

RECREATION OUTDOORS COALITION
4000 Beacon Drive
Anderson, CA 96007

July 31, 2009

Kathleen Morse, Forest Supervisor
Lassen National Forest
Attn: Travel Management Project Leader
2550 Riverside Drive
Susanville, CA 96130

Subject: Forest DEIS for Motor Vehicle Travel

Dear Supervisor Morse:

Thank you for the opportunity to comment on the Lassen 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 Lassen National Forest (LNF). After review of the DEIS, we recommend your staff analyze a new alternative to comply with National Environmental Policy Act (NEPA) and 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 Recreation and Transportation Facilities as explained in this letter. We 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 requests 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 to submit their comments for your consideration in the ROD.¹

- b) 1,145 miles of unauthorized routes were originally inventoried, but this number was reduced. The DEIS states:

“Approximately 56 miles of unauthorized routes, originally discussed in the NOI, could not be located or did not provide a recreation opportunity. As a

¹ Based on our comments in this letter, ROC believes the LNF should issue a supplemental DEIS that provides the information currently missing and analyzes at least one more alternative.

result, a mapping update in April 2008 changed the originally stated 1,145 miles of unauthorized routes to the more accurate 1,089 miles of unauthorized routes.”²

Appendix A, Route Specific Data, lists all unauthorized routes that were analyzed as proposed additions to the National Forest Transportation System (NFTS) under one of the four action alternatives. A total of 61.94 miles of unauthorized routes (just 5.6 percent of the inventory of 1,089 miles) were analyzed for this project.³ Many routes submitted by ROC on May 28, 2008 were, apparently, not evaluated by your interdisciplinary team in the iterative TAP process (Appendix G) such as 260522UC01, 270611UC01-270611UC06, etc. Some unauthorized routes such as 300339UC03 are recommended to be closed in the TAP (Appendix F), but no reasons are provided. The DEIS states:

“TAP recommendations were made on 768 miles of unauthorized routes receiving public comment. 321 miles of unauthorized routes did not receive public comment and have not received travel analysis.”⁴

In fact, many unauthorized routes were proposed by ROC, but not analyzed in either the TAP or the DEIS. Please display all unauthorized routes in Appendix A so the public understands why the rest were eliminated from detailed study and not proposed for designation. The analysis does not conform with NEPA regulations to describe the reasons for eliminating routes or the social/environmental impacts from prohibiting motor vehicle travel.

The lack of a “recreation opportunity” should not eliminate an unauthorized route from the LNF’s inventory.⁵ These existing routes should be tracked in your GIS database. Please add these miles onto the total of 1,089 miles that you reference in the DEIS.

- c) There is an inadequate range of alternatives. The four action alternatives propose to designate between 0 to 4.8 percent (or 0 to 53 miles) of your total unauthorized routes (1,089 miles); 768 miles of unauthorized routes received public comment. Cross-country travel is prohibited under all the action alternatives. No open riding areas are proposed.

ROC requests the LNF analyze a new alternative (#6) that would provide a better balance between public access and environmental stewardship. These two goals are not mutually exclusive. Our organization has developed a set of “Proven Principles” that will result in good travel management plans when there is effective collaboration with interested parties (Exhibit 1).

The first principle starts with a “Conceptual Plan” that will satisfy current and projected visitor and agency expectations. This plan cannot be developed without interaction with the public, looking at maps and discussing the value of each desired route. Where credible and specific issues warrant limitations to

² DEIS, page xi.

³ DEIS, Appendix A, Table A-1.

⁴ DEIS, page 68.

⁵ DEIS, page xi.

your existing system, the impacts to recreation and public access should be explained and mitigated where possible. With this kind of collaboration, you will engender public trust and have greater support for your preferred alternative. I appreciated the two days your staff spent with me on June 29-30 to discuss a new alternative.

- d) There is no uniform template for each resource section in the DEIS and indicators are not consistently tracked in the Environmental Consequences sub-section. Many sections do not address “Compliance with the Forest Plan and Other Regulatory Direction” such as Transportation Facilities, Social and Economic Resources, and Soil Resources, etc. The Recreation Resources “Compliance” sub-section merely lists LRMP standards and guidelines, but does not explain whether the alternatives comply with them. We believe the standards and guidelines should be moved to beginning of this section under: “Analysis Framework: Statute, Regulation, Forest Plan, Other Direction.” Please check this for the other resource sections. We recommend each section follow a consistent template.
- e) Consistency with local plans such as county general plans or adjacent national forest plans is not discussed. The reader is unsure if the LNF collaborated with affected counties, and adjacent national forests as well as adjacent private landowners such as Sierra Pacific Industries or Fruitgrowers, etc. Include this information in the FEIS.

2) Motorized Mixed Use on Other Public Roads through the Lassen 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.”⁶

Collaboration with other road management agencies is critical for the development of sound NF travel management plans. ROC is working with many counties to designate all unpaved county roads through NFS land for motorized 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 LNF’s final designations to provide a seamless transportation system for the riding public.

The DEIS does not describe your collaboration with adjacent national forests (Plumas and Shasta-Trinity) and if there are connected road systems for motor vehicle travel, especially for non-highway legal vehicles. Include this information in the FEIS.

⁶ Forest Service Manual 7702, Objectives (effective 01/08/2009).

3) Motorized Mixed Use on Unpaved National Forest System Roads

ROC asserts unpaved NFS roads are not “highways.” 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.” (Underlining added for emphasis.)

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.”

R5 Regional Engineer George Kulick confirmed the description of “highways” in the Forest Service Manual:

“In California, we have about 3,000 miles of Forest Highways officially identified. These highways are generally state or county roads that serve to connect National Forests.”⁷

The DEIS references the 1966 (but signed in 1981) Memorandum of Understanding with the Federal Highway Administration and the Forest Service.

“In a 1966 Memorandum of Understanding (MOU) with the FHWA, the Forest Service agreed to manage a subset of NFTS roads as highways (maintained for four wheel passenger car vehicles) under the Federal Highway Safety Act. These roads are maintained with a schedule and frequency assigned to ML 3, 4, and 5.”⁸

This paragraph is false and needs to be corrected. First, the MOU does not mention any vehicle classes. Second, the MOU explicitly states the Forest Service will “transfer lands to the State or local government for highway purposes” via a deeded right-of-way. Any reference to ML 3, 4 or 5 roads implies the Forest Service has jurisdiction forest highways, which is incorrect. Refer to Exhibit 2 for the MOU.

