

**SIERRA ACCESS COALITION**

P.O. Box 944  
Quincy CA 95971  
[sierraaccess@yahoo.com](mailto:sierraaccess@yahoo.com)



1500 W El Camino Ave. #352 Sacramento · California · 95833-1945  
Phone · 800-42CORVA · Facsimile · 818-957-4435 · [www.corva.org](http://www.corva.org)

December 26, 2010

Randy Moore, Regional Forester  
USDA Forest Service  
1323 Club Drive  
Vallejo, CA 94592

**Appeal of Plumas National Forest Public Motorized Travel Management  
Record of Decision and Final Environmental Impact Statement**

**Appellant:** Sierra Access Coalition  
Corky Lazzarino, Executive Director  
P.O. Box 944  
Quincy CA 95971  
(530) 283-2028

CORVA – California Off-Road Vehicle Association  
Amy Granat, Northern Director  
Bruce Witcher, Vice President of Land Resources and Public Policy  
P.O. Box 298  
Clarksburg, CA 95612  
(916) 710-1950

**Project Name:** Plumas National Forest Public Motorized Travel Management Record of Decision and Final Environmental Impact Statement (“MTM FEIS”), R5-MB-189

**Responsible Official:** Forest Supervisor Alice Carlton

**Date of Decision:** August 30, 2010

NOTICE IS HEREBY GIVEN that Sierra Access Coalition (“SAC”) submits this appeal pursuant to 36 CFR Part 215 to the Appeal Deciding Officer, Randy Moore, Regional Forester of the Pacific Southwest Region of the United States Forest Service.

**INTRODUCTION**

Sierra Access Coalition (SAC) is an organization of nearly one thousand one hundred local businesses, user groups, and individuals that work to protect forest access and preserve environmentally-sound routes for a range of public uses. We are concerned with motorized and non-motorized access to the Plumas National Forest (“PNF”), and with secondary uses of the forest such as camping, firewood cutting, hunting, fishing, hiking, driving for pleasure, horseback riding, bicycling, nature viewing, relaxing, and many other uses that provide the exceptional quality of life we enjoy in the PNF. The American public puts a very high value on customary and cultural uses of our forest. When making decisions like the MTM FEIS, NEPA requires Federal agencies to consider the totality of environmental effects, including the decision’s impacts on social, cultural and economic resources as well as natural resources.”<sup>1</sup>

The California Off Road Vehicle Association (CORVA) has approximately 3000 members throughout California and advocates for responsible recreation on public land. CORVA also promotes community involvement in the land use planning process and maintains an educational program in responsible recreation. CORVA's primary concern is that the land will be managed appropriately for continued public access, and that the purposes of NEPA are fulfilled. Our organization has provided thousands of volunteer man hours maintaining National Forest trails. We have provided comments on the Travel Management documents at every step. Our interest in this Decision flows from our frequent use of the Plumas National Forest for motor-vehicle-dependent recreation, our members' investment in the well-being of the Plumas National Forest expressed via frequent volunteer work for Forest Service, and our keen desire that the government, in this case the agency of the U.S. Forest Service, make its land-use allocation decisions lawfully.

SAC submitted substantive comments regarding the impacts on social, cultural, and economic impacts of the MTM FEIS on March 5, 2009. However, for the reasons described herein, SAC believes that the Responsible Official failed to consider substantive comments filed by SAC during the DEIS and that the MTM FEIS violates several federal statutes and regulations, including: (1) 16 U.S.C. Sec. 1604; (2) Travel Management Subpart B, 36 C.F.R. 212.53; (3) 36 C.F.R. 219(1) (1982); (4) the Americans with Disabilities Act of 1990; (5) the Rehabilitation Act of 1973; the Data Quality Act; (6) 36 C.F.R. Section 219.7(c) (1982); (7) the Multiple-Use and Sustained Yield Act of 1960, Public Law 86-517, 86th Congress (June 12, 1960); (8) the National Environmental Policy Act (NEPA); (9) Executive Order 12898, Environmental Justice mandate to Federal Agencies; and (10) the State of California Vehicle Code.

Because of these violations, and for the reasons discussed more fully below, SAC disagrees with the decision in and seeks as specific relief, that the Forest Service: (1) develop and implement a new Dispersed Camping Permit program; (2) revise the cross-country travel restrictions that preclude access to important points of interest for disabled, handicapped, and elderly people; (3) develop and implement a revised permit system through the Woodcutting Program that will allow “one trip in, one trip out” to retrieve firewood; (4) develop and implement a revised permit system for big game retrieval that will allow a “one trip in, one trip out” within the PNF; (5) correct inaccuracies in corporate data layers of Stream Center Lines and

---

<sup>1</sup> A Citizen’s Guide to the NEPA, CEQ December 2007 sec. 2:p.1

Land Lines through the use of new technology such as LiDAR, or the use of updated GPS data; (6) develop a plan to coordinate fully with the counties within the PNF, as requested by the counties; and (7) develop a plan to incorporate the Plumas County Resolution allowing green-sticker, or non-highway legal vehicles travel on county roads. Each of these specific requests are discussed in greater detail in the “Relief Requested” section herein.

## **DISCUSSION OF THE MTM FEIS**

### **1. The Stated Purpose and Need for Action is Reliant on Inaccurate Facts**

The Purpose and Need section of the FEIS<sup>2</sup> unfairly and unnecessarily indicates a predisposition on behalf of the PNF to a decision unfavorable to motorized access. The core premise and justification for the purpose and need of the MTM establishes and perpetuates a bias against OHVs which is unsubstantiated by scientific data and is nothing more than opinion and hyperbole that is void of peer review studies to substantiate that unmanaged motor vehicle use has resulted in unplanned roads and trails, erosion, watershed and habitat degradation, and impacts to cultural resource sites. In fact, the Forest Services acknowledges that the unauthorized routes in question are typically old temporary roads used in past timber sales.<sup>3</sup> Therefore, none of these routes were unplanned or developed without agency authorization. The premise behind the MTM is based on historically and factually inaccurate information designed to perpetuate the unfortunate bias against motorized recreation.

See Exhibit 2 for further discussion on this point.

### **2. The MTM FEIS Fails to Consider Comments Made by SAC and Violates the State and Federal Requirements for Coordination with County Governments**

Throughout the process, SAC informed the Forest Service that Plumas County was developing an ordinance that would allow green sticker vehicles on county roads and SAC requested that the Forest Service consider the ordinance early in their route designation process and coordinate with Plumas County. Although the Forest Service responded by claiming that Recreation Use Maps would incorporate this information to help identify riding opportunities, in truth, the agency disregarded SAC's comments and violated NEPA in the process.

Specifically, the MTM FEIS fails to comply with NEPA requirements for coordination. Section 101 of NEPA states that "it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." This policy is integrated into the regulations designed to implement NEPA:

Agencies shall cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local

---

<sup>2</sup> Section 1.3 of the FEIS "Purpose and Need" states that "there is a need for regulation of unmanaged motor vehicle travel by the public. The proliferation of *unplanned, unauthorized*, non-sustainable roads, trails and areas created by cross-country travel adversely impacts the environment." (emphasis added).

<sup>3</sup> PNF MTM FEIS p.96

requirements . . .to better integrate environmental impact statements into state or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.<sup>4</sup>

More specifically, the Environmental Consequences section of an FEIS is required to include a discussion of “[p]ossible conflicts between the proposed action and the objectives of federal, regional, state, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned”<sup>5</sup> However, the MTM FEIS fails to include any such discussion, thereby violating the requirements of NEPA.

In addition to violating NEPA, MTM FEIS also violates Travel Management Subpart B, 36 C.F.R. 212.53. Subpart B requires that “[t]he responsible official shall coordinate with appropriate Federal, State, county, and other local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System lands pursuant to this subpart.” The implementing directives<sup>6</sup> of the travel management rule (36 CFR 212.53) also require the responsible official to coordinate with appropriate Federal, State, county, and other local governmental entities, which may include local law enforcement agencies and emergency service providers, as well as tribal governments in designating routes and areas for motor vehicle use.”<sup>7</sup> The Forest Service is required to “coordinate with federal, state, and local governmental entities and tribal governments when making travel management decisions and designating NFS roads, NFS trails, and areas on NFS lands.”<sup>8</sup> (see also, 36 CFR 212.52(a); FSM 7715.3). Coordination with other governmental entities and the public requires early involvement that is continued throughout the designation process to engender trust, credibility, and coordination and to provide an integrated system of designated routes and areas.<sup>9</sup> (emphasis added).

According to Forest Service policies, when coordination with other governmental entities and public involvement are required, involve them early and throughout the designation process to engender trust, credibility, and coordination and to provide an integrated system of designated routes and areas.<sup>10</sup> (Emphasis added). Supposedly, “[t]he Forest Service

---

<sup>4</sup> 40 CFR 1506.2 (c),(d)

<sup>5</sup> 40 CFR 1502.16 (c)

<sup>6</sup> FSM 7702, para. 5, and 7715.3

<sup>7</sup> 36 CFR Forest Service Travel Management Directives: Forest Service Manual 2350, 7700, and 7710, and Forest Service Handbook 7709.55, page 74691, 12/9/2008.

<sup>8</sup> 36 CFR 212.52(a), 212.53; FSM 7715.3; see also, Forest Service Manual 7715.10.3, Policy, #4, 1/8/2009, Forest Service Manual 7715.3, Public Involvement and Coordination with Governmental Entities, #2, 1/8/2009, Forest Service Manual 7703.4, #2 (effective 1/8/2009)(“Cooperate with intermingled and adjacent landowners to plan, develop, and operate transit and transportation facilities serving the interests of all affected parties.”), Forest Service Manual 7731.04b, #4 (effective 10/7/2008)(“Cooperate with State and local public road authorities to ensure coordination of State, local, and NFS transportation needs.”).

<sup>9</sup> Forest Service Handbook 7709.55, 10.2 Objectives, 1/8/2009

<sup>10</sup> Forest Service Handbook 7709.55, 10.2, #4.

believes that assessment and determination of appropriate motorized recreation opportunities are best made at the local level, in coordination with Federal, State, and local governmental entities, and tribal governments and with public involvement,”<sup>11</sup> and that “[t]rust and credibility in designating NFS roads, NFS trails, and areas on NFS lands are best engendered through coordination with Federal, State, and local governmental entities and tribal governments per 36 CFR 212.53 and public involvement per 36 CFR 212.52).<sup>12</sup> Yet despite the clear requirements and policies mandating coordination, the FS refused to consider both local interests and local government agencies in the decisions making process. As an example, several members of the Plumas County Board of Supervisors repeatedly expressed concerns about proposed motor vehicle restrictions on the PNF and their desire to have integrated road management strategies for allowing motorized mixed use on interconnecting County and NFS roads and asked to coordinate with the FS. Both Butte and Plumas Counties have designated specific county roads for shared use by highway legal and non-highway legal vehicles. In their response to the PNF DEIS, dated February 3, 2009, the Butte County Board of Supervisors stated:

On November 18, 2008, the Butte County Board of Supervisors sent Mr. Randy Moore, Regional Forester of the South Region, a letter requesting the USFS maintain and provide public access to non-paved Forest Service Level 3 and 4 roads within the Lassen and Plumas National Forests. In addition, the letter also states the Board supports the mixed use on County maintained non-paved roads leading and connecting to the National Forest System roads. Attached please find a list of non-paved County maintained roads leading to and connecting with the Plumas National Forest. During your consideration of the alternatives contained in the referenced DEIS, please consider these non-paved County maintained roads as being mixed use. These mixed use County roads should be considered as loop access connectors to any of your designated National Forest Transportation System roads, trails, and/or areas open to the public for motor vehicle use.

On October 21, 2008, the Plumas County Board of Supervisors adopted Resolution 08-7514 that implemented:

Coordinated Agency Status in accordance with federal and state laws maintaining jurisdiction over lands and/or resources located with the County of Plumas of the intent and expectation that Federal and State agency actions shall be made consistent with all county land use plans, and other management plans affecting the natural environment, economic stability, or the public health and safety of the citizens of Plumas County, and to otherwise notify and confer with the County....

the National Forest Management Act . . . requires federal agencies to coordinate its planning processes with local government units such as the County of Plumas....

---

<sup>11</sup> 36 CFR Forest Service Travel Management Directives: Forest Service Manual 2350, 7700, and 7710, and Forest Service Handbook 7709.55., page 74693, 12/9/2008.

<sup>12</sup> Ibid, page 74699, 12/9/2008.

the requirement that the Secretary ‘coordinate’ land use inventory, planning, and management activities with local governments, requires the assisting in resolving inconsistencies to mean that the resolution process takes place during the planning cycle instead of at the end of the planning cycle when the draft federal plan or proposed action is released for public review.

The Resolution established the “Plumas County Coordinating Council” to “represent the County in coordinating the management plans and actions of federal and state agencies.”

Plumas County Board of Supervisors comments to the PNF Draft EIS, dated March 10, 2009, stated:

The DEIS does not adequately coordinate uses between National Forest routes and the County road system or consider the opportunities for County roads to serve as connectors between National Forest routes for OHV use. It is the strong recommendation of the Plumas County Board of Supervisors that the Plumas National Forest suspend the proposed travel management land and undertake a comprehensive review of the proposal in coordination with Plumas County staff. We believe that such an approach will result in a travel management plan that is mutually acceptable to the citizens of Plumas County and the users of the Plumas National Forest.

This important information regarding legal Coordination with Counties was provided to the Forest Service during the DEIS comment period, as well as several times over the two years prior to the release of the DEIS. Nevertheless, the FS response above did not address the issue and no coordination occurred with the county before the ROD was signed. There is nothing in the FEIS that describes conflicts or consistency with other regional, State or local plans (such as the Plumas County General Plan), policies or controls. Chapter 1, Section 1.7 *Public Involvement*, does not describe any coordination with other agencies or elected officials or consistency with local plans (pages 8-9), nor does Chapter 4 in the FEIS *Consultation and Coordination* (pages 438-439). NEPA requirements have not been met. On the contrary, decisions in the PNF FEIS demonstrate a continued lack of communication and coordination with affected counties contrary to FS policies, agency regulation in the 2005 Travel Management Rule, and federal laws under the National Environmental Policy Act and National Forest Management Act.

