

RECREATION OUTDOORS COALITION
4000 Beacon Drive
Anderson, CA 96007

March 31, 2009

Marty Hornick
Travel Management Project Leader
Inyo National Forest
351 Pacu Lane, Suite 200
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Dear Mr. Hornick:

Thank you for the opportunity to comment on the Inyo National Forest Draft Environmental Impact Statement (DEIS) for Travel Management. Recreation Outdoors Coalition (ROC) is a non-profit organization created to promote responsible access, multiple use, stewardship, tolerance and safety for those recreating on our public lands. We support local, State and federal land management policies while advocating environmentally sustainable recreation use.

ROC has, in general, been very supportive of route designation. We believe a well designed and managed, sustainable off-highway vehicle (OHV) program is necessary to provide quality riding experiences on the Inyo National Forest (INF). We appreciate your staff collaborating with diverse stakeholders to develop Alternative 6. After review of the DEIS, we recommend you modify Alternative 6 or analyze a new alternative to provide a better balance between motor vehicle access, affordability and environmental stewardship.

1) General Comments on the DEIS

- a) Impacts have not been fully evaluated for some resources such as Cultural Resources. Effects assessments and recommendations will be reported in the Final Environmental Impact Statement (FEIS). We also suspect you will amend the alternatives and your effects analysis or consider new alternatives based on the public comments you receive on the DEIS. To this end, ROC recommends you provide a minimum 45 day public comment period on the FEIS prior to issuing the Record of Decision (ROD). This will provide the public with another opportunity to review the changes in the FEIS and submit their comments for your consideration in the ROD.
- b) Please insert a glossary in the FEIS. There are many acronyms and terms throughout the DEIS that we are not familiar with.
- c) The January 3, 2008 Notice of Intent/Proposed Action (NOI/PA) stated 1,830 miles of unauthorized routes were inventoried on the INF of which 926 miles were proposed for designation or approximately 51 percent. The DEIS states

1,699 miles of unauthorized routes were inventoried.¹ Please explain the discrepancy in the inventoried miles between the NOI/PA and DEIS PA.

- d) Page 42 and Table 3-107 on page 277: We question these use levels for unauthorized routes. Please display use levels as average daily traffic (ADT) and not for “vehicle trips per week.”
- e) Table A-1 lists all proposed route additions to the National Forest Transportation System (NFTS) and recommended mitigation measures. Please display the resource information associated with all unauthorized routes so the reader understands why over 700 miles of them are not proposed for designation.
- f) The DEIS references data from your National Visitor Use Monitoring (NVUM) project. Data was collected from October 2004 through September 2005 (fiscal year 2005).² Later on, the DEIS cites 2003 NVUM results.³ Please clarify which year is correct.

2) Motorized Mixed Use on Other Public Roads through the Inyo National Forest

A key objective of travel management planning is: “To coordinate travel planning and analysis on NFS lands with federal, state, county and other local governmental entities and tribal governments and to allow the public to participate in the designation of NFS roads, NFS trails, and areas on NFS lands for motor vehicle use.”⁴

Collaboration with other road management agencies is critical for the development of sound NF travel management plans. ROC is working with affected counties to designate all unpaved county roads through the INF for mixed use unless an exception exists for public safety, past accidents, resource impacts, user conflicts or other considerations that cannot be mitigated. Our goal is to have an interconnected transportation system for non-highway legal vehicles using unpaved county and National Forest System (NFS) roads. If County Boards choose to designate mixed use on their unpaved roads, please review the INF’s final designations to provide a seamless transportation system for the riding public.

3) Access Over Private Lands

The lack of a formal or legal road agreement across private ownerships should not eliminate unauthorized routes from designation. The public can still travel on them through NFS land and the landowner may have given users implicit permission to pass if not gated or signed at the private land boundary. Please summarize your discussions with private landowners for proposed routes that cross their ownerships in the FEIS. If forest routes to private land have existed for decades, now is not the time to close them simply because of the private land issue. They may still have value for firewood collecting, hunting, or other dispersed recreation activities. Private landowners can post their property if they wish to restrict public access.

¹ DEIS, page iv.

² DEIS, page 48.

³ DEIS, page 69.

⁴ Forest Service Manual 7702, Objectives (effective 01/08/2009).

