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17
18 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

19 AMY GRANAT, *et al.*,

20 Plaintiffs,

21 vs.

22 UNITED STATES DEPARTMENT OF
23 AGRICULTURE, *et al.*,

24 Federal Defendants.

Case No. 2:15-CV-0605-MCE-EFB (TEMP)

Date: July 28, 2016

Time: 2:00 p.m.

Judge: Hon. Morrison C. England, Jr.

Place: 501 "I" Street

Courtroom: No. 7, 14th Floor
Sacramento, CA

25
26 FEDERAL DEFENDANTS' STATEMENT OF UNDISPUTED FACTS
27 IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT
28

Prefatory Note

1
2 Local Civil Rule 260 requires the submission of a statement of undisputed facts. For the
3 reasons explained below, however, there are no material facts in the case. The Court’s review of
4 claims brought under Administrative Procedure Act, 5 U.S.C. § 706, is to be based upon an
5 administrative record compiled by the agency. *See, e.g., Fla. Power & Light Co. v. Lorion*, 470
6 U.S. 729, 743-44 (1985); *Camp v. Pitts*, 411 U.S. 138 (1973); *Citizens to Pres. Overton Park v.*
7 *Volpe*, 401 U.S. 402, 420 (1971), *overruled on other grounds by Califano v. Sanders*, 430 U.S.
8 99, 104 (1977). “The task of the reviewing court is to apply the appropriate APA standard of
9 review, 5 U.S.C. § 706, to the agency decision based on the record the agency presents to the
10 reviewing court.” *Fla. Power & Light Co.*, 470 U.S. at 743-44. The Ninth Circuit has
11 articulated and enforced the rule that the scope of judicial review of agency action is limited to
12 the administrative record. *See, e.g., Lands Council v. Powell*, 395 F.3d 1019 (9th Cir. 2005) (as
13 amended); *see, e.g., Northcoast Env’tl. Ctr. v. Glickman*, 136 F.3d 660, 665 (9th Cir. 1998)
14 (“[J]udicial review of an agency decision not to issue an EIS is generally limited to review of the
15 administrative record at the time the decision was made.” (citing *Friends of the Earth v. Hintz*,
16 800 F.2d 822, 829 (9th Cir. 1986))). Accordingly, judicial review of agency action is a unique
17 procedure, different in both nature and scope from the procedures used to resolve civil actions
18 within the original jurisdiction of the federal district courts.

19 Consequently, there are no material facts for the Court to resolve in the first instance.
20 Rather, the Court’s role is limited to determining whether the challenged action or inaction of
21 Federal Defendants is supported by the record, which Federal Defendants lodged with the Court
22 on March 17, 2016. ECF No. 29. Nonetheless, to assure technical compliance with the local
23 rules, Federal Defendants provide the following statement of undisputed facts.
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Statement of Undisputed Facts

1. Prior to the 2005 Travel Management Rule, the Plumas National Forest was open to most cross-country motor vehicle use. PLU-B-000052.
2. The 1988 Plumas National Forest Land and Resource Management Plan identifies certain special area designations (also known as land allocations) where motorized vehicle use is restricted, including: Wilderness areas, Wild and Scenic Rivers, Feather Falls Scenic Area, recreation areas, developed recreation sites, semi-primitive areas, bald eagle habitat, and research natural areas. *See* PLU-C-002652, -2658, -2664, -2669, -2672, -2677, -2685, and -2700 (1988 Forest Plan); PLU-B-000023-24 (summary of special area designations in Record of Decision for Plumas Motorized Travel Management Plan).
3. Prior to the 2005 Travel Management Rule, the Plumas National Forest contained approximately 4,137 miles of National Forest System (“NFS”) roads and 130 miles of NFS motorized trails. These roads and trails resulted from historical and ongoing access needs for forest and fuels management activities, mineral exploration and mining, livestock grazing, recreational activities, fire prevention and suppression, and for reaching private parcels within the Plumas National Forest. PLU-B-000053.
4. Much of this extensive system was already part of the National Forest Transportation System (“NFTS”). PLU-B-000053.

- 1 5. Prior to the 2005 Travel Management Rule, the 4,137 miles of NFS roads were
2 designated by maintenance level as follows:

Operational Maintenance Level	Miles
1	262
2	3,241
3	404
4	106
5	124
Total	4,137

11
12 PLU-B-000013; PLU-B-000126.