“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.

In ROC’s view, most LNF roads are logging, fire or service roads and fall under the exemption from a “highway” in Section 38001 CVC. The DEIS confirms this:

“Lassen NF has established a road network, with well distributed arterial, collector, and local roads that support the timber management program.”⁹

⁷ E-mail from George Kulick to Elizabeth Norton, dated April 6, 2009.

⁸ DEIS, page 60, paragraph 2.

⁹ DEIS, page 50.

“USFS engineers, foresters, and land planners create a project to manage the resources, then the project is sold to the lowest bidder who in turn must create access to the resource sites(s) in the project, thus the construction method for the majority of roads that exist on the national forests.”¹⁰

“As described in the preceding section, the NFTS was developed primarily for timber removal, mining access, livestock grazing, and inter-community or intra-regional travel. The existing road network is an inherited system what was physically designed for industrial use by large and slow commercial vehicles.”¹¹

“Historical road access needs, such as for gold mining, livestock grazing and production, farm products transport, and timber transport, from forest areas ultimately to metropolitan centers, were the impetus for construction of the present forest, county and state transportation systems that exist today. Recent surveys (2000-2005) conducted by Lassen NF indicate that the current primary use of the NFTS is to facilitate the economic extraction of timber products, . . .”¹²

These types of roads on the LNF are not “highways” under the CVC. They are logging, fire access, and service roads. We emphasize, again, the Forest Service manages roads, not highways.

Please correct the following statement in the DEIS.

“Roads maintained for passenger cars on roads with a maintenance schedule and level called an ML 3, 4, and 5 are not considered ‘roughly graded’ and are considered highways by State definition. As a result, operation of OHVs on these roads would be contrary to State law.”¹³

The CVC does not address “passenger car roads” and does not restrict motor vehicle use on “passenger car roads” to only highway registered vehicles and licensed drivers. The CVC does not mention “maintenance levels.” The only term used in Section 16.5, CVC, is “highways.” Please delete any reference to passenger car roads or maintenance levels in the CVC.

Statements in the DEIS directly conflict with CHP’s December 19, 2007 interpretation of the CVC for FS unpaved passenger car roads. ROC reviewed the Travel Management DEIS for the Rogue River-Siskiyou National Forest, based out of Medford, Oregon in the Pacific Northwest Region or Region 6. This forest also manages public land in California. Their DEIS states:

“Portions of the Siskiyou Mountains and Wild Rivers Ranger Districts are located in California, which has similar (*traffic*) laws as Oregon. According to the California Highway Patrol (Farrow 2007), mixed use is allowed on unpaved maintenance level 3 roads (*passenger car roads*) ‘that have been operating as mixed use roadways for years’ under Section 38001 of the California Vehicle Code.”

¹⁰ DEIS, page 60.

¹¹ DEIS, page 64.

¹² DEIS, page 86.

¹³ DEIS, pages 66, 87-88.

Region 6 and the Rogue River-Siskiyou National Forest have the opposite interpretation of the CVC than Region 5. Region 6's interpretation is consistent with the CHP's December 19, 2007 letter to R5 Regional Forester Randy Moore. ROC asserts Region 5 should comply with CHP's interpretation.

DEIS, Page 56, paragraph 1: The California Vehicle Code (CVC) does not define trails where non-highway-legal motor vehicles may or may not be operated. Please delete the reference to trails.

Terminology in the 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.

Forest Service Passenger Car Roads:

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.

The majority of the Forest's ML 3 roads (544 miles) are generally unpaved (native surface or gravel), single lane with design speeds from 5-25 mph. Their traffic service levels are generally B (congested during heavy traffic - such as log haul), C (flow interrupted, use limited) or D (slow flow or may be blocked) (Source: FSH 7709.56, 4.1, Exhibit 1; 4.2, Exhibit 5, and LNF INFRA Roads Data). Their functional class is either local or collector roads. These ML 3 roads provide important links to the LNF'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 roads designated for mixed use.

Based on a traffic survey ROC did on 72 miles of unpaved ML 3-4 roads on the Lassen National Forest in 2005, we believe almost all traffic on unpaved 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 3-4 roads as "passenger car roads." The reference to "passenger car roads" is a carryover from the 1950's when there were few high clearance, 4-wheel drive family vehicles (today's sport utility vehicles and trucks). On the Lassen National Forest, only 10 percent of the use on ML 3-4 roads was actually passenger car. The rest were high clearance vehicles or non-highway legal vehicles.¹⁴

¹⁴ Lassen National Forest Traffic Study and Engineering Analysis, 2005.

The DEIS does not indicate if any statistically valid traffic counts have been conducted to the level ROC provided in 2005. ROC has been unsuccessful in obtaining any engineering analyses or reports from the LNF to determine what traffic count and vehicle class data were used to assess ML 3 and 4 roads for motorized mixed use.

Absent recent traffic survey data and vehicle class information, ROC questions the need to maintain 693 miles of unpaved ML 3-4 “passenger car” roads on the LNF. Information on how the action alternatives modify maintenance levels is missing from the DEIS. Maintenance levels will not be assigned to each road until after the decision with the FEIS. Without this information, the public cannot evaluate how vehicle class restrictions on ML 3-5 “passenger car” roads will affect motorized recreation opportunities. In addition, unless maintenance levels are provided in the DEIS for each alternative, the effect on the Forest’s road maintenance budget is unknown. Please display this in the FEIS.

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 Code of Federal Regulations (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.”¹⁵ (Underlining added for emphasis.)

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).”¹⁶

Per Forest Service national direction, an engineering analysis is required to assess the probability and severity of crashes on roads proposed for mixed use.¹⁷ Where the criteria in FSH 7709.55, 30.3 are met, the LNF 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

¹⁵ Federal Register, Vol. 70, No. 216, Rules and Regulations, November 9, 2005.

¹⁶ Forest Service Manual 7731.2, #1 and #3 (effective 10/07/2008).

