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NOTICE OF APPEAL

Pursuant to 36 C.F.R. Part 215, the Appellants appeal Gila National Forest, Forest Supervisor Kelly M. Russell’s Record of Decision for Travel Management (ROD), signed September 9, 2013 and published in the Silver City Daily Press on June 11, 2014. The ROD violates the National Environmental Policy Act (NEPA), the regulations promulgated by the Council on Environmental Quality (CEQ), and Forest Service Planning regulations. Consequently, the Appellants request that the ROD be withdrawn and a new decision issued to correct the deficiencies identified herein.



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Reference: **Record of Decision for Travel Management on the Gila National Forest**

Enclosed is an appeal filed by the New Mexico Off Highway Vehicle Alliance (NMOHVA) and the Mogollon-Apache-Gila (MAG) Riders. NMOHVA is a statewide incorporated alliance of motorized off-highway vehicle enthusiasts that promotes responsible OHV recreation through education, safety training, land conservation and access, in cooperation with public and private interests, to ensure a positive future for OHV recreation in New Mexico. The MAG Riders are a local group of ATV/UTV riders who enjoy their chosen form of motorized recreation on the Gila National Forest.

We submit that our comments on the Travel Management Environmental Impact Statement (EIS) for the Gila National Forest were not adequately addressed. Our primary concern is that the land be managed appropriately for continued motorized public access and that the purposes of the NEPA are fulfilled. We have demonstrated our interest and commitment to the Gila National Forest by very actively participating and providing input and comments on the Travel Management project process at every step.

Our interest in this Decision flows from our frequent use of the Gila National Forest for motor-vehicle-dependent recreation, our member's investment in the well-being of the Gila National Forest expressed via offers of volunteer work for the Forest Service, and our keen desire that the government, in this case the agency of the USDA Forest Service, make its land-use management decisions lawfully.

Respectfully,



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Statement of Reasons

Certain aspects of the ROD for Travel Management on the Gila National Forest are based on flawed or inadequate information. The agency misrepresented salient facts in the EIS’s analysis and conclusions and the resulting ROD put the agency in violation of NEPA and CEQ regulations. We, as part of the reviewing public, respectfully identified these material mistakes and process errors in our comments on the Draft EIS. The agency failed to remedy these errors in the Final EIS and failed to adequately address our comments in the agency’s response to comments.

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RELIEF REQUESTED

9

10 As shown in the Statement of Reasons, the ROD for Travel Management on the Gila
11 National Forest presents a decision based on an EIS that contains certain deficiencies
12 and arrives at inaccurate conclusions based on a document and project record
13 containing those deficiencies. The resulting ROD violates the NEPA, the regulations
14 promulgated by the CEQ, and Forest Service Planning regulations. We hereby request
15 the agency withdraw the ROD, correct the deficiencies in the EIS, reconsider the
16 corrected EIS, and that a new decision be issued to correct the deficiencies identified
17 herein.

18

1 **APPEAL POINTS RAISED BY INADEQUATE AGENCY RESPONSE TO**
2 **COMMENTS SUBMITTED BY NMOHVA**

3
4 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-2 and**
5 **03032011-17-2a thru 2o**

6
7 The responses ignore comment issues, incorrectly summarize the comment, provide
8 incorrect response, or provide no response. The FEIS and reports are not corrected and
9 still contain substantial errors identified in the comment. The FEIS and supporting
10 documents, therefore, misinform the decision-maker and the public.

11
12 The comment was answered under separate responses in Appendix B; under codes 17-
13 2, and 17-2a through 17-2o. We address each response separately.

14
15 **Introduction:** We provide the following statement because it applies generally to our
16 comment here, and many of our other comments. The FEIS analysis is explicitly
17 contrary to CEQ's guidance. The statement comes from Executive Summary p. vi,
18 Considering Cumulative Effects Under the National Environmental Policy Act, Council
19 on Environmental Quality, January 1997 (bold added)

20
21 **Determining the cumulative environmental consequences of an action**
22 **requires delineating the cause-and-effect relationships between the**
23 **multiple actions and the resources, ecosystems, and human communities**
24 **of concern.** Analysts must tease from the complex networks of possible
25 interactions those that **substantially affect the resources. Then, they must**
26 **describe the response of the resource to this environmental change** using
27 modeling, trends analysis, and scenario building when uncertainties are great.
28 **The significance of cumulative effects depend on how they compare with**
29 **the environmental baseline** and relevant resource thresholds (such as
30 regulatory standards). Most often, the historical context surrounding the resource
31 is critical to developing these baselines and thresholds and to supporting both
32 imminent and future decisionmaking,

33
34 **CEQ Requirements for Cumulative Effects Analysis**

35
36 1) CEQ does not say the agency "may, might, can or should" look at cause and effect to
37 analyze cumulative effects. CEQ says determining cumulative effects requires
38 delineating cause and effect relationships. Identifying cause and effect relationships is
39 not optional. The FEIS fails this requirement, not least because it doesn't even analyze
40 the very thing that is the sole subject of the analysis: motorized use, and it provides no
41 evidence that motorized use is harming resources in the Gila National Forest.

42
43 **No Analysis, No Excuse** Motorized use has always been essentially unrestricted in the
44 forest outside of wilderness areas. There have been decades of motorized use. The

1 GNF has had decades to study it. All the evidence the GNF could ever need of damage
2 caused by motorized use is right at their fingertips. But the GNF has made no attempt
3 to examine that in eight years. The FEIS has built an enormous document to analyze an
4 issue for which it repeatedly insists it has no data: motorized use.

5
6 We note that the travel management planning started in 2006. The FEIS was released
7 in 2014. The Gila National Forest has had EIGHT years to gather data. They have done
8 nothing in eight years to look at the empirical evidence that is right on the ground they
9 are charged to manage.