- 13
14 6. Maintenance level 1 roads are not subject to the requirements of the Highway Safety Act.
15 PLU-C-000856. Vehicular traffic is eliminated, including administrative traffic. *Id.*
16 ML-1 is defined as “[a]ssigned to intermittent service roads during the time they are
17 closed to vehicular traffic. The closure period must exceed 1 year. Basic custodial
18 maintenance is performed to keep damage to adjacent resources to an acceptable level
19 and to perpetuate the road to facilitate future management activities. Emphasis is
20 normally given to maintaining drainage facilities and runoff patterns. Planned road
21 deterioration may occur at this level. Appropriate traffic management strategies are
22 ‘prohibit’ and ‘eliminate.’ Roads receiving level 1 maintenance may be of any type, class
23 or construction standard, and may be managed at any other maintenance level during the
24 time they are open for traffic. However, while being maintained at level 1, they are
25 closed to vehicular traffic, but may be open and suitable for nonmotorized uses.” *Id.*

- 1 7. Maintenance level 2 roads are not subject to the requirements of the Highway Safety Act.
2 PLU-C-000848. They have low traffic volume and low speed, and are not suitable for
3 passenger cars. *Id.* ML-2 is defined as “[a]ssigned to roads open for use by high-
4 clearance vehicles. Passenger car traffic is not a consideration. Traffic is normally
5 minor, usually consisting of one or a combination of administrative, permitted, dispersed
6 recreation, or other specialized uses. Log haul may occur at this level. Appropriate
7 traffic management strategies are either to (1) discourage or prohibit passenger cars or (2)
8 accept or discourage high-clearance vehicles.” *Id.*
9
- 10 8. Maintenance level 3 roads are subject to the requirements of the Highway Safety Act and
11 the Manual of Uniform Traffic Control Devices (“MUTCD”). PLU-C-000836. They
12 have low to moderate traffic volume. *Id.* ML-3 is defined as “[a]ssigned to roads open
13 and maintained for travel by prudent drivers in standard passenger cars. User comfort
14 and convenience are low priorities. Roads in this maintenance level are typically low
15 speed, single lane with turnouts, and spot surfacing. Some roads may be fully surfaced
16 with either native or processed material. Appropriate traffic management strategies are
17 either ‘encourage’ or ‘accept.’ ‘Discourage’ or ‘prohibit’ strategies may be employed for
18 certain classes of vehicles or users.” *Id.*
19
- 20 9. Maintenance level 4 roads are subject to the requirements of the Highway Safety Act and
21 the MUTCD. PLU-C-000828. They have moderate traffic volume and speeds. *Id.* ML-
22 4 is defined as “[a]ssigned to roads that provide a moderate degree of user comfort and
23 convenience at moderate travel speeds. Most roads are double lane and aggregate
24 surfaced. However, some roads may be single lane. Some roads may be paved and/or
25 dust abated. The most appropriate traffic management strategy is ‘encourage.’ However,
26 the ‘prohibit’ strategy may apply to specific classes of vehicles or users at certain times.”
27 *Id.*
28

1 10. Maintenance level 5 roads are subject to the requirements of the Highway Safety Act and
2 the MUTCD. PLU-C-000820. They have the highest traffic volume and speeds and
3 usually are paved or chip-sealed. *Id.* ML-5 is defined as “[a]ssigned to roads that
4 provide a high degree of user comfort and convenience. These roads are normally
5 double-lane, paved facilities. Some may be aggregate surfaced and dust abated. The
6 appropriate traffic management strategy is ‘encourage.’” *Id.*

7
8 11. During the summer and fall of 2004, an independent contractor reviewed and mapped
9 routes and areas used by off-highway vehicles (“OHVs”) on the Forest. PLU-B-000058.

10
11 12. In 2005, the Plumas National Forest completed an extensive inventory of unauthorized
12 routes on NFS lands open to cross-country travel and identified approximately 1,107
13 miles of unauthorized routes. PLU-B-000052.

14
15 13. The inventory of unauthorized routes involved the examination of previous records
16 (existing road and trail atlases, forest maps, maintenance plans, maintenance
17 expenditures, etc.) to populate the Forest Service’s infrastructure database (“INFRA”)
18 and verify the Forest Transportation Atlas. PLU-B-000053. Since then, adjustments to
19 the Transportation Atlas and INFRA database have been made to correct errors and
20 account for NFS roads that were either newly constructed or overlooked. *Id.*

21
22 14. The 2005 Motorized Travel Management Rule defines unauthorized routes as roads or
23 trails that are not included in an official forest transportation atlas. 36 C.F.R. § 212.1.
24 Generally, unauthorized routes are created through repeated use and were not planned by
25 the Forest Service. PLU-B-000052. These routes were developed without agency
26 authorization, environmental analysis, or public involvement. PLU-B-000616. For
27 example, many unauthorized routes do not currently have features for proper drainage or
28

1 erosion control, and thus may have potentially increased sedimentation effects on
2 streams. *See* PLU-C-000874 (70 Fed. Reg. at 68265); PLU-B-000052.