¹⁷ 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.”¹⁸

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 “combined use” proposals on passenger car roads greater than three miles unless you:

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

Alternative 5 proposes to designate 130 miles as “combined use or mixed use” pending approval from the Regional Engineer, Regional Forester’s Team and the Office of General Counsel.¹⁹ Proposing “combined use” designations requires conformance with Section 38026 CVC and review by the CHP.²⁰ “Highway” segments must be less than three miles, which will prohibit non-highway legal vehicles on most unpaved ML 3 and 4 roads in the LNF.

The DEIS states:

“The Lassen NF conducted engineering analyses for motorized mixed use on certain ML 3 and 4 road segments. These analyses are documented as engineering reports, and will be used to inform Forest Supervisor decisions involving motorized mixed use.”²¹

ROC requested a copy of these analyses, but was told they were incomplete.²² We have no way to evaluate how you approached this task. Please explain why only 85 miles out of 693 miles (Table 13) of ML 3 and ML 4 roads were considered for motorized mixed use. (Also confirm if 85 miles is correct or if it should be 130 miles under Alternative 5.)²³

Without the completed engineering analyses, the public has no way of knowing how many of the 130 miles of proposed ML 3 and 4 mixed use roads will be designated for non-highway legal vehicle travel until the FEIS is issued. All other forests have provided their draft engineering analyses for ROC to review when their DEISs were released. The fact that none of these analyses are final indicates the Region’s mixed use policy cannot be implemented in a timely manner for the public to evaluate and comment on them.

¹⁸ Forest Service Handbook 7709.55, 30.3, #5 (effective 01/08/2009).

¹⁹ Regional Forester’s letter, dated January 13, 2009.

²⁰ CHP Memorandum, dated January 13, 2009.

²¹ DEIS, pages 58-59.

²² E-mail from Public Services Officer Chris O’Brien to Elizabeth Norton, dated June 16, 2009.

²³ DEIS, page 59, states approximately 85 miles of ML 3-4 roads were analyzed.

Engineering analyses require the concurrence of the Regional Engineer and his staff as well as approval by the California Highway Patrol.²⁴ If the Regional Forester continues to adhere to the Region's mixed use policy, Forest Engineers will have to expend considerably more time and funds preparing combined use proposals that conform with Section 38026 CVC. With current budget constraints as well as staffing shortages, we doubt many roads will be forwarded to CHP. The two tier review/approval process has created a serious bottleneck that the Regional Forester did not anticipate. We also doubt the CHP has the personnel or funds to review many of these analyses. ROC has yet to see an acceptable "combined use" assessment in any of the DEISs we have read that meets CVC requirements.

ROC recommends the LNF reclassify many of Forest's unpaved ML 3 roads to ML 2 to allow mixed use and to reduce road maintenance costs. Most of these roads are single lane, slow speed roads (25 mph or less) with low traffic volumes and traffic service levels of B, C and D. According to the DEIS: "Setting road maintenance levels and changing maintenance levels are administrative and not subject to NEPA."²⁵ 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.

Fire access has been used as one argument against re-classifying ML 3 or ML 4 roads to ML 2, high clearance roads. Fire access is very important, but ROC disagrees with this argument. Most fire engines are 4-wheel drive and designed to travel on just about any road, including cross-country travel. Fire access should seldom be used as an excuse to keep roads at a higher maintenance level. Air tankers and helicopters are often the fastest way to initiate fire suppression efforts.

If reclassification is not feasible, please analyze a new alternative that will designate all unpaved ML 3 and 4 roads for motorized mixed use, and prepare engineering judgments when the three criteria in FSH 7709.55, 30.3 are met. Explain why mitigations would not be effective if a road is not designated for motorized mixed use. Include all engineering reports in an Appendix to the FEIS so the reader understands why some roads may not be recommended for non-highway legal vehicle travel.

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 NFTS roads in California.²⁶ 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 LNF in the past 15 years (from Region 5 accident data). There is no accident information in the DEIS to support a prohibition of non-highway legal vehicles on unpaved passenger car roads. Please provide this in the FEIS to validate the Agency's concern about public safety on LNF roads.

²⁴ Regional Forester's letter, dated January 13, 2009 and CHP letter, dated January 13, 2009.

²⁵ DEIS, page 52.

²⁶ Region 5 mixed use accident data, 1993-2008.

“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.”²⁷ 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).²⁸ Unless a traffic study has been completed, we believe all LNF ML 3 and ML 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.

Keep in mind, dual sport bikes can still legally operate on ML 3-5 roads. Has the Region and LNF considered the safety risk of this use? It makes no sense to prohibit a green sticker dirt bike when a similar dual sport bike can use any road on the forest. Is the issue then the safety of minor operators? Please explain in the FEIS.

ROC asserts all the LNF ML 3 roads (and many unpaved ML 4 roads) should be open to all vehicle classes unless a rare exception exists for some road segments due to public safety, past accidents, resource concerns, user conflicts or other considerations that cannot be mitigated. The DEIS admits OHV use is low on the LNF and has dropped according to the 2000 and 2005 visitor use surveys.²⁹ Accident risk on mixed use roads is also low. 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 NFTS or other public roads. However, we believe State requirements for minor operators are sufficient.³⁰ This includes the provision to have a supervising parent or guardian with minor operators under age 14. 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 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 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 determine if State safety requirements for minors need to be strengthened.

²⁷ Forest Service Handbook 7709.59, 41.7, #1.

²⁸ Forest Service Handbook 7709.59, 41.4. Also MUTCD, Section 5A.01 Function, page 5A-1.

²⁹ DEIS, page 199.

³⁰ CVC, Division 16.5, Off-highway Vehicles, Sections 38007, 38500-38505.

In accordance with FSH 7709.59, 23, the LNF 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.

Please explain in the FEIS why the LNF believes minor operators riding on ML 3-5 roads are a public safety concern when there have been no mixed use accidents on any forest road.

4) Affordability Analysis and Road Maintenance Levels

The LNF currently manages and maintains approximately 3,558 miles of NFTS roads.³¹ In addition, there are 1,089 miles of unauthorized routes.

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.”³²

The 1993 LNF Land and Resource Management Plan (LRMP) has specific standards and guidelines for forest roads including:

“Maintain all roads and related structures to a specified maintenance level . . .

