

**RECREATION OUTDOORS COALITION  
4000 Beacon Drive  
Anderson, CA 96007**

January 19, 2010

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

Subject: Forest FEIS for Motor Vehicle Travel Management

Dear Supervisor Morse:

Thank you for the opportunity to comment on the Lassen National Forest (LNF) Final Environmental Impact Statement (FEIS) for Travel Management. The Recreation Outdoors Coalition (ROC) greatly appreciates the 30 day comment period prior to issuing the Record of Decision.

Based on our review of the FEIS and the following errors/omissions and deficiencies in the analysis, we ask that you adopt Alternative 1 in the Record of Decision (ROD) with the following modifications:

1. Prohibit cross country travel, except for the allowed permitted uses.
2. Keep all unpaved NFTS roads and unauthorized routes open for mixed use, except for the identified seasonal closures.

Upon issuance of the ROD, we recommend that you immediately prepare a supplemental FEIS to expand your range of action alternatives and provide a better balance between motor vehicle access, affordability, and environmental stewardship. The supplemental FEIS should be based on a renewed commitment to meaningfully engage the public and coordinate with affected counties in the development of an expanded alternative.

We hope the following specific comments and corrections will be helpful. Some can be corrected via an errata sheet with the ROD.

**1. Coordination with Affected Counties and State Agencies**

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.”<sup>1</sup>

The FEIS fails to comply with the 2005 Travel Management Rule, Forest Service directives, and the National Environmental Policy Act (NEPA) regarding county coordination, which states:

“ . . . it is the continuing policy of the Federal Government in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, . . . to promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.”<sup>2</sup>

NEPA’s clear mandate to coordinate with other agencies is emphasized, again, in the regulations for implementing the Act.

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

“To better integrate environmental impact statements into state or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.”<sup>3</sup>

Collaboration with other road management agencies is critical for the development of the Forest’s travel management plan. In our July 31, 2009 comments to the Draft Environmental Impact Statement (DEIS), item #2, we asked you to coordinate with all the counties to ensure integration with their respective road management objectives. According to our communications with County Public Works Directors for Butte County (Mike Crump, letter to LNF dated 7/13/09), Shasta County (Pat Minturn), Modoc County (Rick Rudometkin and Sean Curtis), Tehama County (Gary Antone), Siskiyou County (Resolution 08-186) and Lassen county (Resolution 09-043) have all authorized motorized mixed use on many of their unpaved roads into and through the Lassen National Forest. Plumas County (Mike Perrault) expects to announce their mixed use designations shortly.

Our goal is to have an interconnected transportation system for non-highway legal vehicles using unpaved county and National Forest Transportation System (NFTS) roads. If County Boards choose to designate mixed use on their unpaved roads with similar maintenance levels, we asked you to review the LNF’s final designations to provide a seamless transportation

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<sup>1</sup> Forest Service Manual 7702, Objectives (effective 01/08/2009).

<sup>2</sup> 42 USC 4331(a) National Environmental Quality Act

<sup>3</sup> 40 CFR 1506.2 (c),(d)

system for the riding public. Although your staff stated “The LNF has proactively engaged the counties in this project since its inception,”<sup>4</sup> it is obvious collaboration did not occur.

Chapter 4 in the FEIS merely lists agencies and other parties that were consulted, but does not describe the level of consultation that was conducted. The only presentations that were made to County Boards of Supervisors (Lassen, Modoc, Plumas and Tehama) occurred in 2004 and early 2005 to explain the travel management planning process (all pre-NEPA and prior to scoping).<sup>5</sup> Subsequent contact with the counties included written notification of public meetings or the release of the DEIS.

This is not consultation as envisioned or required by the 2005 Travel Management Rule,<sup>6</sup> Forest Service directives for travel management,<sup>7</sup> or even the National Environmental Policy Act<sup>8</sup>. Consultation with Butte and Shasta Counties is not even listed in Chapter 4 of the FEIS. Off-highway vehicle (OHV) areas such as Old Station and Potato Buttes are very popular riding areas for Shasta County residents. The Shasta County Board has repeatedly expressed their concern about proposed motor vehicle restrictions on both the Lassen and the Shasta-Trinity National Forests.

*Resolution:* The lack of consultation on integrating mixed use between the LNF and county road systems is a significant shortcoming of the FEIS. Consultation with county staff to evaluate the consistency of the Forest’s proposed travel management plan with county resolutions and transportation polices must occur.

All the FEIS maps fail to display the location of county roads where mixed use is currently allowed. Because critical information is missing, it is impossible for the public to understand what the LNF is proposing in relation to what is authorized on county roads. If displayed on the maps, the public would clearly see the discrepancy between county and proposed Forest Service road management objectives, and question the LNF’s mixed use prohibitions. Please revise all FEIS maps to provide this information. Re-analyze the effects of your mixed use prohibitions in comparison with county road management and their interpretation of the California Vehicle Code.

## **2. Coordination with Adjacent National Forests**

We also asked you to describe your collaboration with adjacent national forests (Plumas, Shasta-Trinity and Modoc) to ensure there are interconnected road systems for motor vehicle travel, especially for non-highway legal vehicles. Many visitors travel from one forest to

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<sup>4</sup> E-mail message from David Pilz, LNF Natural Resource Planner, to Elizabeth Norton, dated 1/7/10.

