Cochise, Gila, Graham, and Greenlee and the New Mexico Counties: Catron, Chaves, Eddy, Harding, Hidalgo, Lincoln, McKinley, Rio Arriba, and Sierra, and along with representation from the timber, farming, livestock, mining, small business, sportsman and outfitter industries. Our representation currently exceeds 592,923 in combined county populations.

I have twenty-five years experience with the National Forest planning process. This includes attending and conducting training on the National Forest Management Act (NFMA), the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA) and other federal resource planning activities. Additional duties included preparation of comments on proposed federal actions, appeal of agency decisions and assisting in related litigation on behalf of the Coalition and its member counties.

The Coalition has focused on the inclusion of local government in federal agency planning processes. Up until the 1980's, federal land and wildlife management agencies' decisions had minimal negative impacts on local affairs. In fact most decisions had very beneficial effects. By 1985, it became apparent that federal government decisions were trending toward profound negative effects on our environments, economies and social structures. Research into the federal environmental laws found that many federal laws and regulations existed requiring consultation, coordination and cooperation with local governments in federal decision-making.

Repeated attempts to secure local government participation and meaningful input into the NFMA, NEPA, ESA and other planning processes have been met with extreme resistance by federal agencies. This prompted the formation of the Coalition for the purposes of familiarizing Arizona County Supervisors and New Mexico County Commissioners in the federal planning laws, put together the necessary resources to effectively participate, and litigate in order to obtain our rightful seat at the table. For 21 years the Coalition's member counties have encountered federal agency cultures of resistance to meaningful participation of state, Tribe, and local governments.

The aim of this hearing is to focus on, “federal regulations threatening jobs and economic survival in the west.” This testimony could recount instance after instance of federal agency decisions that have devastated our economies, social structures, cultures and natural environments. The Travel Management Rule and the subsequent development of forest level travel management plans will be the focus of today's testimony.

The Travel Management Rule

The Coalition and numerous affected parties made comments on the proposed Travel Management Rule (TMR) calling attention to the misuse of the categorical exclusion. The TMR created pre-determined outcomes that violate the NEPA, its implementing regulations and the NFMA. The TMR asserts that the decision warranted a Categorical Exclusion. The following response for this issue is in the Federal Register, November 9, 2005, Vol. 70, No. 216, p 68286. (Underline Emphasis added)

Response. The Department has determined that this final rule falls within the category of actions excluded from documentation in an environmental assessment or environmental impact statement under FSH 1909.15, section 31.1b. This provision excludes from documentation in an

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environmental assessment or environmental impact statement rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions. No extraordinary circumstances enumerated in the Forest Service NEPA procedures exist that would preclude reliance on this categorical exclusion. The final rule would have no effect on users or on the environment until designation of roads, trails, and areas is complete for a particular administrative unit or Ranger District, with opportunity for public involvement. Specific decisions associated with designation of routes and areas at the local level may trigger the need for documentation of environmental analysis on a case-by case basis under NEPA.

However, there are effects even before local decisions are made. The following four outcomes are predetermined, because the TMR says must be part of every decision in every national forest:

1. The TMR must be implemented everywhere and in the same way (regardless of local conditions, local decisions, local need for change, and public opposition).

Comment: The TMR is attempting to trump the Council on Environmental Quality (CEQ) directives and regulations, and limit what can be decided in the local EIS or EA by imposing a predetermined decision over the entire process.

2. The TMR says all forests must close cross country travel.

Comment: This is contradictory to many existing Forest Plans. Implementing the TMR has forced the Forests to amend their Forest Plans. This is certainly a significant impact.

3. The TMR says all routes that are not designated are closed and are illegal to use once the designation process is complete EVEN THOUGH the routes may not have been analyzed or even inventoried and mapped.

*Comment: The TMR is turning normal planning and decision-making procedures upside down. First it tells the forests they are not required to inventory and analyze all the routes in order to make its designation decisions. Then it says that non-designated routes are automatically closed. Taken together, this means forests can close routes without analyzing them, and this is contrary to the NEPA. The NEPA says all decisions with significant effects on the ground and on the human environment must be analyzed. **The USFS has written the TMR to give itself permission to close routes without inventory or analysis. This is contrary to the NFMA the NEPA and the agency's own regulations.***

4. The TMR imposed a nation-wide policy of "Closed unless Designated Open" on all routes, without having analyzed the impacts or considering that the closure may not be needed or justified everywhere.

Comment: This new policy contradicts many existing forest plans. This in itself shows the TMR had a significant impact. We find it implausible for the agency to insist there is no significant impact when it forced forests to make forest plan amendments in order to implement the TMR. The needs for forest plan amendments plans to close cross country travel were known as soon as the TMR was published, before any local NEPA decisions were made or implemented.

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The USFS claims the TMR is merely ‘administrative’ and that there are no significant environmental effects from the TMR until designation projects are completed, but this is clearly not accurate.

. Despite the agency’s claims to the contrary there are significant effects, because the TMR forces the NEPA process, and limits the outcome to predetermined options.

TMR has economic impact exceeding the \$100 million limit for being “insignificant.” Back in 2005, the Office of Management and Budget determined that the rule had significant economic impact. The agency disagreed and claimed the TMR decisions would preserve access and even increase opportunities for motorized use. Since then, the results of TMR planning processes have become visible. Nationwide, the roads and trails open to the public for motorized use have been severely reduced.

Rural towns that are dependent on forest-based activities will be hard hit by the closures. The rosy picture of designated roads and trails painted by the agency back in 2005 has never materialized. What HAS materialized ARE major losses of access. Contrary to the hopeful verbiage in the TMR, virtually no unauthorized routes get designated anywhere. There is also a disturbingly predictable pattern of decisions across the country; closures amount to approximately 50 %, no matter where, why or what, the closures are 50 % and more. California is the worst case, with Region 5 defending DEISs that violate the commitments the Regional office itself made to the State of California.

Congress needs to address federal agency mission creep. The TMR is but one example of the Forest Service’s regulatory expansion without Congressional authorization. Congress needs to make clear that decisions on forest management need to be based on proper compliance with the NFMA and the NEPA with factual data and a high level of consistency with state, Tribal and local governments’ plans and policies.

The Wildlands Project

The impacts of one agenda have plagued the Coalition’s member counties for longer than the actual implementation of a single regulation. The current iteration is called travel management planning. This program has had other incarnations over the decades. We have been subjected to RARE I and II, President Clinton Roadless Rule, President Bush Roadless Rule, President Bush Roadless Rule II, President Clinton Forest Planning Rule, President Bush Forest Planning Rule, President Obama Forest Planning Rule, National Monument Designations, Wilderness Study Areas, Areas of Critical Environmental Concern, Secretary Order 3310 Wildlands Initiative, listings of species, and critical habitat designations.

The Wildlands Project (Project) was the brainchild of Dr. Reed Noss and Dave Forman (founder of Earth First!). It calls for the rewilding of over fifty percent of the North American Continent. America has been divided up into ecoregions. Within each ecoregion, proponent groups litigate, agitate and promote for the purpose of removal of human activity from the core areas and linking corridors, and limiting activity in buffer zones surrounding the cores and corridors. It wasn’t until Interior Secretary Salazar announced the Wildlands Initiative that there was an overt acknowledgement of the Project that is now called the Wildlands Network <http://www.twp.org/>.

In the early 1990s, the Coalition became aware of the Project. As the years have passed, it has become apparent that federal agency actions were running parallel to Non-Governmental Organizations’ (NGO) agendas to implement the Project. We ascribed much of this parallel to federal agency and Department of Justice settlement of appeals and litigation. We suspected that personnel within the agencies were at least sympathetic, if not supportive of the agenda.

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It wasn't until a Southeast Arizona rancher sued the Center for Biological Diversity (Center) for libel, that our suspicions of collusion between federal agencies and the NGOs to advance this agenda were revealed in discovery and testimony in the trial. The jury in that trial awarded the rancher \$100,000.00 in damages and a \$500,000.00 punitive award.

A Forest Service employee was writing biological assessments and NEPA analysis while his wife, an employee of the Fish and Wildlife Service was responsible for crafting the biological opinions on the information supplied by her husband. Records indicate that the Forest Service employee is a regular financial contributor to the Center. Testimony at the trial by reputable scientists showed that the data and conclusions of the husband and wife were at best erroneous.

The reason for raising this issue in this testimony is that federal agency personnel are either knowingly or unknowingly advancing the Project's agenda. The Coalition has, on several occasions, raised the question in NEPA document comments that the Project implementation needs to be addressed since it appears to be a logical outgrowth of proposed actions. We are answered that the issue would be beyond the scope of the analysis.

Federal agency planning is supposed to utilize sound science to produce an objective disclosure to the public and the decision-maker the intentions and consequences of a proposed action. This cannot be accomplished with biased federal agency personnel and NGOs performing the analysis, without some kind of check and accountability.

Common Failures of Travel Management Plan Analysis in Arizona and New Mexico

Analysis by Proxy

The Forest Service uses analysis of routes themselves as a 'proxy' for motorized use. More mileage is presumed to equal more damage from motorized use.

Here is an example of this 'proxy' style of analysis, from the revised Mountainair Ranger District EA, page 65: "There are no data available on motorized use in proximity to stream channels; therefore, miles of roads and acres within 300 feet of stream channels are used as a proxy for use."

Under this method, one mile of road travelled by 100 vehicles a week has less damage from motorized use than 100 miles of road used by one vehicle a week. This is obviously an absurd result. The NEPA documents should have analyze motorized use, not road mileage.

Instead, the Forest Service employed a method that ignores use. Proxy based on mileage is completely insensitive to variations in use. This method gives the same result whether a road gets no use or a lot of use. The analysis tells us nothing about use.

All the EIS's and EA's in Arizona and New Mexico present analysis based solely and entirely on these proxies; mileage of routes, and acres of land around those routes. There is no analysis at all on motorized use, for the simple reason that they have limited to no data on use.

Lack of Science

There is no science because there is no data at all on the subject matters motorized use and damage caused by motorized use. The Forest Service presents exactly zero information on the amount or location of any motorized use in any New Mexico forest. It has no traffic counts at all, anywhere, for any forest. It has NO DATA at all on numbers of OHVs, mountain bikes, hikers or horse riders. There is no New Mexico EIS or EA that identifies or compares impacts from any sort of recreation, wildfire, grazing, and the agency's activities (prescribed burns, thinning etc.)

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Motorized USE is the only legitimate subject matter for the analysis. But there is no analysis at all about motorized USE in any travel management EIS or EA in New Mexico. The analyses are based entirely on the locations and conditions of the roads themselves. But the DECISION is entirely and only about who is allowed to use the roads. No matter what decision is made, the roads themselves remain open to all non-motorized users, permittees and the agency itself.

On page 12 the Questa Appeal Response (Attachment 1) says the EA documented conditions for comparing the alternatives. But none of the documentation is about users and use. Instead we find ‘miles of road’, ‘numbers of stream crossings’, ‘acres of erosion hazard soils and riparian areas’, ‘road density’, etc. These are physical attributes of roads and locations. None of these factors address the USE of roads. Banning one class of user from existing roads does not change soil types or how many times roads cross a stream. From the appeal response, page 12:

“The project record accurately and clearly describes the current condition against which the action alternatives are compared. The transportation report identifies **the miles of system road and estimated road maintenance needs** (PR 322. pp. 1-9). The Soil, Watershed and Air Specialist Report identifies **the miles of route within 200' of streams, the number of stream crossings, sedimentation in terms of tons per year, acres of severe erosion hazard, miles of route in potential riparian areas, and acres of potential riparian area within dispersed camping corridors. The report also maps the watersheds and water quality impaired streams and describes the road density** to drainage density for the current condition (PR 299. pp. 3-7. 16-23. 31). The current condition is also described in the Recreation Report (PR 320. pp. 1-3) and Cultural Resources Effects Report (PR 320. pp. 1-6. 8-9).”

No Action Alternatives

In Region 3 the individual national forest did not have a common no action alternative. The no action alternative is the very heart of an EIS, because it reflects existing conditions. By law, the EIS must do its analysis by comparing alternatives to the no action baseline. (bold emphasis added below)

Gila National Forest:

The Gila DEIS, Page ii, defines the No Action Alternative:

“Alternative B is the no action alternative. It represents the existing condition, which **is our best estimate of where people are driving now.**”

The Gila No Action Alternative excluded 1,169 miles of system roads (all Maintenance Level 1 and decommissioned roads), 656 miles of forest system non-wilderness trail and an unknown mileage of unauthorized routes. Elsewhere in the EIS, the Gila admits all roads are legitimately in use because it is an ‘open’ forest. The contrived No Action Alternative does NOT reflect the existing condition, or reflect the current level of services (roads available to the public).

Santa Fe National Forest:

The Santa Fe DEIS makes the same ‘best estimate’ statement on page v, “Alternative 1 is the no action alternative. It represents the existing condition, which is **our best estimate of where people are driving now.**”

The responsible official preparing a NEPA document is not allowed to invent a definition for the no action alternative! “Where people are driving now” does not comply with CEQ regulations defining the requirements for the No Action alternative.

Using FOIAs, we found the ‘best estimate’ assumes that 15% of the ‘level 2’ primitive roads are not in use. The 15% figure was based on sampling of only EIGHTEEN closed ‘level 1’ roads. Hundreds of miles of roads were excluded from the No Action Alternative, based on examining 18 roads. Which ones did they take out? Here’s the Paper Trail:

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In the Santa Fe National Forest DEIS (p.17) we found, “A detailed explanation of the assumptions for alternative 1 is found in the project record in a document called “How Alternative 1 (No Action) is Defined” dated November 16, 2009.” This statement is at page 1 from that FOIA’d document:

“Limitations: The Santa Fe National Forest has evidence that the roads managed as open are not all driven on (some no longer exist on the ground, as evidenced by field work and **random samples**), and it also knows that many well-used unauthorized roads exist (also observed during site visits) (TAP report, project record).