The blatant disregard for these coordination requirements was demonstrated at the Beckwourth meeting on November 17, 2010, where Pete Hochrein responded to an SAC member who asked if coordination with Plumas County occurred before routes were eliminated from consideration, by stating, **“No. We could have coordinated but we didn’t”**. Mr. Hochrein went on to explain that some roads would have been analyzed differently if he had known about the County’s position. Notably, Mr. Hochrein had been told repeatedly by Mike Lazzarino of SAC that Rose Comstock, former Plumas County Supervisor, and SAC were working together on the County Ordinance with the expected outcome to be an increase in routes and loop opportunities

involving county roads. Mr. Lazzarino suggested many times to Mr. Hochrein that coordination with the county would increase recreation opportunities by designating routes that had been arbitrarily disregarded. However, no effort was made by the FS to coordinate this issue with Plumas County.

The PNF's failure to coordinate is a fatal flaw in the FEIS. Without coordination with Plumas County, essentially the analysis could not continue to the next step. This violation of the most recent court-ordered mandates regarding Coordination, as mentioned above, renders the FEIS untenable, and unacceptable.

In *California Resources Agency, et al v. United States Department of Agriculture, et al* (Case 3:08-cv-03884-MHP filed 09/29/09) the US District Court found that the previously cited applicable section of the 1982 Planning Rule, 36 C.F.R. Part 219.7(c), was indeed required but not met by the US Forest Service. The Court found in favor of the State of California. This ruling reinforces regulation 36 C.F.R. Section 219.7(c), and that it, per our assertion, applies equally to local governments ie. counties as it does to states. The court ruled the Forest Service is mandated to “*display in the EIS* (emphasis added) the results of its review of the planning and land use policies of the affected state government. The review itself must include: (1) Consideration of the objectives of other Federal, State and local governments, and Indian tribes, as expressed in their plans and policies; (2) An assessment of the interrelated impacts of these plans and policies; (3) A determination of how each Forest Service plan should deal with the impacts identified; and (4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.” (See Exhibit 3 for the full court document.) The Court further ruled the burden to coordinate with county government is on the US Forest Service.

Yet again, as evident by the fact there is nothing in the FEIS documenting engagement and review of Plumas County policies and plans in regards to forest roads the requisite coordination never occurred. Clearly in the Plumas MTM ROD, DEIS and FEIS documents the PNF failed to meet its burden. As a result, many routes were eliminated from consideration arbitrarily--simply because they intersected county roads. If the FS would have Coordinated planning efforts with Plumas County during the development of the Plumas County Ordinance, the outcome of the ROD would have been significantly different. For example, many routes intersecting the Mt. Hough Road (a Plumas County Road) were eliminated from consideration even though this road is close to Quincy and receives heavy OHV traffic. This is just one example where lack of coordination with the County resulted in the loss of routes in areas like the Mt. Hough Road. Members of SAC have been profoundly affected by the lack of coordination by the FS.

### **3. The MTM FEIS Fails to Provide Reasonable Access for Disabled, Handicapped, and Elderly People in Violation of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.**

During the public comment period, SAC provided numerous comments to the FS regarding the need for access to the forest for disabled, handicapped, and elderly people and cautioned that a failure to do so would be discriminatory.



The Forest Service's adoption of the MTM FEIS has a discriminatory effect on the disabled, handicapped and elderly. No consideration was given to the accessibility issues of disabled, handicapped and elderly people during the entire Travel Management process for the Plumas National Forest, which violates the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. The Forest Service cannot create or maintain discriminatory practices in the promulgation of its rules and policies. The disproportionate effects on disabled, handicapped, and elderly people are significant, and the Forest Service's failure to analyze those effects violates the procedural requirements of NEPA.

The Ninth Circuit has held that "a significantly adverse or disproportionate impact on persons of a particular type produced by the defendant's facially neutral acts or practices" violates the law. Although the FS claims that the Travel Management process will not disproportionately affect the disabled, handicapped or elderly, the restriction of motorized vehicle access will severely impair their ability to access the National Forest. While able bodied people may travel by foot, horse or bicycle in non-designated areas, the disabled, handicapped and elderly will have no way to access points of interest within the Forest including dispersed camping, game retrieval, or wood-cutting. Many people who have previously benefited from access to their National Forest will be restricted from enjoying the activities and locations that they have used and visited in the past.

The Rehabilitation Act of 1973 specifically prohibits the exclusion of the public (including the disabled, handicapped and elderly) from participating in the use of any Federal facility or program the government offers. This includes reasonable access to and travel through National forest roads and trails. Sections of the 1990 Amended ADA Act, referred to in the FS responses, do not pertain to the subject of discrimination against the disabled, handicapped and elderly, as is contained in the Rehabilitation Act. Experts in this area who SAC has consulted with on this issue include Joe Wilson, former Plumas County ADA Coordinator; Richard Skaff, Executive Director of Designing Accessible Communities in Mill Valley, CA.; and Stacey Lassiter, Department of Justice, Washington DC, a Federal expert on ADA complaints and issues.

To bring the Plumas National Forest Public Motorized Travel Management Plan into compliance with Section 504 of the Rehabilitation Act of 1973, increased emphasis and flexibility needs to be inserted into each of the Plan Alternatives. This will allow access for the Disabled and Elderly, as well as their aides who must accompany them, who use quads and single track motorcycles. They will then be able to access those areas that the healthy can enjoy by using existing roads and trails, where resource damage would not occur.

Under the MTM FEIS the disabled, handicapped and elderly are set apart as a separate class and will be unable to participate in activities, or reach locations that were historically accessible. As a result of the FS's failure to provide reasonable accessibility, the disabled, handicapped, and elderly will be:

1. Unable to access historically used dispersed campsites, due to the "one vehicle length" parking rule;
2. Unable to negotiate rough and uneven terrain in their wheelchairs, as wheelchairs are only designed to travel over paved or hard packed surfaces;

3. Unable to use motorized vehicles to retrieve legally taken game animals;
4. Unable to move about easily on OHV vehicles due to the prohibition on non-highway motorized access and the lack of staging areas, especially at the intersections of ML 3 and ML 2 roads. The restriction on non-highway motorized access and the lack of staging areas places a significant burden on the disabled and elderly who must load and reload their OHVs multiple times, often on uneven terrain requiring significant assistance from an aide;
5. Unable to access the backcountry areas of the forest, as the vast majority of roads included in the FEIS do not lead to the back country or primitive areas.

As illustrated above, the policies that the FS has adopted in the MTM FEIS are discriminatory in their affect on disabled, handicapped, and elderly people. No effort was made to preserve access to any of the historical dispersed campsites submitted by SAC, or other areas of interest. The disabled, handicapped, and elderly users of the Plumas NF are discouraged and disappointed in the lack of respect shown to them in the MTM and seek a remedy to the issues outlined in this appeal.

#### **4. The FEIS Fails to Properly Interpret California Vehicle Code as it applies to ML 3 roads.**

SAC contends that the FS has made an inappropriate interpretation and application of the California Vehicle Code (CVC) in an attempt to ban OHVs from Maintenance Level 3 (ML 3) roads. The FS argues that ML 3 roads are “highways”, using CVC as the basis for their argument. The California Highway Patrol, Plumas County Director of Public Works, and SAC disagree with this interpretation of the State law. By disregarding the California Highway Patrol’s interpretation of California State law, the FS is inconsistent with State law by insisting on the application of the CVC on roads where the State has determined the law does not apply.

SAC still stands by the arguments in Letter 1, comments 9 and 90, plus exhibits that were submitted during the DEIS comment period. Jack Blackwell, Regional Forester, stated that he wanted to abide by the CVC. But the Plumas NF response was that the FS has discretion to apply regulations on their roads. The Regional Forester and the Plumas National Forest are making conflicting statements. Their statements are insufficient, incorrect, arbitrary and capricious. The response that R5 policy has been modeled “to provide the most consistency with State law” is not logical. R5 says they have “*adopted a policy that equates FS roads maintained for passenger vehicle use to roads defined as “highways” under the CVC.*” This is an illogical statement because CVC 38001 specifically excludes logging, fire and service roads, regardless of surface type, as highways. All ML3 and ML 4 roads are listed in the Road Management Objective section of INFRA as logging roads.

Every other Region in the nation has adopted the state vehicle code that is local to their national forest, including terminology and exemptions from state law. If the State of California says the vehicle code does not apply, the FS should accept it and be consistent with the other Regions. There is no benefit to Region 5 to exclude OHVs from ML 3 roads, and that exclusion is not consistent with California State law.

Perhaps more important than the applicability of the CVC to unpaved ML 3 roads is the fact that the only argument the FS has undertaken to ban green sticker vehicles from these roads is an unsubstantiated claim that all ML 3 roads have severe safety issues. This argument brings up several questions:

- The Plumas has no traffic use data.
- A professional safety assessment simply cannot be made without traffic data.
- The Plumas has produced no reports of accidents between cars/trucks and motorcycles/quads in the past 10 years, and they stated they don't keep accident reports on the Forest. However, the Region 5 accident summary shows only one accident on the Plumas in the last 15 years
- On Summer OHV maps in the past, the FS was actually directing OHV traffic onto ML 3 roads. The FS has no accident records for the past 10 years showing car/truck accidents with OHVs or an increase in the accident rate. There are no valid public safety issues documented to warrant closing ML 3 roads to OHV use.
- ML 3 roads were built for log haul which requires high safety standards such as considerations for curve widening, sight distance based on the design speed, construction of more turnouts, and other engineering designs to accommodate safe vehicle use. The roads are designed for loaded log trucks, which require a much longer stopping distance than OHVs. So the roads themselves are inherently safer than ML 2 roads. Appendix G in the FEIS defines ML 3 roads as "low speed" roads.
- Consequently the most important factor for OHV safety on ML 3 roads is the Average Daily Traffic (ADT) and class of vehicles on the road rather than merely the road maintenance level itself. But again, the FS has no traffic count data to support an argument that the ADT warrants closure to OHV use.
- The agency has made arbitrary and capricious assumptions for an entire class of roads based solely on the historical maintenance level of the road, rather than on actual accident and road use data or the design of the individual road. This proposed restriction on ML 3 roads is arbitrary and capricious because surveys were not done on individual roads to determine the presence or absence of safety issues. Rather, an arbitrary and capricious decision was made to eliminate OHVs from all ML 3 roads, regardless of the safety issues that a specific road may or may not have.
- The functional class given to a road does not imply how much traffic a road will receive. Functional Class defines the area (square miles) served, not the ADT. As the PNF evolves from a timber forest to a recreation forest, an arterial or collector road may now serve a low ADT and no longer justify a ML 3 or ML 4 designation.
- We must ask: if the safety issue is truly attributed to the presence of motorcycles or quads on ML 3 roads, why is the FS still allowing dual sport and other street legal motorcycles on these roads? Their argument is contradictory.
- Section 3.3.5.1 of the FEIS refers to the Center for Disease Control and Prevention's fact sheet on "Teen Drivers". However, further scrutiny of the statistics that claim "teens 16 to 19 are four times more likely than older drivers to crash" reveals that those numbers are not based on accidents on rural or forest roads. And according to CDC statistics,

accidents requiring emergency room visits involving bicycles are comparable to teens driving motor vehicles.

- Based on nationwide accident statistics from the CDC, does the FS intend to leave ML 3 roads open to non-motorized traffic, i.e. teens and children on bicycles? There have been no studies done regarding accidents for children or teens on motorized vehicles vs. non-motorized vehicles. Until and unless statistical evidence can be shown that teens on motorized vehicles are at any greater risk than teens on non-motorized vehicles, the roads should remain open for both. Conversely, if it has been shown that there is increased risk specific to teens, non-motorized travel by teens should be banned as well.
- Plumas County Dept. of Public Works did an Engineering Study on all their unpaved roads, which invariably have higher traffic levels than FS roads. Yet the Plumas County studies showed that their roads were safe for OHV use.

The mere exclusion of OHVs from ML 3 roads does not constitute an acceptable public safety program. A more appropriate answer, if there was an actual safety issue caused by the presence of OHVs, would be to use signage at the beginning of the ML 3 road segment to warn vehicles. Caltrans commonly uses “Share The Road” signs on some highways to warn of bicycle traffic. If such signage is sufficient on high-speed paved two lane State Highways, surely it would be adequate on unpaved ML 3 low-speed roads in the forest.

However, if the FS continues to insist their roads are “highways”, they are obliged to conform to all safety standards immediately. 23 USC 402 - Sec. 402 defines the requirements of a highway safety program. Highways require engineering design and signage to meet State or Federal standards, and the Manual on Uniform Traffic Control Devices (MUTCD). Currently signage on ML 3 (and even paved ML 5) roads on the Plumas NF does not meet MUTCD, as the FEIS claims in 3.3.5.1. On the Plumas NF there are no speed limit signs, no hazard warning signs, and other signage for safety is conspicuously absent. There are numerous signs that are nonreflective routed plastic signs, which the PNF District Rangers have made a conscious decision to use on their district roads even though they are substandard and don’t meet MUTCD and Highway Safety Act requirements. If the FS wants to manage their roads as “highways”, they must meet many standards required by law. However, in reviewing the National USFS Direction, we can only find the term Highway used to define “Forest Highways”, which are generally 2 lane paved roads (ML 5 roads).

But the most compelling argument regarding ML 3 roads is that Section 1.3 Purpose and Need states:

*“The following needs have been identified for this proposal:*

*“1. There is a need for regulation of unmanaged motor vehicle travel by the public. The proliferation of unplanned, unauthorized, non-sustainable roads, trails and areas created by cross-country travel adversely impacts the environment.”*

*“2. There is a need for limited additions to the Plumas NFTS.”*

Banning OHVs from ML 3 roads does not apply to either of these objectives stated in the Purpose and Need. #1 addresses the need to regulate cross-country travel. #2 addresses the need

for limited *additions* to the NFTS, not *changing* current uses of the NFTS. Banning OHVs on ML 3 roads is not related to either of these objectives stated in the Purpose and Need, therefore it is outside the scope of this project. This is a fatal flaw in the FEIS.