Maintain all roads and related structures to: a) protect resources of adjacent areas; b) meet contractual and legal obligations; and c) provide an efficient transportation system.”³³

Road maintenance assumptions are listed in the DEIS:

“The NFTS would be maintained to standard and all additions or changes to the NFTS would meet standards prior to availability for public use and inclusion on the MVUM.”³⁴

The DEIS further states:

“The goal of motorized travel management is to create a safe and affordable, sustainable National Forest Transportation System, that serves Lassen NF and neighboring communities while minimizing the impacts, whether through quantity of available roads/trails or the design requirements.”³⁵

The DEIS is silent on how these goals and LRMP standards will be met under the four action alternatives and how the alternatives respond to significant issue #2: “The

³¹ DEIS, page 5.

³² Forest Service Manual 7715.03, Policy, #6.

³³ Lassen NF LRMP, page 4-16.

³⁴ DEIS, page 20.

³⁵ DEIS, page 92.

Lassen NF NFTS is already too large to provide adequate maintenance and administration.”³⁶

The DEIS discusses road management objectives (RMOs), which set “the parameters for maintenance standards needed to meet user needs, resource protection and public safety.”³⁷ The Forest Service Handbook describes the maintenance standards needed to meet road management objectives.

ROC is concerned about the Agency’s liability due to the lack of maintenance on NFS roads. “Deferred maintenance needs for roads on the Lassen National Forest are currently estimated to be \$96,826,981 with a projected deferred maintenance need of \$182,331,377 by 2013.”³⁸ Table 14 displays the forest’s annual estimated road maintenance costs. The cost to maintain a ML 3 road is six times the amount to maintain a ML 2, high clearance road (\$12,806 vs. \$2,094 respectively). The annual maintenance cost for a ML 4 road is over seven times more expensive than a ML 2 road. All alternatives require over \$13.48 million annually to maintain the LNF’s road system to standard compared to an average annual road maintenance budget of \$1,008,400.³⁹ The cost to implement the adopted travel management plan (with mitigation measures) is unknown. Please breakout implementation and mitigation costs separately in the FEIS.

There is no information in the DEIS on the percent and miles of NFTS roads that currently meet their assigned RMO and maintenance standards. With such a huge backlog of deferred road maintenance, RMO standards are certainly not being met at this time. Include specific information on the condition of LNF roads in the FEIS. The only information ROC could find in the DEIS that addresses the lack of routine road maintenance is generic and insufficient to meet NEPA requirements. The DEIS says:

“The NFTS roads also have deferred maintenance expenses, the amortized regular-maintenance which was not completed. If a road is scheduled for substantial road maintenance, or if it is delinquent, it is listed in the Forest Service infrastructure database known as INFRA, as a deferred road maintenance item.”⁴⁰

“Unless routinely maintained, roads can deteriorate to a condition in which travel becomes difficult, or where drainage structures no longer function properly, thus affecting other resources such as water quality. Additional funding would then be required to bring such a road back up to standard.”⁴¹

The environmental consequences section displays the funding gap between the LNF’s maintenance needs and anticipated annual maintenance budgets, but not the public safety, recreational, or resource consequences of this gap. ROC is unclear how the LNF can meet their road maintenance goals above with such a significant deficit. The DEIS states:

³⁶ DEIS, pages xiii, 12.

³⁷ DEIS, page 55.

³⁸ DEIS, page 76 for Alternative 3.

³⁹ DEIS, page 71.

⁴⁰ DEIS, page 70.

⁴¹ DEIS, page 96.

“A flat to slightly decreasing funding trend is anticipated to continue at least through Fiscal Year 2012.”⁴²

Reducing operational road maintenance levels should be seriously considered to bring the LNF’s road maintenance program in alignment with the Forest’s expected out year budgets. Describing road management objectives and re-classifying maintenance levels are administrative and not subject to NEPA. 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 LNF’s unpaved ML 3 and 4 roads to be passenger car roads or “highways.” Unless paved, they are “roughly graded” and becoming more so over time as evidenced by your backlog of deferred maintenance. 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. ROC asserts your operational maintenance levels should be assigned commensurate with your use.

Another option is to close ML 2 roads that provide no recreational opportunity and serve no administrative purpose. The LNF LRMP standard and guideline regarding road density states:

“Areas with road densities of 2 miles per square mile or higher will be evaluated for habitat effectiveness. Roads and travel networks will be assessed for existing and future needs. Roads no longer needed for administrative purposes will be closed to enhance wildlife habitat, and to protect water quality and soil productivity.”⁴³

ROC supports the closure of low use roads to reduce maintenance costs, reduce road densities in highly roaded watersheds and habitats, and mitigate resource concerns.⁴⁴ For example, under Alternative 5, 49.46 percent of wide-ranging carnivore habitat has a road density that exceeds 2 miles/square mile. Under Alternative 5, 57.12 percent of wetland and riparian habitats have a road density that exceeds 2 miles/square mile. Some road densities exceed 4 miles/square mile. These are extraordinarily high percentages. These roads can be re-assigned from an objective ML 1 (closed) status to an operational ML 2 status if future project access is needed.

Please provide information in the FEIS about the actual traffic volume and vehicle classes using LNF passenger car roads to justify your road maintenance levels and

⁴² DEIS, page 71.

⁴³ Lassen NF LRMP, page 4-17.

⁴⁴ DEIS, pages 263, 476, 497, 509 519.

“traffic service levels” in INFRA. Again, this will help the public understand the LNF’s need to maintain 544 miles of ML 3 passenger car roads and 149 miles of ML 4 roads.⁴⁵

ROC requests the LNF 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.”⁴⁶

Absent traffic survey data, ROC highly 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 traffic surveillance to determine volume, distribution and type of traffic actually flowing on LNF 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 LNF’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.

Include a table that shows the road maintenance levels under each alternative in the FEIS. Display the miles of roads open to all vehicle classes or just highway legal vehicles. The reader cannot evaluate the effect of the alternatives on motorized recreation and road maintenance budgets without this information.

5) Other Comments on the Transportation Facilities Section (3.2)

a) Functional Class

Page 57, paragraph 2: Functional Class was developed and applied to the NF road system in the early 1970s in conjunction with designing and developing the road system. The definition portrayed is accurate to define land access conditions, but should not be confused today with road maintenance needs. Today, you have some arterial and collector roads whose existing traffic is primarily administration and minor recreation. However, the road should have its maintenance level assigned by the current use, not the functional class. NFTS road 31N17 is an example of this.