From the FOIA’d Project Record document #340, at page 6:

“We assumed that all of the maintenance level 3 and 4 roads are being used. Based on the sampling conducted by the Forest’s transportation engineer (Appendix 5), 15% of the maintenance level 2 roads (673 miles) do not exist. Conversely, 15% of the level 1 roads (200 miles) are being used. Note that this is a **statistical calculation** rather than an identification of exactly which roads are or are not being used.”

Appendix 5, page 17, of the Project Record Document #340 states that the estimate was based on a sample of only 18 Level 1 roads. This is confirmed in the TAP Road Analysis, page 10, referring to those random samples, “Based on information from the last several years, it is estimated that between 10 percent and 20 percent of the roads in our database do not exist. The same random sample investigations show that between 10 percent and 20 percent of the closed roads are regularly used.”

Individual Forest Actions in Region 3

The testimony above depicts common flaws in the analyses performed to implement the Travel Management Rule in Region 3. Below we examine several of the national forest environmental assessments (EA) and environmental impact statements (EIS) for implementing the TMR.

Apached-Sitgreves National Forest - Apache County, AZ

Attached are documents concerning the attempts by Apache County, AZ (Attachment 2) and Town of Eagar, AZ (Attachment 3) for either coordinating or cooperating status on the TMP and the USFS denial letters.

Also you will see the letter from Apache County for an extension of comment period on the A-S, TMP, DEIS (Attachment 4) because the specialist reports were not available until the last week, their electronic comment server was broken, etc.

Unfortunately, Apache County and the Town of Eagar were not the only local governments denied their rightful statutorily and regulatory roles as coordinating entities and cooperating agencies. This was the rule rather than the exception throughout Region 3 and other state, Tribe and local governments throughout the West.

The Forest Service and other federal agencies have a non-discretionary obligation to examine their planning for consistency with state, Tribe and local government plans and policies. Absent this participation the federal agencies will not have the special expertise and on-the-ground knowledge states, Tribes and local governments can provide.

Cibola National Forest - Mountainair Ranger District - Torrance County, NM

The Mountainair Ranger District released a revised EA in October 2011. The original EA was remanded based on the appeal won by the New Mexico Off Highway Vehicle Association, an organization member of the Coalition.

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At Page 29 the revised Mountainair Ranger District EA says it doesn't know the mileage of unauthorized roads: (bold emphasis added)

“The exact number of miles of unauthorized routes on the district is unknown.”

At Page 30 the EA says it doesn't know the mileage of decommissioned roads:

“It is unknown exactly how many miles of decommissioned roads there are on the district.”

However, the Ranger District's own road analysis called the Travel Analysis Process (TAP) (testimony below will describe the origin of the TAP) shows precise mileage for Decommissioned and Unauthorized Routes.

Table 14 at page 38 of the TAP shows a Risks-Benefit Matrix for Decommissioned and Unauthorized Roads. The TAP says that there are 48.7 miles of these roads.

We find no plausible reason why these numbers were not included in the EA and how the EA could claim to not know the mileage for these roads.

In the revised EA, the specialist report for Water, Soils and Air analyzed road density in each of the 42 watersheds in the 68,000 acre study area. At page 58 of the revised EA is this statement, under the table for Watershed road densities: (bold emphasis added)

“The highest route density, 7.1 mi/mi², is found in La Canada de la Loma de Arena watershed (HUC 130202030409) on the west side of the Manzano Mountains. The high route density in this watershed is the result of subdivisions that have constructed roads outside of the forest boundary but within the watershed.

“The road density was calculated on the entire watershed acreage. The 42 watersheds add up to 1,132,307 acres. 1.132 million acres is 6.7 times larger than the EA project area (168,000 acres), and 3.9 times larger than the entire Mountainair Ranger District including wilderness of 292,000 acres.”

The following statement at page 58 shows the EA claims a direct “cause and effect” relationship between route density and sediment loads. If the density calculations are wrong, the conclusions in the analysis that rely on route density are also wrong.

“Route density in Tajiue Creek's watershed is also high (3.4 mi/mi²). The high sediment loads seen in the creek during surveys in 2002 (Cibola National Forest) are related to this higher route density and specifically to Forest Road 55 that is located along the perennial portion of the creek. The Cañon Monte Largo and Ojo Barreras watersheds have route densities of 4.9 mi/mi² indicating that roads within these watersheds are likely having an impact on peak flows and sediment loads.”

Note the mention of route densities in two watersheds. We know that of the 1.132 million acres of watershed, only 168,000 acres are in the EA study area. Only 15% of the watershed acreage is on National Forest land 85% is outside the forest boundary.

The ranger district is on the high ground in the Manzano mountain range. All the waters flow downhill off those slopes and out of national forest lands. Water flows downhill, even in the national forest. Therefore, it is irrational to claim that watershed sediment outside the forest could somehow move upstream and impact streams inside the forest boundary.

Gila National Forest - Catron, Grant, and Sierra Counties, NM

On page 5, the DEIS states that the Modified Proposed Action was based on the analysis done in the Travel Analysis Process (bold emphasis added):

“This proposal was based on analysis done in the “Travel Analysis Process” (USDA Forest Service 2010)”

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The TAP disclosed the methodology for the analysis used to create the Modified Proposed Action on page 17:

“The Forest developed a Forest-wide process to assist in a route by route (either road or motorized trail) assessment to determine a designation and identify suitable dispersed camping corridors.”

The TAP gives a specific citation for this methodology on page 13 (bold emphasis added):

“The Forest used a method to assess relation of roads to species and habitat that followed one of the concepts used for road density analysis described in The Wilderness Society report: Reconnecting the Landscape: A Transportation Management Opportunity in the Boise National Forest (2005). The report used a consistent size square mile polygon across the whole area of study. Since the Gila National Forest boundary in the most part followed section lines, the Forest used the established section polygons to analyze the road density by section across the Forest (Appendix J).”

The citation reveals that the methodology used is taken directly from a Wilderness Society (WS) publication. TWS publications are internally generated and not peer-reviewed. This is not in compliance with CEQ regulations. 40 CFR 1502.22(b)(4) states:

“the agency shall include within the environmental impact statement:

(4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.”

Review of the ‘Reconnecting’ publication shows the methodology was designed specifically to identify lands to propose for Wilderness designations. The methodology has nothing to do with managing motorized use or recreation. It is not applicable to travel management planning. A methodology based solely on analysis of road density is not adequate.

Investigation of the authors showed they are vehemently opposed to OHV recreation and motorized use in National Forests:

One of the co-authors Craig Gerke, a Regional Director of TWS, is quoted on a Idaho wilderness website saying this:

“As a wilderness supporter, I see motorized recreation as being an attack.”

There are far more trails than the Gila EIS admitted. By starting with the absurd figure of 16 miles of trail, the EIS claims that adding 100-200 miles INCREASES trail mileage by 692% to 1,190%, where in reality it is DECREASING the mileage by 70% and more.

The 2007 Summary showed 828 miles of legal trails, the DEIS itself refers to 656 miles, the example below used this 656 miles. One still gets the incredibly fraudulent result as described in the DEIS as ‘Increases’ of 692% to 1,190% vs. the actual decreases of mileage by 75%+.

Here is how the DEIS describes the effects of the alternatives on trails, pages 58-60:

- Alternative C: “NFS motorized trail mileage will experience an increase of 1,190.51 percent, up from its current level of 15.8 miles to 203.9 miles.”
- Alternative D: “NFS motorized trail mileage will experience an increase of 692.41percent, up from its current level of 15.8 miles to 125.2 miles.”
- Alternative F: “NFS motorized trail mileage will experience an increase of 1,048.73 percent, up from its current level of 15.8 miles to 181.5 miles.
- Alternative G: “NFS motorized trail mileage will experience an increase of 1,047.73 percent, up from its current level of 15.8 miles to 181.3 miles.

The following is the result when one uses the actual number of trails:

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	Alternative C	Alternative D	Alternative E	Alternative F	Alternative G
Miles	189 miles	109 miles	0 miles	165 miles	165 miles
% Closure Compared to NFS 656 miles	72% loss	83% loss	100% loss	75% loss	75% loss

Early in the process (2006-2007) the National Forests, including the Gila, encouraged OHV users to submit data and maps of the routes they use.

The OHV users submitted hundreds of miles of GPS tracks to the Gila National Forest. These tracks were entered into the Gila National Forest database by the Gila's GIS specialist. He created maps that overlaid the user trails with the Gila's system roads.

These maps were posted on the Gila's website until shortly before the Proposed Action was released. Then, the maps and all reference to them disappeared from the website. But we had already archived the maps and images of the web pages, anticipating this would happen.

The Draft EIS never says that hundreds of miles were submitted by the public, and entered in the forest database and displayed (temporarily) on the website. None of the alternatives incorporate any of these routes. The Gila never identified which if any of the Public Input routes overlaid forest system trails and roads. This testimony shows that the Gila DEIS claimed only 16 miles of existing motorized "system" trail, even though the national website showed 828 miles in 2007.

The travel management documents misinformed the public and affected interests about motorized trails. The Forest Service's own 2007 table shows 537 miles of legal system trail open to motorized use. The DEIS claims there are only 16 miles of trail open to motorized use. Below are linked (and attached) are the USFS documents proving this.

The attached doc was selected from <http://www.fs.fed.us/recreation/programs/ohv/schedule07.pdf>

It shows all the national forests, grouped by region with all the existing inventoried routes by road and trail as of 2007.

Conveniently, all the Region 3 forests are on one page (Attachment 5). It says the Gila has 537 miles of forest system trails open to motor vehicles. The DEIS claims there are only 16 miles of motorized trail. That's the number shown in Alt. B, the No Action Alternative. The DEIS excludes 521 miles of trail from the baseline for analysis, this is a 97% closure.

This does two things:

1. It allows the DEIS to falsely claim that adding 111 miles to 188 miles of trail in various alternatives represents an INCREASE in trails for motorized use. This is blatantly fraudulent. The maximum trail mileage is 204 miles in Alternative C. The DEIS claims this is an increase in trail mileage, but in reality it is a 61% closure.

2. It allowed the Gila to close hundreds of legal trails to motorized use, with no analysis. This is how the TMR works: **Routes not designated are closed by default under the TMR.** Routes not analyzed in an EIS or EA cannot be designated. This means all routes excluded from the DEIS are closed by default. The easiest way for the FS to close routes is simply keep them out of the DEIS. The TMR creates a huge incentive for the USFS to produce severely false numbers. We have found this to be true in every single New Mexico TMR planning document. Not one of them includes the entire forest database, let alone the unauthorized routes. All travel management EISs and EAs have severely under-represented the true mileage that in their databases. Omitting trails and certain categories of roads that are legally open to vehicles does this. The DEIS released by Santa Fe

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NF's excluded almost all the legally open trails. The 2007 USFS table shows 828 miles of trail open to motor vehicles in the Santa Fe NF, but the Santa Fe DEIS claims there are only 36 miles of existing motorized trails.

Remember, these figures are only for forest system trails in the official database. They do not include the "unauthorized routes" submitted by the public, at the urging of the Gila in 2006-2007. No forest has done a travel management analysis that included the hundreds of miles of user-submitted routes. The Gila initially took the user submitted data, created maps and posted them on the web site. These were removed from the website when the DEIS came out. Those maps and the trail mileage are not included in the DEIS.

The Gila TMP has resulted in closing off significant dispersed camping opportunities.

The DEIS states the different alternatives will reduce camping by these percentages:

Alternative B: No change, leave 4,613 miles open baseline for comparison)	0% closure (No Action Alternative, supposedly the
Alternative C: leave 1,538.1 miles open	67% closure
Alternative D: leave 1,182.8 miles open	74% closure
Alternative E: No camping from vehicles allowed	100% closure
Alternative F: leave 1,446.8 miles open	69% closure
Alternative G: leave 1,326.8 miles open	71% closure

But 45% of the Roads Were Left Out of these Calculations! The DEIS based its closure rates on only 4,613 miles of roads, not the 7,032 miles that are really in the forest.

The DEIS left out 1,852.2 miles of US and state highways and county roads that run through the Gila National Forest (page 8 of the Roads Report in the DEIS). The USFS can't close US, state and county roads, but they can (and will) forbid camping from those roads in the forest.

The DEIS also left out 1,169 miles of Forest Service roads classified as 'Maintenance Level 1' and 'Decommissioned'. The DEIS included those roads in the calculations for game retrieval, but left them out of the calculations for dispersed camping. The DEIS admits those roads are in use (legally, since it's an 'Open' forest) and that the roads are important to the public.

Here are the real closure percentages when ALL of the roads are included. Notice that Alternative B was false in the DEIS. Alternative B was supposed to be the 'No Action Alternative' that serves as the baseline for comparing the alternatives.

Alternative B: leave 4,613 miles open, close 2,419 miles	34% closure
Alternative C: leave 1,538.1 miles open	80% closure
Alternative D: leave 1,182.8 miles open	84.5% closure
Alternative E: No camping from vehicles allowed	100% closure
Alternative F: leave 1,446.8 miles open	81.1% closure
Alternative G: leave 1,326.8 miles open	80% closure

In short, the Gila Travel Management decision would close a minimum of 80% of the dispersed camping. The DEIS is supposed to 'analyze' the impact of these closures on the public. For each alternative the DEIS makes the exact same statement.

"The effect of this reduction in opportunity is not likely to be significant."

To make this clear, the Gila NF is claiming that closing 60%-80% (or more) of the camping will have no significant effect on people. Here are some effects from reduced camping that the DEIS ignores:

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- Crowding;
- Reduction in the quality, less pleasure and privacy;
- Increased competition, not enough good camping space for everyone;
- Hunters crammed together;
- Disrupts family traditions, families will lose the camping places they've enjoyed for decades.