3
4 15. In December 2006, the Plumas implemented a forest order to close the forest to cross-
5 country motor vehicle travel while it undertook a National Environmental Policy Act
6 (“NEPA”) and decision-making process to implement Subpart B of the travel
7 management regulations. PLU-C-002315. Similar forest closure orders were issued on
8 an annual basis through December 2010. PLU-C-002302, 2308, 2310.

9
10 16. After the 2005 Travel Management Rule was promulgated, the Forest Service held a
11 series of public workshops across the Plumas National Forest to discuss motorized travel
12 management and which routes should be added to the NFTS. PLU-B-000058-59, PLU-
13 C-002313-14, PLU-F-000044.

14
15 17. The Forest Service solicited public comment on its proposed action and held a series of
16 public meetings to explain the proposed action. PLU-B-000058-59, PLU-D-012240, -
17 12244-12245, -12250. During 2004 and 2005, the Forest also sought route information
18 from the public and validated route locations and mapped them. PLU-A-000565-566,
19 PLU-D-014292, -14331-14336, -14345-14347, -14351-14354, -14412, -14416-14424.

20
21 18. On May 14, 2005, the Forest Service provided on-the-ground training for the public to
22 locate and map their favorite riding areas so they could effectively provide that
23 information to the Forest Service. PLU-D-014238-14239, -14248.

24
25 19. In December 2006, public meetings were held in Oroville, Portola, and Quincy
26 explaining the temporary Forest Order (effective December 31, 2006) that restricted
27 OHV use to mapped roads, trails and areas. PLU-D-014137-14143, 14146.

1 20. By April 2007, the Plumas National Forest developed the “first cut” route map, which
2 included 220 miles of proposed motorized trails. PLU-D-014001, 014005-14068; PLU-
3 G-001380-1395. The “first cut” consisted of known routes used by the public, including
4 destinations, loops, and spur routes to fishing access and favorite dispersed camping sites.
5 PLU-B-000058. The “first cut” avoided routes on private land with no right of way,
6 routes where motorized use would conflict with existing uses, and routes with measurable
7 resource impacts. *Id.*

8
9 21. In the fall of 2007 and summer of 2008, the Forest Service completed field surveys for all
10 of the approximately 410 miles proposed for addition to the NFTS and conducted
11 subsequent field visits for potentially problematic routes. PLU-B-000081.

12
13 22. The Plumas National Forest then engaged in an extensive public participation process to
14 obtain comments and input regarding its “first cut” route map. PLU-B-000058-59, PLU-
15 C-002313-2314; PLU-D-014001-02, -14091-92; PLU-F-000044. In the spring of 2007,
16 the Forest held three public meetings and three public workshops to identify which of the
17 routes and areas should become part of the proposed action, the type of use that each
18 would have, and routes to be considered for dispersed recreation access. PLU-B-000562.
19 The concept of “mixed use” (combining highway legal and non-highway legal vehicles
20 on the same road) was also introduced during these meetings. *Id.* At the first session of
21 the 2007 two-part series, public meetings were held in Quincy (April 17) Portola (April
22 18), and Oroville (April 19). PLU-D-014001-02, -14091-92. At the second set of
23 workshops, held in Blairsden (May 2), Quincy (May 3) and Oroville (May 10),
24 individuals worked with Forest Service specialists to identify important routes. PLU-B-
25 000059. Groups shared their ideas and their various concerns. Roughly 300 people
26 participated in these workshops. *Id.* Afterwards, the Forest Service issued a press release
27
28

1 that provided information on the meetings and the outcome. *Id.*; PLU-D-013955-82; *see*
2 PLU-D-013832-88 (scoping documents).