<sup>5</sup> FEIS, page 10

<sup>6</sup> 2005 Travel Management Rule at 36 CFR 212.52.

<sup>7</sup> Forest Service Manual 7702, Objectives (effective 01/08/2009)

<sup>8</sup> 40 CFR 1506.2 (c),(d)

another. Inter-forest road management strategies should be compatible. This information was not described in the FEIS.

*Resolution:* Describe how you coordinated with adjacent national forests to develop interconnected NFTS road and trail systems and compatible road management objectives.

### **3. Engineering Analyses for Proposed Motorized Mixed Use Roads**

#### *A. Motorized Mixed Use Policy*

Current Region 5 policy states NFTS ML 3-5 roads are “highways” under the California Vehicle Code. Under this interpretation, 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 pre-empt State traffic laws in accordance with 36 Code of Federal Regulations (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.”<sup>9</sup>  
(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).”<sup>10</sup>

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.)

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<sup>9</sup> Federal Register, Vol. 70, No. 216, Rules and Regulations, November 9, 2005.

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

Unpaved NFS roads (regardless of maintenance level) are not considered “highways” under Section 38001, CVC, 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 ML 3 and 4 roads is legal.

NFS roads are not public roads in the same sense as roads that are under the jurisdiction of State and county road agencies. NFS roads are not intended to meet the transportation needs of the public at large. Instead, they are authorized only for the use and administration of national forest lands. Although generally open and available for public use, that use is at the discretion of the Secretary of Agriculture. Through authorities delegated by the Secretary, the Forest Service may restrict, control or allow traffic to meet specific management direction. Citing the CVC to prohibit mixed use on unpaved ML 3 roads is erroneous.

*Resolution:* The Region’s mixed use policy directly conflicts with CHP’s December 19, 2007 interpretation of the CVC for FS unpaved ML 3 roads. As the designated law enforcement agency regulating and enforcing the CVC on public roads, the Region’s mixed use policy must comply with CHP’s interpretation. If not, the Region’s policy should not cite the CVC for prohibiting long standing mixed use on unpaved ML 3 roads. The inconsistency between the two agencies results in a serious lack of public trust in the FS travel management planning process and should be resolved.

### *B. Lassen National Forest Mixed Use Analyses*

The FEIS states: “Access to the Lassen NF begins with two-lane state highways and interconnecting county two-lane roads.” County roads . . . “are usually designed to accommodate passenger cars, but may not always be graveled or hard-surfaced.”<sup>11</sup> As mentioned above, motorized mixed use is authorized on many unpaved county roads.

We have reviewed your engineering analyses for proposed motorized mixed use (MMU) roads. As a result of MMU Analysis, the original 85 miles of proposed MMU ML 3 and 4 roads<sup>12</sup> were reduced to 9.3 miles in Modified Alternative 5<sup>13</sup> due to safety concerns (75.7 miles were dropped). There are 693 miles of ML 3 and 4 roads on the Forest. These roads have been safely used by OHV operators for decades with no history of mixed use accidents on the Forest. You are proposing mixed use on only 1.3 percent of the Forest’s unpaved ML 3 and 4 roads.

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<sup>11</sup> FEIS, page 71

<sup>12</sup> FEIS, page 68

<sup>13</sup> FEIS, page 86.

Your road engineering analyses regarding motorized mixed use contradict the conclusions of experienced, senior County Public Works Directors and mixed use decisions on similar unpaved county roads, which connect to the NFTS. The conclusions in your analysis are based on volume, vehicle class and speed data that are not statistically valid. You did not reference or consider a 2005 Traffic Study on selected ML 3 and 4 roads that was prepared by a California licensed traffic engineer using State and national traffic surveillance protocols. His methodology was peer reviewed by other senior FS staff.<sup>14</sup> Many comments in your analyses are false and contradict more accurate summaries from the 2005 mixed use analyses.

On November 10, 2009, the Forest Supervisor for the Modoc National Forest issued his Record of Decision for the Forest Travel Management Plan. Under the Plan, motorized mixed use will continue to be allowed on 513 miles of ML 3 unpaved road systems, except for a seasonal closure of all motor vehicle travel on selected roads during the winter period. Their mixed use analyses indicated their ML 3 road system has a history of low vehicle use (both highway legal and non-highway legal vehicles). There was strong county and public support in favor of maintaining mixed use on their Forest roads. As a result, the vehicle class was changed on 513 miles of ML 3 roads (73 percent out of 703 miles of ML 3 roads) to accept non-highway legal vehicles.

*Resolution:* Upon review of the Modoc NF's Plan, it is obvious that you have considerable discretion in allowing mixed use on LNF maintenance level 3 roads. Since there are no documented mixed use accidents, low traffic volumes, and low OHV use on the Forest's ML 3 roads, the Lassen's Travel Management Plan should be consistent with the Modoc National Forest Plan. It should also conform with mixed use decisions on unpaved county roads with similar maintenance levels and with CHP's interpretation of the California Vehicle Code.<sup>15</sup>

As a result of the deficiencies in your mixed use analyses, ROC will be submitting a request under the Data Quality Act for the FS Washington Office to conduct a second level review and compare them to similar analyses prepared by the Klamath and Modoc NFs, as well as the 2005 analyses completed on the Lassen NF.