The Gila National Forest claims 5,585 elk permits plus 8,371 deer tags plus all the other hunting, contributed less than \$200,000 (\$198,751) to the local economy. The permit numbers are from the New Mexico Department of Game & Fish website, for the Gila Game Management Units in 2009-2010.

In Wyoming, the 2005 Bridger-Teton National Forest hunting economics study says 6,173 elk hunters contributed over 3 million dollars (\$3,047,363) to the local economy. They surveyed only non-resident and non-local elk hunters. Elk only, no other game animals. The study was prepared by the USGS and Wyoming Game & Fish for Bridger-Teton National Forest, for an EIS on management of the Jackson elk herd. You can read it at: http://www.fort.usgs.gov/products/publications/pub_abstract.asp?PubID=21379.

Why are the economic numbers for the two forests so different? It's because the Economic Study for the Gila DEIS entirely leaves out the biggest piece of money that comes from hunters: trip expenditures. A Forest Service analyst in Washington D.C. did the Gila's economic study. She used county information from a national database, and decided there were 6 "hunting related" jobs related to the Gila Nat'l Forest. That is the only money shown in the analysis. The economic analysis never even mentions trip expenditures.

All the alternatives in the Gila DEIS close at least the half the roads. No matter which alternative is chosen, or which combination, the decision will close over the half the roads.

The Gila DEIS ignores the importance of hunting to the economy. This allows the USFS to claim they can close over half the roads in the forest to motorized use, and not hurt the local economy.

Conclusion

The limitations on testimony prevent a full disclosure of all of the problems associated with the TMP products affecting the Coalition's member counties and organizations. There has been a failure of the Forest Service for meaningful inclusion of local governments and the affected public in the TMP/NEPA process.

There is clear direction in the laws and regulations for inclusion of State, Tribal and local governments to coordinate planning and include these governments as cooperating agencies in the NEPA document preparation. Our system of government does not function well without checks and balances. The active participation of the elected representatives of the citizens affected by the decisions can insure that forest planning and other agency actions are implemented in a transparent manner.

Our experience is that local government and public participation is only for the purpose of creating the appearances of participation. The TMP process discussed here predisposed the agency personnel to a preferred alternative before analysis ever began. Congress needs to make clear in the land planning and environmental statutes that these governments must be involved in a meaningful way not as just window dressing and appearance.

Agency personnel are not immune to personal bias or prejudice. It has been shown in many instances that personnel are members and contributors to radical environmental organizations whose agenda is to thwart or discontinue resource access and use by humans. This is another reason to elevate the status of State, Tribal and local government participation in the planning processes.

Testimony of the Coalition of Arizona/New Mexico Counties

There is a lack of uniform application of the planning processes across the federal agencies. There are conflicting Circuit Court decisions concerning planning procedure all over the nation that prevents a uniform application of the rules. This is all the more apparent within U. S. Forest Service Region 3 with the Arizona portion under the 9th Circuit and New Mexico under the 10th Circuit.

It is nearly impossible to secure justice in the Forest Service appeal procedure. Accused parties are guilty until proven innocent. Affected parties in the planning process are required to file appeals to the next level line officer. Rarely do these appeals result in a positive outcome. The only recourse following administrative appeal is suit under the Administrative Procedures Act with the burden of proving an arbitrary and capricious decision by the federal agency. The most often result is the Court's deference to federal agency expertise, even when obvious impacts are occurring or will occur.

No party or federal employee with conflicts of interest should be allowed to prepare agency-planning documents. State, Tribal and local government representatives should be actively engaged to provide effective oversight of the document preparation to insure accountability to the affected citizens. Federal agencies should be prepared to fiscally assist State, Tribal and local governments in carrying out their coordinating responsibilities and as Joint Lead and Cooperating Agencies. Congress should appropriate funds specifically earmarked for State, Tribal and local governments to carry out these functions.

The NEPA should have a clear definition of significance. The term is hardly recognizable from its application and use by federal agencies. Significance should not be determined by analyzing impacts beyond the scope of impact the decision will have. For example: A grazing allotment permit renewal in Navajo County, Arizona should not have its economic impact analysis compared to the National Gross Domestic Product. Doing so, renders the action unimportant compared to the national economy, but fails to disclose the importance to the local governments and economy.

Congress needs to increase their oversight of the federal agencies that have such high level of impact on the lives, environments, economies and cultures of people dependent on the access and use of the Nation's federal lands. The Travel Planning Rule and subsequent implementation through the travel management planning are only serving to advance an anti-human and anti-use agenda that is contrary to the multiple use mandate for these lands.



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File Code: 1570/2350

Date: FEB 15 2012

Mr. Mark Werkmeister
New Mexico Off Highway Vehicle Association
1700 Willow Road NE
Rio Rancho, NM 87144

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 70080150000098011174**

Dear Mr. Werkmeister:

This is my decision on the appeals you filed regarding the Decision Notice (DN), Environmental Assessment (EA), and Finding of No Significant Impact (FONSI) signed by Forest Supervisor Kendall Clark for the Travel Management on the Questa Ranger District, Carson National Forest. You filed one appeal on behalf of the New Mexico Off Highway Vehicle Association (NMOHVA) and the Town of Red River (#12-03-00-0011-A215), and the other appeal on behalf of NMOHVA (#12-03-00-0012-A215).

My review of your appeals was conducted pursuant to, and in accordance with, 36 CFR 215.18. My review focused on the project documentation and the issues raised in your appeals. I specifically incorporate in this decision the project record, the references and citations in the project record transmittal documentation, as well as the Appeal Reviewing Officer (ARO) analysis and documentation.

After considering your issues and the project documentation, the ARO recommends the Forest Supervisor's decision be affirmed with instructions. A copy of the recommendation and the technical review of your appeal contentions are enclosed.

Based upon a review of the project documentation provided, I find the issues were adequately considered. I agree with the ARO analysis and conclusions in regard to your appeal issues. I find the Forest Supervisor made a reasoned decision and has complied with all laws, regulations, and policy. After careful consideration of the above factors, I affirm with instructions the Forest Supervisor's decision, to implement Travel Management on the Questa Ranger District. Before the project is implemented, I instruct the Forest Supervisor to:

- Provide more specific information in the record describing the extent of work needed to add the one mile of unauthorized route to the system as motorized trails and convert two miles of system road to motorized trail,
- Supplement the analysis in the Recreation Report to more clearly describe how restricting currently open system roads to administrative use will affect motorized users.



This decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)]. A copy of this letter will be posted on the national appeals web page at <http://www.fs.fed.us/appeals>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert Zepeda". The signature is fluid and cursive, with the first name being the most prominent.

GILBERT ZEPEDA
Appeal Deciding Officer, Deputy Regional Forester

Enclosures (2)

cc: Kendall Clark



United States
Department of
Agriculture

Forest
Service

Coronado National Forest
Supervisor's Office

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File Code: 1570/2350

Date: February 10, 2012

Route To:

Subject: ARO, Appeal #12-03-00-0011/0012/0013-A215, Travel Management on the Questa Ranger District, Carson National Forest

To: Regional Forester

Thru: Gilbert Zepeda, Deputy Regional Forester

This is my recommendation on the disposition of the appeals filed regarding the Decision Notice/Finding of No Significant Impact (DN/FONSI) and Environmental Assessment (EA) for Travel Management on the Questa Ranger District, Carson National Forest.

BACKGROUND

Implementation of the Selected Alternative (Alternative 1) will:

- Restrict motor vehicle use to administrative use only on approximately 15 miles of existing open road in the Midnight Meadows, Greenie Peak, Bitter Creek, Middle Fork Lake, El Rito (north of Questa), Lama, Garrapata, and San Cristobal areas. These roads will not be available for general public use and will not be displayed on the Motor Vehicle Use Map (MVUM).
- Add approximately 13 miles of unauthorized route as National Forest System (NFS) roads open to all vehicles in the Questa, Lama, and San Cristobal areas.
- Add approximately 2 miles of unauthorized route segments (≤ 300 feet long) as NFS roads open to all vehicles of Forest Road (FR) 134 (Cabresto Canyon, Bonito Canyon, and Midnight Meadows), FR 597 (Greenie Peak and Mallette Canyon), FR 488 (Foster Park), and NM 579 (upper Red River Canyon).
- Remove all 34 miles of existing 100-foot corridor along designated roads.
- Add approximately 2 miles of unauthorized routes to the existing Elephant Rock motorcycle trail system as a NFS trail open to motorcycles only in the vicinity of Cabresto Canyon and Sawmill.
- Convert approximately 2 miles of NFS road to NFS trail and add 1 mile of unauthorized route to the existing motorized trail system as an NFS trail in 4th of July Canyon, for vehicles 50 inches wide or less (3 miles total).
- Allow motor vehicle use between May 1 and December 31 on NFS roads in the Foster Park/4th of July Canyon (FR 488 and 490), Placer Creek/Goose Lake area (FR 486), San Cristobal/Cerro Negro area (FR 7), and Cebolla Mesa (except FR 9, where motor vehicle use allowed year-round). The district ranger may modify these seasonal designations to allow vehicles on roads up



to two weeks prior to May 1, if dry conditions exist, or extend a seasonal closure into May if conditions continue to be too wet.

The decision also amends the Carson Forest Plan to state under "Forest-wide Prescriptions, Travel Management:"

- Motor vehicle use off the designated system of roads, trails, and areas is prohibited, except as identified on the motor vehicle use map (MVUM) or unless specifically authorized under a written authorization under federal law or regulations by an authorized officer.

Forest Supervisor Kendall Clark published the legal notice of her decision on November 17, 2011 for Travel Management on the Questa Ranger District, Carson National Forest. The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under the 36 CFR 215 appeal regulations. Four timely appeals were filed as follows:

- Appeal #12-03-00-0011-A215 filed by Mark Werkmeister of the New Mexico Off Highway Vehicle Association (NMOHVA) and Linda Calhoun, Town of Red River, December 28, 2011.
- Appeal #12-03-00-0012-A215 filed by filed by Mark Werkmeister of NMOHVA on December 28, 2011.
- Appeal #12-03-00-0013-A215 filed by Cyndi Tuell on behalf of the Center for Biological Diversity, Amigos Bravos, and Peggy Nelson.
- Appeal #12-03-00-0014-A215 filed by Albert Simms on behalf of James Denny on December 30, 2011.

Pursuant to 36 CFR 215.17, an attempt was made to seek informal resolution on all four appeals. The Forest Supervisor was able to resolve the issues raised by Mr. Simms so he withdrew the appeal and it was subsequently dismissed. The record indicates that informal resolution was not reached on the appeals filed by Mr. Werkmeister or Ms. Calhoun. The meeting with Ms. Tuell resulted in her dropping an issue related user created routes (UD7_351, UR 18, UD7_163).

Review and Findings

As provided for under 36 CFR 215.19(c), I am consolidating the three remaining appeals into one recommendation. My review was conducted in accordance with 36 CFR 215.19 to ensure that the analysis and decision are in compliance with applicable laws, regulations, policies, and orders. The appeal records, including the appellant's issues and requests for relief have been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeals and believe they are adequately addressed in the attached technical review and findings documents. Having reviewed the EA, DN/FONSI, and the project record file, as required by 36 CFR 215.19(b), I conclude the following:

- 1) The decision clearly describes the actions to be taken in sufficient detail except as noted, so that the reader can easily understand what will occur as a result of the decision. The decision converts approximately 2 miles of NFS road to NFS trail and adds 1 mile of unauthorized route to the existing motorized trail system. However, the project record lacks specific information regarding what would be accomplished to minimize the effects of designating these 3 miles of motorized trails. Additionally, while the project record supports restricting a total of 15 miles of system

road to administrative use, the Recreation Report does not fully describe the effects of restricting system roads to administrative use on motorized users.

- 2) The decision is consistent with policy, direction, and supporting evidence. The record contains documentation regarding resource conditions and the Responsible Official's decision documents are based on the record and reflect a reasonable conclusion.
- 3) The selected alternative should accomplish the purpose and need established. The purpose and need stated in the EA reflect consistency with direction in the Forest Plan for the Carson National Forest.
- 4) The record reflects that the Responsible Official provided ample opportunity for public participation during the analysis and decision making process. The Responsible Official's efforts enabled interested publics the opportunity to comment and be involved in the site-specific proposal.

After considering the claims made by the appellant and reviewing the record, I found that the Responsible Official conducted a proper and public NEPA process that resulted in a decision that is consistent with the Carson National Forest Plan. I found no violations of law, regulations, or Forest Service policy.

Recommendation

I recommend that the Responsible Official's decision and non-significant forest plan amendment relating to these appeals be affirmed with instructions regarding the appellants' contentions. My recommendations for instructions are:

- The responsible official should be instructed to provide more specific information in the record describing the extent of work needed to add the 1 mile of unauthorized route to the system as motorized trails and convert 2 miles of system road to motorized trail.
- The responsible official should be instructed to supplement the analysis in the Recreation Report to more clearly describe how restricting currently open system roads to administrative use will affect motorized users.

/s/ Reta Laford

RETA LAFORD

Deputy Forest Supervisor, Appeal Reviewing Officer

Enclosures

cc: Margaret Van Gilder

Review and Findings

Mark Werkmeister, New Mexico Off Highway Vehicle Association
Linda Calhoun, Town of Red River

Appeal #12-03-00-0011-A215

Travel Management on the Questa Ranger District, Carson National Forest

Overview: The appellants contend that the Forest Service failed to adequately respond to comments they submitted on the project in violation of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations. Specifically, they contend that comment #219 identified what they believe to be multiple errors in the socioeconomic analysis that the agency did not address. These errors are identified as separate contentions below.

ISSUE 1: The agency failed to adequately analyze the socioeconomic impacts to the town of Red River.