Another extremely serious issue is the fact that during the analysis the FS ignored accessibility for disabled and elderly, which is greatly impacted by the ban of OHVs on ML 3 roads. Wheelchairs are not operable in forest conditions, so essentially an OHV becomes a disabled person's "wheelchair". The unreasonable restriction on ML 3 roads requires physically disabled people to load and unload their OHVs multiple times during an outing, which requires an aide, because the ML 3 roads that complete loops are not open to OHVs. This is a disproportionate impact on people who have physical limitations. ML 3 roads are important to keep open for the disabled and elderly who ride OHVs for many reasons, including the fact that they cannot shift their weight as they ride, so they often seek smoother graded roads that allow them a safer and more pleasurable ride. Clearly, providing motorized access to every area of the forest is not responsible land management. However, no attempt was made by the FS to provide reasonable accommodation for disabled and elderly. The disproportionate impact to the disabled and elderly was not considered during the analysis.

In a letter dated 4/16/10 to Harris Sherman, USDA Under Secretary for Natural Resources and Environment, Congressmen Wally Herger and Tom McClintock voiced several concerns regarding OHV use on ML 3 roads:

- "The overwhelming majority of our constituents, as well as local government, are opposed to the Region's policy that defines ML 3-5 roads as "highways".
- "The Region's policy dramatically restricts OHV access—by more than 90% as currently proposed—despite significant opposition documentation justifying mixed-use on ML 3 roads.
- "While the Region continues to defend this policy by invoking the CVC, the CHP has repeatedly clarified that ML 3 roads need not be designated as highways in order to comply with CVC.
- "The unpaved roads on many of these forests are mixed with similar roads under the jurisdiction of county government that do allow for OHV travel, yet are in compliance with state law.
- "We believe that the Region's policy on this issue only serves to greatly expand the continuing trend in diminishing access and multiple-use of our federal lands, and is simply unacceptable.
- "We request that you reverse the Region 5 ML 3 road's designation as "highways" or use any other means within your authority to address these concerns.
- "We share the desire to protect our public lands for the enjoyment of the public, while ensuring safety. These well-intentioned goals need not be mutually exclusive and we hope that the Forest Service will work with the OHV community and other stake holders to implement a balanced mixed-use policy."

The Congressmens' letter to the Under Secretary was largely ignored, and the FS made no attempt to work with user groups or other stake holders.

Virtually all ML 3 roads on the Plumas NF were built during past logging activities. This fact is documented in Plumas NF engineering timber sale files, and in road maintenance historical road log files and Infra database. Essentially all ML 3 roads are "logging roads", which are clearly exempt from the definition of "highway" in the CVC. But regardless of the reason the roads were constructed, they all lie on National Forest land which means they are excluded from the term "highway" in the CVC definitions. Therefore, the CVC cannot be the basis to exclude OHVs from ML 3 roads. The FS should not dictate where a State law applies, particularly after the State of California has stated numerous times that the CVC does not apply to these roads. FSM 7700 and EM-7700-30 allow OHV on any NFS road—following an appropriate Engineering Analysis.

SAC agrees safety is paramount for all OHV riders. However, the FS has produced no evidence to support there is a safety problem on these roads. The FS decision to ban OHVs from ML 3 roads is arbitrary and capricious. SAC takes public safety very seriously. But if no documented safety issues exist, SAC contends all ML 3 roads must remain open to green sticker vehicles since:

1. Banning OHVs from ML 3 roads is not within the scope of this project as defined in the Purpose and Need
2. There are no documented accidents between OHVs and cars/trucks, or any other safety issues to warrant traffic restrictions on these roads
3. The Plumas NF has no public safety program that follows the required protocol for "highways"
4. The CVC definition of "highway" does not apply
5. There is a clear benefit for motorized recreation, particularly for the disabled and elderly.
6. There is a clear benefit for dispersed camping

In the R5 Route Designation Handbook, page 4 states "*Forest Service policy applies the minimum restrictions required to protect resources and provide for user safety while continuing to provide recreation opportunities.*" The FS has no documentation to support their contention that a safety issue exists on ML 3 roads. Therefore applying the "*minimum restrictions*", such as posting signs for shared use with OHVs, would be consistent with Forest Service policy and provide for user safety.

Allowing OHVs on ML 3 roads with proper signing would provide the public with substantially more loop opportunities, more recreation opportunities, allow easier access for the disabled and elderly, and connect the public to many of their historic OHV dispersed campsites. This would be consistent with FS policy that "applies the minimum restrictions". Local Counties and businesses will benefit financially as well, as this encourages tourism and local uses.

The Plumas is evolving from a timber forest to a recreation forest. Adjustments must be made in past thinking to allow for present and future uses.

See Exhibit 6 for additional comments regarding ML 3 roads.

## **5. The FEIS Fails to Adequately Provide for Dispersed Camping and Game Retrieval.**

The Abstract in the FEIS, page I, states “These actions are needed in order to implement the 2005 Travel Management Rule (36 CFR Part 212, Subpart B) while providing for a diversity of motor vehicle recreation opportunities and *providing motorized access to dispersed recreation opportunities on the PNF.*” The ROD specifies a limit of one vehicle length off a designated route for motorized access for game retrieval and to dispersed campsites. One vehicle length is not “providing motorized access to dispersed recreation”, it only provides for a parking place by the road. Again, the Purpose and Need for this project is being violated.

The acreage of the forest is what invites dispersed camping— not roadside parking permission. With the imposition of the "one car length rule," no one will look at RV-based, tent, or other camping while parked next to an existing dusty road as a dispersed recreation opportunity. Who will enjoy the prospect of parking a vehicle on the edge of a road and packing all their camping gear on foot, 100-400 yards into the forest? This is an unreasonable expectation. And this extremely controversial issue could have been completely avoided by the FS.

The Travel Management regulations in 36 CFR 212.51 (a)8(b) states:

*“In designating routes, the responsible official may include in the designation the limited use of motor vehicles within a specified distance of certain forest roads or trails where motor vehicle use is allowed, and if appropriate within specified time periods, solely for the purposes of dispersed camping or retrieval of a downed big game animal by an individual who has legally taken that animal.”*

This statute gives the Forest Supervisor latitude in dealing with dispersed camping and game retrieval. At the beginning of the Route Designation process, PNF Supervisor Alice Carlton vowed that she would keep access open to historic family dispersed campsites. But the Regional Forester arbitrarily chose one vehicle length as the standard for dispersed camping and game retrieval in Region 5. The Regional Forester’s decision is in conflict with every other Region in the United States. Virtually every other Region in the national has chosen 300’ as the distance from a designated route for dispersed camping. Great latitude was allowed in the Travel Management Rule on this issue. However, Randy Moore has chosen an unrealistic and excessively restrictive approach to the problem of cross country travel to dispersed camping. As stated in the R5 Route Designation Handbook, page 4: *“Forest Service policy applies the minimum restrictions required to protect resources and provide for user safety while continuing to provide recreation opportunities.”* Mr. Moore, your decision is in direct conflict with Forest Service policy.

The FEIS 1.3 Purpose and Need states *“Subpart B is intended to prevent resource damage caused by unmanaged motor vehicle use by the public”* and *“there is a need for limited additions to the Plumas NFTS to provide motor vehicle access to dispersed recreation opportunities*

(camping, hunting, fishing, horseback riding, etc.)” The intention is to control cross country travel, and routes are needed to provide access to dispersed campsites. The first objective is accomplished in the FEIS, but the second objective for dispersed camping has virtually been ignored. By ignoring their own Purpose and Need, the FS has made a fatal flaw in the FEIS.

Equestrians use our national forest for riding and camping with their horses. Equestrians are **not allowed** to camp in designated campgrounds unless it has been specifically designated for horses (there are only two on the entire Plumas National Forest) so they are forced to disperse camp with their livestock. The Travel Management Plan will limit access to trailheads and dispersed camping because many of the spur roads that have been used historically have not been designated for use. The requirements for the public to park or disperse camp only one vehicle length off a designated route will not be safe for equestrians. If they must have horses tied to the trailer or are saddling up to go for a ride or camping overnight, having traffic one vehicle length from equestrians and their horses will be dangerous.

The intent of 36 CFR 212 is to prohibit cross country travel, not to prohibit access to dispersed campsites. In an email dated 11/1/2007, Colleen O'Brien, then Region 5 Acting Assistant Regional Trails and Travel Management Program Leader stated; “The discreet (*sic*)(and affirmative) action in the case of Travel Management Rule implementation (regulatory implementation) that the agency is undertaking is the prohibition of cross country travel on units where such prohibitions currently do not exist. Once these decisions are made on these units a motor vehicle use map (MVUM) will be published. Travel Management is a process for the (long term) management of NFS transportation systems. Actions on changes (additions/deletions) to the existing transportation systems on each NF are at the discretion of the Responsible Official and are not required to implement the Rule.”

Ms. O'Brien, writing in her official capacity with Region 5, defines the Travel Management Rule very differently than has been interpreted by the PNF in the FEIS. In regards to dispersed camping, big game retrieval, as well as numerous other forms of forest recreation, there is little in Ms O'Brien's email that would indicate that these activities would be affected by the ongoing Travel Management analysis. Yet evidence in the FEIS clearly contradicts Ms. O'Brien's definition, and violates law and policy.

This arbitrary decision by the Regional Forester has excluded many people from their historic family campsites, particularly the disabled and elderly who are disproportionately affected by this decision. It also forces people to leave their vehicles, including motorcycles, parked next to the road which may be quite a distance from their campsite creating a security issue for their vehicles. Motor homes will be forced to camp within one vehicle length of the dusty road. In their response to a public comment, the FS actually suggests using a wheelbarrow to transport camping gear to a campsite. The one vehicle length limitation is not the “minimum restriction” that is stated in Forest Service policy, and it is not the intent of Travel Management. These excessive restrictions are not acceptable.



## **6. The FEIS Contains Numerous Critical Factual Inaccuracies that Undermine the Adequacy of the Final Agency Decision.**

The Plumas National Forest corporate Geographic Information System (GIS) layers contain many known inaccuracies, many of which are very significant errors that are relevant to the MTM analysis. The Interdisciplinary (ID) Team depended predominantly on GIS data to make decisions during the “1st and 2nd cuts”. Since decisions were made based on inaccurate map data, their analysis is inaccurate.

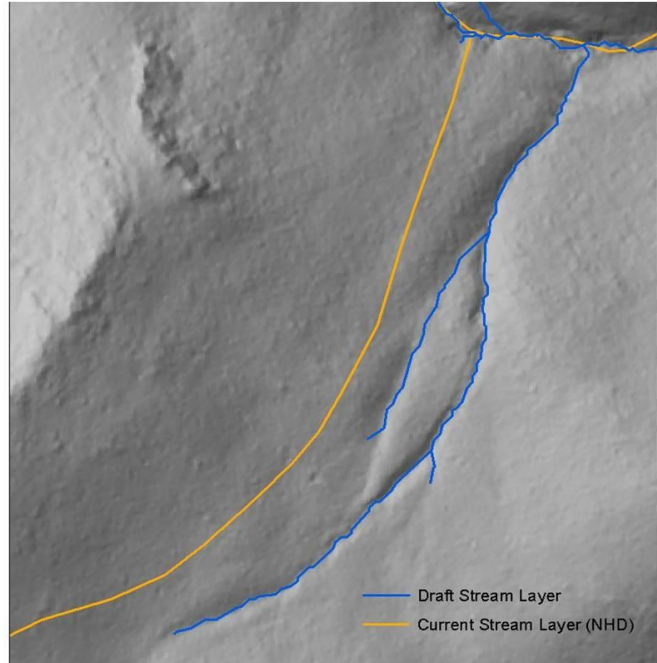
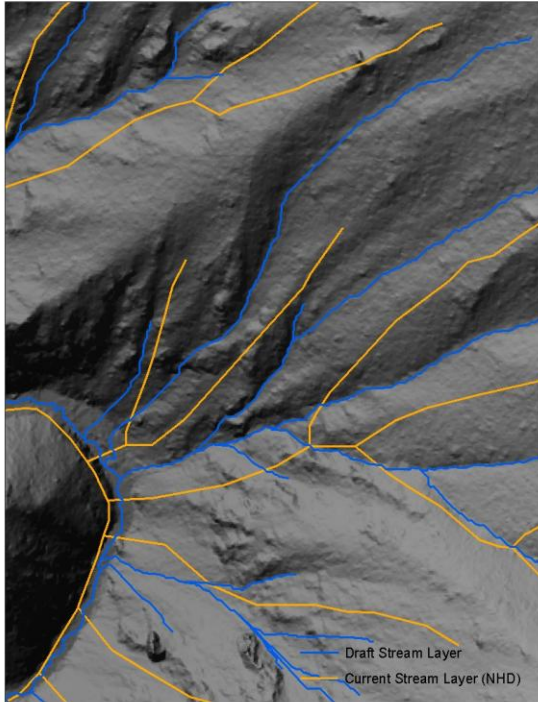
In our comments #16, 29, 75 and 78, submitted during the DEIS public comment period, SAC questioned the accuracy of the GIS data and layers used during the analysis. Particularly worrisome were the stream and archeology layers of the data.

The Forest Service response to every one of these comments was basically the same; the PNF asserted that the GIS corporate layers used in the analysis were the 'best scientific information available', and additionally concluded that field surveys were made on all sites proposed for inclusion to the system. According to CEQ 40 questions, item# 29a describes the response to comments as the following; “.....the responses should result in changes in the text of the EIS, not simply a separate answer at the back of the document.....However, if the commentor said that the dispersion analysis was inadequate because of its use of a certain computational technique, or that a dispersion analysis was inadequately explained because computational techniques were not included or referenced, then the agency would have to respond in a substantive and meaningful way to such a comment”. The PNF is clearly in violation of this CEQ regulation, the response to the comment inadequate.

SAC asserts that:

1. more accurate GIS technology, LiDAR, was indeed available to the forest, but the PNF opted not to use it for any of the analyses;
2. field surveys were only made on the 410 miles of routes surviving after the “1st and 2nd cuts”;
3. nearly 700 miles of routes were eliminated based entirely on an the inaccurate GIS generated maps;
4. field surveys were not made on all of the 1107 miles that were inventoried;
5. specialists relied on inaccurate GIS data from the start, prohibiting adequate and accurate data from being used;
6. inaccurate data incorporated in the FEIS: the 'streams' GIS layer is particularly troublesome, and locates streams upslope, away from their true location in drainages;
7. crews were hired by the PNF in 2009 to conduct field studies to assess inaccuracies, yet no steps were taken to incorporate their findings or change the ongoing analysis;
8. PNF was warned numerous times by various specialists in their fields that the GIS being relied upon by the PNF was highly inaccurate.