#### **4. Range of Alternatives**

In our comments to the DEIS, ROC stated there is an inadequate range of alternatives that are studied in detail. The narrow range of action alternatives in the FEIS does not respond to the significant issues or public comments in compliance with the Act or NEPA Regulations, which require:

*"Alternatives included the proposed action.*

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<sup>14</sup> Ed Gilliland, principle author of "Guidelines for Engineering Analysis of Motorized Mixed Use on National Forest System Roads," and Sue Kocis, National Program Leader for National Visitor Use Monitoring on each national forest

<sup>15</sup> Letter from CHP Deputy Commissioner J.A. Farrow to Regional Forester Randy Moore, 12/19/07

- (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.”<sup>16</sup>

“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.”<sup>17</sup>

The Act, itself, states:

“All agencies of the federal government shall . . . “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternatives uses of available resources;”<sup>18</sup>

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 . . .”<sup>19</sup>

DEIS comments expressed genuine alarm that few unauthorized roads and trails were proposed for designation and few ML 3 and 4 roads were proposed for motorized mixed use. There is an unresolved public conflict with the Forest’s “minimalist” alternatives. The Modoc National Forest designated 336 miles of unauthorized routes as ML 2 roads out of 491 miles that were inventoried (68.4 percent). The LNF’s Preferred Alternative (Modified Alternative 5) proposes to designate a maximum of 56 miles of unauthorized routes out of 1,089 miles that were inventoried (a mere 5.1 percent). Prior to the release of the DEIS, the LNF received public

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<sup>16</sup> 36 Code of Federal Regulations 220.5(e).

<sup>17</sup> Forest Service Handbook 1909.15, 14.

<sup>18</sup> NEPA, Sec. 4332(E)

<sup>19</sup> NEPA Regulations in 40 CFR 1503.4.

comments on approximately 768 miles of inventoried unauthorized routes on the Forest.<sup>20</sup> Yet, only 56 miles were considered suitable for designation. These routes have been on the forest landscape for decades. Most are less than ½ mile in length that access dispersed recreation sites, hunting or firewood cutting areas. The very narrow range of action alternatives in the FEIS disregards overwhelming public comment to designate more miles of unauthorized routes, which the Modoc NF chose to support.

*Resolution:* In the supplemental FEIS, develop at least one other alternative that analyzes more unauthorized routes. Have meaningful engagement with the public and counties to develop a logical transportation system that: 1) integrates road management direction on both NFTS and county roads and; 2) provides long distance loop opportunities throughout the LNF for non-highway legal travel; and 3) provides greater access for dispersed recreation.

## 5. Comments on the FEIS

You have duplicate page numbers in the abstract and table of contents.

There are numerous misspellings of “cross-county” throughout the FEIS. It should be cross-country.

### A. Summary Section

Page xix, Issue #2, Discussion: The discussion references scoping comments and how some types of motor vehicle use “result in higher maintenance costs due to resource damage caused by such uses.” Please clarify the types of motor vehicle use the public referred to. Do you mean OHV use? The discussion under Issue 2 fails to include ROC’s DEIS comments regarding affordability of the NFTS. ROC recommended you align your operational maintenance levels with the type of vehicle classes and traffic volume on the Forest’s passenger car road system. It makes little sense to keep roads at a higher maintenance level if passenger cars are a minor component of the traffic.<sup>21</sup> 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. Lowering operational maintenance levels is one option to reduce your maintenance costs. Please include our comment to lower maintenance levels in this discussion.

Page xx, item 1): the estimated foot print attributed to existing unauthorized routes was calculated using a 20 foot width for all 1,089 miles of routes (the width of the two-track plus one vehicle-length perpendicular to the route). The footprint is then 2,640 acres. This is an exaggeration and probably double the area it should be. On many miles of routes, it is not possible to park a vehicle length from the two-track due to topography, vegetation, rocks, and

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<sup>20</sup> FEIS, page 55

<sup>21</sup> The 2005 Traffic Study on the LNF reported only 10% of the traffic was passenger car. The remaining vehicles were high-clearance (73%) or OHVs (17%).

other natural barriers. Please delete reference to “foot print” and call this zone the “area of potential impact.” At the forest scale, the impact is insignificant when compared to the rest of the NFTS (3,558 miles of roads and 57 miles of motorized trails).

Page xxv, Table 2: The rankings in this table are very subjective. For example, under Modified Alternative 5, the conflict between motor vehicles and non-motorized recreational uses is rated as 2 - not very good for the resource of opportunity. This is based on applying a buffer of ½ mile from each designated unauthorized route to define the outer boundary of “quiet areas” where there would be less noise impact. The majority of the unauthorized route additions (86 percent) are less than ½ mile in length and of that most are less than ¼ mile long.<sup>22</sup> That means they are within ½ mile of an existing NFTS road with implied traffic, noise and dust, etc. This invalidates your analysis of the impact on quiet recreation activities. Only those routes (32 of them) greater than ½ mile should be addressed beyond the ½ mile buffer. The impact from those few routes at the forest scale is inconsequential. Also, it is highly likely that “quiet use experiences” can occur within the ½ mile buffer and beyond because of the topography, vegetative screening, and the low likelihood of encountering other vehicles. These are not well traveled routes and the impact on quiet recreation is virtually nil. Please re-write your analysis and amend all table rankings for conflicts with quiet recreation or else delete this as an indicator and explain why.