10
11 **Fails to Comply with 1505.22** In 40 CFR 1500, §1502.22 addresses incomplete or
12 unavailable information. The GNF has complied with only one of the three requirements
13 of 1502.22; it has admitted information is lacking. From the Final Watershed and Soils
14 report p. 51:

15
16 The Forest has no data for motorized use levels

17
18 The GNF has not complied with the other two requirements of 1502.22: (bold added)

19
20 (a) If the **incomplete information relevant to**
21 **reasonably foreseeable significant adverse impacts is**
22 **essential to a reasoned choice** among alternatives and
23 the **overall costs of obtaining it are not exorbitant**, the
24 agency shall include the information in the environmental
25 impact statement.

26
27 The GNF had eight years to do the simple and inexpensive work of laying out traffic
28 counters to sample traffic on roads and trails. They already have the traffic counters,
29 evidenced by a few main road traffic counts shown are in the Roads report. Obtaining
30 the information was possible and not of exorbitant cost. The GNF had an obligation to
31 obtain the incomplete information. They made no effort to obtain any of the incomplete
32 information.

33
34 (2) **a statement of the relevance**
35 **of the incomplete or unavailable information** to evaluating
36 reasonably foreseeable significant adverse
37 impacts on the human environment;

38
39 The FEIS has no statements about the importance, significance, or relevance of the
40 “unavailable information”.

41
42 Failure to Address Significance of Incomplete Information for “Data Limitations”
43 Final Watershed report, p. 50-51 makes these statements, under Data Limitations: (bold
44 added).

1 The GES map and associated soil interpretations were used to evaluate soils on
2 the Forest. The GES is mapped at a scale of 1:250,000 and was **designed for**
3 **general assessments and evaluation of projects at the landscape or**
4 **forestwide level** similar to the scope of the proposed action. It is key to
5 acknowledge that the GES is a very broad scale survey (**1 inch = approximately**
6 **4 miles) and many differences in soils, geology and topography can occur**
7 **within very short distances.**

8
9 **Motorized crossings on ephemeral drainages were not field inventoried.**
10 These crossings were determined via a GIS analysis. Motorized routes and
11 ephemeral streams (National Hydrography Dataset) were overlaid, with a
12 motorized crossing point being created where the two lines intersected. This
13 report acknowledges that there may be **some errors in motorized crossing**
14 **numbers** as a result of this method.

15
16 **No data to support sedimentation modeling, thus no effort made to predict**
17 **sediment increases or decreases.**

18
19 This “limitations” are not identified as unavailable or incomplete information under
20 1502.22.

21
22 The first statement tells us the soil interpretations were done on a scale so large, that
23 they are useless for making conclusions about road conditions. Relevant information at
24 a useful appropriate scale is unavailable.

25
26 The second statement tells us the data on stream crossings on ephemeral drainages is
27 likely very unreliable. The report admits to some degree of error. Good science would
28 have done some field work to get an estimate of the degree of error. “Some errors” is
29 not acceptable. The Watershed report p. 27 tells us that the ephemeral drainages are
30 by far the great category:

31
32 There are approximately 1,171 miles of perennial streams and 541 miles (GIS
33 NHD) of intermittent streams on the forest. The remaining drainages are
34 considered ephemeral, of which there are approximately 12,821 miles of these
35 systems across the Forest.

36
37 According to these numbers, there are 14,533 miles of drainages, and 88% of them are
38 ephemeral. The data for 88% of the drainages has not been field checked and is
39 unreliable, having some unidentified amount of error. The information is incomplete.

40
41 The third statement is extraordinary. It states there was no effort to predict sediment
42 increases or decreases. That information is unavailable.
43 Now we look at what the conclusions say about sediment increases and decreases.

44
45 Despite the report’s statement about the data limitations, the FEIS goes boldly with
46 statements about how alternatives would reduce sediment. P. 221: (bold added)

1
2 For all action alternatives, less motorized routes would be designated for
3 motorized use within 300 feet of perennial, intermittent, and impaired streams.
4 Motorized routes adjacent to ephemeral streams are decreased under all
5 alternatives, with the exception of alternative C where there would be a slight (1
6 percent) increase. Reducing motorized routes within 300 feet of streams is
7 anticipated to improve water quality by limiting opportunities for overland flow to
8 travel down motorized routes and deliver excess runoff and sediment into the
9 drainage network. In addition, restricted access to these areas would allow these
10 routes to reestablish vegetation, **reduce sediment yields**, and improve channel
11 and riparian conditions over time.
12

13 An additional problem is the study area of the report. We remind the reader that the
14 Watershed assessment (and the 6th Code report) includes the entire forest area,
15 including all the wilderness areas. The Watershed report states that its 6th code
16 assessment was used as the baseline for comparing action alternatives to no action. In
17 other words, in the Watershed report, the No Action alternative includes the wilderness
18 areas. (bold added)
19

20 Alternative B – No Action

21 The effects of past and present activities to watershed, soil, and aquatic
22 conditions are described in the affected environment section of the FEIS. The
23 reasonably foreseeable activities that are considered for this project are
24 described on page 6 of this document. The motorized route system and unlimited
25 cross country access currently in place on the Gila National Forest contribute, in
26 part, to cumulative impacts on watershed condition. **In 2011, 6th code**
27 **watershed condition classifications incorporated information related to the**
28 **current motorized route system into the assessment, in addition to**
29 **information related to eleven other watershed indicators. This recent**
30 **assessment provides a “baseline” at which to assess all of the action**
31 **alternatives versus the No Action Alternative.**
32

33 The FEIS’s underlying analysis was done in pieces by different specialists, and they
34 chose what their baselines would be. As a result, there is no consistency for the
35 analysis. For example, the conclusions from the Watershed report are drawn from the
36 entire forest (including wilderness). Those conclusions are then applied selectively to
37 the motorized area.
38

39 The 6th code Watershed report, says this at p.19: (bold added)
40

41 Approximately half of the impaired water bodies on the Gila National Forest (198
42 miles out of 404 miles of impaired streams) are found within wilderness areas,
43 with these watersheds having some of the lowest route density numbers on the
44 Forest and no motorized stream crossings.
45

1 Statistically, since wilderness is a bit less than 25% of the forest area, one could
2 conclude that waters in wilderness are twice as likely to be impaired as waters in non-
3 wilderness. The data from wilderness watersheds should not have been added to non-
4 wilderness, because the rate of impairment in wilderness is so incredibly high.