4) Motorized Mixed Use on Unpaved National Forest System Roads

Motorized mixed use is proposed on 33 miles of passenger car roads under all the Action Alternatives. ROC asserts all unpaved NFS roads should be designated for motorized mixed use unless a rare exception exists. Our analysis of the Region's mixed use policy and the California Vehicle Code supports this recommendation.

California Vehicle Code:

The Pacific Southwest Regional Forester has said all NFS passenger car roads (maintenance level 3-5) are "highways" under the California Vehicle Code (CVC). This conflicts with the December 19, 2007 letter from the California Highway Patrol (CHP).

Forest Service Manual (FSM) 7740.5 (8/24/2000) defines a "forest highway" as:

"Forest Highway. A designated forest road under the jurisdiction of, and maintained by, a public authority that is subject to the Highway Safety Act."

Roads subject to the Highway Safety Act (HSA) have to meet certain safety standards as defined in FSM 7733 and Forest Service Handbook (FSH) 7709.59, 40. The HSA, however, does not prevent the Forest Service from designating these roads for travel by non-highway legal vehicles.

The term "forest highway" is used, again, in Forest Service Manual 7741.1, which states:

"Forest highways are a special classification of forest roads. They are specifically designated State or local government roads that meet the criteria listed in 23 CFR 660.105. The designation of forest highways is not intended to form a 'system' of roads. Instead, the purpose of the designation is to identify State and local government roads that qualify for construction and reconstruction funding under the forest highway program.

To qualify for designation as a forest highway, a forest road must:

- 1) Be a State or local government road that is open to the general public. A forest development road may have the designation of a forest highway, provided that the Forest Service assures the Federal Highway Administration that a State or local government agency will assume jurisdiction and maintenance responsibility upon completion of improvements.
- 3) Serve one or more of the following uses:
 - a) Local needs, such as schools, mail delivery, commercial supply, and private property within the National Forest System."

In reference to "forest highways," Forest Service Manual 7703.3 says:

"Wherever possible, transfer jurisdiction over an NFS road and associated forest transportation facilities (FSM 7705) to the appropriate public road authority when the road meets any of the following criteria:

- a) More than half of the traffic on the road is not related to administration and use of NFS lands.
- b) The road is necessary for mail, school, or other essential local governmental purposes.
- c) The road serves yearlong residents within or adjacent to NFS lands."

“Road” is the only term used throughout the FS directives. By its own manual direction, the Forest Service manages roads, not highways. Any link to the CVC term “highway” is incorrect. Only State and local agencies manage highways.

Unpaved NFS roads (regardless of maintenance level) are not considered “highways” under CVC 38001, which states: “For the purposes of this division, the term ‘highway’ does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.” CVC 38026 only applies to paved highways. OHV travel on unpaved NFS roads is legal.

The Deputy Commissioner of the California Highway Patrol sent a clarifying letter to the R5 Regional Forester on December 19, 2007, which said in part:

“We are not familiar with all the ML 3 Forest Service roadways, but if they are gravel or other dirt or unpaved roads that have been operating as mixed use roadways for years, it is our belief these roads would fall under the “roughly graded trails and roads upon which vehicular travel by the public is permitted” portion of Section 38001 VC and would, therefore, be eligible for your mixed-use definition.” (Underline added for emphasis.)

FS maintenance levels are irrelevant to the CHP and the public. The most distinguishing characteristic of a road is its surface composition. Is it paved or not? Unpaved NFS roads are not “highways” under the CVC.

ROC understands the FS definition of maintenance level (ML) 3, 4, and 5 roads as being passenger car roads. However, our interpretation of current Forest Service Manual and Handbook direction is this: Prudent drivers of standard passenger cars, in nearly all cases, stay on ML 5 (paved) roads. We believe all paved (asphalt, chip seal, etc.) roads should be ML 5 roads.

NFS ML 3 and 4 roads are generally unpaved, single lane with design speeds less than 25 mph and low average daily traffic counts. Their traffic service levels are generally B, C, or D (Source: FSH 7709.56, 4.2, Exhibit 5 and INF INFRA Roads). NFS passenger car roads provide important links to the INF’s maintenance level 2 road system and motorized trails. “Share the road” information, maps, speed limits, and/or road signs will greatly enhance visitor safety on all unpaved ML 3-5 roads designated for mixed use.