#### *B. Chapter 1. Purpose and Need for Action*

Page 1, Changes Between DEIS and FEIS: The FEIS states: “The purpose and need to reduce cost associated with maintenance of the National Forest Transportation System (NFTS), was removed.” We do not understand this statement as Purpose #2 on page xvii of the Summary is: “Dispersed Recreation, Diversity of Recreation Opportunity and Reduce Cost Associated with Maintenance.” Purpose #2c is: “Reduce cost associated with maintenance of the NFTS” (page xviii).

ROC’s comments on the DEIS emphasized the Forest can reduce your road maintenance costs and provide a greater diversity of recreation opportunities by lowering your operational road maintenance levels. These two goals (or needs) are very compatible given the vehicle classes and traffic volume on unpaved LNF roads.<sup>23</sup> Affordability should continue to be a Purpose and Need for travel management planning. Please do not respond you will address affordability with future transportation planning under Subpart A of the 2005 Travel Management Rule. The availability of resources for maintenance and administration of the NFTS is a specific evaluation criterion in the Rule (36 CFR 212.55 under Subpart B). Further you have admitted the Forest has a \$182 million maintenance backlog of roads and trails.<sup>24</sup> Chapter 3 under Section 3.2,

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<sup>22</sup> FEIS, Appendix A. Also see Table 36, pages 140-141.

<sup>23</sup> The 2005 Traffic Study on the LNF reported only 10% of the traffic was passenger car. The remaining vehicles were high-clearance (73%) or OHVs (17%).

<sup>24</sup> FEIS, pages xviii, 7 and 93.

Transportation Facilities, has a lengthy discussion on affordability so it appears this is one of the Purpose and Need statements in the FEIS as it should be.

Page 13, Issue 2: “The Lassen NF NFTS is already too large to provide adequate maintenance and administration.” Affordability of the NFTS is a significant issue, which is appropriate.

### *C. Chapter 2: The Alternatives*

Page 19, Tier II: Of the 85 unauthorized routes proposed for designation in one of the action alternatives, 61 routes require some form of mitigation or coordination with another jurisdiction to obtain the appropriate encroachment (Appendix E). Routes will be added to the Motor Vehicle Use Map (MVUM) in Tiers when mitigation is completed. Tier 1 routes (24) will immediately be displayed on the MVUM. The 61 Tier II routes could take from one to ten years before they will be available for public use. “Also in Tier II, but potentially taking 10 or more years to implement are the roads that require weathering in order to have their operational maintenance levels meet the objective criteria for ML 2. A subsequent safety analysis for a vehicle class change would also need to be completed to allow for mixed use. Due to the flat topography and relatively dry conditions, weathering on the east side could take up to 10 years or more before the operational maintenance level reaches the point at which a high clearance vehicle would be required.”

This statement affects 79.6 miles of ML 3 roads proposed for reassignment as ML 2 roads to provide connectors and loop opportunities for non-highway legal vehicles under Modified Alternative 5. These roads, such as the Turner Mountain loop (29N48) have been safely used for years by non-highway legal vehicles. There has never been a mixed use accident on the Lassen National Forest. According to the Forest INFRA Roads database (7/9/09), 29N48 is a single lane, gravel and native material road with a design speed of 20 mph. There is no need to wait years for this road to weather before authorizing mixed use on the MVUM. If the public has to wait 10 years or more before they can ride their OHVs on these 79.6 miles of ML 3 roads, than the proposal is not ripe for a decision under NEPA. Perform your mixed use analyses now with full consideration that mixed use has always been allowed on these roads for decades with no prior safety issues. It is disingenuous to even show these 79.6 miles of roads on the maps. The continuous circuits you display are highly speculative.

Page 34, Alternative 5, Changes to the NFTS: This section says 51 miles of ML 3 and 4 roads are proposed for mixed use. Page 68 says the Forest conducted engineering field reviews for mixed use on approximately 85 miles of ML 3 and 4 roads. Which number is correct?

### *D. Chapter 3: Affected Environment and Environmental Consequence*

Page 63, Introduction: Are there 1,060 miles of unauthorized routes or 1,089 miles as shown on page 66 under Specific Methodology and on page 73 under Unauthorized Routes?

Page 64, Other Regulations: Please reference the correct date for the FS/FHWA MOU. It's 1975, not 2009.

Page 67, Motorized Mixed Use: The California Vehicle Code: The FEIS says ML 3-5 roads . . . "are not considered to be 'roughly graded' or logging roads. Thus, roads managed in this fashion are considered highways in accordance with the State definition." The FEIS selectively paraphrases the definition in the CVC. ROC asked you to correct this in our comments to the DEIS. The full definition of a highway in Section 38001, CVC, 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." In ROC's view, most LNF roads are logging, fire or service roads (as described in the DEIS and FEIS) and fall under the exemption from a "highway" in Section 38001, CVC. The Forest Service arbitrarily chooses to ignore this reality.

The Agency has always called routes in the NFTS "roads" unless they specifically meet the definition of a "forest highway" in Forest Service Manual 7741.1 (effective 8/24/2000), which says:

"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.

"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. The Region is trying to create a new reality by now calling these roads "highways" even though no one we know outside the FS agrees. The Region's mixed use policy is arbitrary and capricious, with no basis in federal or State law, regulation or national FS policy.