3
4 23. The determination of which routes would be included in the various alternatives was
5 made with extensive public input and involvement over the course of four years and more
6 than 20 public meetings and workshops. PLU-B-000024; *see e.g.*, PLU-C-002313-14
7 (cover letter for public meetings); PLU-D-012240, 12244-45, 12250 (sign in sheets); -
8 14238-39 (website announcing public workshop). The public had additional
9 opportunities to comment on and participate in the Forest Service's decision-making
10 process during the 60-day public scoping period and the 75-day Draft Environmental
11 Impact Statement ("DEIS") comment period. PLU-B-000059; *see e.g.*, PLU-D-000001-
12 14448 (public comments); PLU-B-001135-760 (comments and response to comments).

13
14 24. The Forest Service Interdisciplinary Team took all of this information and developed the
15 proposed action for the Notice of Intent to Prepare an Environmental Impact Statement
16 ("NOI"). PLU-B-000058-59, -1114-18. The proposed action was designed to include as
17 many routes as possible that were requested by the public. PLU-B-000058-59. This
18 inclusive approach was used so that these routes could be analyzed in detail and their
19 effects disclosed as part of this NEPA process. *Id.*

20
21 25. In January 2008, the Forest Service completed the Proposed Action and NOI based on
22 comments from the meetings held in the spring of 2007. PLU-B-000059, -1114-18. The
23 comment period on the proposed action began on January 3, 2008, and ended March 3,
24 2008. Presentations to a variety of groups, phone calls, news releases, website postings
25 and emails were used to alert the public of the opportunity to comment on the proposed
26 action. PLU-B-000059. Public meetings were held in Blairsden (January 15), Quincy
27
28

1 (January 22), and Oroville (January 29) to explain the Proposed Action. Over 3,300
2 comments were received, although many were identical emails. *Id.*

3
4 26. The proposed action was developed to address two key needs: (1) regulation of
5 unmanaged public cross-country motorized vehicle travel in accordance with Subpart B
6 of the 2005 Travel Management Rule, 36 C.F.R. Part 212, Subpart B, and (2) making
7 limited changes to the NFTS to provide motorized access to existing dispersed recreation
8 opportunities (e.g., camping, hunting, fishing, hiking, horseback riding) and to provide a
9 diversity of motorized recreation opportunities (e.g., 4x4 vehicles, motorcycles, all-
10 terrain vehicles, passenger vehicles). PLU-B-000014, -55-56.

11
12 27. The Project implements provisions of the 2005 Travel Management Rule designed to
13 enhance management of NFS lands; sustain natural resource values through more
14 effective management of motor vehicle use; and provide opportunities for motorized
15 recreation experiences on NFS lands. PLU-B-000013. Management strategies were
16 developed to balance resource protection, cultural values and recreation opportunities.
17 PLU-B-000465. The Forest Service recognized there was a need for limited additions to
18 the NFTS to provide motor vehicle access to dispersed recreation opportunities and to
19 provide a diversity of motorized recreation opportunities. PLU-B-000014. It is also
20 understood that these purposes had to be balanced with the overall purpose of regulating
21 unmanaged motor vehicle travel and the related detrimental effects. PLU-B-000577-78.

22
23 28. The Forest staff held discussions with and/or sought input from Plumas and Butte County
24 officials on numerous occasions between 2003 and 2009. PLU-A-000057; PLU-D-
25 007890, -7902, -9582 (sign-in sheets); PLU-E-000014, -20, -26, -31-32, -34-35, -49, -58
26 (sign-in sheets, lists of meetings, letters). At least four formal meetings and six informal
27 meetings occurred with Plumas County officials. PLU-A-000057; PLU-D-007890, -
28

1 7902, -7904. At least two Butte County representatives were included on the Forest's
2 travel management mailing list. PLU-A-000057. In addition to the scheduled public
3 workshops, the Forest staff offered to set up private, individual meetings with two Butte
4 County Supervisors. *Id.*

5
6 29. The record indicates that the Forest asked for (and was granted) a discretionary time
7 extension by the Regional Forester's office for the stated purpose of "... fulfilling the
8 participator intent of the NEPA process" with "Plumas, Lassen, and Butte counties"
9 PLU-A-000057.

10
11 30. On December 29, 2008, the Forest Service published the DEIS for the Project and made
12 the DEIS available for public comment. PLU-B-001113. The Plumas National Forest
13 sent letters to interested parties, tribes and reviewing agencies providing them either with
14 copies of the DEIS or a summary and a link to a website at which the documents and
15 maps could be downloaded. PLU-B-000059.