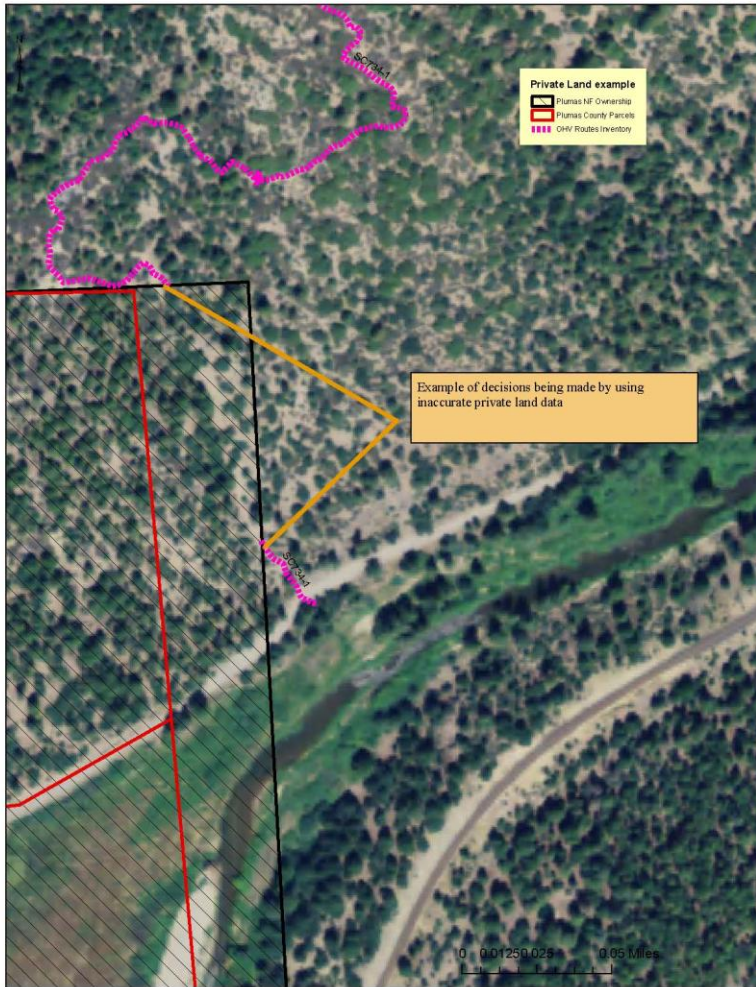
The examples below show maps of a data layer used in creation of vehicle restricted areas used in the OHV Analysis. In these examples, the yellow lines are the Plumas NF Corporate GIS Data. The blue lines are the LiDAR data, which is extremely accurate. These illustrations show numerous examples of data shift. Such erroneous data can only result in an incorrect conclusion.



*LiDAR examples by Michelle Coppoletta, Ecologist Sierra Cascade Province, and USDA Forest Service Remote Sensing Applications Center*

The Plumas National Forest possesses LiDAR data for some areas (Storrie, Meadow Valley, and other projects). This data is the most accurate technology available and the forest possesses the data, but they chose not to use it. They had the option to upgrade their corporate GIS layer using LiDAR which is the best available science, and is being used in other regions including the Southwestern Region Coronado NF. The PNF was aware of the fact that their corporate data was inaccurate, and as a result they should have upgraded their corporate GIS layers for the MTM analysis.

The example below shows how erroneous GIS data affects decisions made during analysis. The inaccurate black property line was used by the FS, but the red line is the correct property line. The pink line is a GPS trail which was assumed to be on private land, based on inaccurate GIS data, and was subsequently dropped from consideration.



The GIS data that was used was not intended for fine scale analysis, but is better suited for large scale analysis.

The example in Exhibit 7 shows numerous data inaccuracies of archaeology, botany, and private land lines which displays gross errors in GIS corporate data.

SAC contends that the FEIS relied on inaccurate data. To take the required “hard look” at the proposed project’s effects, an agency may not rely on incorrect assumptions or data in an EIS. 40 CFR 1500.1(b); Native Ecosystems Council, 418 F.3d at 964. The agency is required to insure the professional integrity of the discussions and analyses in environmental impact statements. The FS failed to take the requisite “hard look” at the project as required by NEPA.

40 CFR 1500.1(b) from the CEQ regulation states "(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.

Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail."

The White House website states the USDA mission statement: "The U.S. Department of Agriculture (USDA) provides leadership on issues related to food, agriculture, rural development, and natural resources based on sound public policy, the best available science, and efficient management."

SAC also requests that the agency review their data pursuant to the Data Quality Act.

The FS also used inaccurate data regarding ML 1 roads. The FEIS definition of a ML 1 road is a road that is put in "self-maintaining hydrologic storage using a combination of water bars, rolling dips and pulling culverts. Closure device is either a gate or berm. No maintenance is typically performed except to check the closure device". Based on this FEIS definition, the Infra database is inaccurate and data is incorrectly coded, because the vast majority of ML 1 roads are physically open. To meet their own definition, these roads should be coded correctly as ML 2. This fact is significant because 262 miles of roads coded in the Infra database as ML 1 roads were arbitrarily eliminated from the MTM simply due to a clerical error. These short dead end spur roads are frequently used by firewood cutters, so the impact to the public is significant. SAC contends that the coding should be corrected on all ML 1 roads that are physically open, and these roads added to the MVUM. The elimination of system roads is in violation of the Purpose and Need for this project which is intended to stop cross-country travel, not to close existing system roads.

The majority of motorized "user-created roads" are actually old logging roads and skid trails that were abandoned by the FS without proper treatment. This pertinent information should have been collected during inventory. The R5 Route Designation Guide states that critical field information should be collected to "provide key information for assessing roads", to "provide the basis for environmental analysis and NEPA documentation" and to "facilitate public involvement, review, and communication." The Purpose and Need states the MTM project involves "unplanned, unauthorized, non-sustainable roads, trails and areas created by cross-country travel." If the initial inventory did not collect information including the reason for the existence of the road, analysis could not be completed within the limits of the Purpose and Need. If a road was built for a specific reason under the authority of the FS, NEPA surely would have been completed previously. If these routes would have been categorized correctly as being authorized by the FS, the outcome of the MTM would have been much different. At the time of construction, these types of roads had FS approval. So it is arbitrary and capricious to state they were acceptable previously, but are unacceptable and unauthorized now.

One more example of improper inventory and categorization of routes is at Lake Davis. These routes were predominately created by bicycles. The R5 Route Designation Guidebook Step 1 says to "Use GPS to map non-NFS roads, trails...and off-route use areas receiving motor vehicle and bicycle use." The FS has not acknowledged that there are any routes created and used by bicycles. If the route data had been collected and categorized correctly, it would have been evident that many routes in these areas were created and used by bicycles. The MTM analysis

and decision would have had a different outcome. Without this data it will be impossible to determine if 1.3 Purpose and Need is met. Improper classification and lack of accurate data has resulted in a flawed analysis.

Another example is the situation with South Park, which is even more troublesome. A SAC member spent many hours collecting GPS data for single-track trails at South Park, which has been a popular area for motorized single-track for decades. Most of the trails are motorcycle created, and some are bicycle created. When the SAC member went to submit his data to Pete Hochrein for the inventory, Hochrein told him “we have other plans for that area” and the GIS data was not included in the inventory. After the 1st cut, again the SAC member took the data to Pete and he received the same answer of “we have other plans for that area”. Again, the data was not included in the inventory. This was pre-decisional. To date, the Proposed South Park project has been promoted by its supporters as a bicycle only area and funding has been secured to begin work in the area. All this has been done without proper transparency and process. The FS has tended to downplay controversy throughout the MTM process, as this example illustrates. The proposed South Park project is a good example of the proliferation of user created bicycle trails as well as historic use by horses, motorcycles, and bicycles that was not analyzed.

## **7. The FEIS Fails to Adequately Respond to Public Comments.**

The MTM has serious impacts to recreation. The following are the comments SAC made during the DEIS, the FS response, and SAC’s rebuttals to their responses.

Letter 1 Comment 81 stated:

**SAC Comment:** “[DEIS] 3.2.3.4 (2. and 3.) We [Sierra Access Coalition] agree with these methodologies, which can contribute to positive OHV experiences. Show each alternative’s benefits under these methodologies.”

**FS Response:** “See 3.2.5.1 Indicator Measure 3-Mileage by vehicle type for each action alternative and Indicator Measure 4-Inventoried dispersed sites.”

Nothing in this response or the FEIS addressed SAC’s request to show each alternative’s benefits [effects] under the methodologies described in 3.2.3.4 (2) and (3), specifically the variety of riding experience (easy-to-difficult) or continuity of the motor-touring experience. The response and FEIS are deficient by not addressing the changes each alternative has on the variety and continuity (i.e. loops) of the motorized experience. The response and FEIS are deficient by not providing each routes rated difficulty or delineating route continuity by difficulty and by each class and license of vehicle (i.e. motorcycle, ATV or over 50” width, both street or non-street legal). **The FS did not respond to SAC’s comments.**

Letter 1 Comment 82 stated:

**SAC Comment:** “Show documentation to explain what dispersed recreation opportunities are, how they will change (i.e. locations of dispersed campsites that will no longer be accessible by vehicle), and how the Travel Management Plan contributes positive changes to these opportunities. Negative changes should also be displayed so they are evident to the reader..”

**FS Response:** *“Dispersed recreation opportunities were updated to include sites that are available from system roads. Trail access to dispersed sites may be added in the future. 3.2.5.1 Indicator Measure 4 displays the impacts to disperse sites.”*

Nothing in this response or the FEIS addressed SAC’s request; to show documentation to explain what dispersed recreation opportunities are, how they will change, or the effect the Motorized Travel Management (“MTM”) has on these opportunities. The FEIS in 3.2.3.3.3 only addresses dispersed camping and its reduction by the MTM’s alternatives. However, SAC contends that dispersed recreation encompasses more activities than just motorized access to campsites. The DEIS, response and FEIS lacks a definition for dispersed recreation (i.e. camping, fishing, swimming, rock climbing, hang gliding, rock hounding, trials motorcycling, etc.). The FEIS is deficient through the omission of a definition for dispersed recreation. This deficiency prevented the public of being aware that access to such opportunities would be closed and precluded the public the opportunity to comment on existing opportunities other than campsites.

The DEIS stated 91 inventoried dispersed campsites can be accessed via motorized cross-country travel (Table 10, p. 44). The FEIS made a substantial change by stating 30 inventoried dispersed campsites are accessed from motorized trails or unauthorized routes (3.2.3.3.3, p. 47). The FEIS is deficient by not stating if motorized trails are system trails. The FEIS is deficient by not differentiating how many of the 30 campsites are accessible via motorized cross-country travel or unauthorized routes]. The FEIS is deficient by not explaining the reduction from 91 inventoried dispersed campsites (DEIS) to an unknown number of campsites accessible by cross country travel or unauthorized routes (FEIS).

**The FS did not respond to SAC’s comments.**

Letter 1 Comment 83 stated:

**SAC Comment:** *“[DEIS] Page 41 Table 5*

*This table is flawed because driving for pleasure should be included with OHV use. Both will be affected by this project. Were 667,600 people interviewed or is this an assumed number? For those visitors that are listed as “non-motorized”, how did they travel to their chosen recreation area on the forest? Did they walk or use a motorized vehicle to get to the forest, or did they ride bikes or walk to get there? “Relaxing” category—Did these people drive or walk to the area? “Viewing natural features” category—Did these people drive or walk to the area? “Viewing wildlife” category--Did these people drive or walk to the area? “Fishing” category--Did these people drive or walk to the area? The 1st paragraph under Table 5 is flawed and needs to be removed or adjusted to show if these non-motorized users drove to these areas or walked from outside the forest. The term OHV includes all motorized vehicles in the forest, not just motorcycle and quad riders. The circumstances of the interview need to be put into context. Where were these users interviewed? Were they on hiking trails, OHV trails, in campgrounds, in dispersed campsites, etc. The physical location of the interview is extremely important as it could show a bias in the resulting data.”*

**FS Response:** *“Section 3.2.4 Affected Environment has been updated to include driving for pleasure. When motorized uses are combined, including OHV use, and driving for pleasure, the approximated number of visits is 190,300 or 28.5% and the main activity is*



*23,350 or 3.5%. Most of the driving for pleasure occurs on system Roads. Most of the non-motorized uses travel to their chosen recreation area on system roads. Interviews occurred at major access points leading to the forest.”*

Nothing in this response or the FEIS addressed SAC’s questions other than adding driving for pleasure combined with OHV use. The response and FEIS are deficient by not answering the remaining questions. Furthermore, the DEIS states the National Visitor Use Monitoring report (NVUM) was for the most popular non-motorized recreation activities. The FEIS is deficient when it made a substantial change by stating the NVUM accurately represents the most popular motorized and non-motorized recreation activities. This deficiency precluded the public the opportunity to comment and provide peer review on the accuracy of the NVUM with respect to motorized recreation. There is no information regarding how the questions were asked, if the public had input into the questions, did an outside source asked the questions, did the questions lead to the preferred answers? There is no data to show if this survey was unbiased, and was collecting true and relevant information. This is a fatal flaw in the document. **The FS did not respond to SAC’s comments.**

Letter 1 Comment 85 stated:

**SAC Comment:** “[DEIS] Page 45

*The document states that Alternative 2 “provides the greatest amount of access to dispersed use areas”, but on page 46 it says Alternative 5 “provides the greatest amount of access to dispersed use areas”. This data is flawed. Which alternative has the most? Where are the areas located?”*

**FS Response:** *“The analysis was corrected to state that Alternative 5 has the second highest amount of access to dispersed use areas of the alternatives that add trails to the NFTS.”*

Nothing in this response or the FEIS addressed SAC’s question regarding where the dispersed use areas are located. The FEIS is deficient when it did not include locations for dispersed use area access. This deficiency precluded the public the opportunity to comment and provide peer review on the accuracy of these access locations. **The FS did not respond to SAC’s comments.**

Letter 1 Comment 87 stated:

**SAC Comment:** “[DEIS] 3.2.5.6.1

*The cumulative effects will be great with the loss of cross country travel. An additional loss of 745 miles of existing trails is another part of the cumulative effects. There are several miles of trails being dropped during the public comment period of the DEIS, so even more trails are being lost than is represented in this figure. The opportunities for dispersed recreation are greatly and negatively impacted by this plan. Public scoping that began in 2003 did not include any reference dispersed camping, so the general public may not be aware of this part of the project. On page 33 #10, the DEIS states “dispersed recreation activities (i.e. activities which occur after the motor vehicle stops such as: camping, hunting, fishing, hiking, etc) are not part of the scope of the proposed action”. However, this is contradicted on page 44 where it states that “motorized vehicle access to dispersed recreation opportunity is reduced in all action alternatives (Table*

10)”. Table 10 indicates that 91 dispersed sites were inventoried. It’s inconceivable that only 91 sites exist across the 1 million acres on the Plumas. The footnote in Table 10 says that 35 of these sites are located within 300’ of water, but in another contradiction the table shows no more than 31 are located within 300’ of water. Whatever the actual number is, those routes are being dropped under the various alternatives, leaving 60 or less sites on the entire Plumas NF. This eliminates vehicle access to many long-time family heritage campsites, fishing and hunting areas, tribal use areas that require motorized vehicle access for elders, and other uses. It is inappropriate to first state that the issue of dispersed camping is outside of the scope of the project, but then state later in the document that there are significant impacts with the reduction of up to 33% of the existing dispersed campsites on the forest. The same comment can be made for firewood cutting, which is severely restricted by the proposed reduction in miles of road that can legally be accessed for fuelwood cutting activities. The document does not acknowledge that these historic legal uses of the forest are a major effect to the public.”