Page 68 under crash potential and crash severity ratings: The factors listed were not individually ranked according to a set of benchmarks in the motorized mixed use analyses as ROC suggested. As a result, the Forest's analyses lack objectivity and credibility. ROC recommends, and the LNF should also assume in these analyses, that OHV operators on proposed mixed use ML 3 roads are licensed or have a certificate of training or are under the direct supervision of an adult as required by the CVC.<sup>25</sup>

Page 69, Recreation: The FEIS states: "The NFTS road system is a seamless transportation network across the Forest landscape which encompasses public and private property." The FEIS has not demonstrated this by failing to coordinate with the counties and private landowners to develop compatible road management direction.

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<sup>25</sup> Sections 38007, 38501 to 38505, California Vehicle Code.

Page 70, you have not substantiated your comment that “the demographics of drivers on mountain roads in Lassen NF have changed during the last 20 years.” You cite the 2000 and 2005 Forest Recreation Use Surveys. This is 5 years of data, not 20. Please cite the references to support your conclusion that demographics have changed in the last 20 years. Then describe how they have changed over this time period. Use on the Forest is actually declining according to your 2000 and 2005 surveys (from 656,000 national forest visits in 2000 to 607,000 visits in 2005).<sup>26</sup> OHV participation on the Forest is also declining from 6.9 percent in 2000 to 4.6 percent.<sup>27</sup>

Page 70: The FEIS says: “California Vehicle Code prohibits non-highway legal motor vehicle use on public roadways maintained for passenger cars, such as Forest Service ML 3-5 roads open to public travel.” This statement is false. The CVC does not reference the terms “maintenance level 3-5 or passenger car.” It specifically lists exemptions from the highway definition in Section 38001, CVC. This statement is also inconsistent the CHP’s interpretation of the CVC, which says ML 3 roadways are “eligible for your mixed-use definition.”<sup>28</sup>

Pages 70-71: The FEIS states: “In essence, much of the road system was not originally designed to safely accommodate the many types of motor vehicles that are used today to access and travel through the Lassen NF.” Please justify this statement. Roads constructed for logging trucks are very capable of handling passenger cars, 4x4 pick-ups and SUVs, and non-highway legal vehicles. Passenger cars, pick-ups and SUVs are about seven feet wide and OHVs are generally less than four feet wide. To pass each other, only 11-12 feet of roadway is necessary. Your mixed use analysis for the ML 3 and 4 roads says the roads are 16-20 feet wide. This seems to be a reasonably safe situation for the speeds of prudent drivers (e.g. less than 25 mph). In fact, there are very few wheeled motor vehicle accidents (where two vehicle crash into each other) on the NFTS. There is no history of mixed use accidents even though many different vehicles classes have traveled on these roads for decades.

Page 71: The FEIS says there are motorcycles and sport utility trucks “. . . that can drive off-road at 60+ MPH.” 60+ mph is a gross exaggeration for the average driver – please justify this statement. The Lassen NF manages the NFTS for prudent drivers. No one can design or control the acts of a few reckless drivers on or off the NFTS or on other public roads. There is no NFTS road in the Lassen’s INFRA database with a design speed greater than 25 mph. In lieu of valid speed data, the INFRA design speed for each NFTS road is a reasonable proxy of vehicle speed by a prudent driver.

Page 74: “In this FEIS, maintenance levels listed for roads are their assigned Objective ML unless otherwise noted.” This is a serious flaw in your analysis, which should be based on the existing condition of the road (operational ML) and not on “. . . the long-term planned

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<sup>26</sup> FEIS, page 117.

<sup>27</sup> National Visitor Use Monitoring, Lassen National Forest, 2000 and 2005 Reports.

<sup>28</sup> Letter from CHP Deputy Commissioner J.A. Farrow to Regional Forester Randy Moore, 12/19/07.

maintenance strategy for that road.”<sup>29</sup> In reviewing your INFRA database, there are many passenger car roads with lower operational maintenance levels than their planned objective maintenance level, which may never be achieved given current budget constraints to improve them. Some examples include 37N02 (Summit Lake), 35N10 (DR 22), 28N61B (Lockerman Canyon), 28N29 (Ponderosa Way), 37N05 (Rock-Peavine Tie), 26N49 (Humbug Creek), 33N06 (Champs to Burgess), 26N26 (Belden), and 29N60 (Bear Wallow), etc. Use operational maintenance levels throughout the analysis.

Page 75: Again, the FEIS states ML 3-5 road form the backbone arterial and collector system that enable relatively fast (25-55 mph) efficient transportation across the forest. Given all ML 3-5 design speeds range from 5 to 25 mph in INFRA (with the majority at 20 mph), and knowing the surface condition of these roads, this is a gross overstatement. Please indicate which roads allow a prudent driver to travel an average speed of 55 mph. The 2005 Traffic Study recorded average speeds by a prudent driver from 10 to 27 mph on the roads that were surveyed.

Page 76, Table 13: This table is erroneous as it displays miles of roads at planned objective maintenance levels and not the current condition of the roads, which is the operational maintenance level. The FEIS is based on future assumptions and not existing, factual data, which is a serious flaw in your analysis. Please use operational maintenance levels to describe the affected environment and environmental consequences. The table below displays the difference in miles using operational maintenance levels according to the LNF INFRA (7/9/09) database. (Please reference the date of the Forest’s INFRA database used in the FEIS in Chapter 6.)