16
17 31. The Environmental Protection Agency published a notice of availability of the DEIS in
18 the Federal Register on December 29, 2008, which initiated the 45-day comment period.
19 PLU-B-001113. The comment period subsequently was extended through March 3,
20 2009. PLU-B-000616, -646. The Forest also published a legal notice regarding
21 availability of the DEIS in the Feather River Bulletin on January 7, 2009, and sent a
22 follow-up letter to interested parties and reviewing agencies on February 6, 2009. PLU-
23 B-000648; *see* PLU-D-007955-64.

24
25 32. The Forest received over 4,310 public comment letters on the DEIS, including 340
26 original responses and 3,970 form letters. PLU-B-000616. The Forest Service reviewed
27 all submitted comments and suggestions.

1 33. Public comment on the Plumas National Forest DEIS was far-reaching, often highly
2 detailed, and represented a wide range of values and perspectives with respect to
3 motorized travel management. PLU-B-000618. While many respondents commented on
4 specific topics within the DEIS, such as the purpose and need, cumulative impacts, best
5 management practices (BMPs), document composition, etc., most respondents requested
6 specific updates, changes, or additional data be added to various technical studies
7 (resource reports). *Id.* Many respondents also commented on the DEIS Alternatives with
8 different respondents advocating for each alternative. PLU-B-000619-20.

9
10 34. The comment letters represented a wide range of views regarding motorized travel
11 management. Respondents expressed polarized views on how motorized and non-
12 motorized recreation activities should be managed. PLU-B-000620-21. Regarding OHV
13 use, many respondents expressed the view that the agency should recognize that
14 unmanaged OHV use has resulted in unauthorized routes which have damaged the forest
15 by increased soil compaction and erosion, increased sedimentation, water quality
16 degradation, the spread of noxious weeds, increased fire risk, damage to cultural
17 resources, habitat destruction and fragmentation, increased disturbance to sensitive
18 wildlife, etc. *Id.* Other respondents were concerned that the current transportation
19 system continues to allow motor vehicle use in ecologically and socially important
20 roadless areas, in proposed Wild and Scenic River corridors, and in sensitive wildlife
21 habitat. *Id.* Individuals who oppose OHV use urged the Plumas National Forest to
22 “restrict and control, rather than enlarge, the road network in this forest that is open to
23 OHVs.” *Id.*

24
25 35. Conversely, many individuals support OHV use and believe that the Plumas National
26 Forest should preserve motorized access to public lands. PLU-B-000621. Those
27 respondents expressed the view that OHV opportunities should be enhanced and
28

1 expanded because of significant demand for sustainable and responsible motorized
2 recreation. *Id.* Many respondents also stated that OHV groups donate time and
3 manpower to not only maintain trails, but help clean up trails damaged by the
4 carelessness of others. Those who support OHV use also mention various social values
5 and benefits they attribute to OHV use. *Id.*

6
7 36. In addition to these two views on motorized recreation, there were some individuals who
8 requested that OHV activities be managed better but not eliminated. PLU-B-000621.
9 One group believed, for example, that “OHV use can be managed in a proper way to
10 protect critical forest resources while providing a recreational experience.” *Id.*

11
12 37. Forest Service staff received several letters from Plumas, Butte, and Lassen Counties as
13 part of its planning process. Those letters are included in the administrative record and
14 summarized as follows:

- 15 • Scoping letter from Jack Hanson, Lassen County: The letter urged the Lassen,
16 Plumas, and Modoc National Forests to be consistent with their travel
17 management planning. PLU-E-000049.
- 18 • Scoping letter from Robert Perrault, Plumas County: The letter addressed several
19 issues, mostly related to the classification and status of roadways and a general
20 objection to reducing the number of unauthorized routes. PLU-E-000035.
- 21 • Scoping letter from Curt Josiassen, Butte County: The letter addressed their
22 support of mixed use on non-paved county roads and similar access on NFS level
23 3 and 4 roads. PLU-E-000034.
- 24 • Letter from Bill Connelly, Butte County: The letter requested an extension of the
25 comment period for the DEIS. PLU-E-000032.
- 26 • DEIS comment letter from Lloyd Keefer, Lassen County: The letter requested an
27 extension of the comment period for the DEIS. PLU-E-000030.