**FS Response:** “The proposed trail mileage for Alternative 4 and 5 have increased based on public comments. Dispersed recreation opportunities were updated to include sites that are available from system roads. Trail access to dispersed sites may be added in the future. 3.2.5.1 Indicator Measure 4 displays the impacts to disperse sites. The assumption made in Chapter 2, is that the dispersed recreational activities are not restricted, only the way you access those sites. The recreation section shows the dispersed sites that are accessible by motorized vehicles. The inventory of dispersed sites is a sample of sites that can be found on the Plumas National Forest.”

The response states proposed trail mileage for Alternative 4 and 5 has increased. However, the FEIS Table 3 states Alternative 4 and 5 mileages are less than the DEIS Table 3 (FEIS at p. 36 and DEIS at p. 28). The FEIS is deficient regarding the reduction of the trail mileage based upon information received after the publication of the DEIS (i.e. consultation from USFW). This deficiency precluded the public the opportunity to comment and provide peer review on the accuracy of these access locations.

The response states that dispersed recreation opportunities were updated to include sites that are available from system roads. The FEIS is silent on what this means. At the December 6, 2010 Forest Service meeting in Oroville, CA, regarding the implementation of the ROD, Pete Hochrein publicly stated that vehicle travel would be permitted on “hardened” areas off system roads. However, SAC finds no terms permitting travel on hardened areas and the definition of a hardened area in ROD.

In summary, the FS was not responsive to SAC’s comments that were submitted during the DEIS comment period.

## **8. The FEIS Fails to Adequately Provide Access for Firewood cutting.**

The following is stated in the FEIS:

*“2.4.7 Allow Cross-Country Travel to Firewood Trees*

*Some commenters requested cross-country motorized access to firewood trees.*



*Motor vehicles have not been allowed to travel cross country during firewood gathering on the Plumas for over a decade. Personal use firewood permits on the Plumas specify that permit holders may only cut dead trees within 100 feet of the road and must follow the Forest Off-Highway Vehicle policy, which currently restricts vehicles to existing roads, trails and mapped routes. In previous years, permits required that people park next to the road. **The standard practice is to carry wood to the vehicle by hand or in a handcart or wheelbarrow.***

*“This alternative was eliminated from detailed study for the following reasons. It does not meet the purpose and need for the Travel Management project. Because the Forest has an extensive road system, 100-foot buffers on each side of a road would add a huge area where motorized use and potential resource damage would occur, which is inconsistent with the need to regulate motorized use. The extent of the analysis required for this additional area is beyond the capability of the Forest, considering timeframes, cost and personnel.”*

SAC’s first response to the comment above: the FS denied firewood cutting was an issue in the DEIS and during public scoping that was conducted, yet it has now appeared in the FEIS. This is another example of a significant change between the DEIS and FEIS. The issue of firewood cutting was not presented to the public until the FEIS was issued and the ROD was signed. Firewood cutting is an essential use of the Plumas National Forest that is so closely related to vehicle access that it cannot be ignored when analyzing a transportation system that is intended to effectively serve the public. It is appropriate to include firewood cutting in the MTM, but the public was denied the opportunity to comment.

Secondly, the FS claim that “vehicles have not been allowed to travel cross country during firewood gathering on the Plumas for over a decade” is absolutely false. Cross country travel, as defined in the FEIS, consists of vehicles traveling more than one vehicle length off a designated road. In the past seven years, cutting trees has been restricted to within 100’ of the road. However cross country travel to retrieve that wood has never been restricted until the Travel Management Plan Temporary Forest Orders were implemented. The Plumas has been an open forest since it was created and there has never been a restriction on cross country travel until the first temporary Forest Order 01-07 for Motorized Vehicle Restrictions in December 2006. SAC contends that access for firewood retrieval is an extremely relevant subject, yet the FS argument to restrict access is arbitrary and capricious. The statement that there is a “potential” for resource damage is not supported by any scientific facts. One would think that forcing a person to winch their firewood to the roadside would also have “potential” for resource damage.

Firewood retrieval does not align with the 1.3 Purpose and Need. Firewood is not the primary reason for Travel Management, but it is a secondary use that is extremely important to residents within the Plumas NF which has made clear by the large number of comments by the public. Travel Management is not intended to control firewood cutting, but by restricting motorized access to a firewood tree it is effectively restricting firewood cutting. Forcing people to “carry wood to the vehicle by hand or in a handcart or wheelbarrow” is an unreasonable burden to the average wood cutter, and is a disproportional impact to the disabled and elderly by prohibiting them from driving their truck to the firewood tree to load wood. The R5 Route Designation

Handbook, page 4 states “Forest Service policy applies the minimum restrictions required to protect resources” and “the Forest Service has a long history of balancing stewardship of the National Forests with providing goods and services to the people of the United States” and “this principle is codified into law in the Multiple Use Sustained Yield Act of 1960”. The restrictions proposed in the FEIS for firewood cutting exceed the “minimum restrictions” by any definition, and at the same time contradicts the intent of the Multiple Use Sustained Yield Act.

SAC does not support cross country travel to scout for firewood, but SAC argues that access should be allowed for “one trip in and one trip out” to retrieve firewood. This would be easily enforceable. There are already laws available to law enforcement officers to cite a person who causes resource damage. A policy to allow vehicle use for retrieving firewood should be adopted by the Plumas NF.

Throughout the entire Route Designation process SAC brought up the subject of access for firewood cutting numerous times but the entire subject, which could have been easily solved by amending the firewood permit, was continuously ignored by the FS. Now the FS has put themselves in the position of being at odds with the public. Firewood is a vital issue for the residents within the Plumas NF. At the same time, carbon footprint and reduction of fuel loading are stated priorities for the FS. Access for firewood retrieval should reflect their policy. By failing to designate routes near communities, the FS is causing the public to use more fuel to travel longer distances which is also affecting the carbon footprint.

Short spur roads are commonly known to be the best locations for finding firewood that is close to communities and easily accessible. However, short spurs were arbitrarily eliminated from consideration early in the designation process, despite protest from the public. The decision to eliminate short dead end spurs was arbitrary, capricious, and severely affects firewood cutting opportunities for residents to provide fuel to heat their homes, particularly lower-income residents living in the areas in and around the forest.

The FS cannot dispute that the availability of roads to find firewood by the public is impacted by this plan. First, the loss of 873 miles of non-system roads and 262 miles of ML 1 roads is a big impact to firewood cutters, and lower-income individuals and families dependent on firewood cutting to heat their homes during the winter months. This fact cannot be ignored. Firewood cutters will be concentrated in a smaller area. An example of further impact to the availability of firewood is the Small Sales Program on the Mt Hough District. This program affects an area 100’ from every single road on the district by making that area available for small sales, putting the U.S. Forest Service small sales program in direct competition with the public for firewood.

In the early meetings in 2004-2005, the public was not informed that firewood was not involved in the MTM. Press releases and the “Plumas National Forest Off-Highway Vehicle Route Designation Project Update” dated January 2005 stated that the Route Designation Process only applied to OHVs, which were specifically defined as “mini-bikes, amphibious vehicles, motorcycles, go-carts, motorized trail bikes, and dune buggies”. These documents released to the public made no reference to pickup trucks, cars, or 4x4’s, or indicated that the public’s ability to heat their homes during the winter months (particularly low-income individuals) would be

affected. So there was no need for the public to attend meetings to voice their concerns regarding firewood cutting. (Exhibit 4, Oct 5, 2004 Public Meeting) Similarly, the subject of impacts to dispersed camping and game retrieval were not revealed to the public during press releases and public meetings, so the public did not understand the effect it would have on them. Again, many lower-income residents and families who live in and near the PNF depend on hunting as a source of high quality food for the families. The public has not been made aware of the ripple effects the MTM has on secondary uses, and the FS has made no attempt to bring those impacts to the attention of the public. 36 CFR 212.51(a)(8) states vehicle use authorized under a permit is exempt from route designation. However, the FS was fully aware that their Travel Management planning process would limit access for the public using firewood permits and still they made no attempt to remedy the situation. This is not the intent of Travel Management.

In the FEIS Section 2.4.7 states, “In previous years permits required that people park next to the road. The standard practice is to carry wood to the vehicle by hand or in a handcart or wheelbarrow.” This is an absurd statement. For generations, the common practice for retrieving firewood is to get the firewood truck as close to the wood as possible so a person doesn’t have to carry the wood further than absolutely necessary. As any woodcutter knows, it has always been the “standard practice” to make one trip in and one trip out to retrieve firewood.

Section 2.4.7 of the FEIS states “100-buffers on each side of the road would add a huge area where motorized use and potential resource damage would occur.” In reality, this area is very limited because snags comprise only a small percentage of the buffer area. Removing snags has the beneficial effect of reducing the fuel loading, which has not been analyzed. The allowed use of motor vehicles has a direct impact on the reduction of fuel loading. An EIS is a science based document which requires supporting evidence for statements, but in this case no evidence is provided. Without science, this is pure conjecture or hypothesis. Conspicuously, Section 2.4.7 was not included in the DEIS but was later added to the FEIS. Consequently, again the public had no opportunity to comment on the subject.

Regarding firewood retrieval, the FEIS states that the “extent of the analysis required for this additional area is beyond the capability of the forest, considering timeframes, cost and personnel.” However, vehicle access and firewood retrieval cannot be separated. Wood cannot be retrieved without a vehicle. So any argument that firewood cutting was not significant to the analysis and did not warrant the cost and personnel to assess the issue is arbitrary and capricious. As SAC suggested numerous times during the process, the problem could have been easily avoided by designating routes near communities that were known to be used for fuel wood cutting. The FS is well aware that firewood is a vital issue to the community, yet prime routes for access were arbitrarily discarded during analysis.

Statistics for Firewood permits from 2003 to the present show:

	<u>Number of Cords</u>	<u>Number of Permits</u>	<u>Revenue from Permit</u>
Personal Use	49,029	18,081	\$490,270
Commercial Use	<u>12,634</u>	<u>2,215</u>	<u>\$126,340</u>
TOTALS	61,663	20,296	\$616,610

These figures show the significant amount of firewood that is cut on the PNF. This amount of wood has provided heat to over 30,000 homes in the past 7 years. This provides evidence that firewood cutting is a significant issue on the PNF and should have been included in the MTM analysis.

Current Plumas NF firewood permits have been changed to state “vehicles must remain on roads within one vehicle length from travel lane” and “cross country travel is prohibited within the Plumas National Forest”. These pre-decisional statements are an obvious reference to MTM which is evidence that the two issues are inseparable so firewood cutting must be analyzed. This lack of analysis is a fatal flaw in the document.

Lassen, Plumas, and Tahoe National Forests have very different firewood policies. Every forest should have the flexibility to manage their own firewood program but we want to see the science that drives their decision. The Plumas needs to produce the science regarding when and how these arbitrary decisions were made for cutting dead trees for firewood.

Excluding discussion regarding firewood throughout this process has displayed a lack of consideration and respect for local residents and their historical use of cutting firewood to heat their homes. Firewood cutting has an inseparable connection to the MTM and this secondary use is essential to the local economy, particularly low-income individuals and families. Numerous homes within the Plumas NF use wood as a primary source of heating. A federal tax credit, the Biomass-Burning (wood) Stove Tax Credit, is available which encourages the public to make energy-conscious purchases to improve the energy efficiency of their home and reduce the reliance of foreign oil. This is a federal program, which warrants coordination between federal agencies. In contrast to the intent of the tax credit, the Plumas is placing additional restrictions on firewood cutting which effectively discourages firewood cutting. Another federal agency is encouraging people to use fire wood by giving a \$1500 tax credit. They will give a 30% tax credit for the total cost of an efficient wood stove. Wood is a cost effective energy source, and with new technologies doubling the energy efficiency of stoves since the early 1990s, the FS needs to make their firewood retrieval policy less restrictive to be consistent with national intent for energy efficiency. The Plumas NF needs to either revise their firewood permits or the restrictions within the MTM so that people are allowed to travel off designated routes to retrieve their firewood without undue restrictions. Under the current restrictions, reduced access for firewood cutting will restrict low-income families’ ability to access a renewable source of heat at low or no cost. By ignoring the issue of firewood cutting, the PNF DEIS represents a potential infringement of the Environmental Justice Regulation #5600-2, issued by the Department of Agriculture on December 15, 1997, as it pertains to Natural Resources and the Environment. This regulation, developed in response to Executive Order 12898, clearly states that all existing and future USDA programs and activities are subject to this regulation. The regulation contains the following goals:

1. To identify, prevent and/or mitigate, to the greatest extent practicable, disproportionately high and adverse human health or environmental effects of USDA programs and activities on minority and low-income populations; and

2. To provide, to the greatest extent possible, the opportunity for minority and low-income populations to participate in planning, analysis, and decision making that affects their health or environment, including identification of program needs and designs.<sup>13 14</sup>

The FEIS is silent in regards to this issue. As previously mentioned, since firewood cutting and the affect that it would have on the local populations, in particular the low-income populations on firewood cutting for heat were not considered, consulted with, or sought for participation in this analysis, the analysis is fatally flawed, and the manner in which it was undertaken, including the Region 5 Handbook issued to each forest at the beginning of Travel Management, is in violation of both Executive Order 12898, and USDA regulations. Environmental Justice has been disregarded and the hazards to the low-income and minority populations who depend on the Plumas National Forest for fuel and food has been ignored.