<i>Maintenance Level</i>	<i>FEIS Objective ML Miles (FEIS Table 13)</i>	<i>INFRA Operational ML Miles</i>
1	280	309
2	2,568	2,704
3	544	559
4	149	149
5	17	22
<b>Total</b>	<b>3,558</b>	<b>3,743</b>

Page 78, Table 14: The FEIS displays the miles of road work accomplished each year in Table 16. Please include a table that shows how many miles of motorized trails were maintained in 2007 to 2009. Also, your road and trail tables should display consistent years (2002 to 2008). Tables 14, 16 and 17 all show different years.

Page 78, Unauthorized Routes: This section says: “Table 13 shows the current miles of Lassen National Forest Transportation System road by programmatic maintenance level.” We have never heard this term before and it is not found in the FS directives. Delete “programmatic” and replace it with “operational” maintenance level. The Forest’s current projected deferred

<sup>29</sup> FEIS, page 73.

maintenance for roads in fiscal year (FY) 2009 is \$111,695,400 (1/12/10 Errata). Explain the difference shown on pages xviii, 7, and 93 (Table 19), which is \$182 million. Which is correct?

Page 79, Table 17: This table displays the entire annual road construction and maintenance budget (CMRD funds) for the Forest, and not the amount that was actually spent to maintain and improve the NFTS between 2004 and 2008 (direct costs). This is misleading. As you know, not all of these funds are spent on road work. ROC requested direct cost information on 12/30/09 from your annual road accomplishment reports, but was told the information does not exist.<sup>30</sup> This information does exist and ROC, again, requested the Forest's annual road accomplishment reports on 1/11/09. Partial information was sent to us on 1/19/10. Please display the amount that was spent for on-the-ground road work in Table 17. Also, include your road accomplishments for years 2007 and 2008 in Table 16. Tables 16 and 17 should show the same years, so we can compare them with your budget data (2002 to 2008). If you show road accomplishments in 2002 and 2003 (Table 16), then also display the Forest's CMRD budget for those two years.

Page 80, Management Indicator 2 – Transportation System Affordability: Include the annual maintenance need and projected deferred maintenance (need) in 2013 for Alternative 1 as you have done for the remainder of the action alternatives since they are compared with baseline Alternative 1 costs.

Pages 81-87: There is no discussion of the annual maintenance cost for designated unauthorized routes under any of the alternatives. There is no discussion of the cost of not adding unauthorized routes to the NFTS. Please include this information under Measurement Indicator 2 as there will be a cost to maintain route additions and a cost to sign, barrier, and close some unauthorized routes to motor vehicle travel. Otherwise, they will likely continue to be used.

Page 81, Motorized Mixed Use, first sentence: Do you mean 13 road segments and not "13 miles?"

Page 87, Measurement Indicator 2 – Transportation System Affordability: The FEIS says: "Additional expenses, although unquantifiable at this time, would arise from implementing resource mitigation measures prior to adding the unauthorized routes to the NFTS." Other Forest FEISs have provided this information (Inyo NF, Sequoia NF, etc.) Table 20 (page 94) displays the estimated one-time implementation costs for road signing, labor, Forest Transportation Atlas updates, and encroachment agreements for each alternative. Please display all estimated mitigation costs for the work described in Appendix E and the timeframe you intend to implement these measures.

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<sup>30</sup> E-mail message from David Pilz, LNF Natural Resource Planner, to Elizabeth Norton, dated 1/7/10.

Page 89, Measurement Indicator 1 – Public Safety: The FEIS states: “Allowing motorized mixed use on higher standard passenger car roads (ML 3+) would increase the risk of crashes – both crash probability and crash severity. Under these conditions OHV users will share the routes with a variety of vehicles of different sizes: from other OHVs to commercial log trucks and chip vans.” This information is incorrect. First, motorized mixed use has occurred on virtually all unpaved LNF roads (and even paved roads like the 10 Road) for decades with no history of mixed use crashes. Amend this section to state OHV use is a long-standing accepted practice on NFTS roads. You are not “allowing” OHV use; it is already occurring with no safety problems.<sup>31</sup> Second, in accordance with FSM 7716.53(2)(b) and FSH 7709.59, 23, the LNF should impose temporary road closures for certain vehicle classes (i.e. non-highway legal vehicles) when commercial traffic is present, such as log haul during timber sales. This is an appropriate and expected mitigation measure for public safety. Your description that the Forest Service would irresponsibly permit mixed use on roads with commercial traffic is disingenuous. In fact, the FEIS states later on: “National Forest System roads and NFS trails may be temporarily closed to ensure public safety or resource protection.”<sup>32</sup>

Pages 92-93, Table 19 Measurement Indicator 2 – Affordability: The Forest’s annual maintenance cost exceeds your budget by almost 15 times (ROC’s table below per the 1/12/10 Errata). How does this information address significant issue 2: “The Lassen NF NFTS is already too large to provide adequate maintenance and administration.”<sup>33</sup>

<i>FEIS</i>	<i>Table 13</i>	<i>Table 15</i>	
<i>Maintenance Level</i>	<i>Miles</i>	<i>Annual Mtnce. Cost per Mile</i>	<i>Total Annual Mtnce. Cost</i>
1	280	\$500	\$140,000
2	2,568	\$2,094	\$5,377,392
3	544	\$12,806	\$6,966,464
4	149	\$15,912	\$2,370,888
5	17	\$7,691	\$130,747
<b>TOTAL</b>	<b>3,558</b>		<b>\$14,985,491</b>
5 year average annual roads budget (CMRD)			<b>\$1,008,400.00</b>
Annual mtnce. cost exceeds annual budget			1486.07%

In our comments to the DEIS, ROC asked the Forest to provide a better balance between motor vehicle access, affordability and environmental stewardship.