Based on a traffic survey ROC did on 72 miles of ML 3-4 roads on the Lassen National Forest in 2005, we believe almost all traffic on NFS passenger car roads is high clearance vehicles (pick up trucks, sport utility and trail rated vehicles). It is a misnomer for the FS to continue to refer to unpaved ML 3-5 roads as “passenger car roads.” On the Lassen National Forest, only 10 percent of the use on ML 3-5 roads was actually passenger car. The rest were high clearance vehicles or non-highway legal vehicles. INF traffic surveys in the Forest’s engineering reports are insufficient to provide this kind of information.

In ROC’s view, most INF roads are logging, fire or service roads and fall under the exemption from a “highway” in Section 38001 CVC. According to the DEIS, many INF roads developed over time to access ranches, farms, mines to transport ore, or were

constructed for national defense. Some roads and unauthorized routes lie on former railroad beds.⁵ These types of roads are not considered “highways” under the CVC.

Motorized Mixed Use Policy for the Pacific Southwest Region:

The Region 5 motorized mixed use policy cites the CVC for prohibiting non-highway legal vehicle travel on ML 3-5 roads. However, agencies may propose “combined use” on highway segments if the procedures in Section 38026 CVC are followed and the CHP concurs. Since the Regional Forester says ML 3-5 roads are subject to the CVC, then the correct term to permit non-highway legal vehicles on NFS “highways” is “combined use,” not mixed use. If a Forest Supervisor assumes supremacy over the CVC in the management of NFS passenger car roads, the correct term would be mixed use. If the Regional Forester accepted CHP’s interpretation that the CVC does not apply to unpaved ML 3-5 “roads,” then the correct term to permit non-highway legal vehicles on these roads is also mixed use.

Engineering Analyses:

Under the Region’s current policy, Forest Supervisors are constrained from designating passenger car roads for “combined use” if road segments are greater than three miles (Section 38026 CVC). Forest Supervisors may exceed this length if they assume supremacy over the CVC in accordance with 36 CFR 212.5(a)(1) and the response to public comments to the 2005 Travel Management Rule, which state:

“Under the current rule, traffic on roads is subject to State traffic laws where applicable, except when in conflict with the Forest Service’s prohibitions at 36 CFR Part 261. If there is a conflict, the agency’s prohibitions preempt State traffic laws. To ensure that the agency’s intent with respect to designation of roads, trails, and areas is fully effectuated, the proposed and final rules also provide for preemption of State traffic laws when they conflict with those designations.”⁶

Forest Service directives say:

“The use of motor vehicles on NFS roads is subject to State traffic law where applicable, except when in conflict with motor vehicle designations (36 CFR 212.51) or with the rules at Title 36, Code of Federal Regulations, Part 261 (36 CFR 212.5(a)(1)). On NFS roads, designations for motor vehicle use take precedence over conflicting State traffic laws. The Forest Service may designate some NFS roads under Title 36, Code of Federal Regulations, section 212.51 as open to a vehicle class that would normally be precluded from public roads under State law (for example, NFS roads could be designated for all motor vehicles, where State law allows only highway-legal vehicles).”⁷

Per Forest Service national direction, an engineering analysis is required to assess the probability and severity of crashes on roads proposed for mixed use.⁸ Where the criteria in FSH 7709.55, 30.3 are met, the INF may prepare an engineering judgment instead of an engineering report. These three criteria are:

“When all of the following conditions exist, a qualified engineer may document engineering

⁵ DEIS, page 431.

⁶ Federal Register, Vol. 70, No. 216, Rules and Regulations, November 9, 2005.

⁷ Forest Service Manual 7731.2, #1 and #3 (effective 10/07/2008).

⁸ See EM-7700-30, “Guidelines for Engineering Analysis of Motorized Mixed Use on National Forest System Roads.”

judgment that an engineering report is not needed to designate a road for motorized mixed use:

- 1) The proposed designation is consistent with State and local law (*and it is for unpaved NFS roads regardless of maintenance level according to the CHP*).
- 2) The road being considered for designation currently has motorized mixed use.
- 3) There is no documented crash history involving motorized mixed use on the road or similar roads in the vicinity.”⁹

The Regional Forester’s January 13, 2009 motorized mixed use letter of direction to the Forest Supervisors is a concern to ROC. The Region’s mixed use policy invalidates mixed use proposals on passenger car roads greater than three miles unless you:

- 1) Lower the maintenance level;
- 2) Assume supremacy over the CVC on these roads; or
- 3) Disregard the CVC.