Contention 1a: The appellants contend that the Environmental Assessment (EA) makes conflicting and confusing statements about the importance of Off Highway Vehicle (OHV)-based recreation to the town of Red River. The appellants argue that although the Forest Service acknowledged that changes to the transportation system, especially closing any roads or motorized trails, could have negative economic impacts to Red River, the analysis presented in the EA and specialist reports concluded that the direct and indirect effects would be “immeasurable” and “indiscernable.” The appellants contend that these conclusions are highly contradictory to previous documents issued by the agency and not supported by data and analysis presented in the EA. The appellants go on to provide several examples of statements from the EA that they believe support their contention (Appeal, pp. 7-14).

Response: The EA provides a balanced analysis of the importance of motorized recreation to the Town of Red River, not contradictory statements as the appellants contend. The Recreation Section of the EA, and in particular the examples provided by the appellants, reflect the reasons why people come to Red River (to escape summer heat, to participate in a variety of motorized, mechanized and non-motorized recreational pursuits), recognizes the importance of tourism, recreation, and the retail and construction sectors to the economy of Red River (Project Record (PR) 336, pp. 128-134). Statements made in the Recreation Section regarding factors that are important to the economy of Red River are consistent with statements made in the Social and Economic Environment Section (PR 336, pp. 136-142).

The EA acknowledges that the Town of Red River promotes recreational opportunities available on Carson National Forest on its website. The Recreation Section includes a table that provides a means of determining how each alternative would affect the recreational opportunities promoted by the Town (PR 366, pp. 131-133). With the exception of restricting motor vehicle use to administrative use only on Middle Fork Road and converting Forest Road (FR) 490 up 4th of July Canyon to a motorized trail, the selected alternative would continue to be designated for motor

vehicle use. Seasonal designations added in the selected alternative would allow motor vehicle use during Red River's busy summer season.

In addition, the decision reflects the role of motorized recreation to the Town of Red River. The resulting transportation system has the same number of miles of road open to all vehicles as the existing conditions (15 miles of system road are restricted to administrative use only and 15 miles of unauthorized routes are added as system roads open to all vehicles) and has 5 more miles of motorized trail (PR 336, Table 1, p. 15; Table 41, p. 142). It should be noted that the changes to the motorized trail system (i.e., increased mileage) occur in the vicinity of Red River (PR 320, p. 9).

Finding: The EA makes consistent statements regarding the importance of OHV-based recreation to the Town of Red River and acknowledges the many factors in addition to motorized recreation that are related to its economy.

Contention 1b: The appellants contend that the EA does not make use of the economic data readily available in the *Socioeconomic Assessment of the Carson National Forest*. They point out that the assessment indicates that the total impact of the Carson National Forest's (CNF) tourism and recreation is almost \$200 million. They concede that while the total economic size of Red River might be small compared to Taos, the same is not necessarily true from a recreation-based economy perspective. The appellants argue that even if Red River is only 20-25 percent of the total recreation based economy derived from the CNF, the Socioeconomic Study indicates that the recreation economy that is potentially affected by changes in the transportation management is huge. The appellants conclude that eliminating any amount of motorized access on the CNF has a direct impact on numerous activities that create a big impact to the local economy (Appeal, pp. 14-15).

Response: Project level requirements for social and economic analyses are described in Forest Service Manual (FSM) 1970 and Forest Service Handbook (FSH) 1909.17. FSM 1970.6 states, "The responsible line officer determines the scope, appropriate level, and complexity of economic and social analysis needed." FSM 1970.6 also states, "The cost and availability of social and economic data may be considered when determining scope." The purpose of the economic analysis in an EA is to assist in decision-making.

The EA (PR 336) contains a clear description of the economic analysis conducted for the project, and cites the *Socio-Economic Analysis Report for Travel Management* (PR 318, p. 30). This report documents use of: 1) the input/output economic impact model, IMPLAN (IMpact analysis for PLANning); 2) recreation economic impact analysis using Economic Impact Decision Support System (DSS), Version 2.0.1 (Central Oregon Recreation Services, CORS); and 3) New Mexico Gross Receipts Tax for a better understanding of the overall recreation (PR 318, Appendix A). The *Socioeconomic Assessment of the Carson National Forest* (BBER 2007) was produced to aid the Carson National Forest in Forest Land and Management Plan revision under the National Forest Management Act (NFMA), and the economic analysis in that report is meant to cover the entire Forest and all associated counties. In contrast, the *Socio-Economic Analysis Report for Travel Management* (PR 318) contains economic impact analyses specifically conducted to address travel management for this decision.

Finding: The EA contains a clear description of the economic analysis conducted for the project supported by information in the *Socio-Economic Analysis Report for Travel Management*.

Contention 1c: The appellants contend the agency improperly limited the range of reasonable alternatives to be considered because the agency limited its analysis to studying the impacts on the local economy if the transportation system is further restricted. They argue that opportunities to enhance Red River's economic health via an OHV-friendly transportation system should have been analyzed, as requested by the town (Appeal, pp. 15-17).

Response: The purpose of the Travel Management Rule is to provide for a system of National Forest System (NFS) roads, NFS trails and areas on NFS lands that are designated for motor vehicle use (PR 050, CFR 212.50(a), p. 68289). The purpose and need of the project is to provide for a system of NFS roads, NFS trails, and areas on the Questa Ranger District that are designated for motor vehicle use, in accordance with the travel management rule (PR 366, p. 3). The Decision Notice/Finding of No Significant Impact (DN/FONSI) notes that based on a review of comments, the responsible official determined the scope of the decision will focus on changing the designated transportation system to balance resource concerns with motorized opportunities, while minimizing new routes to the system (PR 337, p. 7). However, the EA also clarifies that the decision does not preclude a planning effort that considers additional motorized trail systems at a later date (PR 336, pp. 2, 25). Finally, as discussed above in Contentions 1a and 1b, the EA clearly describes the economic analysis conducted for the project and the effects to the local economy.

Finding: The level of economic consideration in the EA was appropriate to evaluating the range of alternatives. Enhancing the economic health of the Town of Red River is beyond the scope of the travel management rule and this project.

Contention 1d: The appellants contend the agency does not provide the required "high quality" or "scientific analysis" required by CEQ because the quality and accuracy issues raised in the contentions discussed above were ignored in the agency's response to comment #219. The appellants also contend that the agency's claim that the upward trend in Red River gross receipts tax is "proof" that changes in the transportation system will not harm the local economy is illogical for two reasons: 1.) Red River's economy is dependent on robust recreation year around; and 2.) "Harm" is not limited to causing a decrease in recreation revenue (Appeal, pp. 17-18).

Response: Project level requirements for social and economic analyses are described in Forest Service Manual (FSM) 1970 and Forest Service Handbook (FSH) 1909.17. FSM 1970.6 states, "The responsible line officer determines the scope, appropriate level, and complexity of economic and social analysis needed." FSM 1970.6 also states, "The cost and availability of social and economic data may be considered when determining scope." An EA should briefly provide sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a finding of no significant impact (40 CFR §1508.9). Economic effects are not intended by themselves to require preparation of an EIS (40 CFR §1508.14). The purpose of the economic analysis in an EA is to assist in decision-making.

As discussed above in response to Contention 1b, the EA contains a clear description of the economic analysis conducted for the project, and cites the *Socio-Economic Analysis Report for Travel Management* (PR 318, p. 30). The EA and the *Socio-Economic Analysis Report for Travel Management* fully document roads to be closed and those roads and trails to remain open (PR 336, pp. 142-143). New miles of roads and trails specifically designated for motorized recreation are specified (PR 336, pp. 131-134), specifically addressing potential impacts to motorized recreation in the Red River area.

Finding: The level of economic consideration in the EA was appropriate to evaluating the range of alternatives. The EA and project record clearly demonstrate a thorough evaluation of potential economic impacts to the Town of Red River. While some roads or trails may be closed, others made are made permanent system roads or trails open to motorized recreation. Motorized recreation is not being eliminated by this decision, and the conclusions of economic impact are well supported.

Review and Findings

Mark Werkmeister, New Mexico Off Highway Vehicle Association

Appeal #12-03-00-0012-A215

Travel Management on the Questa Ranger District, Carson National Forest

Overview: The appellants contend that the Forest Service failed to adequately respond to comments they submitted on the project. They contend that they identified material mistakes and process errors in their comments on the Draft Environmental Assessment (EA) but the agency failed to remedy the errors. These errors are identified as separate issues and contentions below.

ISSUE 1: The agency failed to properly define the purpose and need.

Contention 1a: The appellants contend the agency did not adequately address the fact that the purpose and need was in error because it included an element that is both outside of the Travel Management Rule (TMR) scope and beyond the agency's statutory authority. They object to the statement in the purpose and need of "providing a system...that does not encourage public trespass onto private lands" and contend that the TMR completely omits any explicit protection for private property (Appeal, pp. 7-9).

Response: The purpose and need for this action is to provide for a system of *National Forest System* (NFS) roads, *NFS* trails and areas on the Questa Ranger *District* that is designated for motor vehicle use in accordance with travel management rule. The EA also states there is a need to provide a system of NFS roads and trails that does not encourage public trespass onto private lands from NFS lands and that some existing system routes go through private lands where no easement exists (Project Record (PR) 366, pp. 3-4, emphasis added).

The appellants note that the Travel Management Rule does not directly address the protection for private property. However, the preamble to the TMR does acknowledge that while many private landowners allow recreation use of their lands, including use by OHVs, the Department believes that landowners are the best judges of the proper uses for their land (PR 050, p. 68267).

In accordance with 36 CFR 212.50 and 212.51, the designation of roads, trails and areas only apply to National Forest System lands (PR 050, p. 68289). Designating roads, trails and areas for motor vehicle use that are outside the agency's jurisdiction, including roads for which it has no easement, is beyond the agency's statutory authority. This is echoed in agency policy at Forest Service Manual (FSM) 77111.3 (3), which prohibits displaying on the motor vehicle use map those roads and trails where there is no right of public access, and in the Region 3 Travel Management Implementation Guidelines (PR 139, pp. 2-5). Thus, the agency is complying with agency policy in stating that it is designating a system of NFS roads and trails that does not encourage trespass onto private lands.

Finding: The purpose and need is not in error, is consistent with the TMR, and properly reflects the agency's statutory authority.

Contention 1b: The appellants contend that the agency did not adequately address the fact that the EA included improperly defined elements (“not encouraging public trespass” and “potential for motorized trespass”) and did not disclose the methodology by which these elements were analyzed in the EA as required by the Council on Environmental Quality (CEQ) regulations. They contend that the agency 1.) provides no methodology which would identify why one route “encourages trespass” and another does not; 2.) does not describe how it determines the “potential” for motorized trespass, and; 3.) does not disclose the methodology employed to determine what designations “discourage” trespass. The appellants argue that the agency has no authority to manage for problems that it imagines might happen in the future. They conclude that the agency is using the indefensible idea of “encouraging trespass” and “potential trespass” as excuses to close routes to motorized use (Appeal, pp. 9-11).

Response: As noted in the response to Contention 1a, the agency does not have authority to designate roads, trails and areas for motor vehicle use that are under the jurisdiction of other entities or for which there is no right of public access but does have the authority to make designations on National Forest system roads that address issues identified through public scoping and analyses processes.

The record shows that a Travel Analysis Process (TAP) was used to analyze the existing road system using the guidance in FSH 7709.55 Section 21.11. The TAP considered the purpose of existing roads and their impacts to natural and cultural resources and described the methodology used to make recommendations for the existing National Forest road system, including those that access private land. In addition to a science based analysis, public meetings were held to identify issues and concerns that were then used to identify an optimal motorized transportation system that provides access to multiple use opportunities (such as forest product gathering and recreation) while addressing the effects to the environment (PR 148, p. 2). One of the issues identified was no public access to private land (PR 148, p. 21). Road specific concerns over legal access issues and conflicts with private landowners were captured in Appendix C of the TAP report (PR 148).

All alternatives in the EA were informed by the TAP that was finalized in 2008. The access issues were further analyzed in the EA. The EA discusses the lack of legal access for the public and how that affects transportation to and through the forest and creates confusion for motor vehicle users (PR 336, Table 3, pp. 23-26, 31). The Transportation Report discloses the NFS roads that would be restricted to administrative use. The methodology used for making that determination was described in the TAP and took into account if the roads accessed private land and if there was an easement for public access (PR 322, Table 4, p. 13; PR 148, Appendix B, pp. 164-172). The EA displays where those roads restricted to administrative use are located on the Questa Ranger District (PR 336, Figure 2, p. 18). In addition, the EA notes that unauthorized routes would be added to the system under the selected alternative 1 to provide motor vehicle access on the Questa Ranger District, while bypassing private lands (PR 336, p. 142).

Finding: The agency properly disclosed the methodology for determining which roads have issues related to legal access and illegal trespass on the private property. Road specific concerns over legal access and conflicts with private landowners were properly disclosed and addressed.

Contention 1c: The appellants contend that the agency did not adequately address their assertion that the errors described in contentions 1a and 1b caused specific legitimate alternatives (with routes identified by the public during scoping) to be inappropriately rejected for illegitimate reasons. They assert that the reasons the agency gave for eliminating the Town of Red River's alternative from detailed study were wrong because the purpose and need should not have included the element of "not encouraging trespass onto private lands." The appellants claim that because the concern about "encouraging trespass" was included in the purpose and need, three specific alternatives were improperly excluded from detailed study. They conclude that elimination of these alternatives results in an inadequate range of alternatives, in violation of the CEQ regulations (Appeal, pp. 11-14).

Response: No specific number of alternatives is required or prescribed (36 CFR 220.7(b)(2)). In determining a range of reasonable alternatives, "[A]n agency must look at every reasonable alternative, within the range dictated by the „nature and scope of the proposed action“ and „sufficient to permit a reasoned choice.“ *Idaho Conservation League v. Mumma*, 956 F. 2d 1508, 1520 (9th Cir. 1992). The National Environmental Policy Act requires federal agencies to study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources (NEPA, Section 102 (2)(E)).