The FEIS says under transportation system affordability: “36 CFR 212.55 requires consideration of the need for maintenance and administration of the NFTS.”

<sup>31</sup> There has never been a NEPA decision to prohibit mixed use on LNF ML 3-5 roads. The Forest visitor map is not a NEPA decision document. Until the Region’s mixed use policy letters were issued, starting in 2006, there was no prior regional policy that said ML 3-5 roads are “highways” and that OHV use on “highways” is in conflict with State traffic law. OHV use on unpaved LNF roads is a well-established and permitted practice.

<sup>32</sup> FEIS, page 139.

<sup>33</sup> FEIS, page 13.

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.”<sup>34</sup>

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

“Provide a stable and cost-efficient road system through appropriate construction, reconstruction, and/or maintenance.

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.”<sup>35</sup>

The Forest road maintenance assumptions are listed in the FEIS:

“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.”<sup>36</sup>

The FEIS is silent on how the above direction and maintenance assumption will be met under the five action alternatives. There is no information in the FEIS on the percent and miles of NFTS roads that currently meet their assigned road management objectives (RMOs). This is a serious flaw in your analysis. With such a huge backlog of deferred road maintenance, RMO standards are certainly not being met at this time. The LNF’s annual road accomplishment reports from at least 2000 display the percent of NFTS roads meeting their RMOs. From 2000 to 2006, the LNF was able to maintain anywhere from 13 to 38 percent of NFTS roads to RMO standards.<sup>37</sup> This information from 2000 to 2008 should be discussed in the FEIS.

In our comments to the DEIS, ROC asked you to discuss the disparity between your budget, and annual and deferred road maintenance needs, and Forest Service direction. Without this information, the public can not fully understand the imbalance in your roads program and why the LNF feels the need to maintain 710 miles of higher standard, more costly roads (ML 3-5). The annual cost to maintain a ML 3 road is \$12,806/mile compared to \$2,094/mile for a ML 2 road. The annual maintenance cost for a ML 4 road is \$15,912/mile.<sup>38</sup> Neither the DEIS nor

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<sup>34</sup> Forest Service Manual 7715.03, Policy, #6.

<sup>35</sup> Lassen NF LRMP, page 4-16.

<sup>36</sup> FEIS, page 61.

<sup>37</sup> From LNF Annual Road Accomplishment Reports.

<sup>38</sup> FEIS, page 78 and 1/12/10 Errata to the FEIS.

the FEIS responded to significant issue 2 and your ability to maintain NFTS roads to provide safe and efficient transportation.

As ROC stated in our comments to the DEIS, the Forest's operational maintenance levels should be assigned commensurate with your use. Please consider this in the supplemental FEIS. 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."<sup>39</sup>

Absent statistically valid 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.

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. Another option is to close ML 2 roads that provide no recreational opportunity and serve no immediate administrative purpose.

Page 94, Table 20: The implementation costs for Modified Alternative 5 are \$167,100 on page 87 and \$202,000 in Table 20. Which figure is correct?

Page 107, Table 24, and Page 110, Table 27: The FEIS says: "For this analysis, a buffer of one-half mile or more from an open motor vehicle route is being used to define outer boundaries of 'quiet' areas."<sup>40</sup> As explained earlier, the acres in these tables are incorrect. Eighty-six percent of the unauthorized routes considered in Modified Alternative 5 are less than ½ mile from an existing NFTS road. Also, these routes will be used so infrequently that the impact on quiet recreation activities or other ownerships is negligible. Please correct these two tables and the "effects" descriptions for each alternative in the FEIS.

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<sup>39</sup> Forest Service Manual 7715.5, #3.

<sup>40</sup> FEIS, page 104.

Page 108, Table 25: ML 3 and 4 loop opportunities equal 413 miles in this table vs. 404.6 miles in Table 33. Which figure is correct?

Page 135: The FEIS states: “Proposed route additions under these alternatives would not be located in semi-primitive motorized, roaded natural or rural ROS classes, which is consistent with direction in the LRMP (Table 23).” However this statement conflicts with the mileages in Table 23 (page 107), which show unauthorized routes in the rural and roaded natural ROS classes (except for Alternative 3). Which is correct?

Page 139: The FEIS says: “Table 36 lists the known access to dispersed recreation activities provided under the proposed routes for designation to the NFTS. They may also have a negative effect in both short and long term context for non-motorized opportunities due to an increase in noise, dust, physical presence, possible use conflicts, and displacement.” Again, this is a gross exaggeration of the negative effects on “quiet recreation” activities. It cannot be substantiated in any significant way. Motor vehicle travel on these routes and use at dispersed campsites are so infrequent, the effect on quiet recreation is minimal. Please justify this statement with actual (and numerous) complaints of noise, dust, and the presence of motor vehicles resulting in displacement. The descriptions of conflict throughout the FEIS are highly suspect, and not based on reality.