In the DEIS, the INF is proposing to designate 33 miles (11 roads) as “combined use” pending approval from the Regional Engineer, Regional Forester’s Team and the Office of General Counsel. ROC reviewed the engineering reports and found three roads are greater than three miles.¹⁰ One is 11 miles long. Please explain in the FEIS how the Regional Forester can cite the CVC to prohibit motorized mixed use on NFS passenger car roads, but then allow it on certain roads or road segments that are greater than three miles in conflict with Section 38026 CVC. It appears the Forest Service is applying as well as ignoring the CVC at its own discretion. This inconsistency is confusing to the public.

Proposing “combined use” designations requires conformance with Section 38026 CVC and review by the CHP. Segments must be less than three miles, which will prohibit non-highway legal vehicles on over 100 miles of roads in the INF. We doubt the CHP has the personnel or funds to review many of these analyses.

ROC agrees with your assumption in the DEIS: “Changing maintenance levels on existing NFTS facilities is an administrative decision not subject to NEPA analysis.”¹¹ The Regional Forester’s January 13th letter describes the steps for reclassifying passenger car roads to ML 2. He is encouraging Forest Supervisors to consider this action. Although, the process steps are time consuming and expensive, ROC recommends you reclassify many of your unpaved passenger car roads to ML 2 to allow mixed use and reduce road maintenance costs.

If reclassification is not feasible, please modify Alternative 6 to designate all unpaved INF ML 3-4 roads for motorized mixed use (121 miles), and prepare engineering judgments when the three criteria in FSH 7709.55, 30.3 are met.¹² We suspect many of these roads are similar to the other passenger car roads described in your engineering reports (there is low traffic volume, motorized mixed use already occurs, road surfaces are rough, brush is encroaching, vehicle speeds are low, and the roads look more like operational ML 2 roads, etc.). Explain why mitigations would not be effective if a road is

⁹ Forest Service Handbook 7709.55, 30.3, #5 (effective 01/08/2009).

¹⁰ INF Engineering Reports for NFS passenger car roads #s 3S06, 3S08, and 1S38.

¹¹ DEIS, page 42.

¹² DEIS, page 433.

not designated for motorized mixed use. Include all engineering reports in an appendix so the reader understands why some roads are not recommended for non-highway legal vehicle travel.

If the INF chooses to designate all 121 miles of ML 3-4 roads for mixed use, the Regional Forester's Team (RFT) must concur with your proposal.¹³ Isn't the RFT about 50+ people? Will many proposals be approved? ROC believes the Regional Forester's January 13th letter is doomed to fail the OHV community as not many mixed use or combined use proposals are being submitted by Forest Supervisors.

Public Safety on Mixed Use Roads:

ROC asserts the Forest Service does not have enough mixed use accident data from Region 5 national forests to adopt a regional policy that prohibits motorized mixed use on thousands of miles of unpaved passenger car roads in California. We found Region 5's mixed use accident information does not substantiate the agency's concern about public safety. In the past 15 years, there have been 11 mixed use accidents on 41,501 miles of FS roads in California.¹⁴ Three accidents involved FS employees running into an OHV; one involved a County Deputy Sheriff hitting an OHV. The data does not indicate the road maintenance level where these accidents occurred. There have been no mixed use accidents on the INF according to the DEIS and Region 5 data.

"On low-volume roads, crash history is seldom a reliable indicator of significant safety problems. Accordingly, use common sense and judgment to determine safety deficiencies and the priority for corrective action."¹⁵ Based on the Forest Service Handbook and Manual on Uniform Traffic Control Devices (MUTCD), low volume roads are any roads with less than 400 average daily traffic (ADT).¹⁶ Unless a traffic study has been completed, we believe almost all unpaved INF ML 3 and 4 roads have less than 400 ADT. Accidents related to human factors (alcohol, medical emergency, reckless driving, etc.), weather, time of day or mechanical failure may have nothing to do with road safety. The occurrence of an accident is not necessarily an indictment of the road or the public safety risk.

ROC asserts unpaved ML 3-4 roads should be open to all vehicle classes unless an exception exists for some road segments due to public safety, past accidents, resource concerns, user conflicts or other considerations that cannot be mitigated. The Regional Forester should follow Forest Service national direction and the agency's own guidebook for analyzing mixed use on FS passenger car roads.

