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## Proposed Administrative Petition for Reconsideration of the United States Forest Service's 2005 Travel Management Rule

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The advent of the new administration in Washington, D.C. provides an opportunity to undo some of the regulatory overreaching of past administrations. One excellent candidate is the 2005 regulation issued by the United States Forest Service (the “Forest Service” or the “Service”) that has resulted in the unnecessary closure of tens of thousands of routes and trails to off-road motorized travel in the nation’s national forests. Those closures were made by the Forest Service in connection with dozens of Environmental Impact Statements (EIS) under the National Environmental Policy Act (“NEPA”), by which the Service unintelligently sought to restrict public access to our national forests.

But NEPA was enacted by Congress to protect the “human environment,” not to keep humans out of the environment. The 2005 regulation was worded in a way that encouraged the Forest Service to use NEPA to restrict, rather than allow public access to public lands. With targeted language changes, Travel Management Rule regulations can be made to encourage rather than discourage public access.

The *First Amendment* of the *United States Constitution* provides citizens with the right to petition the government for redress of grievances, which the Supreme Court has characterized as “among the most precious of liberties safeguarded by the Bill of Rights.” That provision, along with statutory authority in the Administrative Procedure Act, 5 U.S.C. Section 553(e), gives us the right to file with the Forest Service an Administrative Petition seeking revision of the 2005 rule, while at the same time seeking rescission of the numerous EISs and Records of Decision made under that rule. Rather than attacking each EIS and Record of Decision individually, which would take substantial time, effort, and resources, we could address in the Administrative Petition the source of the problem, namely, the 2005 Rule. This could be accomplished without litigation or legislation.

For decades, advocacy groups such as the Natural Resources Defense Council and the Environmental Defense Fund have effectively used the Administrative Petition process to persuade federal agencies to take stringent regulatory measures restricting access to and use of public and private lands. Once a federal agency sets rules in place, courts tend to defer to its “expertise,” making it difficult to succeed in challenging final agency rules in court.

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Now it's our turn to use the same administrative process to roll back the regulatory wave, using a healthy dose of liberty-thinking. There is no better place to wage this battle than in the arena of public access to our national forests under the new administration.

We have been talking with Ted Hadzi-Antich, a lawyer who is with the Texas Public Policy Foundation ("TPPF"), an Austin-based, liberty-oriented, non-profit organization. TPPF's website is <http://www.texaspolicy.com>. Ted has expressed an interest in working with us in connection with the administrative petition process. As a non-profit group, TPPF would not charge legal fees if it undertakes the legal representation.

We are seeking like-minded off-road organizations in all parts of the nation to join our efforts. We look forward to hearing from you! If you are interested, please contact:

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