## **9. The FEIS Fails to Adequately Consider Issues Relating to Fire Suppression.**

The forest failed to analyze the transportation system that is needed for fire suppression and support. In recent years, there have been many large wildfires on the PNF that have affected public safety, impacted the counties' economy, threatened and burned numerous acres of private land, and devastated many forest resources including water quality. For these reasons, the public has a valid concern with fire suppression issues.

**An excerpt from Letter 17 (Loren Kingdon, SAC Member) Comment 5 included the following:**

**Comment:** *"Closing roads makes quick response to fires by ground impossible and as we all know quick control of fires is a must to stop major fires."*

**FS Response:** *"Fire personnel will be able to use any road, trail or unauthorized route they need for fires access."*

**Excerpt from Letter 14 (Ron Trumbo, SAC Member) Comment 5:**

**Comment:** *"With the many problems that have arisen, starting with the Environmental Protection laws that have come to play, air and water quality rules, all play into keeping the people off the forest lands. If the trends continue, the forests will continue to be subject to higher fire danger than currently exists. We should be learning from the positive results that have come from the QLG work that has taken place in a number of spots on the forest."*

**FS Response:** *"Fire fighters can use any route that is available. Once they are decommissioned or overgrown, they would need to use their dozer to gain access to these areas."*

If we paraphrase these answers and translate them for the agency's preferred alternative—there is excessive concern over non-quantified or studied road and trail damage, but there is no attempt to avoid major disturbance at the outset of catastrophic wildfire by bulldozer access,

---

<sup>13</sup> <http://www.dm.usda.gov/5600-2.pdf>

<sup>14</sup> Executive Order 12898, February 1994, [http://www.labtrain.noaa.gov/ppguide/ffpp\\_53.htm](http://www.labtrain.noaa.gov/ppguide/ffpp_53.htm)

displacement of soils and drainage paths, and vegetation removal. By analyzing and designating selected routes to retain a system of roads for fire access, as well as OHV use, catastrophic damage could be avoided. Such a cavalier attitude toward dramatic future disturbance contrasts too greatly with the possibility of keeping a route open and maintaining hasty fire suppression access without the disturbance or delay inherent in having to re-create such access.

**Letter 1 Comment 102 stated:**

**SAC comment:** *“In the DEIS analysis, access for fighting fire has not been considered. An analysis of this need must be provided in the FEIS”.*

**FS Response:** *“Fire personnel will be able to use any road, trail or unauthorized route they need for fire access.”*

A D-6 fire dozer with its blade up and traveling at maximum speed can only go 5-7 mph. If that dozer has to put the blade down to push dirt or brush out of the way to reconstruct a road for an engine, it will easily be slowed down tenfold. An efficient fire dozer should be fighting fire, not trying to rebuild access roads to respond to a fire. This was fact was not analyzed. A system of access should have been analyzed and kept on the road system for all areas on the Plumas NF, especially high risk fire areas. Access is not only needed to reduce response time to fight the fire but for the logistical support of the suppression operation (increasing suppression efficiency), the medivac of injured firefighters, and even to assist the public’s escape from the fire area. Limited access often determines the tactics used to suppress a fire. No or limited road access results in the use of much more expensive air operations to try and limit the fire's spread until ground resources can be flown in or access is cut in by them. In addition, roads are used as a fire spread control line. If access involves an unmaintained road or a vegetation choked road, the firefighter is forced to drop back to a more defensible location. The final result is a greater fire suppression cost and more acres burned.

There is a need to distinguish between initial attack and extended attack. In the extended attack phase of a fire (fires escaping initial attack) there will be higher suppression and rehabilitation cost, more acres burned (resulting in greater environmental impact from air pollution, erosion, sedimentation and top soil loss, lost recreational value), a greater time commitment of fire suppression resources and many more firefighters will be placed at higher risk due to the size and complexity of the fire as a result of the limited access during initial attack.

None of these items were analyzed. The simplicity of the response that “fire personnel will be able to use any road, trail or unauthorized route they need for fire access” demonstrates that the Travel Management team had no practical knowledge of fire suppression or suppression efficiency.

**10. The FEIS Violates NEPA.**

According to Purpose and Need, the intent of the Travel Management Rule is to prohibit cross country travel which causes resource damage. The Plumas NF went outside of that intent. Forest Service policy as stated in the “R5 Guidebook for Route Designation” requires “the

minimum restrictions to protect resources and provide for user safety while continuing to provide recreation opportunities”. The process used on every forest in Region 5 was not based on using “minimum restrictions”, which is inconsistent with FS policy and is a fatal flaw in all of the Forests’ MTMs. The resulting overly restrictive RODs are evidence to support this statement.

*A. Secondary uses that are affected by motorized access:* The MTM was prefaced and presented to the public based on the “Four Major Threats”, but in their zeal to control motorized uses the FS has ignored non-motorized uses that are dependent on motorized vehicles. These uses are intrinsically intertwined and one use cannot be analyzed without analyzing the other. By calling this an “OHV” management plan, all other uses of the forest, and all other activities that depend on native surface roads and trails were practically speaking, excluded from consideration. Very little, if any, outreach was done by the forests in Region 5 to either explain how this would affect all the disparate communities, and to engage them in the talks regarding the ongoing plans. Proof of this is in the ROD itself, with little written about the affects of the plan on anyone other than traditional OHV. This was deliberate and calculated. With the expertise the FS has in forest management, it would be impossible for the Forest Service NOT to be aware of these effects.

The proposed action only analyzed individual routes without analyzing the overall effect of such restrictions on other forest uses. A wide variety of users access the forest in different ways to seek enjoyment of their chosen recreational pursuit. The FS blindly followed an analysis that does not consider these secondary uses. It is arbitrary and capricious to pre-suppose that OHV activity is only limited to enjoyment of OHV use itself. Every user seeking a specific activity depends on motorized access to get there (hiking, fishing, camping, sight-seeing, cross-country skiing, etc). Nobody walks to the forest to begin their recreational experience.

Acting responsibly to maintain Multiple Use is severely diminished because secondary uses were not analyzed. Pages 518-519 in the FEIS show the primary non-motorized and motorized uses of the forest. The Multiple-Use and Sustained Yield Act of 1960 prescribes the management goal and responsibility to maintain five renewable resources on U.S. Forest Service land. Those are embedded in law and regulations as wood, water, forage, recreation, and wildlife. The specific language includes: “the five major uses of national forests contained in one law equally, with no use greater than any other.” This law calls for “management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people...” By failing to analyze secondary uses, the FS has violated both the spirit and the letter of MU-SYA by ignoring the recreational use that can only begin after the access vehicle has reached its forest destination.

*B. Analysis of individual routes was inadequate.* The FS inventoried 1107 miles of non-system routes. They only analyzed 410 miles of those inventoried routes, after arbitrarily and capriciously discarding nearly 700 miles which was not supported by any kind of scientific analysis. The “1st and 2nd cuts” were made in an office exercise using inaccurate GIS data. There was little or no consideration for the public value of the individual routes as they were systematically eliminated from analysis. SAC submitted a comment that all inventoried routes needed to be analyzed, to which the FS responded NEPA doesn’t require analysis of all routes.

The FS willingly engaged in an agreement with the State of California, signed the Memorandum of Intent in exchange for funding, in which the Forest Service does not indicate it only planned on surveying a portion of the routes, or a percentage of the routes...and continues to accept funding from the State, without fully complying with the terms of that memorandum. Pete Hochrein said, without any further consideration, that the FS eliminated:

1. Roads less than 1/2 mile in length, without investigating what value they may have had to the public
2. Dead end spurs of any length off county or state roads
3. Roads that lead to or from private land, even when the landowner specifically requested the routes
4. Routes to services such as fuel and food (ie Bucks Lake)
5. Routes that were requested for firewood cutting (green sheets)
6. The ID team eliminated routes based solely on a GIS map with known inaccurate data, and their own memories of ground conditions.

Pete said in the Mt Hough meeting in November 2010 that the FS doesn't have traffic use data. A valid analysis of any travel management system cannot be made without traffic use data. The FS has the equipment to collect traffic data but they never used it.

Data collection was flawed. For example, firewood wasn't listed on the route submittal "green sheets" prior to the 1st cut. It was added to the green sheets later after complaints by the public. The public then resubmitted firewood roads on the new green sheets. Subsequently they were told firewood wasn't within the scope of the project. When the FEIS was published, firewood was included as an issue. The rules continually changed, especially during the first couple years. The guidelines given to the public were arbitrary and capricious, which resulted in hundreds of hours of time spent by the public inventorying routes that the FS knew they were never going to consider. The public lost substantial trust with the FS during this process.

C. Substantial changes to proposed action: There were major changes in Alt 5 from the DEIS to FEIS. Public didn't have opportunity to comment on the following:

1. Season of Use;
2. ¼ mi minimization for wildlife nests;
3. ½ mile buffer for private land "quiet zone";
4. Many routes were dropped due to the incomplete red legged frog analysis. This results in numerous single-track loops that are no longer usable.
5. 47% of single track routes in French Creek were dropped between the DEIS and the FEIS.
6. 9 system roads were eliminated from the Granite Basin map and 13 system roads were eliminated from the French Creek map.
7. The Law Enforcement Section (Appendix I) was added after the DEIS comment period was over.



8. Purpose and Need was changed in the FEIS to state there was a need for limited “additions” to the NFTS, rather than limited “changes” to the NFTS as stated in the DEIS.

The above changes are significant and the public was not given an opportunity to comment on them. When major substantial changes to the proposed action are made that were relevant to environmental concerns and/or contain significant new circumstances and information, agencies must rewrite the draft statement and prepare a supplement (CEQ reg. 1503 and 40 C.F.R. 1502.9(c)(1)).

The Plumas National Forest's Final Environmental Impact Statement for Public Motorized Travel Management made the following major and substantial changes from its Draft Environmental Impact Statement "Draft":

1. The Draft's Preferred Alternative 5 is significantly different than the Final's Alternative 5, resulting in the loss of a 36 acre open space and a reduction in mileage for all vehicle types.
2. The Draft stated designating areas for dispersed camping was an alternative considered but eliminated from detailed analysis, explaining that it did not relate to travel management and that there was no immediate need to limit or regulate dispersed camping. The Draft discussed how the alternatives “have the potential to reduce” motorized access to dispersed camp sites with no reference if dispersed camp sites were inventoried or submitted by the public during scoping. However, the Final states the alternatives “result in a relative decrease in the number of that dispersed camp sites accessible by motorized route(s)”, that dispersed camp sites were inventoried, provides the number of sites inventoried and how those sites were reduced with regards to the alternatives.
3. The Draft did not discuss the impact of proposed changes to the NFTS on neighboring “private” lands, the Final does.
4. The Draft's Effects Analysis Methodology used its National Visitor Use Monitoring Report "NVUM" as an assumption specific to recreation resources analysis. In the draft the NVUM was cited as a report for the most popular non-motorized recreation activities. The Final cites the NVUM reports both motorized and non-motorized use.
5. Agency responses to comments received requesting analysis for the social economic impact of this decision replied “due to the limited OHV use on the forest a social economic impact analysis was not completed”. Besides the questionable NVUM report, no other data or report was cited to substantiate that response.
6. The Draft did not include the Final's discussion on non-motorized opportunity. Specifically, the inclusion of the term "quiet recreation" and those areas outside a 1/2 mile buffer from roads and trails would be considered available for quiet recreation and non-motorized activities. There is no definition of “quiet recreation”.
7. The U.S. Fish and Wildlife Service provided its consultation to the Plumas National Forest after the release of the Draft. The public did not have an opportunity to comment after review of the consultation.

8. The Final alternative maps show locations for 4x4 developed camps. However, the Final statement does not discuss these sites.
9. Section 1.8.2 in the DEIS, pages 9 and 11, stated there would be no road decommissioning related to this project. 2.4.11 again stated roads and trails would not be considered for decommissioning in this proposal. The briefing document dated 10/27/10 that was given to the public stated, "This decision (ROD), by itself, does not authorize any route decommissioning. Decommissioning would need to be identified in a future project, analyzed with opportunities for public involvement, and approved, or not." However the FEIS contains a contradiction to all these claims made by the FS in writing and in public meetings regarding decommissioning. FEIS Appendix I: Law Enforcement page 586 Implementation Strategy (Engineering Education Enforcement) first paragraph, 4<sup>th</sup> bullet states "Physically close and rehabilitate decommissioned roads and trails". This contradicts what the public has been told throughout the entire process.

The above mentioned changes and information resulted in significant changes from the DEIS to the FEIS. As a result the public could not have been informed nor provide meaningful comments on alternatives found in the Final EIS. Therefore, the environmental impact statement and decision made by the Plumas National Forest is in violation of NEPA.

*D. Botany BE is not based in science:* The Botany BE in many cases is based on assumptions rather than science. The best available science should be used in a Biological Evaluation, but this was not done, with the PNF responding that appropriate science was used. But certainly, credible and reliable scientific methods and data should always be employed as a baseline in any biological analysis, and would meet the regulations as defined by NEPA and NFMA. However credible and reliable data was not used for the Botany BE. The BE drew conclusions without presenting science, data, or evidence. The laws, regulations, and citations previously listed in the GIS data section also apply to the Botany BE and other sections in this appeal. (See Exhibit 5 for specific appeal details on the Botany section.)

*E. Red legged frogs:* The other disciplines (ie. botany, archaeology, soils, water, etc) were required to complete their analysis for this MTM, which has been 6 years in the making. The FS should delay implementation of the ROD until all of the data collection and analysis is complete so a proper scientific decision can be made. The FS states that a change in personnel at the U.S. Fish and Wildlife Service was to blame for delay of the red legged frog analysis because two individuals at the Agency disagreed in the correct process to use. This brings up the question of whether the red legged frog analysis is based in science or merely on one individual's opinion. The presence of red legged frog populations next to existing trails is an interesting situation, since the ROD is deleting an existing condition without analysis.