Minor Operators on Mixed Use Roads:

The CHP, State Off-highway Motor Vehicle Recreation Division and ROC share equal concern with the Forest Service over the safety of minors driving non-highway legal vehicles on NFS or other public roads. However, we believe State requirements for minor operators are sufficient. The answer is not to eliminate this use, but to mitigate it in the best way possible. As an example, the FS does not prohibit hiking, mountain biking, skiing, snowboarding, rock climbing, hunting, firearm use, driving with street legal vehicles or other recreational activities on the national forests. There are risks

¹³ RF letter dated January 13, 2009.

¹⁴ Region 5 mixed use accident data, 1993-2008.

¹⁵ Forest Service Handbook 7709.59, 41.7, #1.

¹⁶ Forest Service Handbook 7709.59, 41.4. Also MUTCD, Section 5A.01 Function, page 5A-1.

associated with all of these sports and, yes, some fatalities. The Forest Service should manage OHV risk, not eliminate the activity or prohibit youth under 18 or 16 years from participating. (Even FS employees have motor vehicle accidents!)

There are numerous safety training programs for youth offered by the State, vehicle manufacturers, state-wide OHV organizations, and local OHV clubs. If there are continued safety concerns, the FS should approach the California Highway Patrol and State OHMVR Division to see if State safety requirements for minors need to be strengthened.

In accordance with FSH 7709.59, 23, the Forest Service should impose temporary road closures for certain vehicle classes (i.e. OHVs) when commercial traffic is present, such as log haul during timber sales. This is an appropriate mitigation measure for public safety.

5) Affordability Analysis and Road Maintenance Levels

The Forest Service Manual states: "Consider maintenance and administrative obligations and capability in the context of future budgets and staffing. Administrative units and ranger districts should avoid adding routes to the forest transportation system unless there is adequate provision of their maintenance. Grants, agreements, and volunteers may be used to extend Forest Service resources."¹⁷

ROC is concerned about the Agency's liability due to the lack of maintenance on NFS roads. The INF has approximately \$29,000,000 in deferred road maintenance.¹⁸ Table 3-208 displays the Forest's annual estimated road maintenance costs. The cost to maintain a ML 3 road is over 5 times the amount to maintain a ML 2, high clearance road (\$5,450/mile vs. \$975/mile respectively). The annual maintenance cost for a ML 4 and 5 road is 14 times more expensive than a ML 2 road (at \$14,120/mile). All alternatives require over \$2.4 million annually to maintain the INF's current road system compared to an average budget of approximately \$1.1 million (\$800,000 from FS appropriated funds and approximately \$200,000 to \$300,000 from State OHV grant funds). "This budget is not expected to change appreciably in the foreseeable future or increase if facilities are added to the NFTS as proposed by Alternatives 2-6. The majority of the Forest's annual road maintenance budget goes to maintenance of roads for passenger vehicles (Maintenance Levels 3-5)."¹⁹

The DEIS further states:

"Based on the current appropriated annual road maintenance budget of \$800,000 for Fiscal Year 2009 plus anticipated State OHV funds of \$200,000, there is a shortfall of \$1,445,265 to complete all routine maintenance on the existing NFTS. Using Alternative 3 as an example, the proposed addition of 1,191 miles of roads and motorized trails to the NFTS increases the routine maintenance shortfall to \$2,511,740 for Fiscal Year 2009. All of the uncompleted maintenance would be added to the current deferred maintenance total of \$29,000,000 for a new total deferred maintenance at the end of the fiscal year of

¹⁷ Forest Service Manual 7715.03, Policy, #6.

¹⁸ DEIS, page 433.

¹⁹ DEIS, page 432.

\$31,511,740 for Alternative 3. Alternatives 2, 4, and 6 would all increase the maintenance funding shortfall from current levels, but to lesser degrees than Alternative 3”²⁰

Please describe in the Affected Environment section of FEIS how many miles of roads are currently maintained to their objective maintenance level and road management objectives in accordance with Forest Plan and Agency direction.²¹ Describe how this may change under each alternative. The DEIS states:

“The level of appropriated and non-appropriated funding is not sufficient to (*sic*) complete routine maintenance of the existing NFTS without tradeoffs and the accumulation of more deferred maintenance. For Alternatives 2, 3, 4, and 6, adding new facilities to the NFTS will increase the amount of deferred maintenance and increase the maintenance cycle.”²²

“. . . roads that are maintained once every five years may be maintained only once every 10 years. Over time, roads may develop severe public safety or resource damage issues and may need to be evaluated for closure to public motorized use.”²³

Reducing operational road maintenance levels should be seriously considered to bring your road maintenance program in alignment with the INF’s expected out year budgets. By your own admission, many miles of INF ML 3 roads are more like operational ML 2 roads because of wash-boarding, potholes, ruts, bumps, brush encroachment, and low traffic speeds (10-20 mph).²⁴ Describing road management objectives and re-classifying maintenance levels are administrative and not subject to NEPA.²⁵ Since passenger car travel will not be prohibited and operators can choose to drive their passenger cars on ML 2 roads, NEPA is not required.