⁴⁵ DEIS, page 69.

⁴⁶ Forest Service Manual 7715.5, #3.

b) *Maintenance of NFTS roads...*

Page 59, paragraph 2 and Table 11: We suggest you include the road widths in Table 11 to match the definition in FSH 7709.59 (02/25/09), 62.32, i.e., ML 4 and 5 roads are generally 2 lane, or 24 feet wide.

c) *Page Edits*

Page 38 under ROC's Alternative 6: ROC's Alternative 6 proposed designating 126 miles of unauthorized routes and allowing motorized mixed use on 323 miles of NFTS roads. The DEIS says:

"Alternative 6 does not provide for public safety, because it includes a large number of ML 3 & 4 road miles proposed for motorized mixed use and many would not meet state vehicle code regarding combined use."⁴⁷

We have several concerns with this statement: 1) How do you know if there is a public safety issue if no engineering analyses were completed for the 323 miles of proposed mixed use roads? How did you reach this conclusion? 2) The 2005 Travel Management Rule specifically allows the FS to preempt State traffic law to allow mixed use. Was this option considered and, if so, why was it rejected? Without this information in the DEIS, the LNF appears to have arbitrarily rejected ROC's proposal. Please explain in the FEIS.

Page 60, paragraph 2: This paragraph is in error. Travel Management must be linked to Operational Maintenance Levels—i.e., that level that the agency can afford. The LNF DEIS is the first one we have reviewed that used the objective level for what you want, not what you can afford to accomplish. FSH 7709.59, 62.32 states:

"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."⁴⁸

The DEIS states:

"Manual direction also provides for the fact that the operational level is the deciding factor for current use designation."⁴⁹ (Underlining added for emphasis.)

According to the LNF's INFRA roads data (7/9/09), 20.5 miles of operational ML 2 roads have an objective ML of 3; 30.4 miles of operational ML 3 roads have an objective ML of 4; and 5.1 miles of operational ML 4 roads have an objective ML of 5. Please adjust all your tables in the FEIS to display the LNF's current operational maintenance levels, not objective to be consistent with the FSM, FSH and other forest EISs.

⁴⁷ DEIS, page 38.

⁴⁸ Forest Service Handbook 7709.59, 62.31.

⁴⁹ DEIS, page 78.

Page 60, paragraph 4—We suggest you also reference that NFTS roads open to public travel must be under FS jurisdiction.

Page 60, paragraph 5: Please delete this paragraph. It has no bearing on travel management today.

Page 60, paragraph 6: Please remove reference to “private capital”. The FS pays for road construction via appropriated NFS funds or by reduction in price or “purchaser credit” for product sales.

Page 61, paragraph 4: This paragraph is very misleading. Prudent drivers do not drive these kinds of speeds (25-55 mph), particularly on unpaved ML 3 and ML 4 roads. According to the LNF’s INFRA roads data, there is no NFTS road with a design speed greater than 25 mph. Please insert design speeds of 5-25 mph or explain how you concluded ML 3-5 roads enable vehicle speeds greater than 25 mph and up to 55 mph (by a prudent driver).

Page 62, Table 11: What is the magnitude of traffic when you say highest, moderate or low? FHWA and the MUTCD define low ADT (traffic) as 400 or less.⁵⁰ Please include this information in the FEIS. Include outsloping a road as a proven way to avoid concentrating water runoff, which is the major cause of erosion.

Page 64, paragraph 4: Please cite the reference to your conclusion that “the demographics of drivers on mountain roads in the Lassen NF have changed during the last 20 years.” We do not know how you determined this.

Page 69, paragraph 2 reference to Table 13: Please delete “programmatic maintenance level.” ROC has never seen this term before.

d) *Seasons:*

Page 88: Please discuss the closure of roads to wheeled motor vehicles during the winter to support the snowmobile grooming program.

e) *Management*

Page 88, paragraph 2: We suggest you change the word “designed” in the second sentence to “managed”. You are not designing many roads these days.

f) *Direct Effects of Roads Themselves*

Page 89: Include outsloping as a proven way to manage surface runoff.

g) *Roads Analysis Process*

Page 91, last paragraph. A RAP indicator for evaluating each ML 3-5 road for motorized mixed use was submitted by the recreation specialist on the RAP team. The specialist recognized motorized mixed use was occurring across the LNF’s passenger car road system. Acknowledgment of this use should have been an important criteria for the RAP analysis. The specialist’s mixed

⁵⁰ Forest Service Handbook 7709.59, 41.4. Also MUTCD, Section 5A.01 Function, page 5A-1.

use indicators were not accepted by LNF engineering staff who displayed a strong bias against this activity. ROC can provide these indicators to you if requested. Please correct this paragraph.

6) Open Riding Areas

The final adopted travel management plan will close approximately 1,072,500 acres of LNF land to motorized cross-country travel.⁵¹ When the LNF issued your Notice of Intent in October 2007, ten open riding areas totaling 26 acres were proposed for designation.

“However, field reviews indicated a need for substantial engineering analysis to ensure that boundary locations were accurate, resource damage concerns addressed, and safety features adequate for these areas. It was realized that these mitigations would require additional site-specific analysis and implementation before open areas could be safely utilized. Given the timing of our decision and the scope of our analysis, it was recognized that establishing these areas as part of a designated system at this time could not be done. For this reason, the ten motorized Open Riding Areas were not brought forward into the alternatives developed throughout the DEIS.”⁵²

The following ten areas are affected by this decision; we assume they will not be displayed on the MVUM.

West Dusty Cinder Pit
Lost Lake Cinder Pit
West Brown Ranch
Sandy Beach West
Sandy Beach East
East McCoy
South Old Station
Potato Butte
Little Antelope Valley Pit
Butte Valley

ROC is familiar with several of these areas and they are highly popular with OHVers. The public has enjoyed riding in them for decades with the longstanding, implicit approval of the Forest Service. Your decision will eliminate all cross-country travel and all open riding areas on the LNF (100 percent). Site-specific analysis of the social/economic impacts of these closures on motorized recreation is lacking in the DEIS. Please address this deficiency in the FEIS. Include information on when the LNF will commit to analyzing these ten areas.