The project record clearly discloses why certain routes presented by the Town of Red River were not analyzed in detail. Some routes were eliminated due to resource concerns or crossed private land where the Forest Service has no legal access (PR 366, pp. 25-27). As noted in the responses to Contentions 1a and 1b, the agency does not have authority to designate roads, trails and areas for motor vehicle use that are under the jurisdiction of other entities or for which there is no right of public access.

Finding: The purpose and need does not include illegitimate elements. The reasons for eliminating some alternatives and routes from detailed analysis were clearly disclosed in the project record and for appropriate reasons. The responsible official considered an adequate range of alternatives.

Contention 1d: The appellants contend that the improper element of "trespass" in the purpose and need permeated the analysis within the EA and led to the improper rejection of specific routes. They claim the agency is selectively applying the concern about potential trespass on private lands only to motorized use rather than all modes of transportation. As a result, the appellants claim that the agency has created an inequitable application of the TMR and that it is irrational to apply a different set of restrictions to different members of the public when the law regarding trespass applies equally to both (Appeal, pp. 14-18).

Response: The appellants contend that routes listed in Table 7 of the EA (PR 336, p. 39), as well as three other routes submitted by the Town of Red River, were eliminated from designation solely because of private land concerns as the appellants contend. The record shows that the Forest considered the effects of roads on natural and cultural resource as well as impacts to private lands in designating motor vehicle use, including those designated for administrative use only. Table 7 in the EA (PR 336, p. 39) lists the roads, including FR 97012 that had private land

issues; the table does not include a complete inventory of all the reasons why those roads were not considered for designation.

The Travel Analysis Report (TAP), which was used to develop the alternatives in the EA, used a science based analysis to evaluate the impacts to natural and cultural resource and document any other known conflicts or issues. All of the roads designated for administrative use and shown in Table 7 of the EA were included in this TAP analysis. In addition to documenting the private land issue summarized in Table 7 of the ER, the TAP also captured the following resource concerns in Appendix B (PR 148, pp. 164-172):

- FR 490 - Soils issues related to deeply rutted section, Watershed issues related proximity to streams and crossing of tributaries
- FR 77, Soils issues related to hydrothermic soils, Watershed issues related to sediment movement into streams.
- FR 54B & FR 54E - Watershed issues related to trespass into wet meadows and watershed crossings.
- FR 97012 - Soils issues related to clay and rutting soils, Watershed issues related to location of road in drainage bottom.
- FR 7C1 - Soils issues related to steep slopes, Heritage issues.
- FR 132A - Soils issues related to erosive clays.
- FR 7 - Heritage issues.

The other three routes submitted by the Town of Red River are unauthorized routes the town wanted added to the transportation system (“...*add* to the transportation system an old mining exploration road...*add* a single-track loop trail...to the transportation system...*add* to the transportation system the road...near the Gold Nugget Condominiums...”). The EA notes that these routes were eliminated from consideration due to resource concerns. Further, the TMR does not require the responsible official to add any unauthorized route to the system.

The appellants’ also assert that since the agency is not closing trails to pedestrians or equestrians that pass near private land, it has created an inequitable application of the TMR and its impacts on the public. The Travel Management Rule only applies to the designation of NFS roads, NFS trails and areas on NFS lands for motor vehicle use; non-motorized uses are beyond the scope of the TMR and this project.

Finding: The Forest properly considered the effects of motorized designations on natural and cultural resources as well as impacts to private lands and properly addressed the effects in the decision to designate certain roads for administrative motorized use only. The agency has not created an inequitable application of the TMR because non-motorized access is not within the scope of the rule.

ISSUE 2: The agency improperly considered wilderness values.

Contention: The appellants contend that the agency illegally elevated wilderness values above the multiple use mandate to managed lands outside of Congressionally established Wilderness areas. Specifically, the appellants object to the restriction of motor vehicle use to administrative

use only on the Middle Fork Lake road (FR 487) which is adjacent to the Wheeler Peak Wilderness Area. The appellants assert that the agency illegally used wilderness values in its analysis of whether the road should be opened or closed. They also contend that the EA elevates the desires of hikers and backpackers over the desires of motorized recreationists in the analysis of Middle Fork Lake Road. Finally, the appellants claim that the Middle Fork Road has been illegally closed since 2004 since there was never a properly executed closure order (Appeal, pp. 19-26).

Response: To support their contention that the agency cannot elevate wilderness values above multiple use outside of Wilderness areas, the appellants cite the Wilderness Act and the preamble to the travel management rule (Appeal pp. 19-21). The project record documents that the agency recognizes how lands outside a designated wilderness are to be managed. In a response to comment, the agency states, "The wilderness areas, wilderness study areas, and inventoried roadless areas do not have a buffer area around the designated or delineated area. The law/regulation/forest plan delineation does not permit a buffer" (PR 330, p. 10).

The Travel Management Rule (TMR) at 36 CFR 212.55(a) requires the responsible official to consider the effects on NFS natural and cultural resources, public safety and conflicts among uses of NFS lands, among other factors, in designating NFS roads, NFS trails and areas on NFS lands for motor vehicle use (PR 050, p. 68289). The preamble to the TMR also states that the Department believes that National Forests should provide access for both motorized and nonmotorized users, although not every use must be accommodated on every acre. It is appropriate for different areas to provide different opportunities for recreation; such choices and evaluations are best made at the local level, with the full involvement of motorized and non-motorized users and other interested parties. The Department reiterates that the National Forests belong to all Americans, but Americans do not have a right to unrestricted use of National Forests (PR 050, p. 68266). In addition, the Region 3 Travel Management Guidelines state that even though a road may be on the system, such as Middle Fork Road, that does not assure it will be designated for motor vehicle use (PR 139, p. 3).

The EA analyzed the effects of restricting Middle Fork Road to administrative use only in Alternatives 1 and 3, and of designating Middle Fork Road for motor vehicle use in Alternative 2 (PR 336, pp. 50-53, 129-130, 134-135, 142; underlying specialist reports PRs 299, 317, 320). The TAP identifies the conflicts of the road with soils, watershed and wildlife resources, and notes safety and maintenance issues (PR 148, Appendix B, p. 172). The project record documents the support for motor vehicle use on Middle Fork Road, PR 330, p. 12; PR 299, p. 8, PR 306, letter from Mayor of Town of Red River, p. 1; PR 320, p. 4; PR 170, pp. 11, 12, 14, 160), as well as damage caused by motor vehicles cutting the corners and switchbacks and the increased turbidity in trout fisheries resulting from two unimproved stream crossings (PR 308; PR 330, pp. 11-12; PR 322, pp. 7-8; PR 299, pp. 9).

The decision to restrict Middle Fork Road to administrative use only was not solely based on the District Ranger closing the road in 2004. The DN/FONSI documents the previous decisions that are incorporated in the decision, including the transportation system open to public motor vehicle use on the Questa District as identified in the 1986 Carson Forest Plan Travel Guide Map and

single purpose roads necessary for accessing private lands not designated open to the public for motor vehicle use (PR 337, p. 2); the closure of Middle Fork Road is not mentioned.

In making her decision, the responsible official considered the range of comments supporting and opposing the designation of Middle Fork Road for motor vehicle use, the economic impact on the Town of Red River of restricting or designating the road, and public safety. She notes that there are a limited number of foot-only trails close to the Town of Red River and that the Town of Red River promotes Middle Fork as one of four short hikes in the Red River area. While the 2004 closure of Middle Fork Road was considered, it was not the primary reason for not designating the road for motor vehicle use (PR 337, p. 7).

With regard to the closure of Middle Fork Road, the Questa District Ranger signed a letter on April 2, 2004, temporarily closing the road to motor vehicle use for safety and resource damage reasons (PR 304). An email is included in the project record that documents the letter from the District Ranger, describes what motor vehicles were allowed on Middle Fork Road prior to the closure, and discloses the effects of closing the road to motor vehicle use (PR 324, p. 1).

Finding: The decision to restrict Middle Fork Road was made in response to public comment and a consideration of the effects on forest resources and conflicts with other uses in accordance with 36 CFR 212.55(a). The decision does not elevate wilderness values above multiple use outside of wilderness areas. The temporary closure of Middle Fork Road was done in accordance with agency policy; the decision formalizes the closure and restricts motor vehicle use on this road.

ISSUE 3: The agency violated the CEQ regulations by introducing new information to the project record after the public comment period.

Contention: The appellants contend that in response to their comment #212, the agency cites a scientific paper (Havlick D. 2002) that was not referenced in the Draft or Final EA, or in the project record. They cite the CEQ regulations at 40 CFR 1502.21 which state "No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment" and argue that because the "Havlick" reference was not available during the comment period, the agency violated the CEQ regulations (Appeal, p. 27).

Response: The only reference to the Havlick D. 2002 paper that can be found is in the response to comments, 'Content analysis of comment letters received during 2nd 30-day comment period' (PR 327, p. 124). The Forest makes no claim to incorporate this paper by reference and because it is not referenced at all in the EA, the Forest did not consider it in the environmental analysis. The reference to the Havlick D. 2002 paper is intended to provide clarity in responding to a comment from the public.

National Forest Service regulations at 36 CFR 220.7(c) direct Forests to document the decision by the responsible official in a Decision Notice. As part of that decision rationale the responsible official should discuss how comments were considered in the decision. The responsible official does this in the Decision Notice and FONSI (PR 337, p. 9). In general, new information and/or

comments made regarding an EA which do not lead to changes in the EA are documented in the administrative record. The Forest documents “comments made which did not lead to changes in the EA” in the ‘Content analysis of comment letters received during 2nd 30-day comment period’ (PR 327, p. 124).

Finding: The agency complied with CEQ regulations as they relate to EAs. Identifying clarifying information in response to a comment made on an EA is appropriate. Placing that clarifying information in the project record for the EA is also appropriate.

ISSUE 4: The agency failed to disclose analysis that justifies new closures.

Contention: The appellants contend that the EA fails to disclose any analysis that would justify additional seasonal closures (Appeal, p. 28).

Response: The decision adds seasonal designations to allow motor vehicle use from May 1 to December 31 on FRs 488/490, 486, 7 and Cebolla Mesa with the exception of FR 9 which is open year round (PR 336, p. 16; PR 337, p. 3). The EA analyzes and discloses the rationale for the seasonal designations, which include protecting winter and calving/fawning habitat, maintaining the integrity of the roads’ running surfaces when soils are generally saturated from snowmelt, decreasing the risk of early season traffic causing rutting and associated transport of sediment from road bed to stream channel (PR 336, pp. 24, 34, 41, 51, 61, 62, 79, 84, 88, 90, 92, 95, 102-103, 105, 107). In addition, the EA notes that the seasonal designations added under the decision would not necessarily have an effect on the motor vehicle use from Red River because the motor vehicle use would be allowed during the busy summer season, which begins Memorial Day weekend (PR 366, p.134). More detailed information supporting the conclusions in the EA is provided in underlying specialist reports (PRs 299, 317, 320, 322).

Finding: The EA and project record clearly disclose the analysis for adding seasonal designations.

ISSUE 5: The agency failed to provide analysis to support closure of the Middle Fork Road.

Contention: The appellants contend that the agency failed to provide a sound analysis that supports its conclusion that public motorized use should not be allowed on Middle Fork Road. They claim that the agency failed to present that it has thoroughly explored other motorized use options (OHV or motorcycle). The appellants also claim the agency has misrepresented resource concerns, particularly with regard to the effects on Middle Fork Lake and the pea clam (Appeal, pp. 29-42).

Response: As discussed in response to Issue 2, the EA analyzed the effects of restricting Middle Fork Road to administrative use only in alternatives 1 and 3 and the TAP identifies the conflicts of the road with soils, watershed and wildlife resources, and notes safety and maintenance issues (PR 148, Appendix B, p. 172). With regard to the effects on Middle Fork Lake and the Sangre de Cristo pea clam, the EA states that “[R]estricting motor vehicles from Middle Fork Lake would benefit the Sangre de Cristo pea clam, especially along the water’s edge where the pea clam is

found. Sediment entering the lake and damage to emergent grasses along the shoreline would be reduced” (PR 336, pp. 95-96).

Additionally, the Sangre de Cristo Pea Clam is a Region 3 Sensitive Species. As a sensitive species, standards for analysis are given by FSM 2672.4. The Forest Service prepared a Biological Evaluation in accordance with FSM 2672.4 that evaluated effects to the aquatic environment, including the Sangre de Cristo Pea Clam (PR 329, p. 15). The analysis presented in the Biological Evaluation supports the conclusions disclosed in the EA discussed above.

Finding: The project record documents the analysis used to support restricting Middle Fork Road to administrative use only. Analysis of the Sangre de Cristo Pea Clam complied with the requirements of FSM 2670.4.

ISSUE 6: The agency failed to provide adequate public participation.

Contention: The appellants contend that the agency failed to provide full public participation because the specialist reports and index of the project record were not available for review during the public comment period. They again cite the CEQ regulations at 40 CFR 1502.21 which they interpret as a requirement to have all of the underlying and referenced documents reasonably available to the public during the public comment period (Appeal, p. 45).

Response: While there must be some form of public involvement in the preparation of all EAs, the responsible official has the discretion to determine how much and what kind works best for a particular project. The CEQ regulations do not require agencies to make specialist reports and the project record index available for public comment and review during the formal public comment period. The CEQ regulations at 40 CFR 1502.21 refer specifically to incorporating material into an EIS and make no mention of EAs. The Forest Service requires early public involvement through the scoping process. The project record documents public participation activities completed by the Forest, including comments and responses to comments (see PR 57, 64, 83, and 298 as examples).

Finding: The project record documents that the forest and responsible official provided for adequate public participation in compliance with the regulations and Forest Service direction.

ISSUE 7: The agency failed to substantiate the purpose and need.