5
6 **Failure to Evaluate Existing Forest Conditions for Existing Causes and Existing**
7 **Effects** The project is not proposing to add some new activity to the forest that has not
8 existed before; that would create new impacts that didn't exist before. All the possible
9 impacts from the unrestricted, maximum possible allowed use already exist on the
10 forest. The evidence is there, the GNF has done nothing in eight years to collect or
11 evaluate even the smallest bit of it.

12
13 **Failure to Use Agency's Own Existing Data and Science** The GNF failed to provide
14 any analysis or even a qualitative description of the existing effects of existing motorized
15 use. The forest itself provides an ideal experiment for evaluating impacts of motorized
16 use on natural resources. The GNF could have (but did not) compare soils, water,
17 wildlife and watershed conditions in wilderness to conditions outside wilderness. They
18 have years of monitoring and studies inside and outside of wilderness, these were not
19 compared. There are USFS studies on trail and water conditions in wilderness, none
20 are cited. Our comment 03032011-17-9 specifically addresses this opportunity for an
21 analytical comparison, and the agency's responsibility to use its own tools and data, and
22 is a detailed criticism of the FEIS methodology. This comment is listed in the GNF's
23 comment inventory called Comments by Subject. The comment code does not appear
24 in Appendix B and there is no response at all to it.

25
26 Instead of studying the forest that they are tasked to manage, that is right outside their
27 doors, the GNF produced an analysis that relies entirely on cited studies to support their
28 claims of motorized damage. If they are so sure the damage is there, why didn't they
29 just go out and look at it?

30
31 The agency claims the courts owe them deference for their scientific expertise. The
32 case law shows there is a limit to that privilege. The requirement for the "hard look" is
33 not satisfied when the agency refuses to examine relevant data. Instead, the agency
34 has engaged in "...distorting the decisionmaking process by overemphasized highly
35 speculative harms" (Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 109
36 S.Ct. 1835 U.S.Or.,1989. May 01, 1989 SUPREME COURT). Also from that case:

37
38 ...Council on Environmental Quality regulation requiring environmental statement
39 to **focus on reasonably foreseeable environmental impact rather than**
40 **include "worst case analysis" when agency is faced with unavailable**
41 **information** concerning reasonably foreseeable significant environmental
42 consequence...

43
44 The existing conditions on the forest are the reasonably foreseeable consequences of
45 allowing motorized use. Instead of focusing on that, the FEIS focused on "worst case
46 analysis" by citing only negative studies and presenting only negative conclusions. The

1 FEIS is in the unsupportable position that its cited studies are contradictory to its
2 conclusions about the existing conditions of resources. The cited studies are used to
3 support agency predictions of extreme environmental damage, but the existing condition
4 shows “no harm to resources” from existing unregulated motorized use, even with cross
5 country travel allowed.
6

7 **2) CEQ tells the agency to identify the interactions that substantially affect the**
8 **resources.** There is no study of the existing evidence of interactions between
9 motorized use and resources, Instead the FEIS presents the current condition as the
10 sum total of all natural events and human activity.
11

12 **3) CEQ tells the agency to consider what is substantial and significant.** The FEIS
13 has nothing in the analysis which differentiates between trivial effects and substantial
14 effects. Any and all impacts are treated as equally meaningful; just that some are “more”
15 or “less” than others. The comparison of alternatives deals entirely in “more” and “less”
16 and does not disclose if effects or changes in effects are substantial or significant.
17

18 **4) CEQ tells the agency to assess the significance of cumulative effects**
19 **compared with the environmental baseline.** The FEIS persistently refuses to present
20 the proper baseline. It refuses to include all the routes. It refuses to include all the
21 economic benefits. It refuses to use data and studies it has. It refuses to account for
22 how all the natural regime factors have contributed to the current condition. For
23 instance, the FEIS has nothing to say about the substantial and significant impacts from
24 28 years of fire burning 36% of the forest, naturally occurring sedimentation, soil
25 movement, effects of flashfloods, or the contribution of natural geothermal activity to
26 water temperatures.
27

28 5) The USFS expects to get deference for the science in the FEIS. But the FEIS can't
29 even present consistent numbers for the miles of road in the Gila National Forest. The
30 final Recreation Report (p. 11) states this:

31
32 There are also 784.1 miles of County, State and US roads and highways within
33 the administrative boundary; this mileage remains constant throughout all
34 alternatives.

35 The final Roads Report says there are 1,842.2 miles of County, State and US roads and
36 highways. Table 1, p. 4:
37

Table 1: Roads under other jurisdiction within or accessing the Gila National Forest

Road Jurisdiction ^a	Miles
Bureau of Land Management	1.8
County	818.4
Other Forest Service	23.7
Private	349.7
State Highway	686.3
U.S. Highway	337.5
Total Miles	2,217.4

^a Source: INFRA, GIS

1
2
3 Likewise, it can't present a coherent figure for road maintenance costs. The FEIS
4 describes the budgetary benefits of reducing the maintenance needs on the forest. FEIS
5 p. 34 Table 16 states the no action Alternative B has \$5.169 million in deferred (e.g.
6 overdue) maintenance.

7
8 FEIS p. 50 identifies \$272.6 million of deferred maintenance on GNF's NFS roads: (bold
9 added)

10 The result of the forest's inability to perform full maintenance is a maintenance backlog known
11 as deferred maintenance. Examples of deferred maintenance include replacing culverts, cattle
12 guards, surfacing and signs based on their life cycle or when needed and removing all roadside
13 vegetation encroaching into the roadway or that which is limiting site distances. **An estimate of**
14 **the current deferred maintenance for NFS roads on the Gila National Forests is**
15 **\$272,265,429.**

16
17 **The Gila National Forest can't measure its own roads or count its own money. But it**
18 **demands that we accept its conclusions on difficult and complex issues of science.**

19
20 The FEIS does not show cause and effect between motorized use of routes and existing
21 conditions in the environment as shown in data. The analysis doesn't even analyze the
22 activity that it claims to analyze; motorized use of routes. It analyzes roads; roads are
23 not an "activity". Even considering the roads analysis, the information provided in the
24 FEIS indicates lack of correlation between existence of routes and watershed
25 conditions. The FEIS and responses to comment refuse to examine that serious and
26 pervasive problem in the analysis. Instead of looking at the facts on the ground, the
27 FEIS clings to its insistence of 'damage caused by roads', cited from studies done in
28 other place that have different conditions. CEQ requires that the FEIS properly draw
29 conclusions from the information presented. This FEIS fails to comply with that
30 direction.