Unless the status quo is maintained for these open areas pending future analysis, we predict you will have an angry public and a law enforcement challenge. We recommend you take the time now to consider these areas in the FEIS. The public will not understand your “timing” excuse when you have been working on your travel management plan since 2005.

⁵¹ DEIS, page i.
⁵² DEIS, page xii.

7) Parking and Dispersed Camping Off Roads

The DEIS states:

“For each unauthorized route added to the NFTS as a road or trail for the purpose of accessing dispersed recreation, we assume a minimum of one site is accessed.”⁵³

There are 221 unauthorized routes in Appendix A, Table A-1, that were evaluated under one or more of the action alternatives. Under the above assumption, these routes access 221 dispersed recreation sites out of 504 that were noted in the inventory of unauthorized routes (or 43.8 percent).⁵⁴ Alternative 5 evaluated 211 routes accessing 41.2 percent of dispersed recreation sites. Motor vehicle access will be prohibited to the remaining 58.8 percent, although walk-in access is allowed.

ROC understands the LNF and other forests in Region 5 must complete their FEISs by January 2010. Strict adherence to this timeline is not required by law, regulation or court order. ROC recommends the LNF team analyze the merits of each route that accesses a dispersed recreation site. If any routes are dropped from an alternative, display your rationale in an Appendix to the FEIS. There is insufficient analysis in the DEIS to explain why you are closing 58.8 percent of your dispersed sites to motor vehicles (Alternative 5).

ROC urges continued motor vehicle access to all historically used dispersed recreation sites unless there is no evidence of recent use. The public does not want to stage one vehicle length from the edge of a road. They desire the security, privacy, solitude, and scenic amenities that these sites provide. If there were prior resource concerns, ROC assumes action would have been taken before now to address them. At some dispersed sites, please designate 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 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.

⁵³ DEIS, page 100.

⁵⁴ E-mail to from David Pilz to Elizabeth Norton, dated 7/27/09.

8) Big Game Retrieval

None of the action alternatives propose cross-country travel solely for the purpose of big game retrieval.⁵⁵ Executive Order 13443 signed by the President on August 16, 2007 directs:

“Federal agencies that have programs and activities that have a measurable effect on public land management, outdoor recreation, and wildlife management, including the Department of the Interior and the Department of Agriculture, to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.

Federal agencies shall . . .

- (a) Evaluate the effect of agency actions on trends in hunting participation . . .
- (b) Consider the economic and recreational values of hunting in agency actions . . .
- (d) Work collaboratively with State governments to manage and conserve game species and their habitats . . .
- (g) Seek the advice of State and tribal fish and wildlife agencies, . . .”

Compliance with the EO and collaboration with State Department of Fish and Game is not described in the DEIS regarding the LNF’s proposal to prohibit cross-country travel for big game retrieval. Include this information in the FEIS.

ROC recommends the LNF include at least one alternative that seasonally allows cross-country travel with all-terrain vehicles (ATVs or Rhinos) for the specific purpose of big game retrieval (barring any wet weather, fire-related or other off-road closures already in place during the hunting season). See FSM 7715.74 and FSM 7716.13 for designations for big game retrieval. This is a reasonable accommodation to hunters if desired by the public. Vehicle operators causing damage to national forest resources can be cited. If cross-country travel is not allowed, describe the social/economic and environmental effects of prohibiting ATV use for big game retrieval in the FEIS.

9) Non-highway Legal Vehicle Travel within Developed Recreation Sites and Campgrounds

The DEIS does not consider any ML 5 roads for motorized mixed use or address the impact of prohibiting non-highway legal vehicle travel within developed recreation sites such as campgrounds. Please analyze motorized mixed use on ML 5 roads currently used by OHVs for egress/ingress to access NFTS roads outside the site. In the Forest’s MVUM, ROC recommends the LNF adopt a 5 mph speed limit for non-highway legal vehicles (if not all vehicle classes) within developed recreation sites. Concern over excessive noise, public safety, and visitor conflicts can be avoided by requiring OHV operators to “idle in” and “idle out” of developed campgrounds where this is allowed. There is no reason to go any faster.

Prohibit non-highway legal vehicle travel within developed sites where there are no adjacent NFTS roads to ride on. Do not encourage OHV use on private land without the concurrence of the landowner or land management entity. Eagle Lake Campgrounds are an example of this situation. Mixed use on campground roads and the County road

⁵⁵ DEIS, page 22.

has been sanctioned by the Forest Service and Lassen County Sheriff for years. ROC is not aware of the landowners granting “permission” for OHV use on their lands (Beatty and Associates, Fruitgrowers). To our knowledge, the Forest Service and the County have not prepared any “Combined Use Analyses” for CHP review and approval. Until these two steps are completed, prohibit non-highway legal vehicles on all Eagle Lake campground roads and at the day use sites.

10) Other Comments on the Recreation Section (3.3)

Page 107, Measurement Indicator 3: Motorized recreation opportunity.

A better indicator for motorized recreation opportunity is described on page 108 of the DEIS:

“A survey of OHV enthusiasts in Colorado indicates that a typical OHV ride lasts 4.7 hours and covers a total length of 29 miles. Results from a similar survey in Iowa indicate that 39 percent of users feel minimum trail length needed for an enjoyable OHV experience is between 10 to 20 miles. Over 36 percent of OHV enthusiasts stated they need more than 20 miles for the same experience (IDOT 2000).”

In the FEIS, please consider analyzing the alternatives using the indicator below. OHV users are looking for “time in the saddle” and “quality, long distance riding opportunities” according to the National Off-highway Vehicle Conservation Council.⁵⁶ Many riders would like to travel from the east side of the LNF to the west side on a connected system of OHV trails and NFTS roads. The Share the Dream Trail proposal is an example of a scenic loop that provides long distance touring with some different levels of difficulty. Alternative 4’s mixed use proposals come the closest to providing more continuous riding opportunities, but there are still major gaps in the system. ROC requests the LNF consider all the roads listed in Exhibit 3 for motorized mixed use.

Proposed Indicator for *Quality of Trail Experience*: The forest’s OHV system provides numerous opportunities for long-distance touring (> 30 miles) across the LNF using connected NFTS and county roads, and motorized trails.