*F. Revised Statute 2477:* Lee Anne Schramel Taylor said at the fairgrounds meeting "We know which routes are RS 2477 and we have them mapped." So why was this information withheld during the analysis? SAC made a request under the Freedom of Information Act and the forest said they didn't have a map of RS 2477 roads. They could only produce a general map of the forest dated 1916. The Plumas National Forest was reserved in 1905, so this map dates over a

decade after the Forest was reserved. There is no documentation in the FEIS to show that RS 2477 roads were addressed in the analysis. RS 2477 roads have implications to both the public and to the county, so they need to be considered in the analysis.

G. Present and Reasonably Foreseeable future actions: Future actions which, if implemented, could have a significant impact to Travel Management. The South Park Project is of particular interest, because an inappropriate process seems to have been used in planning this project, and there was no public notification of the project in the SOPA, in the DEIS or in the FEIS. If this project had been disclosed during the DEIS, the outcome of the ROD may have been significantly different.

H. Economics: The FEIS states:

*“Local spending is already accounted for in the study area base data. It is impossible to predict how locals would have spent money if they didn’t have local recreation opportunities on the National Forest, but it is a safe guess that much of that money would not have been lost to the local economy. People tend to substitute other local recreation activities or change the time or place for continuing the same activity rather than traveling long distances and incurring high costs to do the same activity.”*

The FEIS states they are making a “guess” at the impact to the local economy. This is arbitrary and capricious. There are no facts to support their statements about the local economy.

Historically, the communities within the Plumas National Forest have been largely dependent on the timber industry. With the decline of timber available on National Forests, local governments and residents are looking at recreation as a means to keep businesses and communities viable. This plan is yet another impact to community stability. The Plumas National Forest needs to be sensitive to the local economy, and their lack of addressing that subject is a serious flaw in the FEIS. The economic impacts to rural counties, towns, businesses and homes were not correctly evaluated because of the insistence that this is only an OHV plan – again, misleading and deliberate obfuscation.

Congressman Herger sent a letter to Harris Sherman, Under Secretary for Natural Resources and Environment, saying the Northern California forests “have long been told that a recreation-based economy would be able to make up for the forest products economy that no struggles to remain in existence.” That having been said the FS still did not analyze economics adequately or designate a system of routes that supports recreational use, especially the ML 3 roads. Herger continued, “OHV use is an extremely popular form of recreation for thousands of my constituents, not to mention the fact that it also provides millions of dollars in economic benefit for Northern California businesses and communities. In an area that grapples with a struggling economy and an unemployment rate that exceeds 15%, it is extremely contradictory that this Administration would continue to allow this policy to needlessly worsen those conditions given its assertion that job creation and economic recovery are its top priorities. It is not too late to change this nonsensical policy and avoid needlessly devastating a widely-enjoyed form of recreation and a much-needed economic driver for Northern California.”

In the case of quads and motorcycles, if local opportunities are not available, riders simply drive to Reno, Chico, Fernley, Sand Mountain or other areas where they can ride. The FS argument in the FEIS that “people tend to substitute other local recreation activities” is ridiculous in the case of OHVs. A motorcycle rider will not park their bike in the garage and go look at wildflowers instead. They will drive out of the area to find somewhere else to ride. The FEIS did not consider this impact to local businesses who sell OHVs, fuel and other supplies. For firewood cutters, there was no analysis for the potential reduction in wood cutting due to less available roads, and the impact to local businesses regarding their associated equipment purchase, repair, and other supplies.

The underprivileged will also see a disproportionate impact, because in rural areas they may be the most dependent on low-cost firewood for heat, hunting for food to feed their family, and dispersed camping as an inexpensive way to enjoy public lands with their families.

Plumas County has adopted HFQLG Forest Recovery Act as a resource management project on the Plumas NF. However there has been no analysis in the EIS regarding how the MTM might affect access for future HFQLG projects, especially DFPZs. By eliminating access roads, future timber sales may become economically unfeasible. Road construction and reconstruction is very costly, and this cost is often a determining factor in the economic feasibility of timber sales. This lack of analysis may preclude future timber sales and DFPZ construction. Timber is the basis of the economy in the communities within the Plumas NF.

All impacts must be analyzed and not just assumed to be fact. The economic analysis in the FEIS has disregarded several impacts to the local economy. The document is seriously flawed.

*I. Range of alternatives was not sufficient:* The FEIS contains an inadequate range of alternatives. There was no alternative that closed the forest to cross country travel and analyzed all 1107 miles of inventoried roads. SAC requested an alternative 6 to address a “general” plan for the undesignated routes to avoid further resource damage. If their true concern is about existing resource damage, how can they turn their back on it without considering even a general plan to deal with that damage in the future? The FS fashioned an alternative particularly for the Wilderness Society (Alt 3) which contained Citizens Inventoried Roadless Areas. Yet the FS did not even contact SAC after we requested an alternative asking for the land managers to act responsibly and think about existing resource damage. However, in map data that was given to SAC by the FS there is information for Alternative 6 in the map database. Apparently this alternative was considered and work was started on it, but not finished. The FS has not treated SAC with the same regard that it does the Wilderness Society, which is a clear violation of NEPA and Forest Service policy.

*J. Environmental Justice:*

The underprivileged will also see a disproportionate impact, because in rural areas they may be the most dependent on low-cost firewood for heat, hunting for food to feed their family, and dispersed camping as an inexpensive way to enjoy public lands with their families.

K. 2.3.2.1 Soil and Water Mitigation:

SAC has already addressed the lack of previous study by the agency toward quantifying damage and understanding its origins. The word "monitoring" is used incorrectly in that any trend line sought comes from a baseline that has not been adequately established. Subjective reviews for a base line without objective collection of hard data measurements would carry errors and misrepresentation forward. This would not provide conclusive results. Even a photo point system (if properly constructed and maintained) would be more dependable than bits and pieces of claimed observer narrative.

The user public, dependent on realistic access deserves far better from a land management agency that purports to be field oriented.

L. Wildlife:

Regarding some items in the FEIS:

**Page- 28**

*"6. Aquatic Species Monitoring: Trails in suitable California red-legged frog habitat would be monitored to verify the assumption that unsurveyed routes are occupied. Trails would be monitored using the US Fish and Wildlife Service's August 2005, Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog."*

This mention of monitoring is objectionable, in that it sets aside trail routes that traverse land that has been judged equal to habitat that MIGHT be suitable for the California Red Legged Frog. Starting with the FACT that such species do not and have not occupied such territory, this is mighty flimsy justification for closing off established roads or trails.

**Page- 28**

**2.3.2.3 Mitigations for Wildlife Species**

*"A Season of Use (SOU) was applied to routes that were determined to pose effects or risks to individuals or breeding pairs of wildlife species based on the proximity of trails to a key wildlife area (winter range) or a known activity center (nest or roost site). Season of use periods are displayed in Table 1 and Appendix A. Wildlife seasons of use were combined with other resource area seasons of use (e.g. watershed and amphibians) where restrictions overlapped on the same route. Based on the analysis conducted, the following mitigations were applied.*

*1. For California Spotted Owls, a season of use (August 16th to December 31st or a shorter season of August 16th to October 14th if the trail has a season of use for frogs) was applied to 35 trails to minimize effects to breeding pairs based on the proximity of a route to a known activity center (nest or roost sites).*

*2. For Northern Goshawks, a season of use (September 16th to December 31st or a shorter season of September 16th to October 14th if the trail has a season of use for frogs) was applied to 11 trails to minimize effects to breeding pairs based on the proximity of a route to a known activity center (nest or roost sites).*

*3. For Mule Deer, a season of use (May 1st to December 31st) was applied to 13 trails to minimized effects to deer use in key wildlife areas during critical use periods (i.e. winter).*

*4. For Bald Eagles, a season of use (August 16th to December 31st) was applied to one trail*

*to minimize effects to breeding pairs based on the proximity of a route to a known activity center (nest sites).”*

Laying out SOUs for these four species is a weak case for closing road and trail routes. It is not supported by actual species population trendlines, habitat residency studies, or specifically demonstrated harms by the passage of vehicles to these animals. Two of these animals use airspace and upper-branched vegetation and are in little proximate contact with road or trail surfaces. And the other two represent species which approaches an adaptive comfort level near humans, their habitation, or mechanical devices as the coyote.

All of these cited species (more so than the featured frogs) have the ability to be mobile and set up housekeeping or feeding territory where they please. The fact that they happen to be present near trail and road routes (some used for decades), is a testament not to a severe risk to themselves, but evidence that they coexist adequately with human activity.

The Forest Service does not tally or worry about the loss of Spotted Owl habitat sites which have been lost to catastrophic wildfire on the Plumas National Forest. Yet it's extremely reluctant to render active support for thinning operations prescribed as a result of the QLG Plan. This is a telltale imbalance in dedication to their responsibilities. In one breath, they use the specter of deleterious influence on wildlife to promulgate the most severe restriction of public land access ever and the slow down of the best management tool against catastrophic wildfire yet attempted. In the other, they do not count owl habitat lost to fire and seem to say, "Oh well," or nothing at all.

These Forest Service behaviors strongly suggest a more specific motive than protection of wildlife. None of these four species is in trouble on this forest, and no population study has accompanied this FEIS to prove otherwise.

## **11. The FEIS Violates of the Intent of the Travel Management Rule.**

*A. Misleading public:* The MTM, and Region 5 direction to their forests, did not disclose to the public that the change from a forest “open unless signed (or more correctly mapped) closed” to a forest that is closed in ALL areas unless mapped open, would greatly affect their activities. These activities include dispersed camping, hunting, rock-hounding, firewood gathering, fishing, hiking and cross-country skiing as examples of the disregard the forest management showed to members of the public. The purpose of the MTM is to stop cross country travel. Stopping cross country travel does not equate to closing historical dispersed camping area, limiting roads and trails for motorized access – it is something altogether different. The public has been misled, and Region 5 knew full well what the end result would be. The proof is in the ROD.

No map has been produced which shows the routes that will be administratively abandoned. The public cannot understand the impacts of the routes that will be closed to their use by viewing the maps in the DEIS and FEIS. Without a map overlay, it is impossible to understand where the 873 miles of routes are being eliminated. There are also 262 miles of “ML 1” roads that are being eliminated that are not shown on maps or referred to in a way that makes it apparent to the

public that they are losing access to these roads, which are generally excellent firewood cutting areas.

The public has been misled by the FS with quotes of inaccurate and irrelevant mileage. The FS often includes the miles of system roads to the sum that are “available” to the public which adds several thousand miles to the total that is being designated under Subpart B. System road mileage is irrelevant, and adding that mileage just confuses the public, making the plan appear more palatable. (There were irrelevant figures cited in press releases to the Feather River Bulletin. The Channel 12 news website quoted Lee Anne as saying that 4300 miles are available for quads. That figure is not true, even if system roads were included.)

The public was misled on many other issues from the beginning of the inventory process and through the analysis. Originally the project was billed in the “Plumas National Forest Off-Highway Vehicle Route Designation Project Update, Volume 1, Issue 1” as an OHV plan which would affect “vehicles such as mini-bikes, amphibious vehicles, motorcycles, go-carts, motorized trail bikes, and dune buggies”. (It is interesting to note that there was never an Issue #2. This public Project Update newsletter was immediately discontinued.) The press releases and other information released to the general public did not clearly state that Travel Management would affect camping, firewood cutting, game retrieval, as well as uses that involve pickups, SUVs and passenger cars. Even now, many people don’t understand the plan will restrict camping and woodcutting, because they believed the plan was just for OHVs. In fact, there is not a definition of “OHV” or “ORV” in the FEIS, but those acronyms are used numerous times. The public will be surprised to learn that their pickup truck is considered an OHV.

B. Reclassification of Roads: Randy Moore’s letter to Forest Supervisors dated 1/13/09 stated “when reclassifying a Maintenance Level 3 or 4 road to a Maintenance Level 2 road, a national forest shall consider the steps shown below.” Step #1 is to perform a mixed use analysis; Step #2 is to do an analysis of the proposed change in public use. In a request under the Freedom of Information Act, SAC asked for copies of the mixed use analysis that was done on roads that are reclassified from ML 3 to ML 2. The FS produced no documents, so it is apparent that no records exist and no such studies were conducted for the 150 miles of road that were reclassified. Although SAC does not necessarily argue against reclassifying roads to a lower maintenance level, this is still a clear violation of the Forest Service policy, process, and direction that Randy Moore gave each Forest Supervisor.

C. General Arguments:

There were a number of methods used to support the agency's points of view in response to other public comments responding to the DEIS. For example, the response to preserving access for firewood cutting were met with the contention that woodcutting was outside the scope of the Travel Management Plan, and firewood permits would specify access. Concerns over dispersed camping were handled much the same way, with a sweeping assurance that the agency was not cutting back on dispersed recreation campsites, it was *only* moving to control the points of access. Since none of the SAC-submitted dispersed sites for exemption to the "one vehicle length rule" have been recognized, analyzed, or accepted, such sweeping assurance as the agency

has given must be honestly be considered as restriction legerdemain—"Now you think you see it, and later, you won't!" The same can be said for the general assurance that future studies will possibly enable more road or trail mileage to be added at a later date. Such vagueness does not equitably compensate for the intended closures.

It very much seems that this agency expects that campers will physically carry their gear to dispersed camp sites on foot, or will learn to work with garden carts or wheelbarrows to ease the workload. If this is a campaign to convert all non-campground camping to backpacking only, may we say that exclusive foot trails and national forest wilderness already exist on the Plumas National Forest. And since we have suggested that the impact of human footprints meets the agency test of potential lethality to a single rare plant, there should be no cross-country foot travel by the same measure of "reasonableness," anywhere on the forest.

In addition to the responses and complaints from many in the motorized vehicle community to the DEIS and the demonstrated obstinacy by the agency in its refusal to use credible analysis methods to show a need for a change in policy due to resource damage—there are other considerations. While both are constrained by NEPA, Park Service policy does not have to contend with Multiple Use, Sustained Yield as the Forest Service does. Recreation visitor days in their varied forms are one of the mandated renewables now in jeopardy on the Plumas.

NEPA has not been consistently followed here, and no mention of the impact on humans in forest closure and route restrictions has been attempted. It's only been sidestepped. It has been said before and needs repetition. Management by lock-out is no kind of responsible management—particularly when it was not scientifically derived in accordance with NEPA and CEQ. Mitigation is not identified as a serious tool of the management options here.”