31
32 **03032011-17-2 p. 731**

33

1 Summary Statement: Should not use 600-foot Riparian Risk zone in analysis, but
2 instead use actual data from RASES, and apply Proper Functioning Condition (PFC)
3 data where applicable.

4
5 Response: At the time of writing of the DEIS, a forestwide riparian coverage did not
6 exist. In 2012, the Southwestern Regional Office developed a forestwide riparian
7 coverage (RMAP) for the Gila National Forest. The watershed and soils specialist report
8 and the FEIS will be updated to show this, with all further riparian analyses using these
9 data. The RMAP coverage used both RASES data and PFC data where available.

10
11 **APPEAL POINT:** Summary Statement ignores a major issue of the comment. The
12 response provides no discussion of the issue raised. The comment had a lengthy
13 section about the faulty buffer zone methodology. The GNF has improperly applied the
14 science presented in Belt, O’Laughlin and Merrill, 1992. That study supports the
15 methodology we presented in comment.

16
17 Our original comment is 20 pages. It is clearly organized in three distinct sections. The
18 first section is four pages long and titled: **I. RIPARIAN BUFFER ZONE**
19 **METHODOLOGY.**

20
21 Before entering a long and detailed discussion, we want to show you why this matters.

22
23 NMOHVA’s concerns are not just for our access and forest use. We are also a
24 conservation and education organization. We are concerned that the Gila National
25 Forest make decisions which are 1) needed to protect natural resources, and 2) actually
26 are effective. Here is it clear that the decision relies on a strategy that won’t work.

27
28 **All action alternatives leave watersheds unprotected from road produced**
29 **sediment because they rely on a strategy that has been proven to not work in**
30 **mountainous terrain.** The Watersheds report major strategy to protect streams from
31 sediment is a 300 ft. buffer zone. The cited studies tell us that buffer zones will not
32 protect streams that run in channels in the mountainous West. The analysis insists on a
33 solution that won’t work. As a result, the threat to the resource is not reduced by any of
34 the action alternatives. The statements made here will be presented in full, as the
35 discussion progresses.

36
37 **The Results of the 300 ft. Buffer Zone**

38 The FEIS and Watershed report substantially misleads the decision-maker and public,
39 by insisting the buffer zone strategy is the proper tool to reduce sediment. In reality, all
40 the buffer zones do is trigger unnecessary road closures, while producing no substantial
41 protection. We find evidence of this error in the FEIS.

42
43 FEIS, P. 221: (bold added)

44
45 For all action alternatives, less motorized routes would be designated for
46 motorized use within 300 feet of perennial, intermittent, and impaired streams.

1 Motorized routes adjacent to ephemeral streams are decreased under all
2 alternatives, with the exception of alternative C where there would be a slight (1
3 percent) increase. **Reducing motorized routes within 300 feet of streams is**
4 **anticipated to improve water quality by limiting opportunities for overland**
5 **flow to travel down motorized routes and deliver excess runoff and**
6 **sediment into the drainage network. In addition, restricted access to these**
7 **areas would allow these routes to reestablish vegetation, reduce sediment**
8 **yields, and improve channel and riparian conditions over time.**
9

10 The FEIS conclusions depend on a badly flawed methodology in the specialist's report.
11 This statement is in Chapter 3, Affected Environment, which present the broad overview
12 of effects. We know this FEIS statement (above) is tragically in error.
13

14 -Buffer zones don't protect streams from sediment. They are the wrong tool for the job.
15 -Overland flow doesn't occur in mountainous areas.
16 -The data limitations in the watershed report states it has not modeled sediment and
17 cannot predict increase or decrease of sediment.
18

19 The buffer zone error discredits the claims of benefits for the aquatic species. The
20 analyses claim that habitat will be improved because the action alternatives will reduce
21 sediment. The 300 ft. buffer zone is the major indicator for improvement to habitat
22 (along with stream crossings, another indicator of dubious value).
23

24 Gila Chub, FEIS. p. 247

25 Table 65 displays the miles of NFS motorized routes within 300 feet of Gila chub
26 critical habitat for each alternative.
27

28 Gila Trout, FEIS, p. 247

29 Table 65. Miles of NFS motorized routes within 300 feet of Gila chub designated
30 critical habitat
31

32 Spiked Dace p. 245

33 Table 63. Miles of NFS motorized routes within 300 feet of spikedace designated
34 critical habitat
35

36 Loach Minnow p. 243

37 Table 61. Miles of NFS motorized routes within 300 feet of loach minnow
38 designated critical habitat
39

40 Doing a simple word search on "within 300 feet", shows the phrase appears in 123
41 places in the FEIS, including 300 feet within ONRW wetlands, ONRW streams, eligible
42 wild and scenic rivers. The useless buffer zone has been applied to 14,533 miles of
43 drainages, it will have negligible value for reducing sediment. But the FEIS declares
44 victory, and claims the aquatic resources will all benefit.
45

46 **No other methods were considered, that could have been more effective**

1 The comment makes specific criticism of the agency methodology, and offers a different
2 methodology which would be more appropriate and provide better protection for the
3 riparian areas. The Watershed analysis seized on the idea of buffer zones, and the
4 analysis shows no evidence it ever looked at any other ideas or strategies for controlling
5 sedimentation. It embraced the wrong strategy.

6
7 **There are two criticisms of methodology in the comment.**

8 One is that the watershed report used the wrong methodology and width to establish
9 protective buffer zones for riparian areas.