Contention 7a: The appellants contend that the agency has completely failed to substantiate the purpose and need for action to further restrict motorized travel for the purposes of reducing unacceptable levels of resource damage. They claim it is irrational to claim unacceptable resource damage in the purpose and need when the analysis presented in the EA and specialist reports does not describe, quantify, or identify any single instance of unacceptable damage being caused by the existing system roads or their use by the motorized public (Appeal, pp. 49-50).

Response: The appellants cite a statement in the EA, “Portions of existing system roads are creating unacceptable levels of resource damage” and conclude that since the rest of the EA and specialist reports do not use the term “unacceptable,” there is no logical connection between the

agency's statement and the rest of the project record. The appellants further contend that the cited statement adds elements outside the core TMR requirements.

The contention is without basis. The TMR at 36 CFR 212.55(a) requires the responsible official to consider the effects on *NFS natural and cultural resources*, among other factors, in designating NFS roads, NFS trails and areas on NFS lands for motor vehicle use (PR 050, p. 68289, emphasis added).

The purpose and need for action is to provide for a system of NFS roads, NFS trails, and areas on the Questa Ranger District that are designated for motor vehicle use, in accordance with the travel management rule. The travel management rule at 36 CFR 212.55 (a) requires the responsible official to *consider effects on natural and cultural resources...*" (PR 050, p. 68289, emphasis added).

The statement cited by the appellants is one of several statements used by the agency to explain the need for the project and is consistent with 36 CFR 212.55(a); it is not the stand-alone analysis. Further, use of the "acceptable" or unacceptable" is not required under NEPA and is not the only way to describe the effects of motor vehicle use. In fact, an analysis that only describes the effects in those terms would not adequately disclose the actual effects and extent of impacts. The project record provides an objective, science-based analysis documenting the actual effects of motor vehicle use on natural and cultural resources, as noted in the responses to Issues 1, 2, 4 and 5. The underlying specialist reports clearly disclose and describe the effects of motor vehicle use, including where there would be no or limited impacts (PRs 299, 317, 319, 321, 322, 329, 333).

Finding: The project record supports the purpose and need for the action and is consistent with the TMR. The statement cited by the appellants is not outside the core TMR requirements.

Contention 7b: The appellants contend that the agency has failed to substantiate the need to reduce impacts from motor vehicle use in Foster Park and Cebolla Mesa during the winter and early spring to protect deer and elk winter range and calving areas (Appeal, pp. 51-52).

Response: The Forest is required under NEPA to consider public comments on its proposed action. In addition, the Forest must be compliant with the Land Management Plan. As disclosed in the EA (PR 336, p. 101), deer and elk calving areas were raised as an issue by the New Mexico Department of Game and Fish (NMDGF) who proposed the seasonal closures included in the proposed action. In addition, the Carson National Forest Land Management Plan has provisions requiring the protection of deer and elk calving areas (PR 336, p. 101). The effects of the proposed action on deer and elk calving/fawning areas, as well as wintering areas, was analyzed and disclosed in the EA (PR 336, pp. 102-103).

Finding: The decision adequately substantiates the need to reduce impacts from motor vehicle use in winter and early spring to protect deer and elk winter range and calving areas. The decision complies with NEPA and with the Carson National Forest Land Management Plan provisions for protection of known calving/fawning areas.

ISSUE 8: The agency failed to meet the requirements for comparing and contrasting the alternatives with the current condition.

Contention: The appellants contend that the “current condition” referenced in 36 CFR 220.7(b)(2)(ii) is not the same thing as the “existing transportation system” described in the EA. They assert that there are numerous unauthorized routes over and above the current transportation system that must be included in any description and analysis of the “current condition.” The appellants argue that the EA fails to address the fact that motorized recreationists will lose access and recreation on all of the routes proposed to be designated for administrative access only. They claim the EA fails to compare and contrast the various alternatives with the current condition where these numerous unauthorized routes are utilized and enjoyed by the myriad of motorized recreationists (Appeal, pp. 53-56).

Response: In 1997, the Forest Supervisor issued a special order restricting motor vehicle use on the Questa Ranger District to designated routes and prohibiting motorized cross-country travel. The order also allowed motor vehicle use within 100 feet either side of 34 miles of designated road for the purposes of dispersed camping, parking, and firewood gathering (PR 336, pp. 3, 33). The project record acknowledges the presence of many unauthorized routes that were created prior to the 1997 special order and notes that these routes are not on the district’s transportation system (PR 336, p. 33). Because the district is closed to motorized cross-country travel, motor vehicle use on these unauthorized routes is prohibited.

In accordance with the TMR, unauthorized roads are not part of the forest transportation system and are not officially recognized by the Forest Service (PR 050, p. 68277). Some unauthorized routes are well used and well defined. Many motor vehicle users do not understand the difference between system and unauthorized routes: to many people, since these routes exist on the ground, they are available for motor vehicle use. The agency recognizes this situation but has appropriately not included them in the current transportation system.

The TMR does not require the responsible official complete an inventory of unauthorized routes in order to complete the designation process (PR 050, p. 68269). The Travel Management Rule, 36 CFR 212, provides for a system of National Forest System roads, trails and areas on National Forest System lands that are designated for motor vehicle use. However, it does not require forests to make changes to their system and add unauthorized routes.

As the appellants note, the current condition is represented by the current management direction or level of management intensity. The project record accurately describes Questa Ranger District’s current management direction as allowing motor vehicle use on 158 miles of system road, 23.2 miles of system motorized trail, within 100 feet either side of 34 miles of designated road, and prohibiting motorized cross-country travel.

The agency is required to analyze changes to the transportation system, which includes changing the designation of routes, adding unauthorized routes to the system or taking roads or trails off the system. The agency is not required to analyze the effects of not adding unauthorized routes to the system.

The project record, most notably the Soil, Watershed and Air Specialist Report (PR 299) and the Wildlife Effects Report (PR 317) analyzes the effects of restricting segments of 8 system roads, for a total of 15 miles, to administrative use only. The Transportation Report states that the alternatives would not change the vast majority of roads and trails on the Questa Ranger District. It also states that the alternatives would affect motorized access to NFS lands in local areas but would not prevent motor vehicle users from recreation, gathering forest products, or other activities (PR 322, pp. 12-13). Analysis in the Recreation Report concludes that Alternative 1 would result in no net change in the number of miles of system roads on the Questa Ranger District, although alternative 2 would provide more roads for recreationists than alternative 1. The miles of road restricted to administrative use only in alternative 1 would equal the number of miles of route that would be added. The roads where motor vehicle use would be restricted to administrative use only are scattered across the ranger district and mostly cross private land where the Forest Service has no legal access. All alternatives would restrict motor vehicle use on system roads in the Midnight Meadows, Greenie Peak, Questa and San Cristobal areas. Unauthorized routes to be added are in Greenie Peak, Largo Canyon near Questa, Lama and San Cristobal areas (PR 320, pp. 3-4). However, the Recreation Report does not fully describe the effects of restricting system roads to administrative use on motorized users.

Finding: The current condition is accurately portrayed in the project record. The agency is not required to analyze the impacts of not adding unauthorized routes to the system. While the project record supports restricting a total of 15 miles of system road to administrative use, the forest should be instructed to supplement the analysis in the Recreation Report to more clearly describe how this restriction will affect motorized users.

ISSUE 9: The agency failed to provide evidence of a segment by segment route analysis.

Contention: The appellants argue that it is the agency's responsibility to present an accurate and complete baseline condition with which to compare the alternatives and that the accurate baseline condition must disclose the current condition of the resources, including a route segment specific assessment of the current resource conditions. They contend that the EA must disclose what specific activities and use are causing what impacts and what affect each of the alternatives is expected to have on the resource. The appellants assert that it is not enough that such analysis takes place but the agency is required to provide the evidence that the analysis actually took place. They contend that the EA provides no evidence that the analysis process called for by the requirements of NEPA and CEQ ever took place. The appellants argue that the agency cannot rely on the TAP because the TAP does not describe current resource conditions or the connections with current uses (Appeal, pp. 57-60).

Response: The purpose and need of this project as described in the EA (PR 336, p. 3) is to provide for a system of NFS roads, NFS trails, and areas on the Questa RD that are designated for motor vehicle use, in accordance with the travel management rule (36 CFR 212, 251 and 261). In doing so, Forests must consider the criteria in 36 CFR 212.55 and use a Travel Analysis to inform decisions related to designation of roads, trails, and areas, for motor vehicle use (FSM 7712).

In accordance with Forest Service direction at FSM 7712, travel analysis assesses the current forest transportation system and identifies issues and assesses benefits, problems, and risks to inform decision related to the designation of roads, trails and areas for motor vehicle use. The responsible official has the discretion to determine the amount of detail that is appropriate and practicable for travel analysis; a complete inventory of unauthorized routes is not required to conduct travel analysis (FSM 7712.1 (3) and (5)). Agency direction does not define the level at which travel analysis must be conducted. There is no requirement to conduct a “segment by segment route analysis” as the appellants contend.

Likewise, it is the appellants’ perspective that the environmental analysis must identify the specific activities and use and the impacts they are causing. In many cases, particularly where resource damage has developed over many years, it would be difficult if not impossible to definitely attribute an impact to a specific activity. In light of this, the environmental analyses focus on describing the impact (tons of sedimentation, number of stream crossings, and so forth) and only identify what is causing the impact if that information is available.

The Forest completed a Travel Analysis in accordance with guidance in FSH 7709.55 – Travel Planning Handbook (TAP, PR 148) in 2008. Travel analysis is not a decision-making process. It informs decision relating to administration of the forest transportation system and helps to identify proposals for changes in travel management decisions (FSM 7712).

The project record accurately and clearly describes the current condition against which the action alternatives are compared. The transportation report identifies the miles of system road and estimated road maintenance needs (PR 322, pp. 1-9). The Soil, Watershed and Air Specialist Report identifies the miles of route within 200’ of streams, the number of stream crossings, sedimentation in terms of tons per year, acres of severe erosion hazard, miles of route in potential riparian areas, and acres of potential riparian area within dispersed camping corridors. The report also maps the watersheds and water quality impaired streams and describes the road density to drainage density for the current condition (PR 299, pp. 3-7, 16-23, 31). The current condition is also described in the Recreation Report (PR 320, pp. 1-3) and Cultural Resources Effects Report (PR 320, pp. 1-6, 8-9).

Finding: The project record accurately describes the current condition against which all action alternatives are compared. The TAP and underlying specialist reports document the analysis that took place in accordance with NEPA and CEQ requirements.

ISSUE 10: The agency failed to adequately analyze the socioeconomic impacts to the town of Red River.

Contention 10a: The appellants contend that the Environmental Assessment (EA) makes conflicting and confusing statements about the importance of Off Highway Vehicle (OHV)-based recreation to the town of Red River. The appellants argue that although the Forest Service acknowledged that changes to the transportation system, especially closing any roads or motorized trails, could have negative economic impacts to Red River, the analysis presented in the EA and specialist reports concluded that the direct and indirect effects would be “immeasurable” and “indiscernable.” The appellants contend that these conclusions are highly

contradictory to previous documents issued by the agency and not supported by data and analysis presented in the EA. The appellants go on to provide several examples of statements from the EA that they believe support their contention (Appeal, pp. 61-68).

Response: The EA provides a balanced analysis of the importance of motorized recreation to the Town of Red River, not contradictory statements as the appellants contend. The Recreation Section of the EA, and in particular the examples provided by the appellants, reflect the reasons why people come to Red River (to escape summer heat, to participate in a variety of motorized, mechanized and non-motorized recreational pursuits), recognizes the importance of tourism, recreation, and the retail and construction sectors to the economy of Red River (Project Record (PR 336, pp. 128-134). Statements made in the Recreation Section regarding factors that are important to the economy of Red River are consistent with statements made in the Social and Economic Environment Section (PR 336, pp. 136-142).

The EA acknowledges that the Town of Red River promotes recreational opportunities available on Carson National Forest on its website. The Recreation Section includes a table that provides a means of determining how each alternative would affect the recreational opportunities promoted by the Town (PR 366, pp. 131-133). With the exception of restricting motor vehicle use to administrative use only on Middle Fork Road and converting FR 490 up 4th of July Canyon to a motorized trail, the selected alternative would continue to be designated for motor vehicle use. Seasonal designations added in the selected alternative would allow motor vehicle use during Red River's busy summer season.

In addition, the decision reflects the role of motorized recreation to the Town of Red River. The resulting transportation system has the same number of miles of road open to all vehicles as the existing conditions (15 miles of system road are restricted to administrative use only and 15 miles of unauthorized routes are added as system roads open to all vehicles) and has 5 more miles of motorized trail (PR 336, Table 1, p. 15; Table 41, p. 142). It should be noted that the changes to the motorized trail system (i.e., increased mileage) occur in the vicinity of Red River (PR 320, p. 9).

Finding: The EA makes consistent statements regarding the importance of OHV-based recreation to the Town of Red River and acknowledges the many factors in addition to motorized recreation that are related to its economy.

Contention 10b: The appellants contend that the EA does not make use of the economic data readily available in the *Socioeconomic Assessment of the Carson National Forest*. They point out that the assessment indicates that the total impact of the Carson National Forest's (CNF) tourism and recreation is almost \$200 million. They concede that while the total economic size of Red River might be small compared to Taos, the same is not necessarily true from a recreation-based economy perspective. The appellants argue that even if Red River is only 20-25 percent of the total recreation based economy derived from the CNF, the Socioeconomic Study indicates that the recreation economy that is potentially affected by changes in the transportation management is huge. The appellants conclude that eliminating any amount of motorized access on the CNF has a direct impact on numerous activities that create a big impact to the local economy (Appeal, pp. 68-70).