Pages 134 and 138: Alternatives 4 and 5 close all motor vehicle travel on 12 miles of NFTS roads except during the hunting season. These road segments would be open from August 1 to October 31. The DEIS states this closure is proposed to promote “non-motorized hiking opportunities near Susanville,” but no other rationale is offered.⁵⁷ While ROC does not necessarily object to this prohibition, please provide the purpose and need for the proposed closures and the impact on current road uses in the FEIS. The discussion in the DEIS is insufficient under NEPA.

11) Seasons of Use

Please describe in the FEIS how the LNF will implement your proposed “Seasons of Use” strategy so the public has a reasonable chance of understanding and complying with the new rules. Describe the associated implementation costs as well.

⁵⁶ From NOHVCC OHV plan training materials.

⁵⁷ DEIS, page 32.

12) Personal Use Fire Wood Gathering

Fuel wood gathering is an important activity and has been allowed off-road access for years. The LNF has deferred NEPA analysis on the program. The DEIS states:

“Motor vehicle use by special use permit or other permitted activities are outside the scope of this proposal (fuel wood gathering, dispersed camping, motorized OHV event, Recreation Residences, mining activities, grazing, timber sales, etc.)”⁵⁸

ROC disagrees with the above assumption. Cross-country travel for the purpose of fuel wood gathering is a travel management issue (and a legal obligation under NEPA). NEPA has never been done on the environmental impacts of the forest’s long-standing fuel wood program despite recognition that it needs to be completed. All the other activities mentioned in the DEIS above are subject to NEPA analysis when permits are issued.

“The annual harvest of fuel wood by the public on Lassen NF has averaged 13,684 cords from 1995 to 2007.”⁵⁹

Fuel wood gathering is a very popular program and a necessity in rural areas. ROC understands this is a sensitive, political issue. Rather than address the issue, the LNF has avoided it for years. Future continuation of cross-country travel for personal and third party fire wood cutting will create a public relations challenge for the LNF. Resource impacts from the program such as the creation of unauthorized routes, have not been analyzed, although minor route proliferation is acknowledged in the DEIS.⁶⁰

Please analyze the environmental impacts of continuing cross country travel for fuel wood gathering and display them in the FEIS. Have at least one alternative that prohibits cross-country travel for fuel wood gathering. Consider other options to better manage the forest’s fuel wood program such as establishing areas for fire wood cutting to reduce high stand densities and fuel loads.

13) Implementation Schedule for Pre-Mitigation Measures

According to Appendix E, 68 unauthorized routes require pre-mitigation prior to opening them for public motorized use and displaying on your MVUM.⁶¹ Please include a schedule in the FEIS when all pre-mitigation measures will be implemented for each alternative. Describe the cost to perform the mitigation and how this work will be accomplished. Unless this schedule is provided, the public does not know when/if the proposed route additions or changes to the NFTS will truly be available for motor vehicle use.

14) 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

⁵⁸ DEIS, page 63.

⁵⁹ DEIS, page 476.

⁶⁰ DEIS, page 370 for Botanical Resources; page 446 for Noxious Weeds; page 483 for Wildlife Resources

⁶¹ DEIS, Volume 2, Appendix A.

landscape (existing NFTS 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, the effects from designation are an improvement over the existing situation since most unauthorized routes will be closed to motor vehicle travel. Chapter 3, "Affected Environment and Environmental Consequences" section should describe the context of the proposed route additions (10 to 53 miles) in light of all these other activities.

For example, the Wildlife Resources section describes the number of miles of unauthorized routes within different species habitats. There is no information on the number of miles of NFTS roads within these same habitats. The incremental increase in miles from the unauthorized routes is likely insignificant. Without describing the environmental effects within the context of all routes (unauthorized plus NFTS roads), the reader does not know the additional impact of designating between 10 to 53 miles of unauthorized routes (out of 1,089 miles that currently exist). Please provide this information in the FEIS.

Noxious Weeds: Under Alternative 5, a high risk for introducing noxious weeds was assigned to 139 unauthorized routes due to a lack of recent noxious weed inventories along them.⁶² This assumption is unreasonable and lacks a scientific basis. Risk ratings should be assigned based on valid field inventories. Please conduct these field reviews and describe the findings in the FEIS.

Comparison of Alternatives and Relative Risk Ratings: These ratings are very subjective and unscientific (e.g. DEIS Tables 99, 133, etc). Among the four action alternatives, there are minor differences in the environmental consequences as few unauthorized routes are proposed for designation (10-53 miles). However, the risk ratings (based on a score of 1 to 5) indicate major differences in risk. ROC recommends you delete all of these tables from the FEIS as they are not helpful in comparing the alternatives.

15) ROC's New Action Alternative

Significant issue statement #1, Impacts to Motorized Access, in the DEIS states:

"The originally proposed action (in the NOI) unreasonably restricts motorized recreation use by prohibiting cross-country travel. The proposed addition of only 30 miles of NFTS roads and 7 miles of NFTS trails to the NFTS provides insufficient public access to Lassen NF lands and unfairly limits motorized recreation."⁶³

Significant issue stated #2, Affordability of the Road System, states:

⁶² DEIS, page 455.

⁶³ DEIS, page 12.

“The Lassen NF NFTS is already too large to provide adequate maintenance and administration. Current maintenance backlogs should be addressed before proposing the addition of new routes to an already overburdened system.”⁶⁴

We believe there is an inadequate range of action alternatives in the DEIS to respond to the significant issues in compliance with NEPA Regulations, which require:

“Alternatives included the proposed action.

- (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- (b) Devote substantial treatment to each alternative considered in detail.

Forest Service regulations specify the following in developing and analyzing alternatives.