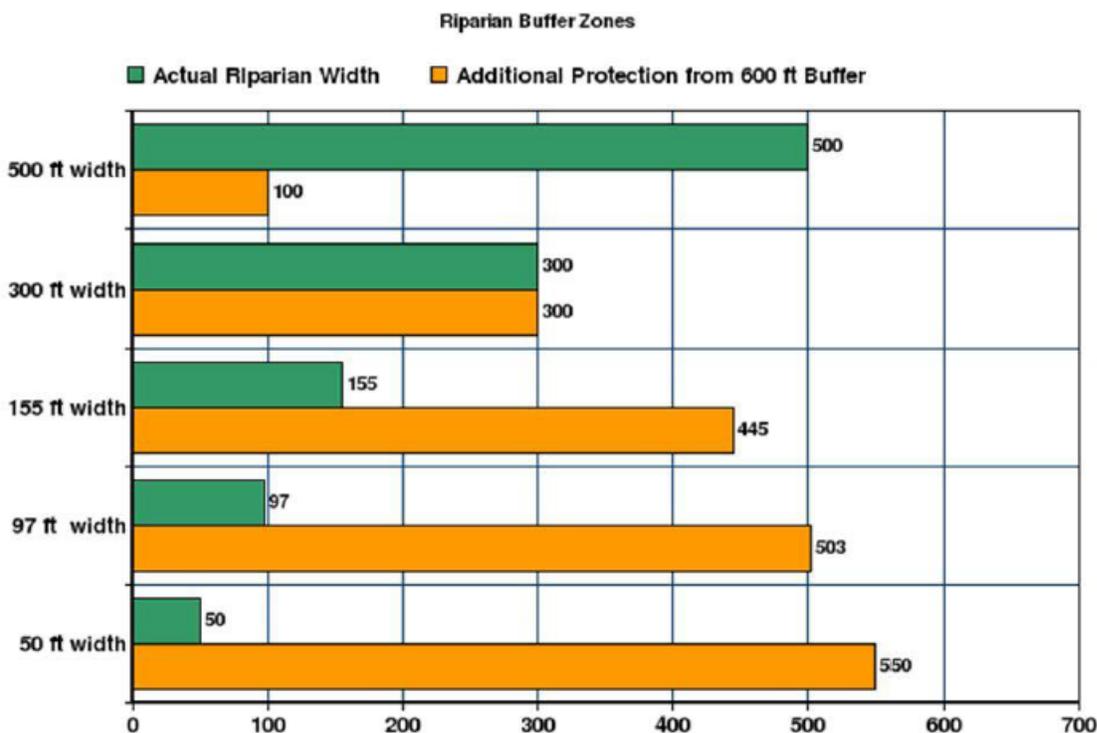
10 The second issue is that buffer zones should not have been used at all in the
11 mountainous channelized areas, for the simple reason that they don't work. That is
12 established in the FEIS cited studies.

13
14 From our original comment:

15
16 **Inherent Weakness of Buffer Zone, Better Options to Protect Riparian
17 Areas:**

18 The 'protective buffer zone' is so ill-conceived that it doesn't even accomplish
19 logical protection of the riparian areas. Under the 600 ft. buffer zone, the largest
20 riparian areas (the four largest that are 500 ft. wide) get only 50 feet of additional
21 protection on each side. Now consider a riparian area of median width, 90 feet. It
22 also gets a 600 ft. buffer zone. So it gets an additional 250 feet of protection on
23 each side. Now consider a narrow riparian area of 20 ft. That gets an additional
24 290 feet of protection on each side. We have prepared a graphic to demonstrate
25 this. The irrational consequence of the buffer zone scheme is that the largest
26 riparian areas get the least extra protection, and the smallest ones get the most
27 extra protection. This is highly illogical, since the largest riparian areas are
28 arguably the most important. They provide the largest contiguous wet habitat
29 areas; provide the largest habitat areas resistant to drought (critical to species
30 like frogs that must remain moist to survive). We see no discussion of the habitat
31 needs of different aquatic species in the riparian zone analysis. Is the CLF
32 present in any of the larger riparian areas that are getting the least protection?
33 There is no integration of analysis.

34
35 The following bar graph was constructed for the comment, to demonstrate what we said
36 about the flawed methodology of a 600 ft. buffer zone. There would obviously be the
37 same problem with any buffer zone methodology that applied a fixed distance. It would
38 be too wide for some places and too narrow for others. As the comment clearly states,
39 the failure of the buffer zone applied by the USFS, is that it provides the least protection
40 for the places that are the most important; the largest riparian areas.



The simple but effective alternative methodology is described at Comment p. 5:

A Logical Method to Set Buffer Zones

The task of the analysis is to determine IF buffer zones are needed, and what benefit they would provide.

If the analysis proved buffer zones are needed there are logical ways to describe them. They could be defined as an extra percentage of the width of the riparian area, or as a set number of feet added to each side of the width. Either one would have made more sense than the scheme the agency used.

The only thing the Buffer Zone scheme accomplishes is to grossly overstate the amount of riparian area, and by extension, grossly overstate the mileage of roads that present a risk to riparian areas.

The method we suggest is simply to determine the buffer zone based on the width of the actual riparian area. This is the variable width method shown in the agency’s cited study Belt, O’Laughlin and Merrill, 1992.

The response does not even acknowledge that we criticized the agency methodology in detail and offered a viable alternate methodology. The response fails to comply with CEQ requirements for response to a comment that is specific in its criticism of agency methodology. From CEQ Forty Questions, No. 29a: (bold added)

29a. Responses to Comments. **What response must an agency provide to a comment on a draft EIS which states that the EIS’s methodology is**

1 **inadequate or inadequately explained?** For example, what level of detail must
2 an agency include in its response to a simple postcard comment making such an
3 allegation?
4

5 A. Appropriate responses to comments are described in Section 1503.4.
6 **Normally the responses should result in changes in the text of the EIS, not**
7 **simply a separate answer at the back of the document.** But, in addition, the
8 agency must state what its response was, and if the agency decides that no
9 substantive response to a comment is necessary, it must explain briefly why.