- 1 • DEIS comment letter from Mike Crump, Butte County: The letter resubmitted
2 the county’s scoping letter from Curt Josiassen and requested that a list of mixed
3 use non-paved county roads be used as loop access connectors to NFTS roads and
4 trails. PLU-E-000026.
- 5 • DEIS comment e-mail from Ian Sanders, Butte County: The e-mail resubmitted
6 Curt Josiassen and Mike Crump’s letters and a list of county roads. PLU-E-
7 000020.
- 8 • DEIS comment letter from Sharon Thrall, Plumas County: The letter addressed
9 several objections to the DEIS, including whether the Project amends the Land
10 and Resource Management Plan for the Forest, lack of analysis of land use
11 designations under the county’s General Plan, lack of analysis of the county’s
12 pending Herger-Feinstein Quincy Library Group Forest Recovery Act projects,
13 the need for evacuation routes in coordination with the county’s Fire Plan,
14 allowing limited use of motor vehicles off routes, and the failure to coordinate
15 uses adequately between Forest routes and the County road system. PLU-E-
16 000014.

17 38. In August 2010, the Plumas National Forest issued its Final Environmental Impact
18 Statement (“FEIS”). PLU-B-000039. The FEIS included responses to comments that the
19 Forest Service had received on the DEIS. *Id.*

20
21 39. Chapter 2 of the FEIS describes and compares the alternatives considered. PLU-B-
22 000062-87. The Forest Service considered in detail four action alternatives and a no-
23 action alternative. PLU-B-000062. The no-action alternative maintains the status quo
24 and provides a baseline for comparing the other alternatives. PLU-B-000067.

25
26 40. The Forest Service also considered eleven alternatives but eliminated these from detailed
27 study. PLU-B-000081-85. These eleven alternatives proposed to: designate all
28

1 inventoried routes as motorized trails; designate more trails; designate all inventoried
 2 routes and decommission and restore at a later date; designate all unpaved ML-3 and ML-
 3 4 roads for mixed use; designate and manage areas for dispersed camping; designate
 4 more motorized play areas; allow cross-country travel to firewood trees; provide a
 5 balanced recreation experience for all vehicle types; base seasonal closure on rainfall
 6 rather than dates; designate fewer trails based on water and soil; and reduce road density
 7 based on comprehensive travel analysis and seasonal wet weather closures of roads. *Id.*
 8

9 41. Table 3 in Chapter 2 of the FEIS is a Summary Comparison of Alternatives:

Item		Alt. 1	Alt. 2	Alt. 3	Alt. 4	Alt. 5
Cross-country travel		Continues	Prohibited	Prohibited	Prohibited	Prohibited
Changes to Vehicle Class from Highway Legal Only to Mixed Use (Both Highway-Legal and Non-Highway Legal Allowed)		0 miles	0 miles	0 miles	4.1 mile	4.1 miles
Motorized Trails & Areas Added To National Forest System	Trails Added Open to All Vehicles	0 miles	216.07 miles	0 miles	108.14 miles	156.35 miles
	Trails Added Open to OHV Use Vehicles 50" or Less	0 miles	62.81 miles	0 miles	22.42 miles	38.71 miles
	Trails Added Open to Motorcycles	0 miles	82.46 miles	0 miles	9.65 miles	39.04 miles
	Total	0 miles	361.34 miles	0 miles	140.21 miles	234.10 miles
	Areas Added Open to OHV Use Vehicles 50" or Less	None	Sly Creek area 36 acres	None	None	None

25 PLU-B-000086.

1 42. The Forest analyzed the physical, biological, social, and economic environments that
2 would be affected by the proposed action and alternatives in chapter 3 of the FEIS. PLU-
3 B-000088. For each alternative, the FEIS discussed the direct, indirect, and cumulative
4 effects on the environment from implementation at the site-specific and Forest-wide
5 scales. *Id.* The Forest recognized that unmanaged OHV use has resulted in unplanned
6 roads and trails, erosion, watershed and habitat degradation, and impacts to cultural
7 resource sites. PLU-B-000090. On some Plumas NFS lands, long managed as open to
8 cross-country motor vehicle travel, repeated use has resulted in unplanned, unauthorized
9 roads and trails. *Id.* These routes generally developed without environmental analysis or
10 public involvement, and do not have the same status as NFTS roads and trails included in
11 the Forest transportation system. *Id.*

12
13 43. Appendix A of the FEIS lists each route proposed for addition to the NFTS and identifies
14 the alternative(s) under which the route is proposed, the type of vehicle(s) allowed, and
15 the season when the route would be open. In addition, Appendix A identifies any
16 resource concerns and necessary maintenance and mitigation measures. PLU-B-000090,
17 -494-524.

18
19 44. On August 30, 2010, the Forest Supervisor for the Plumas National Forest signed the
20 Record of Decision (“ROD”) for the Plumas National Forest Motorized Travel
21 Management Project. PLU-B-0000028.