Consider the factors listed in FSH 7709.59, 62.31 when selecting maintenance levels. It makes little sense to keep roads at a higher maintenance level if passenger cars are a minor component of the traffic. ROC believes “prudent drivers in standard passenger cars” with P-rated tires almost always stay on paved roads. The primary vehicle class using the road should drive the assignment of operational road maintenance levels and not vice versa. ROC does not consider the INF’s unpaved ML 3 and 4 roads to be passenger car roads or “highways.” They are “roughly graded” and becoming more so over time. The lack of road maintenance is a serious liability issue for the Agency.

As an option to reduce your maintenance costs, temporarily raise the operational ML of a road to provide more economical commodity haul (or for some other management purpose), then lower the operational ML when the activity has ended. Consider converting some ML 2 roads with low use to motorized trails to further reduce your maintenance costs. Assign your operational maintenance levels commensurate with your use.

²⁰ DEIS, page 441.

²¹ Forest Service Manual 7731.04b, 7731.1 and 7732.03.

²² DEIS, page 441.

²³ DEIS, page 438.

²⁴ INF Engineering Reports for NFS passenger car roads #s 2S49, 3S08, 1S52, 1S38, 2S10, and 4S01.

²⁵ RF Letter re: Motorized Mixed Use on NFS Roads in Region 5, dated January 13, 2009. NEPA is not listed as one of the steps for road reclassification.

“The operational maintenance level is the maintenance level currently assigned to a road considering today’s needs, road condition, budget constraints, and environmental concerns; in other words, it defines the level to which the road is currently being maintained.”²⁶

Please provide information in the FEIS about the traffic volume and vehicle classes using INF passenger car roads. This will help the public understand the INF’s need to maintain 146 miles of passenger car (ML 3-5) roads.²⁷ Along with the factors previously mentioned, ROC suggests the INF follow the criteria in FSM 7715.5 for roads when assigning road maintenance levels, which state:

“In addition to the general criteria in FSM 7715.5, consider the following for NFS roads:
a. Speed, volume, composition, and distribution of traffic on roads; and
b. Compatibility of vehicle class with road geometry and road surfacing.”²⁸

ROC recommends these steps to bring your road system in alignment with your projected annual road maintenance budgets:

- Set the operational maintenance level on all unpaved roads as ML 2.
- Begin monitoring actual use according to accepted protocols for travel surveillance to determine volume, distribution and type of traffic actually flowing on INF roads.
- Adjust the operational maintenance level up when passenger cars, recreational vehicles or cars pulling trailers exceed 50 percent of the total traffic on individual roads and the ADT is at least 100.

When motorized mixed use is designated on a road in California, State OHV Trust Funds may be used to maintain the road. They will help reduce the INF’s backlog of road maintenance if the FS chooses to apply for these grants. This is another reason for lowering your maintenance levels and allowing mixed use.

Please address the opportunity to use volunteers to maintain roads if they are designated for mixed use (e.g. remove vegetation encroachment). Describe your current OHV volunteer program and its potential to assist with the Forest’s future road and trail maintenance through such programs as Adopt-a-Trail or Adopt-a-Road.

6) Pre-Mitigation Measures

Alternatives 2, 3, 4, and 6 require pre-mitigation on 49-82 unauthorized routes prior opening them for public motorized use and displaying on your MVUM.²⁹ Please include a schedule in the FEIS when all pre-mitigation measures will be completed for each alternative and how they will be funded. These costs range from a low \$67,370 in Alternative 2 to a high of \$204,350 in Alternative 3. Please note the pre-mitigations costs displayed in Table 3-210 do not match with those displayed in Table 3-211.

²⁶ Forest Service Handbook 7709.59, 62.31.

²⁷ DEIS, page 433.

²⁸ Forest Service Manual 7715.5, #3.

²⁹ DEIS, page 27.