10
11 An agency is not under an obligation to issue a lengthy reiteration of its
12 methodology for any portion of an EIS if the only comment addressing the
13 methodology is a simple complaint that the EIS methodology is inadequate. **But**
14 **agencies must respond to comments, however brief, which are specific in**
15 **their criticism of agency methodology.** For example, if a commentor on an
16 EIS said that an agency's air quality dispersion analysis or methodology was
17 inadequate, and the agency had included a discussion of that analysis in the EIS,
18 little if anything need be added in response to such a comment. **However, if the**
19 **commentor said that the dispersion analysis was inadequate because of its**
20 **use of a certain computational technique, or that a dispersion analysis was**
21 **inadequately explained because computational techniques were not**
22 **included or referenced, then the agency would have to respond in a**
23 **substantive and meaningful way to such a comment.**
24

25 The response claims that something changed in the final version of the report, because
26 the final report has RASES and RMAP data. This response ignores that the comment
27 issue is not about data, it is about methodology. The Final Watershed and Soils report
28 continues to use the same 600 ft. buffer zone methodology on all riparian areas. This
29 statement at Final Watershed and Soils report p. 79 is identical to the statement in the
30 Draft report at p. 65:

31 The analysis area for water quality was designed by buffering 300 feet on either
32 side of perennial, intermittent, impaired and ephemeral drainages.
33
34

35 The following excerpt about buffer zones is taken directly from the original comment.
36 This issue got no response at all.
37

38 **No 'Task' to Create Buffer Zones.** There is a fundamental logical flaw in the
39 analysis. The analysis is supposed to assess the real physical size of the existing
40 riparian areas. The acreage of the riparian areas is data from the real world.
41 **Buffer zone acreage is NOT the existing condition.** Buffer zone acreage must
42 not be added to riparian acreage BEFORE the analysis, as if buffer zones were
43 physically part of the riparian area. Buffer zones are not a Natural Resource.
44 **Buffer zones are a management strategy. They are a policy; they should**
45 **not be confused with the initial measurement of impacts to the riparian**
46 **zones.** Buffer zones could be used as a corrective or preventative policy

1 measure AFTER the riparian areas are analyzed, and AFTER the analysis
2 proves that corrective measures are needed.

3
4 The following statement from the Final Watershed and Soils report shows that the buffer
5 zone was indeed used as a management policy, not just as an analytic tool. P. 80:

6
7 For all action alternatives, less motorized routes would be designated for
8 motorized use within 300 feet of perennial, intermittent, and impaired streams.

9
10 The response does not address our criticism of the methodology for using the same
11 distance for the narrowest dry channel and the widest perennially wet riparian area.
12 If it is logical to think that if 300 feet is enough for the smallest dry channel, then it
13 couldn't possibly be wide enough for the largest perennial riparian area. If 300 feet is
14 enough for the 500 feet riparian area, it is gross 'overkill' for the myriad narrow dry
15 channels in the forest. The agency can't have it both ways. One distance can't possibly
16 be appropriate in all situations, but this is exactly what USFS insists on.

17
18 The following section of comment clearly identified that the RASES data shows a wide
19 variation in the width of riparian. This supports our argument that the fixed distance
20 buffer zone is irrational. (Bold in the original comment).

21
22 **Zones Unnecessarily Wide for Many Riparian Areas**

23 The selection of a 600 ft. wide zone is based on the data from RASES. Out of all
24 the 326 channels, there are four with riparian areas that are 500 ft. wide. All the
25 rest are smaller, and most are much smaller. The median width is 90 feet; the
26 average width is 155 feet. **Therefore for over half the channels, the zone is**
27 **more than five times wider than the actual riparian area. This overstates the**
28 **riparian acreage by a factor of about 500%. This error was totally avoidable.**

29 The analysis does NOT disclose how much extra land was unnecessarily caught
30 in that zone, and how many 'innocent' roads are being unnecessarily targeted for
31 closure because of it.

32 The maximum width is true for only 4 out of 326 riparian areas (1.2%). Then they
33 applied it to the other 98.8% of the areas. The magnitude of this error is
34 undeniable and unacceptable. Even if all the other 322 areas were the average
35 width of 155 ft., the overstatement of riparian acreage would at least 300%.

36 Since the median width is 90 ft. and the average width is 155 ft., we know that
37 many of the 326 riparian areas are less than 90 ft. wide. This means the error is
38 even greater than 300%.

39
40 The following section of original comment again criticizes the methodology, because it is
41 contrary to the data.

42
43 **Which Reaches Need Attention and Improvement?**

44 At page 11 the report says that 64% of the stream reaches are functioning
45 properly according to forest plan standards. How many of those reaches are in

1 study area versus in wilderness area? We can't tell. Where is the rationale for
2 applying a blanket 600 ft. 'protective' zone to all the stream reaches? The data in
3 the report proves the report's own assumption is wrong. If 64% of the reaches
4 are functioning properly WITHOUT a 600 foot buffer zone, there must be some
5 other factors involved. Instead of doing some GIS work and trying to correlate
6 factors, the agency applies a buffer zone everywhere. Does that make sense?
7 No. A solution should have a rational connection to empirical data. This one
8 doesn't. It's a basic rule in science that if the data doesn't fit your theory, you
9 change your theory. You don't ignore the data.

10
11 Now we examine the studies that the Response cites, to defend its buffer zone
12 methodology. We find, ironically, that the studies support our comment, and contradict
13 what the agency claims. The GNF utterly failed to understand what is in the studies it
14 cited.

15
16 FEIS has made a critical error in the watersheds methodology. The agency's buffer
17 zone is contradicted by the very studies it cites to support it. The USFS misunderstood
18 and misused cited studies. The Final Watershed and Soils report says this at p. 73:

19
20 Literature supports that disturbance within 300 feet of streams has the greatest
21 potential to impact water quality, via overland flow (Burroughs and King, 1989,
22 Belt, O'Laughlin and Merrill, 1992)

23
24 The GNF misapplied both of these studies. Neither of the studies say nor support what
25 the Watershed report claims. The buffer zone error is dual; wrong width and wrong
26 application of buffer zone to channelized environment.