22
23 45. The FEIS and ROD were made available to the public. PLU-B-000001, 002, 009.

24
25 46. The ROD selected Alternative 5 as presented in the FEIS and shown on the map included
26 with the ROD, with two minor modifications. PLU-B-000014-16. The ROD prohibits
27
28

1 cross-country motorized travel and motor vehicle travel off designated NFTS roads and
2 trails, and areas by the public, except as allowed by permit or other authorization.

3
4 47. The ROD increases the motorized trail network from 130 miles to 364 miles of NFTS
5 motorized trails, a 234 mile increase. PLU-B-000017-18. Of the 234 miles, 156 miles
6 are suitable for all vehicles, 39 miles are suitable for vehicles up to 50 inches wide, and
7 39 miles are suitable for motorcycles only. PLU-B-000016.

8
9 48. The ROD incorporates changes to the vehicle class on Slate Creek Road (NFS 24N28
10 road, 4.1 miles) to allow both highway and non-highway legal vehicles (mixed use) to
11 use this maintenance level 3 (ML-3) road. PLU-B-000016.

12
13 49. The two minor modifications between the FEIS and the ROD are (1) the removal of
14 approximately 600 feet at the end of Trail 8M11 based on asbestos results and (2) the
15 removal of trails in California red-legged frog critical aquatic refuge areas. PLU-B-
16 000014-15. The Sly Creek open area (located in the Pinkard critical aquatic refuge) was
17 also dropped. PLU-B-000015. Eliminating trails in these aquatic refuge areas reduces
18 potential effect to California red-legged frogs and complies with the programmatic
19 agreement between the Forest Service, Region 5 Pacific Southwest and the U.S. Fish and
20 Wildlife Service for threatened and endangered species. *Id.*

21
22 50. The ROD also includes mitigation measures for motorized trails with resource concerns,
23 allowing such trails to be added to the NFTS with negligible environmental impacts and
24 in compliance with law, regulation, and policy. PLU-B-000016. These trails would be
25 added to the NFTS, but not placed on the Motorized Vehicle Use Maps (“MVUM”) as
26 open to the public until the mitigation is completed. PLU-B-000015. Opening trails that
27
28

1 require mitigation is contingent on receiving adequate funds and/or volunteer labor to
2 complete the work. PLU-B-000016.

3
4 51. The Forest Service recognized that eliminating cross-country travel from designated
5 routes would reduce the availability of acreage for motorized vehicle use as well as
6 motorized vehicle access to dispersed recreation activities. PLU-B-000017. However,
7 the addition of previously unauthorized roads and trails to the NFTS will improve the
8 quality of motorized recreation opportunities by ensuring that these roads and trails
9 receive adequate maintenance and recreation management practices (such as signage,
10 design features, law enforcement, educational materials, etc.) that are not otherwise
11 available for unauthorized roads and trails. This will ensure the long term sustainability
12 of these recreational resources. *Id.*

13
14 52. The ROD also included implementation of mitigation measures designed to minimize,
15 reduce, or eliminate impacts on sensitive natural and cultural resources for motorized
16 routes added to the NFTS. PLU-B-000004, 018-021, 035-038.

17
18 53. The alternative selected in the ROD provides access to over 110 dispersed recreation sites
19 across the Forest. PLU-B-000097. Approximately 83 percent of the Plumas National
20 Forest will be within ½ mile of an authorized road or trail once the Plumas Motorized
21 Travel Management Project is fully implemented. PLU-B-000095 (Table 6). As the
22 ROD further explains, the Plumas National Forest already contains an extensive network
23 of existing roads and motorized trails. At the same time, the ROD removes duplicative
24 routes and results in a more manageable system that better protects forest resources. *Id.*

25
26 54. The decision resulted in only a minor reduction in road and trail density, from an average
27 of 2.44 miles per square mile to 2.09 miles per square mile. PLU-B-000017.

1 55. The 2013 Plumas National Forest MVUMs are available at PLU-J-00002-07. These
2 maps show the NFS roads, trails, and areas that are designated for motor vehicle use
3 pursuant to 36 C.F.R. § 212.51. The MVUMs also identify the vehicle classes allowed
4 on each route and in each area, and any seasonal restrictions that apply on those routes
5 and in those areas.