Pages 178 to 213, Social and Economic Resources: Please clarify if inmates are included in the population data for Lassen County. The large inmate population in this rural County has no relevance in this section for the “indicators” you are using (employment, income, visitor use, lifestyles, etc.) If included, please adjust your data to delete the inmate population and revise your analysis.

#### *E. Impacts on Other OHV Areas and Motorized Trails*

The FEIS does not adequately discuss the direct, indirect or cumulative impacts from prohibiting cross-country travel, from prohibiting existing motor vehicle travel within all open riding areas, prohibiting mixed use on 98.7 percent of your unpaved ML 3 and 4 roads, and on 94.9 percent of your unauthorized routes (under the Preferred Alternative – Modified 5). This is a serious flaw in your analysis. For example, riding in popular OHV areas such as Old Station/Potato Buttes (the sand and cinder pits) will be prohibited until the completion of a separate plan for that area.<sup>41</sup> There is little discussion on displacement effects in FEIS, Section 3.6. The potential for displaced riders to create new trails elsewhere on national forest system and private land, and the law enforcement impacts are not addressed. As a result, there will likely be increased impacts on designated OHV areas such as High Lakes and Front Country. The High Lakes OHV Area already suffers from resource impacts associated with heavy use at dispersed campsites, the proliferation of new trails, and degradation of existing trails. Please address these effects in more detail to comply with NEPA.

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<sup>41</sup> FEIS, page 138.

### *F. Personal Use Fuel Wood Gathering*

Fuel wood gathering is an important activity on the Lassen National Forest. The FEIS does not describe or analyze the continued use of all undesignated unauthorized routes, continued cross-country travel, and the creation of new unauthorized routes by wood cutters under the terms of their permit. This is a serious flaw in your analysis. It is incongruous to ROC that you would prohibit motor vehicle use for recreational activities, but continue to allow it for wood cutters. 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 permitted activities are subject to NEPA analysis before permits are issued. The 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 have not been analyzed, although minor route proliferation was acknowledged in the DEIS.<sup>42</sup>

## **6. Conclusion**

Pending future collaboration with County Boards of Supervisors and the public to resolve the deficiencies in the FEIS, adopt Modified Alternative 1. Until a supplemental FEIS is prepared, this alternative will have the least adverse impact to local economies, provide the level of mixed use and recreational opportunities the public desires, and eliminate your own embarrassment from having conflicting road management direction with intersecting county roads.

The public has heard on numerous occasions that this FEIS is just the first step in travel management planning and that "The Lassen National Forest looks forward to working with users and user groups to continuously refine the National Forest Transportation System (NFTS) to better meet the needs of the public while protecting resources"<sup>43</sup>.

The Lassen National Forest has not demonstrated that you are capable or willing to produce a good Travel Management Plan based on public input and county coordination. You have no public credibility that the next iteration of the Plan will be any better than the one proposed now. The fact that your mixed use conclusions are so different from how the Counties manage their road systems should be a significant indicator that your analysis and professional engineering judgment are flawed. Your mixed use conclusions are also considerably different from what is proposed on the Modoc and Klamath National Forests.

Since 2000, ROC has personally met with many of your staff and three different Forest Supervisors to encourage you to analyze a proposed loop route around Lassen Volcanic National Park, called the Share the Dream Trail. We have had field reviews with you and been

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<sup>42</sup> DEIS, page 370 for Botanical Resources; page 446 for Noxious Weeds; page 483 for Wildlife Resources

<sup>43</sup> Lassen NF Travel Management Update, January 2010.

given assurances numerous times that you generally agree with the proposal. The previous Forest Supervisor (Laurie Tippin) asked ROC to conduct an engineering analysis on the ML 3 and 4 roads proposed for mixed use, which we did. After reviewing the completed analysis and consulting with her management team, she proposed mixed use on all road segments in her letter, file designation 2350, dated 10/14/05. She also said the entire trail proposal would be evaluated in the EIS for travel management. It was not.

Please do not make a statement in the Record of Decision that says the next round of planning will “continue to refine the NFTS.” Based on your past performance, this is completely disingenuous. We have no guarantee that there will be a second round of planning or that the next Plan decision will provide a more reasonable balance of motorized recreation opportunities. We also doubt you have the time and money to continue to re-analyze the NFTS. The FEIS confirms this on page 4: “Future decisions associated with changes to the NFTS and MVUM are dependent on available staff and resources . . .”

Adopt Alternative 1 as modified above and immediately prepare a supplemental FEIS. Form a collaborative stakeholders group to work with your staff. Involve the US Institute for Environmental Conflict Resolution to facilitate the group. Strive to develop a consensus plan to the extent practicable that makes sense and people can embrace.

Again, ROC appreciates the opportunity to comment on the FEIS and requests that our concerns be addressed in writing before the Record of Decision is issued. We would be pleased to meet with your staff if that is helpful.

Sincerely

*/s/ Sylvia Milligan*

SYLVIA MILLIGAN  
Chair, Recreation Outdoors Coalition

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  
Siskiyou County Board of Supervisors  
Congressman Wally Herger  
Congressman Dan Lungren  
Congressman Tom McClintock  
Congressman George Radanovich