27
28 Burroughs and King, 1989 is USFS Intermountain Research Station, GTR INT-264.
29 Burroughs and King, 1989 examined sediment travel below fillslopes and cutslopes on
30 constructed roads. The following quote is from Burroughs and King, p. 8. (bold added).
31 The study found various sediment movement distances, but none over 80 ft., even in
32 the most extreme cases.

33
34 **Those situations that resulted in the longest average transport distance**
35 **were rills formed in slumped material and rills either below relief culvert**
36 **outflows or rills whose flow paths combined with culvert flow paths.**
37 **Respective average transport distances for these two situations were 80.4**
38 **and 72.8 ft.** Most common were rills formed in fillslopes that were not windrowed,
39 had not slumped, and were not influenced by relief culvert flows. The transport
40 distance was influenced by whether the traveledway contributed concentrated
41 runoff to the fillslopes. **Average transport distances were about 26 ft. if not**
42 **influenced by traveledway runoff and increased to about 59 ft. for instances**
43 **influenced** by concentrated traveledway runoff. An obvious rill had to have
44 formed in the subgrade above the fillslope rill before it was classified as

1 influenced by traveledway runoff. Outsloping of the traveledway was not a
2 classification criteria. These data provide estimates of distances required
3 between fillslopes and streams to minimize transport of fillslope-derived sediment
4 to the streams.
5

6 The Belt, O’Laughlin and Merrill, 1992 study (“Belt, et al”) contradicts the FEIS chosen
7 methodology: buffer zones don’t work in the channelized mountainous areas. The uses
8 of buffer strips include trapping sediment and “moderating cumulative watershed
9 effects”. But they don’t work everyplace. From Belt et al, p. 1: (bold added)

10
11 **According to Brown (1985), streamside buffer strips are "of little value in**
12 **handling erosion from side slopes above the buffer in most of the**
13 **mountainous West." Erosion in western forests, unlike that from**
14 **agricultural watersheds where sheet erosion is common, is more likely to**
15 **occur as channelized flow through the buffer strip.** This is due to the
16 relatively high degree of slope dissection by ephemeral channels in upland areas
17 adjacent to the riparian zone. **These channels frequently continue through**
18 **the buffer strip to the channel. Where these channels do not exist,**
19 **however, sheet flows do move overland.**
20

21 We repeat, Belt, et al says that buffer strips don’t work to control erosion coming from
22 side slopes above the buffer. This is exactly how the GNF proposes to apply buffer
23 zones. It used GIS overlays to identify the drainages and then drew buffer zones around
24 them. The water or potential water flow is at the BOTTOM of the drainage. The
25 potential SOURCE of the erosion is on the side slopes ABOVE the buffer. This is
26 exactly the configuration in which buffer zones DON’T WORK, because the sediment
27 comes down through cut channels, NOT as overland flow.
28

29 Belt et al (citing Brown) says that sheet flows move overland where “channels do not
30 exist”. In other words, sheet flow moving overland cannot happen where there are
31 channels, and most of the GNF is channelized and mountainous. Sheet flow sediment
32 moving overland happens on flatter land, like agricultural watersheds.
33

34 At page 3 of Belt et al, we find the 300 ft. width. Again, the USFS has misunderstood
35 and misused the research. Belt says that sediment can move 300 ft. OVERLAND. This
36 means over relatively flat land, NOT in a channelized mountainous area.
37

38 Research suggests four things about buffer strip design to trap sediment or
39 nutrients: (1) buffer strips should be wider where slopes are steep, **(2) riparian**
40 **buffers are not effective in controlling channelized flows originating**
41 **outside the buffer, (3) sediment can move overland as far as 300 feet**
42 **through a buffer in a worst case scenario,** and (4) removal of natural
43 obstructions to flow--vegetation, woody debris, rocks, etc.--within the buffer
44 increases the distance sediment can flow.
45

1 The quote above also tells us that a buffer will not control channelized flows originating
2 from outside the buffer. This is exactly the situation in the GNF. The Watershed report
3 proposes buffers around channels, to stop flow from roads (a source of channelized
4 outside the buffer)

5
6 Belt et al also supports our comment's challenge to the fixed width buffer strip
7 methodology. Belt et al describes the advantages of using variable width buffer strips, at
8 p. 4: (bold added). This supports our contention that a variable width buffer scheme can
9 provide better protection than a fixed width one.

10
11 (1) How wide should a buffer strip be? Minimum or fixed width buffer strips have
12 the advantage of simplicity of implementation and administration. **Variable width**
13 **buffer strips have the potential to improve stream protection based on**
14 **individual stream reach characteristics. Variable width buffers can be**
15 **altered according to site characteristics or management objectives.** For
16 example wider bufferstrips could be required where (a) adjacent slopes were
17 steep, (b) streams were larger and additional width was need to protect the flood
18 plain, (c) additional LOD recruitment was appropriate, (d) increased width would
19 reduce the sediment load from a nearby harvest area or road. Similarly, buffer
20 strip widths could be reduced (to a minimum) where (a) slopes were not steep,
21 (b) stream temperature increases were not a concern, (c) LOD supplies were
22 ample, etc.

23
24 Belt et al p. 2 describes using a 200-300 ft. width, but that is only for non-channelized
25 sediment

26
27 Filter strips on the order of 200-300 feet are generally effective in controlling
28 sediment that is not channelized.

29
30 The Watershed report seized on the widest number it could find for a buffer, without
31 understanding that the number does not apply to channelized areas.

32
33 Belt, et al, cites Burroughs and King, at p. 3: (bold added). This too contradicts the
34 methodology the FEIS/ watershed report has made the centerpiece of their analysis.

35
36 Burroughs and King (1989) examined sediment travel distances below road fill
37 slopes. **They found that 90% of the sediment flows below fill slopes traveled**
38 **less than 88 feet.** Where fill slope flows were influenced by flows from drains,
39 90% of the flows traveled 200 feet or less.