Quoted from the FEIS:

#### **1.8.1 Significant issues.**

*“Issue 1: Many of the routes proposed for addition to the NFTS as motorized trails are poorly located and would cause adverse impacts to plants, wildlife, water quality, soils and other natural resources.*

***Discussion:** Commenters expressed concerns about impacts to a variety of natural resources, citing stream crossings, habitat fragmentation, wildlife disturbance, sedimentation, cultural resources, invasive weeds and other resources that would be impacted by motorized use of trails added to the NFTS.”*

Neither the agency's concerns, nor the "Commenters" concerns were presented in a form which makes clear which route(s) they are concerned about. The agency's lack of detailed study suggests conjecture about potential impacts and calls into question whether the public commenters are also making a generalization. The current proposal eliminates all PNF cross-country vehicular travel. That is a greater change to the status quo than the acceptance or rejection of particular "routes" into the system. Could both the agency and the commenters on this point be applying their concern to the forest's (currently open) thousands of acres, instead of the routes that should not be accepted as submitted?



*“Issue 3: The proposed addition of motorized trails to proposed citizen inventoried roadless areas (CIRAs) would adversely affect the roadless characteristics of these areas including opportunities for solitude, undisturbed landscapes and primitive, non-motorized recreation.*

***Discussion:** Concerns were raised that adding motorized trails to CIRAs on the Plumas National Forest would reduce opportunities for solitude, and primitive non-motorized experiences would be ruined by the noise and disturbance of vehicles. Motorized trails would change the character of these areas.”*

SAC objects to the locally-generated, Forest Service formalization of the acronym CIRA (Citizen Inventoried Roadless Area) and this has previously been argued in response to the DEIS without accommodation. While citizen involvement in the Travel Management development process is (and should be) wide open, the agency has abandoned its responsibility for objectivity by bootstrapping a citizen preference into a delineated phenomenon of management, officially embedded into and purporting to be agency policy. That gives an unfair weight to both a specific group's point of view and a second bite at the apple in that the process of review and inclusion of public land into officially designated Roadless Areas is a process long since completed. If the so-called CIRAs in the Plumas National Forest were previously part of RARE or RARE II, they would have previously excluded motorized transit, would have an existing network of non-motorized trails, and would have been signed and managed as official Roadless Areas. They have not—as further evidence that this is a recent canard by the agency to favor a point of view by wilderness advocates whose position is far more experienced (and likely) to challenge the agency in a legal action.

The PNF already contains officially dedicated wilderness, an extensive network of non-motorized trails, a significant volunteer-based trail construction effort on the border with the Tahoe N.F. for more trails, and plenty of territory outside of such areas, between existing roads and trails where the solitude they seek can occur. To suggest that the intrusion of ANY other sound from vehicles, aircraft, or other recreationists is a great loss to CIRA-users is tantamount to declaring the entire PNF a roaded and traileed wilderness area (when it has already been designated as a multiple use/sustained yield enterprise).

### **1.8.2 Non-significant Issues**

*“1. **Snowmobile Use:** Concerns were expressed regarding the impacts of snowmobile use on the Plumas National Forest. **Reasons why not addressed in the proposed action:** Designation of areas open to snowmobile use is covered under 36 CFR 212, Subpart C, and is outside of the scope of this decision, which is focused on implementing 36 CFR 212, Subpart B of the Travel Management Rule.*

*2. **Other types of wheeled vehicle use (mountain bikes) or other forms of travel (hiking, horseback riding):** Concerns were expressed regarding the need to provide opportunities for non-motorized forms of travel. **Reasons why not addressed in the proposed action:** This issue is outside of the scope of the purpose and need for the project. This proposal is focused only on motor vehicle use in accordance with 36 CFR 212, Subpart B of the Travel Management Rule.”*

SAC is concerned that scoping has been used in the Travel Management Plan inappropriately, in that snowmobiling and other types of non-motorized travel (as in 1 and 2 above) isolates true management consideration of all of these recreational pastimes concurrently. Motorized, pedaled, and horseback enthusiasts are all pursuers of recreation on the forest. Each of them is a legitimate agency management responsibility. They are all potentially destructive of habitat. They can sometimes occupy the same space in potential conflict with each other. All of these are management concerns need a holistic review of recreation management, not a sequential, one-at-a-time effort.

The agency is suspect when it prioritizes the process of Travel Management among these users separately and sequentially. It is responsible for management of the PNF under all the laws heretofore controlling such activity. None of those laws prescribes that study toward a major policy change must proceed in this disjointed manner. The discretion afforded the agency by regulations within CFR36 to style its chosen approach to policy change violates the spirit of the law enabling the regulation and subsequent discretion by narrowly compartmentalizing the public's notice and opportunity for participation over Travel Management policy change. While the agency ponders the process and its progress in one activity only, it is choosing to be deaf and blind to those management responsibilities in closely related activities while it attempts to fashion a policy in pieces, one at a time. This is a bit like moving first on a leg amputation before setting a broken arm, both ahead of treating a condition of blood poisoning. Finalizing OHV access has an effect on horseback use and snowmobiling, and conversely among all three. The public cannot judge reasonable balance in agency travel policy when motorized vehicular damage has not been quantified or experimented with in terms of mitigation, or when horseback or snowmobile damage potentials have not yet been defined or studied. Even if the agency was to make a claim that their discretion to prioritize roads and trails by motorized vehicles as "first up" is backed by sound reasoning, the arguments (above) that transparency and public participation/review have been lost—still hold. And with the agency biases against motorized travel already illustrated, this sequential and separate user-class approach appears obvious or blatant in the pursuit of excluding as much road and trail mileage as possible.

### **1.8.2 Insignificant Issues**

*“3. **Addressing maintenance and decommissioning needs on the National Forest Transportation System (NFTS):** Concerns were expressed that the Forest should reconsider previous decisions to establish system roads and trails in the NFTS. Some existing system roads and trails are in need of repair and maintenance and should be either repaired or closed as part of the proposal. **Reasons why not addressed in the proposed action:** The proposed action implements 36 CFR 212, Subpart B of the Travel Management Rule, which states: “The responsible official may incorporate previous administrative decisions regarding travel management made under other authorities, including designations and prohibitions of motor vehicle use, in designating National Forest System roads, National Forest System trails, and areas on National Forest System lands for motor vehicle use under this subpart” (36 CFR: § 212.50 (b)). The responsible official has determined that existing NFTS roads and trails will not to be considered for repair, reconstruction, or decommissioning as part of this proposal. Repair and maintenance of the existing NFTS are routine, ongoing activities on National Forests and are typically*

*categorically excluded from documentation in an environmental assessment or environmental impact statement in accordance with agency policy in Forest Service 36 CFR 220.6(d)(4) “Repair and maintenance of roads trails and landline boundaries.” Further, re-evaluation of previous decisions that established the current NFTS is not necessary for implementing 36 CFR 212, Subpart B of the Travel Management Rule. However, past, present, and future environmental impacts of the current NFTS are incorporated into cumulative effects analyses for the proposed action and alternatives. Decommissioning occurs on an ongoing basis when roads and trails are no longer needed or are relocated for resource protection. Typically this occurs as part of vegetation management projects, watershed restoration projects, fuel treatment projects, and trail construction projects.”*

This passage again enshrines the authority of the "responsible managing official" to apply discretion (in this case) to eschew any repairs to roads or trails with significant damage, during the completion of this Travel Management Plan. Therefore, the damages (alluded to but never specified by the agency thus far in this process) are of such severity and potential continuance as to justify eliminating cross-country travel and much of the trail route submissions by users— but not severe enough to be pursued immediately to mitigate existing and prevent future damage?

### **RELIEF REQUESTED**

In light of the foregoing procedural and substantive inadequacies outlined above, SAC respectfully requests that the following specific changes be made to the MTM FEIS:

1. The Forest Service (FS) should develop and implement a new Dispersed Camping Permit program with appropriate restrictions to eliminate unmanaged cross-country travel. Dispersed campers currently get campfire permits, therefore a dispersed camping permit would not be an additional burden on the public but would allow access to areas such as historic family campsites, etc. The FS could make provisions on the permit to:

- a) Allow vehicles only on previously used areas, traveled ways, or routes (“traveled way”),
- b) Prohibit cross-country travel outside of the campsite except for one vehicle length off the traveled way to the campsite for parking,
- c) Apply minimum restrictions to protect resources,
- d) Provide for user safety,
- e) Continue to provide dispersed recreation opportunities,
- f) Address any other resource concerns through existing law enforcement policy.

2. The Forest Service should revise the cross-country travel restrictions that preclude access to important points of interest for disabled, handicapped, and elderly people. SAC has devised a “Motorized Mobility Program” (see Exhibit 1) and requests that the Forest Service implement that program, thereby identifying important points of interest in the forest and providing reasonable access to them for disabled, handicapped and elderly, and others, eliminating the appearance and endorsement of discriminatory practices on behalf of the FS. The Travel

Management Rule appeared facially neutral, but has a disproportional effect on that segment of the population with limited mobility, and this program would give equal access to the public. Benefits include:

- a) Many points of interest have already been identified during the initial scoping process,
- b) Other points of interest may be easily identified with help from the public in cooperation with District personnel,
- c) Some routes may have already been designated, or be on the NFTS,
- d) Allow the FS to comply with existing laws regarding disabled access .

3. The Forest Service should develop and implement a revised permit system through the Woodcutting Program that will allow “one trip in, one trip out” to retrieve firewood. SAC has tried to resolve this issue previously through both the Travel Management plan and through the Firewood Program, to no avail. While the FS may assert that firewood cutting is 'outside the scope' of Travel Management, this is a significant issue greatly affected by the Travel Management decision. In order to regulate cross-country travel (the discrete purpose), the FS needs to understand the reasons behind unmanaged motor vehicle travel and that firewood cutting is a necessity in the PNF. A permit system allowing for only 'one trip in, one trip out' off a designated road to retrieve firewood will manage cross-country travel and offer reasonable protection to the natural resource. Benefits include:

- a) Easy to implement, permit system already exists,
- b) Easy to enforce since a necessary permit under existing law protects against resource damage,
- c) Allows disabled, handicapped and elderly to retrieve firewood for heating purposes,
- d) The permit would not allow cross-country travel for 'scouting' of firewood,
- e) Complies with Environmental Justice regulations, enabling low-income residents access to heating materials close to communities.

4. The Forest Service should develop and implement a revised permit system for big game retrieval that will allow a “one trip in, one trip out” within the PNF. There is a requirement in every hunting license that once an animal has been shot, it must be removed from the forest. Certainly disabled, handicapped and elderly hunters will be unable to comply with this requirement without a permit allowing limited and minimal access for retrieval. While the FS may assert that big game retrieval is 'outside the scope' of Travel Management, this is a significant issue greatly affected by the Travel Management decision. In order to regulate cross-country travel (the discrete purpose), the FS needs to understand the reasons behind unmanaged motor vehicle travel and big game retrieval is a necessity in the PNF. A permit system allowing for only 'one trip in, one trip out' to retrieve big game will manage cross-country travel and protect the natural resource. Benefits include:

- a) Easy to implement, permit system (hunting license) already exists
- b) Easy to enforce since license is a necessity and existing laws against resource damage apply

- c) Allows disabled, handicapped and elderly to retrieve big game
- d) Cannot be allowed for 'scouting' of game animals
- e) Complies with Environmental Justice regulations, enabling low-income residents access to food source

5. The Forest Service should correct inaccuracies in corporate data layers of Stream Center Lines and Land Lines through the use of new technology such as LiDAR, or the use of updated GPS data. The remedy that SAC is requesting includes reevaluation of data that led to the disqualification of routes, particularly the stream layer, archaeology layer, and private property boundaries. These are the three major areas that SAC has identified, but there may be additional layers containing significant errors relating to these once the FS begins their re-evaluation.

- a) The FS should present the most accurate analysis possible in order to ensure the public's trust and continued volunteer efforts in the forest,
- b) This would reassure the public that a quality product has been produced by the forest,
- c) Accurate data will be essential for future projects since the FS has repeatedly asserted that this Travel Management plan is only the beginning, it will be reevaluated every year subsequent,
- d) Stream Course Center Lines must be corrected and reanalyzed for all proposed routes,
- e) Land Lines must be surveyed and that data brought into GIS and reanalyzed,
- f) this plan would be more defensible when based on accurate data.

6. The Forest Service should develop a plan to coordinate fully with the surrounding counties, as requested by the counties. In all other county plans, the PNF has been transparent and forthcoming with information to Plumas County, and has developed a good working relationship. However, since the beginning of Travel Management, there has been no actual effort expended by the forest to involve or coordinate with the counties, counter to numerous requests, and SAC comments in the DEIS. As stated in the Plumas County "Appeal of Plumas National Forest Public Motorized Travel Management Record of Decision and EIS" letter dated December 21, 2010 and addressed to Randy Moore, Regional Forester, coordinating fully with Plumas County will accomplish the following common goals and objectives:

- a) Plumas County General Plan designations for allowable uses on private in-holdings,
- b) Integration of forest roads with the Plumas County Regional Transportation Plan,
- c) Plumas County Code provisions addressing uses of certain routes,
- d) Impacts to R.S. 2477 routes that result from existing roads being "administratively abandoned".

7. The Forest Service should develop a plan to incorporate the Plumas County Resolution allowing green-sticker, or non-highway legal vehicles travel on county roads. The accommodations and allowances contained in this resolution, regarding travel within the PNF, must be aligned with the NFTS to provide the public a seamless transportation system. Benefits include:

- a) Allows for more loop opportunities,

- b) Connects dispersed camping with recreation opportunities,
- c) Allows disabled, handicapped and elderly the ability to travel safely in the forest,
- d) Relieves the forest of appearance of discriminatory practices against the disabled, handicapped and elderly by allowing less restricted travel,
- e) Does away with the need to load and unload heavy off-road vehicles for individuals referenced above.

Sierra Access Coalition and CORVA appreciate the complex land management challenges faced by the agency. We support managed and responsible outdoor recreation and believe that effective management can be best attained through communication, cooperation, and collaboration between diverse private and public entities. We look forward to working with you in the future.

Sincerely,

**Corky Lazzarino**  
Executive Director  
Sierra Access Coalition

**Bruce Whitcher**  
Vice President of Land Resources and Public Policy  
California Off Road Vehicle Association

**Amy Granat**  
Northern Director  
California Off Road Vehicle Association