Response: Project level requirements for social and economic analyses are described in Forest Service Manual (FSM) 1970 and Forest Service Handbook (FSH) 1909.17. FSM 1970.6 states, "The responsible line officer determines the scope, appropriate level, and complexity of economic and social analysis needed." FSM 1970.6 also states, "The cost and availability of social and economic data may be considered when determining scope." The purpose of the economic analysis in an EA is to assist in decision-making.

The EA (PR 336) contains a clear description of the economic analysis conducted for the project, and cites the *Socio-Economic Analysis Report for Travel Management* (PR 318, p. 30). This report documents use of: 1) the input/output economic impact model, IMPLAN (IMpact analysis for PLANning); 2) recreation economic impact analysis using Economic Impact Decision Support System (DSS), Version 2.0.1 (Central Oregon Recreation Services, CORS); and 3) New Mexico Gross Receipts Tax for a better understanding of the overall recreation (PR 318, Appendix A). The *Socioeconomic Assessment of the Carson National Forest* (BBER 2007) was produced to aid the Carson National Forest in Forest Land and Management Plan revision under the National Forest Management Act (NFMA), and the economic analysis in that report is meant to cover the entire Forest and all associated counties. In contrast, the *Socio-Economic Analysis Report for Travel Management* (PR 318) contains economic impact analyses specifically conducted to address travel management for this decision.

Finding: The EA contains a clear description of the economic analysis conducted for the project supported by information in the *Socio-Economic Analysis Report for Travel Management*.

Contention 10c: The appellants contend the agency improperly limited the range of reasonable alternatives to be considered because the agency limited its analysis to studying the impacts on the local economy if the transportation system is further restricted. They argue that opportunities to enhance Red River's economic health via an OHV-friendly transportation system should have been analyzed, as requested by the town (Appeal, pp. 70-72).

Response: The purpose of the Travel Management Rule is to provide for a system of National Forest System (NFS) roads, NFS trails and areas on NFS lands that are designated for motor vehicle use (PR 050, CFR 212.50(a), p. 68289). The purpose and need of the project is to provide for a system of NFS roads, NFS trails, and areas on the Questa Ranger District that are designated for motor vehicle use, in accordance with the travel management rule (PR 366, p. 3). The Decision Notice/Finding of No Significant Impact (DN/FONSI) notes that based on a review of comments, the responsible official determined the scope of the decision will focus on changing the designated transportation system to balance resource concerns with motorized opportunities, while minimizing new routes to the system (PR 337, p. 7). However, the EA also clarifies that the decision does not preclude a planning effort that considers additional motorized trail systems at a later date (PR 336, pp. 2, 25). Finally, as discussed above in Contentions 1a and 1b, the EA clearly describes the economic analysis conducted for the project and the effects to the local economy.

Finding: The level of economic consideration in the EA was appropriate to evaluating the range of alternatives. Enhancing the economic health of the Town of Red River is beyond the scope of the travel management rule and this project.

Contention 10d: The appellants contend the agency does not provide the required “high quality” or “scientific analysis” required by CEQ because the quality and accuracy issues raised in the contentions discussed above were ignored in the agency’s response to comment #219. The appellants also contend that the agency’s claim that the upward trend in Red River gross receipts tax is “proof” that changes in the transportation system will not harm the local economy is illogical for two reasons: 1.) Red River’s economy is dependent on robust recreation year around; and 2.) “Harm” is not limited to causing a decrease in recreation revenue (Appeal, pp. 72-73).

Response: Project level requirements for social and economic analyses are described in Forest Service Manual (FSM) 1970 and Forest Service Handbook (FSH) 1909.17. FSM 1970.6 states, “The responsible line officer determines the scope, appropriate level, and complexity of economic and social analysis needed.” FSM 1970.6 also states, “The cost and availability of social and economic data may be considered when determining scope.” An EA should briefly provide sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a finding of no significant impact (40 CFR §1508.9). Economic effects are not intended by themselves to require preparation of an EIS (40 CFR §1508.14). The purpose of the economic analysis in an EA is to assist in decision-making.

As discussed above in response to Contention 1b, the EA contains a clear description of the economic analysis conducted for the project, and cites the *Socio-Economic Analysis Report for Travel Management* (PR 318, p. 30). The EA and the *Socio-Economic Analysis Report for Travel Management* fully document roads to be closed and those roads and trails to remain open (PR 336, pp. 142-143). New miles of roads and trails specifically designated for motorized recreation are specified (PR 336, pp. 131-134), specifically addressing potential impacts to motorized recreation in the Red River area.

Finding: The level of economic consideration in the EA was appropriate to evaluating the range of alternatives. The EA and project record clearly demonstrate a thorough evaluation of potential economic impacts to the Town of Red River. While some roads or trails may be closed, others made are made permanent system roads or trails open to motorized recreation. Motorized recreation is not being eliminated by this decision, and the conclusions of economic impact are well supported.



Apache-Sitgreaves
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File Code: 2310

Date: May 12, 2010

Mr. R. John Lee
Supervisor, District III
Apache County Board of Supervisors
PO Box 428
St. Johns, AZ 85936

Dear Mr. Lee:

I have received your County Board Resolution 2010-03 requesting Cooperating Agency Status. First, let me say that I welcome your involvement in our Travel Management planning process. I would like to address the Board at your earliest convenience to hear your concerns and explain where we are in the process and provide you the opportunity to ask me questions regarding the process or our intentions.

The requirements for establishing a Cooperating Agency status under the Council on Environmental Quality Regulations are very specific; Cooperating Agencies must meet two basic requirements. First, the Agency that wishes to jointly work on a project must have an overlapping jurisdiction. The second requirement is that the Agency must have expertise that is necessary for the completion of the project. In this case it is my determination that neither requirement is satisfied.

At a public meeting I attended last week a County Supervisor from another county told me that his county wanted influence on the Travel Management Plan, not input. I believe this is a common feeling, and I believe it's due to our local citizens' strong concerns regarding their use and access to the National Forests and concern that they are not being heard. In addition, the planning process has been ongoing for over 3 years now and the public has lost track of the process and whether the comments they've already provided have been employed. This uncertainty has led to distrust and a desire to take a stronger hand in the process.

As the Forest Supervisor, it's my responsibility to gather relevant information and opinions from the public and weigh them equally in order to come out with a carefully considered decision that is consistent with the known information and meets the purpose and need of the proposed action. Should any group gain undue influence over the process it would create an inequity with others that do not enjoy the same relationship. There is another effective way to ensure that your opinions are considered and that's by simply engaging in the existing NEPA process. I believe the first step towards renewing the Board's comfort level with the Travel Management process is for me to visit with you and give you an update. By doing this I can let you know what I've already heard and explain how it's been incorporated into our alternatives. In addition, it will give you an opportunity to point out things I've missed.



While Cooperating Agency status is not possible, I'd like to work with the County to ensure that the concerns you want addressed are resolved. I look forward to working with you in the very near future.

Sincerely,

/s/ Chris Knopp
CHRIS KNOPP
Forest Supervisor

TOWN OF EAGAR, ARIZONA REQUEST FOR PUBLIC INFORMATION

Attachment 3

The following policies apply to all requests for materials/documents:

1. After receipt of your request, you will be notified when the materials are available for review or pick up.
2. Materials can be faxed after payment has been received (including cost of telephone call, if applicable). If materials are requested to be mailed, they will be sent first class mail after receipt of payment (including cost of postage). (Make checks payable to TOWN OF EAGAR).
3. Charges for copies will be applied pursuant to resolution of the Eagar Town Council.

REQUESTED BY:

NAME: Steve Erhart

ADDRESS: _____

TELEPHONE NUMBER 245-3218 (HOME) _____ (WORK)

RECORDS REQUESTED (Please include time period):

Res. 2010-12 (or letter requesting Coordination + Cooperation)

Res 2010-31

Forest Service Reply to Res. 2010-12

ACTION REQUESTED (Check all that apply): INSPECT **COPY** MAIL/FAX
 EMAIL CERTIFICATION NONCOMMERCIAL USE
 COMMERCIAL USE

Signature _____

Printed Name _____

1-23-12

Date

*Please
reply
return to
me
Evan*

FOR OFFICIAL USE ONLY

TOWN CLERK	<input checked="" type="checkbox"/>	<u>1-23-12</u>
TOWN ATTORNEY	<input type="checkbox"/>	_____
DEPARTMENT	<input type="checkbox"/>	_____
	<input type="checkbox"/>	_____
	<input type="checkbox"/>	_____
	<input type="checkbox"/>	_____

DATE STAMP-RECEIVED

NOTIFICATION TO REQ. _____

PAYMENT TOTAL/REC'D _____

PICKED UP/MAILED emailed

STAFF HOURS (RESEARCH) 8 min.

emo

RECEIVED BY



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 2310
Date: May 12, 2010

The Honorable Kim Holaway
Mayor of Eagar
PO Box 1300
Eagar, AZ 85925

Dear Mayor Holaway:

I have received your Resolution requesting Cooperating Agency Status for work on our Travel Management EIS and our Land Management Plan Revision. First, let me say that I welcome your involvement in both of our programs. As I said at your April 20 meeting, I believe that I can keep you abreast of current developments and hear your issues through regular meetings. I am personally committed to this course until we're done with both plans or until we find that another solution is needed.

The requirements for establishing a Cooperating Agency status under the Council on Environmental Quality Regulations are very specific; Cooperating Agencies must meet two basic requirements. First, the Agency that wishes to jointly work on a project must have an overlapping jurisdiction. The second requirement is that the Agency must have expertise that is necessary for the completion of the project. In this case, it is my determination that neither requirement is satisfied.

At a public meeting I attended two weeks ago a County Supervisor from another county told me that his county wanted influence over our planning processes, not input. I believe this is a common feeling, and I believe it's due to our local citizens' strong concerns regarding their use and access to the National Forests and concern that they are not being heard. In addition, both of our planning processes have been ongoing for over 3 years now and the public has lost track of each process and whether the comments they've already provided have been employed. This uncertainty has led to distrust and a desire to take a stronger hand in their direction.

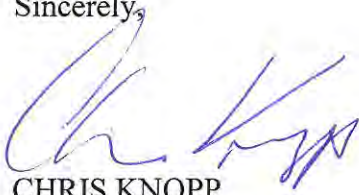
As the Forest Supervisor, it's my responsibility to gather relevant information and opinions from the public and weigh them equally in order to come out with a carefully considered decision that is consistent with the known information and meets the purpose and need of the proposed action. Should any group gain undue influence over the process it would create an inequity with others that do not enjoy the same relationship.



I believe the first step towards renewing the Council's comfort level with our planning processes is for me to continue to visit with you and share information. By doing this I can let you know what I've already heard and explain how it's been incorporated into our alternatives. In addition, it will give you an opportunity to point out things I've missed.

While Cooperating Agency status is not possible, I'd like to work with the City to ensure that your concerns are addressed. I look forward to strengthening our relationship and gaining your trust.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Knopp". The signature is fluid and cursive, with the first name "Chris" written in a larger, more prominent script than the last name "Knopp".

CHRIS KNOPP
Forest Supervisor

RESOLUTION NO. 2010-31

A RESOLUTION OF THE TOWN OF EAGAR SUPPORTING THE EXISTING MANAGEMENT PRACTICE, AND THE ACCESSIBILITY OF ALL EXISTING ROADWAYS AND TRAILS AS THEY CURRENTLY ARE WITHIN THE APACHE-SITGREAVES NATIONAL FOREST.

WHEREAS, The Town of Eagar has historically survived with a natural resource based economy relying on established logging, livestock production, farming, mining and recreation along with accompanying roads and other pathways of transportation; and

WHEREAS, these roads, trails, and paths, on and off of the national forest, have continued in use by the general public for emergency access and the removal of minerals, other forest products and other uses, including recreation and off-highway vehicle use, for ingress and egress to and from private property, hunting, fishing, hiking, horseback riding, four wheeling, dispersed camping and other recreational uses; into mining roads, logging roads and access roads; and

WHEREAS, the Town of Eagar considers the existing system of roads, trails, hunting and dispersed camping sites and paths as vital to the continued varied use of government controlled lands, to the public welfare and safety and to the flow of commerce within the Town, just as federal and state highway systems are vital to the welfare and commerce of the State of Arizona, and

WHEREAS, public access to routes of travel are essential to the Town of Eagar's emergency purposes, protection of the rights and values of private property owners, and for the economic and social well-being, customs and culture of the community and citizens of Eagar; and

WHEREAS, the Town of Eagar is aware that the US Forest Service maintains a system of forest roads and other roads not necessarily originally established by the Forest Service, and, that the Apache Sitgreaves National Forest is currently proposing a forest plan amendment for travel management that could have significant adverse effects on the Town of Eagar, and,

WHEREAS, the Apache Sitgreaves, United States Forest is required to coordinate with the Town of Eagar as required by their Travel Management Planning Rule and their general section 219.7 of the Forest Planning Rule; along with the other requirements to coordinate and cooperate with the Town of Eagar, as specified in Section 6 of the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 (16USC 1604(a)), the National Forest Management Act (16 USC 1204), 1204 Section 3 of the Multiple Use Sustained Yield Act of 1960 (16 USC530), 40 CFR 1501.6 and 1506.2(b), Integrated Resource Management Process – the Road to Ecosystem Management (USFS Region 3, 4th Edition) and the Apache County Comprehensive Plan; and

WHEREAS, the Town of Eagar adopted Resolution 2010-12 requesting coordination and cooperation in the Apache-Sitgreaves proposed Travel Management Plan Process and the Forest Plan Revision Process on March 16, 2010; and

WHEREAS, the Town of Eagar was denied coordination and cooperation into the Travel Management Plan Process and the Forest Plan Revision Process by letter from the Forest Supervisor dated May 12, 2010 and no updates by the United States Forest Service have come before the Council since April 20, 2010; and

WHEREAS, the Town of Eagar recognizes the need for coordination, consultation, and involvement in the planning process, especially currently due to the Apache-Sitgreaves National Forest initiation of Forest Plan Revision and Travel Management Planning; and

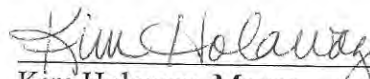
WHEREAS, the Town of Eagar in this resolution declares that adoption of this resolution is necessary for the preservation and protection of the public health, safety and welfare of the citizens of the Town of Eagar, and,

NOW, THEREFORE, BE IT RESOLVED THAT, the Town of Eagar determines and recommends to the United States Forest Service, Apache-Sitgreaves National Forest that existing management practice, and the accessibility of all existing roadways and trails as they currently are within the Apache-Sitgreaves National Forest is in the best interest of the Town of Eagar and its citizens for the following reasons:

1. At a minimum all motorized routes currently utilized by the public should remain open for public use.
2. Motorized access to all known dispersed campsites should remain open.
3. The use of motorized vehicles to retrieve legally harvested and tagged deer or elk, as well as any other legally harvested big game animal, should be continued and permitted to the point location of the downed animal on either side of public roads, county roads, and/or state and federal highways, roadways and motorized trails.
4. The use of motorized vehicles for off road retrieval of fuelwood should remain permissible. All cutting areas identified in state or federal fuelwood permits should allow motorized use for retrieval of dead or down fuelwood found along all public roads where it is safe to park, where such activity does not cause irreparable resource damage (e.g. ruts) or is not already restricted.
5. The Town of Eagar recommends the continuation of grazing permittees to use OHVs on existing roads and trails, along fence lines, as well as off-road roundup, salting and watering sites and other range improvement activities for resource management purposes.