7) Seasonal Restrictions

The Travel Management Rule allows the FS to adopt seasons of use and emergency closures. Seasonal restrictions are proposed on a few roads under several alternatives to prevent vehicle damage when road surfaces are wet and/or to avoid impacts to other forest resources. Wet weather restrictions should be based on weather-related criteria (rainfall, soil conditions, etc) and not set dates. This is how you manage your fuel wood program; the dates and times when cutting is permitted change every year based on weather conditions and fire danger. We recommend the same approach for seasonal road closures. ROC assumes any “season of use” for specific roads applies to everyone, including Forest Service vehicles. Please respond to that assumption in the FEIS.

8) Parking and Dispersed Camping Off Roads

Describe whether big game retrieval, parking or dispersed camping off designated roads, trails or areas will be allowed. The DEIS is ambiguous about this, except to say “Dispersed recreation activities (i.e., activities that occur after the motor vehicle stops such as camping, hunting, fishing, hiking, etc.) are not part of the scope of the proposed action.”³⁰

The DEIS estimates that: “. . . 65 percent of all non-wilderness dispersed recreation takes place within Concentrated Recreation Areas (CRAs).” Closing redundant unauthorized routes or short spurs to “motorized use is not expected to significantly affect dispersed recreation opportunities in CRAs.”³¹ “CRAs cover approximately 55,000 acres, or 3 percent of the National Forest System land administered by the Inyo National Forest.”³²

The DEIS then states: “Motorized access to dispersed recreation opportunities outside of CRAs is largely a function of miles of road and motorized trail proposed for motorized use in each alternative. . . . all action alternatives potentially reduce motorized access to dispersed recreation opportunities outside of CRAs.”³³

The Forest’s unauthorized route inventory should include information on why a route stopped or if a dispersed campsite was found along the route. It is impossible for the reader to know how many dispersed campsites are affected by route closures in each alternative. Please provide a table in the FEIS that displays the total number of campsites that were inventoried and the number that will remain accessible under each alternative. Amend Table 3-21 to show this same information for dispersed campsites within CRAs. The route mileages in this Table are not useful indicators of the effects on dispersed camping.

ROC recommends continued motor vehicle access to all historically used dispersed campsites. If there were prior resource concerns, ROC assumes action would have been taken before now to address them. At some campsites, please consider

³⁰ DEIS page 43.

³¹ DEIS, page 77.

³² DEIS, page 67.

³³ DEIS, page 78.

designating an area for vehicle parking to protect riparian areas, meadows or other sensitive resources. Monitor these sites to determine if other mitigation is required.

ROC recommends motor vehicle access for other dispersed camping (separate from the historically used campsites) be permitted within 100 feet of a designated road, trail or OHV area when it is feasible to do so and does not cause damage to national forest resources or facilities. (Refer to FSM 7715.74 and FSM 7716.13.) Monitor impacts to see if access needs to be modified in some areas.

ROC recommends parking be permitted within 30 feet from any designated road, trail or open OHV area when it does not cause damage to national forest resources or facilities. This is consistent with the new FS travel management directives found in FSM 7716.1. Regulations in 36 CFR 261.15 allow FS officers to issue violation notices for damage to national forest resources. Monitor use and determine if this length needs to be modified in some areas.

During the hunting season, ROC also recommends the INF seasonally allow cross-country travel with all-terrain vehicles for the specific purpose of big game retrieval (barring any wet weather, fire-related or other off-road closures already in place). See FSM 7715.74 and FSM 7716.13 for designations for big game retrieval. This is a reasonable accommodation to hunters. Vehicle operators causing damage to national forest resources can be cited.

9) Non-highway Legal Vehicle Travel within Developed Campgrounds

All alternatives would continue to allow ride-in, ride-out of non-highway legal vehicles at Deadman, Glass Creek and Hartley Springs Campgrounds. Please adopt a 5 mph speed limit for non-highway legal vehicles (if not all vehicle classes) within developed recreation areas as mapped in your “Developed Recreation” GIS coverage. Concern over excessive noise, public safety, and visitor conflicts can be avoided by requiring operators to “idle in” and “idle out” of developed campgrounds where this is allowed. There is no reason to go any faster.

10) Environmental Consequences of the Alternatives

General Comments: ROC believes the overall impacts from adding unauthorized routes are so minor, that when aggregated with other impacts occurring across the forest landscape (existing roads/trails, vegetation management, wildfires, mining, grazing, etc.), they are imperceptible and discountable. These routes are already in place and are being used. Ground disturbance and other resource impacts have already occurred and will likely remain the same if designated. The adverse effects from route designation are minor compared to the impacts from cross-country travel, which will now be prohibited. Overall, effects from designation are an improvement over the existing situation since many miles of unauthorized routes will be closed to motor vehicle travel.