6
7 56. The ROD does not preclude consideration of additional trails and trail networks in the
8 future. The Forest is committed to continuing to refine the transportation system in the
9 future and provide for recreation areas while meeting Agency needs. PLU-B000018-19;
10 *see e.g.*, PLU-B-001168-69 (noting that trails may be added in the future), -1178
11 (“nothing in this decision prohibits future consideration of status changes to system
12 roads.”), -1218 (“[f]uture analysis may identify additional roads for Mixed Use
13 Designation); PLU-J-000008, -10 (letters between Butte County Board of Supervisors
14 and Deputy Forest Supervisors discussing meetings and possibility of mixed use on
15 specific routes).

16
17 57. The Forest Service provided an administrative appeal period for the ROD and FEIS.
18 Nine individual appeals and associated attachments were received, and a reviewing
19 official addressed all nine appeals and their associated points in a written decision. PLU-
20 A-000001, -04, -07, -10, -13, -16, -19, -22, -25, -28, -142-566.

21
22 58. Two of the appellants, Plumas County and Butte County, alleged on appeal that the
23 Forest failed to coordinate with local governments. In addition to responding in writing
24 to this appeal, the Forest Service met with Plumas County representatives on at least two
25 occasions and met with Butte County officials in January 2011. PLU-A-000063, -121-
26 23, -129-30, -134-35.

1 59. The Forest Service responded that the issues raised by the counties on appeal were the
2 same as those raised as comments on the DEIS and had been considered. *See* PLU-A-
3 000010-15. When Plumas County raised this claim of a failure to coordinate on appeal,
4 the Forest Service referred to a list of meetings held with Plumas County during the
5 planning process as well as mailing lists showing the contacts made to the county. PLU-
6 A-000078; PLU-E-000058. Similarly, the Forest Service responded to the appeal from
7 Butte County with specific references to earlier attempts to address those concerns. PLU-
8 A-000083.

9
10 60. An examination of the first cut spreadsheets shows that the Forest Service considered
11 input from the public on dead-end spurs. To provide one example, the draft Beckwourth
12 Inventory notes that Plaintiff Sierra Access Coalition proposed trail number 6936 for
13 inclusion and identifies the trail as a “dead end spur” with a medium level of benefits and
14 a medium level of concerns and risks. PLU-G-001245. The final Beckwourth Inventory
15 provides this same information and identifies trail number 6936 as Trail 13M21A. PLU-
16 G-001239. Table 1 in the FEIS, which identifies trails proposed for inclusion to the
17 NFTS, then lists Trail 13M21A under Alternative Two. PLU-B-000077.

18
19 61. PLU-D-012341 is a route designation form submitted by a member of the public
20 requesting inclusion of route number 7209. Route 7209 (inventory number in the
21 spreadsheet) is listed in the spreadsheet associated with the time frame when route
22 designation forms were submitted (in 2007) at PLU-012280. This route is carried
23 forward in the latest version of the spreadsheet at PLU-G-001238. This latest version of
24 the spreadsheet adds a “trail number,” which is 12M12. *Id.*; PLU-B-0000076, 119, 516.
25 Trail 12M12 is also listed in the ROD in table 2 requiring mitigation before being added
26 to the NFTS at PLU-B-000037.

1 62. PLU-D-012370 is a route designation form submitted by Sierra Access Coalition
2 (“SAC”) requesting inclusion of route number 7252. Route 7252 is listed in the old
3 spreadsheet at PLU-D-012279. This route is carried forward in the latest spreadsheet at
4 PLU-G-001239 and is assigned trail number 13M10B. This trail number is found in the
5 FEIS in Alternative 2 at PLU-B-000077, 518. This route was not included in Alternative
6 5, the selected alternative, and therefore this route is not included in the ROD.

7
8 63. PLU-D-012449 is a route designation form submitted by SAC requesting inclusion of
9 route number 6048. Route 6048 is in the old spreadsheet at PLU-D-012271. This route
10 is carried forward in the latest spreadsheet at PLU-G-001238 and is assigned trail number
11 10M12. This trail number is found in the FEIS at PLU-B-000074, 431, 510. Trail
12 10M12 is also listed in the ROD in table 1 and was added to the NFTS at PLU-B-000032.

13
14 Respectfully submitted on this 12th day of May, 2016.

15
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CERTIFICATE OF SERVICE

I, John P. Tustin, hereby certify that on May 12, 2016, I caused the foregoing to be served upon counsel of record through the Court's CM/ECF system.

/s/ John P. Tustin _____
John P. Tustin
Attorney for Federal Defendants

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