“The EIS shall document the examination of reasonable alternatives to the proposed action. An alternative should meet the purpose and need and address one or more significant issues related to the proposed action.”⁶⁵

“Reasonable alternatives to the proposed action should fulfill the purpose and need and address unresolved conflicts related to the proposed action. Be alert for alternatives suggested by participants in scoping and public involvement activities.”⁶⁶

After the receipt of public comments on the DEIS, the agency shall:

“Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond to one or more of the means listed below, stating its response in the final statement. Possible responses are to:

- (1) Modify alternatives including the proposed action.
- (2) Develop and evaluate alternatives not previously given serious consideration by the agency.
- (3) Supplement, improve, or modify its analysis.
- (4) Make factual corrections.
- (5) Explain why the comments do not warrant further agency response . . .”⁶⁷

The lack of an acceptable range of action alternatives is demonstrated by Alternative 5, which proposes the most opportunities for motorized recreation among the four action alternatives. However, ROC considers it a “minimalist” alternative. The site-specific effects of such a significant reduction in access has not been adequately disclosed in the DEIS for NEPA sufficiency. It would have been reasonable and viable to consider 1-2 other action alternatives with increased motorized recreation opportunities. Access restrictions proposed in the DEIS are inconsistent with the LNF’s LRMP direction to: “Provide diverse opportunities for off-highway vehicle (OHV) recreation.”

⁶⁴ DEIS, page 12.

⁶⁵ 36 Code of Federal Regulations 220.5(e).

⁶⁶ Forest Service Handbook 1909.15, 14.

⁶⁷ NEPA Regulations in 40 CFR 1503.4.

| | <i>Alt. 1 – No Action (or Current Status Quo)</i> | <i>Alt. 5 – Improved Access and Motorized Recreation Opportunities</i> | <i>Alt 5 - Percent of Forest Total</i> |
|--|---|--|--|
| Acres available for cross-country travel | 1,072,500 | 0 | 0 |
| Acres of open riding areas | 26 | 0 | 0 |
| Miles of unauthorized roads and trails added to the NFTS or open for continued motor vehicle use | 1,089 | 53 | 4.8 % |
| Number of recreation sites open for motor vehicle access | 504 | 211 | 41.2 % |
| Miles of proposed combined use or mixed use roads | 0 (but use currently occurs) | 51 | 7.2% of ML 3-5 roads |
| Miles of roads converted to mixed use (all vehicles) | 0 (but use currently occurs) | 79 | 11.1% of ML 3-5 roads |

Alternative 1 does not contribute towards your range of alternatives since it is infeasible to select and implement.

“Alternative 1 cannot be considered viable from a Federal agency engineering position, because the No Action alternative places the engineering/safety division in non-compliance with the following regulations . . .”⁶⁸

Please analyze a new Action Alternative (# 6) that provides a better balance between motor vehicle access, affordability and environmental protection in response to significant issue statements #1 and #2. This alternative has the following elements:

- a) Reclassify many of the LNF’s unpaved ML 3 roads to ML 2 to better align your road system with projected annual road maintenance costs and current vehicle use. Under Alternative 5, 79 miles of passenger car roads are proposed for reclassification to ML 2. Please consider more ML 3 roads and converting some ML 4 roads to ML 3.
- b) Convert many of your 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) Based on valid traffic data, if you believe you cannot lower the maintenance levels of your passenger car roads, then designate all the ML 3 and ML 4 roads in Exhibit 3 for motorized mixed use unless a rare exception exists that cannot be mitigated. Designation of these roads will provide important connectors to your ML 2 road and motorized trail systems and many loop opportunities.
- d) Designate all ML 2 roads for motorized mixed use (all vehicles) unless a rare exception exists that cannot be mitigated.

⁶⁸ DEIS, page 72.

- e) The adoption of a) through d) above will eliminate short OHV roads and trails that go nowhere when they terminate at the intersection of a road where non-highway legal vehicles are prohibited.
- f) Allow side-by-side vehicles (54 inches wide) on all "ATV trails" which are formally defined as 50 inches or less in width. It would be imprudent to prohibit "Rhino-type" vehicles on these trails because they exceed the width definition by a mere four inches.
- g) Designate motorized mixed use on the ML 5 roads in Exhibit 3 where such use is currently occurring.
- h) There are numerous opportunities for scenic access and loops using unauthorized routes, but the majority are not proposed for designation. ROC greatly appreciated the opportunity to collaborate with your staff this past June to identify additional routes for designation. Please analyze all the unauthorized routes in Exhibit 4.
- i) Include all combined use/mixed use assessments (engineering reports) in an Appendix to the FEIS so the public understands why some routes may not be recommended for mixed use.
- j) Provide access to all historically used recreation sites unless there is no evidence of recent use.
- k) Allow parking 30 feet from a designated route; and allow vehicle access for dispersed camping within 100 feet from a designated route consistent with FSM 7715.74, FSM 7716.1, and FSM 7716.13.
- l) Allow cross-country travel by ATVs only for the sole purpose of big game retrieval during the hunting season if desired by the public for certain zones or all zones. Prohibit cross-country travel at all other times.
- m) Address the effects of continued cross-country travel by fire wood gatherers. Analyze at least one alternative that will restrict cross-country travel, but allow fire wood cutting within XXX feet of designated roads or within designated cutting areas or other management options.
- n) Close unneeded roads to reduce your road maintenance costs and mitigate road-related resource impacts.
- o) Provide an additional 45 day public comment period on the FEIS so the public can review the many changes from the DEIS and submit their comments prior to issuance of the Record of Decision.

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

Enclosures:

Exhibit 1: Proven Principles for Travel Management Planning
Exhibit 2: Federal Highway Administration/Forest Service MOU
Exhibit 3: ROC – Proposed ML 3-5 Roads for Motorized Mixed Use
Exhibit 4: ROC – Proposed Addition of Unauthorized Routes

cc:

Angela Coleman, Deputy Regional Forester
Gregg Mumm, BlueRibbon Coalition
Don Amador, BlueRibbon Coalition
Dave Pickett, American Motorcyclist Association
Robert Reed, John Stewart, and Amy Granat, California Association of 4 Wheel Drive Clubs, Inc.
Fred Wiley, Off Road Business Association
Bill Dart
Ken Knull, Friends of the High Lakes
Tom Crimmins, National Off-highway Vehicle Conservation Council
Daphne Greene and Phil Jenkins, CA. Off-highway Motor Vehicle Recreation Division
Butte County Board of Supervisors
Lassen County Board of Supervisors
Plumas County Board of Supervisors
Shasta County Board of Supervisors
Tehama County Board of Supervisors
Congressman Wally Herger
Congressman Dan Lungren
Congressman Tom McClintock
Congressman George Radanovich