Cultural Resources

Cultural resource assessments were conducted along 1,274 miles of inventoried unauthorized routes. The DEIS states that: “As of June 2008, insufficient information was available to determine the present condition and potential risk to 103 historic

properties. The results of the 2008 survey will be incorporated in the Final EIS. Current patterns suggest that 10-15 percent of the historic properties identified . . . are potentially susceptible to direct and indirect effects.” A total of 12 miles of routes and 103 cultural properties were not surveyed at the time the DEIS was issued.³⁴ ROC would like to comment on the full analysis when it is completed and requests a 45-day public comment period prior to the issuance of the Forest Supervisor’s Record of Decision.

There is a lot of repetition in this section and it could be shortened.

Water Resources

The DEIS says 17 percent of the Inyo’s 6th field watersheds have an existing road density greater than 4.5 miles/square mile within perennial riparian conservation areas (RCAs).³⁵ Perennial RCAs widths are defined as 100 feet on each side of perennial streams and lakes. This is very high density. Even though the risk of cumulative watershed effects is considered low, ROC encourages you to reduce road densities over time in the 12 high risk RCA’s shown in Table 3-72.

Please clarify the titles for Tables 3-66, 3-68 and 3-69 (actually all DEIS tables) to note if you are displaying just the miles of “unauthorized” routes.

Noxious Weeds

The spread of invasive species was one of the former Chief’s Four Threats along with unmanaged recreation (OHV travel). It is disappointing that the Chief’s emphasis is not resulting in greater “on-the-ground” action to eradicate noxious weeds through increased funding. Since roads are primary vectors for the spread of noxious weeds, we appreciate your commitment to treat high priority noxious weed occurrences adjacent to unauthorized routes. Many others, however, will not be treated. ROC recommends more emphasis on this program forest- and region-wide.

11) ROC’s Modified Alternative 6 or New Action Alternative

Please consider modifying Alternative 6 or analyzing a new Action Alternative (#7) that provides a better balance between motor vehicle access, affordability and environmental protection. This alternative has the following elements:

- a) Reclassify unpaved ML 3 and 4 roads to ML 2 to better align your road system with projected annual road maintenance costs.
- b) Convert at least 190 miles (as proposed in Alternative 3) or more of ML 2 roads to motorized trails (open to all vehicle classes) to, again, better align your road system with projected annual road maintenance costs.
- c) If you believe you cannot lower the maintenance levels of your passenger car roads, then assume supremacy over the CVC and designate all unpaved ML 3-4 roads for motorized mixed use unless a rare exception exists that cannot be

³⁴ DEIS, pages 121-122.

³⁵ DEIS, page 174.

mitigated. Designation of these roads will provide important connectors to your ML 2 road and motorized trail systems.

- d) Include all engineering reports in an appendix to the FEIS so the public understands why some routes are not recommended for mixed use.
- e) Provide access to all historically used campsites.
- f) Allow parking 30 feet from a designated route; and allow vehicle access for primitive camping within 100 feet from a designated route consistent with FSM 7715.74, FSM 7716.1, and FSM 7716.13.
- g) Allow cross-country travel by ATVs only for the sole purpose of big game retrieval during the hunting season.
- h) Implement wet weather restrictions based on wet weather criteria, not on specific dates that have no relation to actual conditions on the ground.

Conclusion: Again, thank you for the opportunity to submit ROC's comments. I would like to receive a hard copy of the FEIS and all the maps when it is issued.

Sincerely

/s/ Sylvia Milligan

SYLVIA MILLIGAN
Chair, Recreation Outdoors Coalition

cc:

Gregg Mumm, BlueRibbon Coalition
Don Amador, BlueRibbon Coalition
Dave Pickett, American Motorcyclist Association
Robert Reed and John Stewart, California Association of 4 Wheel Drive Clubs, Inc.
Amy Granat, California Off-road Vehicle Association
Fred Wiley, Off Road Business Association
Bill Dart
Tom Crimmins, National Off-highway Vehicle Conservation Council
Inyo County Board of Supervisors
Mono County Board of Supervisors
Daphne Greene and Phil Jenkins, CA. Off-highway Motor Vehicle Recreation Division