6. Native American rights and privileges should be protected according to federal laws and the Forest Service Socioeconomic Handbook, including proper analysis and recognition of sacred places and uses; and communication with Native American communities, according to the Presidential Order on Environmental Justice; and
7. The general customs and cultures of the Town of Eagar and its citizens' uses of the national forests should be respected and allowed to continue, and that the Forest Service should coordinate with the Town of Eagar to insure these rights and privileges are continued.
8. The economy of the Town of Eagar is directly tied to Apache Sitgreaves National Forest and any negative effect of the Travel Management Plan and the Forest Plan Revision to our economy should be avoided.
9. If an existing roadway requires mitigation for drainage or other environmental impacts the Town of Eagar would like to partner with the United States Forest Service, State Parks, Game and Fish, local clubs or organizations to mitigate these impacts.

PASSED, ADOPTED AND APPROVED by the Town Council of the Town of Eagar, Arizona, at Eagar, Arizona on this 7th day of December, 2010.




Kim Holaway, Mayor

ATTEST:



Eva M. Wilson, Town Clerk

APPROVED AS TO FORM:



Douglas E. Brown, Town Attorney

RESOLUTION NO. 2010-12

A RESOLUTION OF THE TOWN OF EAGAR REQUESTING COORDINATION AND COOPERATION IN THE APACHE SITGREAVES NATIONAL FOREST PROPOSED TRAVEL MANAGEMENT PLAN AND FOREST PLAN REVISION

WHEREAS, The Town of Eagar has historically survived with a natural resource based economy relying on established logging, livestock production, farming, mining and recreation along with accompanying roads and other pathways of transportation; and

WHEREAS, these roads, trails, and paths, on and off of the national forest, have continued in use by the general public for emergency access and the removal of minerals, other forest products and other uses, including recreation and off-highway vehicle use, for ingress and egress to and from private property, hunting, fishing, hiking, horseback riding, four wheeling, dispersed camping and other recreational uses; into mining roads, logging roads and access roads; and

WHEREAS, the Town of Eagar considers the existing system of roads, trails, hunting and dispersed camping sites and paths as vital to the continued varied use of government controlled lands, to the public welfare and safety and to the flow of commerce within the Town, just as federal and state highway systems are vital to the welfare and commerce of the State of Arizona, and

WHEREAS, public access to routes of travel are essential to the Town of Eagar's emergency purposes, protection of the rights and values of private property owners, and for the economic and social well-being, customs and culture of the community and citizens of Eagar; and

WHEREAS, the Town of Eagar is aware that the US Forest Service maintains a system of forest roads and other roads not necessarily originally established by the Forest Service, and, that the Apache Sitgreaves National Forest is currently proposing a forest plan amendment for travel management that could have significant adverse effects on the Town of Eagar, and,

WHEREAS, the Apache Sitgreaves, United States Forest is required to coordinate with the Town of Eagar as required by their Travel Management Planning Rule and their general section 219.7 of the Forest Planning Rule; along with the other requirements to coordinate and cooperate with the Town of Eagar, as specified in Section 6 of the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 (16USC 1604(a)), the National Forest Management Act (16 USC 1204), 1204 Section 3 of the Multiple Use Sustained Yield Act of 1960 (16 USC 530), 40 CFR 1501.6 and 1506.2(b), Integrated Resource Management Process – the Road to Ecosystem Management (USFS Region 3, 4th Edition) and the Apache County Comprehensive Plan; and

WHEREAS, the Town of Eagar recognizes the need for coordination, consultation, and involvement in the planning process, especially currently due to the Apache-Sitgreaves National Forest initiation of Forest Plan Revision and Travel Management Planning; and

WHEREAS, the Town of Eagar in this resolution declares that adoption of this resolution is necessary for the preservation and protection of the public health, safety and welfare of the citizens of the Town of Eagar, and,

NOW, THEREFORE, BE IT RESOLVED THAT, the Town of Eagar shall pursue intergovernmental coordination with the United States Forest Service in integrated Travel Management Planning and Forest Plan Revision of the Town and United States Forest Service pursuant to federal statutory and regulatory requirements; and

FURTHER BE IT RESOLVED THAT, the Town of Eagar requests coordinated planning and cooperation agency status associated with the United States Forest Service proposed Travel Management Planning and Forest Plan Revision and the NEPA processes; and,

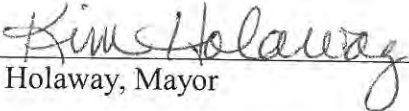
FURTHER BE IT RESOLVED THAT, the Town of Eagar requests a meeting with the Apache Sitgreaves National Forest Travel Management Plan and Forest Plan Revision decision officers(s) to discuss roles and responsibilities; and,

FURTHER BE IT RESOLVED THAT, the Town of Eagar determines and recommends to the United States Forest Service, Apache Sitgreaves National Forest that:

1. All off road dispersed camping, hunting, and OHV locations should remain open and identified for public motorized camping, hunting, fuelwood or OHV sites for perpetual use by the public.
2. The use of motorized vehicles to retrieve legally harvested and tagged deer or elk, as well as any other legally harvested big game animal, should be continued and permitted to the point location of the downed animal on either side of public roads, county roads, and/or state and federal highways, roadways and motorized trails.
3. The use of motorized vehicles for off road retrieval of fuelwood should remain permissible in all cutting areas in state or federal fuelwood permits the use of motorized vehicles should be allowed for retrieval of dead or down fuelwood found along all public roads where it is safe to park, where such activity does not cause resource damage (e.g. ruts) or is not already restricted.
4. The Town of Eagar recommends the continuation of grazing permittees to use OHVs on existing roads and trails, along fence lines, as well as off-road roundup, salting and watering sites and other range improvement activities for resource management purposes.

5. Native American rights and privileges should be protected according to federal laws and the Forest Service Socioeconomic Handbook, including proper analysis and recognition of sacred places and uses; and communication with Native American communities, according to the Presidential Order on Environmental Justice; and
6. The general customs and cultures of the Town of Eagar and its citizens' uses of the national forests should be respected and allowed to continue, and that the Forest Service should coordinate with the Town of Eagar to insure these rights and privileges are continued.
7. The economy of the Town of Eagar is directly tied to Apache Sitgreaves National Forest and any negative effect of the Travel Management Plan and the Forest Plan Revision to our economy should be avoided.

PASSED, ADOPTED AND APPROVED by the Town Council of the Town of Eagar, Arizona, at Eagar, Arizona on this 16th day of March, 2010.




Kim Holaway, Mayor

ATTEST:



Eva M. Wilson, Town Clerk

APPROVED AS TO FORM:



Douglas E. Brown, Town Attorney

Chris Knopp, Forest Supervisor

December 9, 2010

Apache-Sitgreaves National Forest
P.O. Box 640
Springerville, AZ 85938

RE: Apache County Board of Supervisors Requests a Time Extension to the Apache Sitgreaves National Forest Travel management Draft EIS for Public Comments

Dear Mr. Knopp:

The Apache County Board of Supervisors and many of our citizens are requesting 15-day extension on the dead line date for the public input on the proposed Apache Sitgreaves National Forest Travel management Draft EIS for Public Comments

The National Forest Management Act (NFMA), which is the law that requires all Forests to have a Forest Plan and also requires all Forests to have a transportation system, states that Forest Plans and Forest Plan amendments must be open for public comment for three months (NFMA §6 (d), and §7, which amends the Renewable Resources Planning act to change participation from 60 to 90 days. (The NFMA (1976) is an amended version of Forest and Rangelands Renewable resources Planning Act of 1974).

As well, we would like to point out the provisions from 40 CFR 1502.19 (d) that states, “If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.”

Apache County feels that its previously denied requests were completed in a timely manner after the release of the TMP DEIS so the reference above applies. We are also still unclear as to the reasoning involved in the previous denials and need a clearly detailed and referenced explanation

of said denial.

In support of the federal law, the County submits the following reasons for the 15-day extension. This is a very controversial measure with wide spread consequences that will impact generations to come. As such, it demands adequate time for public input and requires accuracy and transparency from the Forest Service. We realize that the ASNF has ruled the TMP as insignificant, but we along with our citizens alike are concerned that our requests for coordination and our commentary are being treated insignificantly as well.

Other concerns need to be resolved before the A-S NF closes off the public from adequate time to comment. The A-S NF is situated in a region that has five Native American tribes; a large Hispanic population, substantial disabled-veterans demographics along with poverty-stricken communities that are dependent on forest products as well as religious practices on the A-S National Forest. The US Forest Service is required to follow the Environmental Justice Presidential Executive Order communication and outreach as well as specific analytical process to avoid undue burdens on these protected classes of our citizens.

The Apache County Board of Supervisors looks forward to your cooperation on this matter.

Sincerely,

John Lee, Chairman, Apache County Board of Supervisors

Cc U.S. Congressional delegation

State Legislation delegation

Hopi Tribe

Navajo Tribe

White Mountain Apache Tribe

Motor Vehicle Use Map (MVUM) Development in Support of the Travel Management Rule (36CFR212)

Region	Forest	District	NFS Acres	Current Status	Projected Date for Implementation	Existing NFS Roads	Existing NFS Roads Open to Motor Vehicle Use	Existing NFS Trails	Existing NFS Trails Open to Motor Vehicle Use	Existing NFS Trails Open to Motor Vehicle Use (Single-Track)	Acres Currently Open to Cross-Country Motor Vehicle Use
3	Apache-Sitgreaves	All	2,110,135	Open	Sep-09	9,300	3,541	1,289	127	0	1,904,824
3	Carson	All	1,493,485	Open	Sep-09	5,253	3,386	356	58	0	629,559
3	Cibola	Sandia	100,276	Open	Sep-07	88	77	287	59	0	28,995
3	Cibola	Magdalena	791,767	Open	Sep-09	1,308	1,290	193	69	0	667,290
3	Cibola	Mt. Taylor	515,573	Open	Sep-09	1,181	1,120	19	19	0	444,100
3	Cibola	Mountainair	205,879	Open	Sep-08	479	470	103	22	0	168,907
3	Cibola	Kiowa/Rita Blanca	229,704	Open	Sep-08	498	498	0	0	0	229,704
3	Cibola	Black Ket/McClellan	32,715	Existing	Sep-07	122	119	14	3	0	0
3	Coconino	All	1,821,495	Open	Sep-09	5972	5598	814	0	0	1,665,572
3	Coronado	Nogales	352,225	System	Sep-09	579	579	80	60	0	0
3	Coronado	Santa Catalina	265,147	System	Sep-09	230	230	147	3	0	0
3	Coronado	Safford	411,211	System	Sep-09	256	256	293	233	0	0
3	Coronado	Sierra Vista	321,355	System	Sep-09	798	798	71	39	0	0
3	Coronado	Douglas	433,691	System	Sep-09	394	394	264	171	0	0
3	Gila	All	3,323,038	Open	Sep-08	6032	4923	1457	537	537	2,447,745
3	Kaibab	Tusayan	327,363	Open	Jul-07	823	141	80	28	0	322,363
3	Kaibab	Williams	560,305	Open	Jul-08	2302	2294	183	84	0	553,180
3	Kaibab	N.Kaibab	654,979	Open	Jul-09	4206	419	186	0	0	550,680
3	Lincoln	Guadalupe	181,797	System	Sep-08	505	389	68	8	0	0
3	Lincoln	Sacramento	557,820	System	Nov-08	1056	466	237	181	0	0
3	Lincoln	Smokey Bear	364,732	System	Sep-08	772	409	222	51	0	0
3	Prescott	All	1,239,270	System	Mar-09	1875	1750	884	425	0	0
3	Santa Fe	All	1,558,142	Open	Aug-09	5491	4388	828	12	12	1,011,335
3	Tonto	Cave Creek	570,000	System	Sep-07	448	448	55	4	0	0
3	Tonto	Globe	450,000	System	Sep-08	785	785	38	0	0	0
3	Tonto	Mesa	430,000	System	Jun-09	446	446	73	0	0	0
3	Tonto	Payson	450,000	Open	Mar-09	905	548	65	0	0	450,000
3	Tonto	Pleasant Valley	420,000	Open	Jun-08	825	638	37	0	0	420,000
3	Tonto	Tonto Basin	530,000	System	Feb-07	797	697	40	3	3	0

Attachment 5