40
41 The report cites Belt et al, and does not disclose that the study contains information
42 contrary to the assumptions and methodology the agency has used. Contrary to case
43 law precedent, the FEIS has failed to disclose responsible opposing opinion in the
44 project record.

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-2a**

2
3 Summary Statement: Water and soils report does not analyze motorized use

4
5 Response: The intent of the Travel Management Rule is to develop a motorized route
6 system for the forest, not a motorized use system for the forest. Thus, the watershed
7 and soils specialist report analyzed routes and associated acres at relative risk for
8 disturbance.

9
10 **APPEAL POINT:** The response makes this statement: (bold added)

11
12 The intent of the Travel Management Rule is to develop **a motorized route**
13 **system** for the forest, not **a motorized use system** for the forest.

14
15 The response is false for two reasons.

16
17 **1. The Response is wrong about the Travel Management Rule.** The Travel
18 Management Rule explicitly tells the GNF to designate a motorized USE system, not a
19 motorized ROUTE system. The FEIS and Record of Decision identifies roads, trails and
20 areas where dispersed camping and motorized game retrieval are allowed. The Travel
21 Management Rule tells the agency to identify the roads, trails and areas where
22 motorized use is allowed. FEIS, p. i: (emphasis added)

23
24 **Abstract:** The Gila National Forest (the forest) proposes to make changes to the
25 current system of National Forest System roads, motorized trails, and areas. The
26 result of these changes will be **a system of roads, trails, and areas**
27 **designated for motor vehicle use as required by the Travel Management**
28 **Rule** (USDA Forest Service 2005)

29
30 2. It misrepresents the comment, and does not respond to the real issue in the
31 comment.

32
33 The following quotes show that the comment discusses only motorized use of routes
34 (bold added). We note how many times “use of routes” or “use of roads” is said. There
35 is no statement anyplace in the comment about motorized use other than on roads and
36 routes.

37
38 Comment P. 5

39
40 II. Water and Soils Report Does Not Analyze Motorized Use

41
42 **Fails to Analyze Motorized Use of Roads, Fail to Weigh Other Factors. Fails to**
43 **Discriminate Between Wilderness and Non-wilderness areas.**

44
45 2. The analysis never addresses the real issue: **the motorized USE of roads.**

1
2 The critical initial step in an analysis process is framing the question. This DEIS
3 neither asks nor answers the most critical questions: How much improvement is
4 gained for riparian areas by restricting **motorized use of existing routes**? Of all
5 the sources of impact, does the **use of routes** account for much? This would
6 provide what the decision maker needs; the information to decide if closing the
7 roads is worth the cost to the human environment. If the **use of roads**
8 contributes 1 percent of problem, is it worth closing the roads?
9

10 The response has nothing to do with the issue raised in comment. We refer you to the
11 original comment, attached. Being “at risk for disturbance” is a meaningless statement.
12 Impacts are greatly varied, depending on a variety of factors. Impacts from the presence
13 of roads depend on the amount of roads. Impacts from use depend on the amount of
14 use. The only purpose and result of the travel management planning is to study and
15 manage motorized use.
16

17 We note these statements in the Final Watershed and Soils report:

18
19 p. 49

20 Routes that receive motorized use have the potential to produce more sediment
21 than routes that are not open for motorized use.
22

23 p. 51

24 The Forest has no data for motorized use levels
25

26 These two statements show that an analysis must specifically consider the effects of
27 use, because a route with use results in different impacts than a route without use. The
28 FEIS admits it has no use data. Therefore it lacks the specific data necessary to do the
29 analysis. If the difference between effects is use versus non-use, the only appropriate
30 data is “use”. Nothing can be substituted as a proxy, but the entire analysis is
31 manufactured around using “miles” and “acres” as a proxy for use.
32

33 The following statement from the final report (p. 80) indicates that the agency knows full
34 well that the sediment comes primarily from the existence of the roads themselves, and
35 that removing motorized use does not eliminate the soil movement. The report here
36 says that sedimentation might even increase.
37

38 The statement also misrepresents the nature of the travel management decision. It
39 compares closure to motorized use to decommissioning. The one scenario that is not
40 mentioned at all is exactly the only thing that can happen under any decision: all uses
41 except public motorized will continue. The road will continue to exist and be used,
42 hence continue to generate sediment.
43

44 It is important to note, however, that, until hydrologically disconnected, closed
45 routes will continue to be pathways for flow and sediment to enter the stream
46 system to some extent, as recovery times can take decades. All of the action

1 alternatives involve the closure of roads to motorized use rather than
2 decommissioning (physical removal). In some instances, the risk of
3 sedimentation may increase due to problems associated with lack of consistent
4 maintenance, while in others the risk may decrease dramatically due to rapid
5 recovery of a riparian area to more natural conditions.

6
7 This statement from p. 29, admits that less traffic produces less erosion.

8
9 Maintenance level 2 roads may see less frequent, if any maintenance, thus
10 increasing the risk for erosion potential. These routes, however, may receive less
11 traffic and imprint a smaller swath of disturbance on the immediate landscape.

12
13 This statement also says less use = less impact, Watershed and Soils report, p. 74
14 (bold added)

15
16 Research also indicates that sediment movement off of roads is **related to levels**
17 **of maintenance, road drainage, and amount of use of a road** (Clinton and
18 Vose, 2003; Maholland and Bullard, 2005, Reid and Dunne, 1984). **High traffic**
19 **use typically delivers more sediment to stream courses than low traffic**
20 **use.** Successfully closed roads are assumed to deliver the lowest amount of
21 sediment to stream courses compared to low or high traffic use on all road types.

22
23 The FEIS fails to delineate the cause and effect relationship between motorized use of
24 the route and a substantial, significant impact of erosion and sedimentation. Vague
25 comparisons that an alternative results in 'more', 'less', 'reduced' or 'increased' impact
26 do not disclose if an impact is substantial or significant, as required by CEQ. All the
27 comparisons of alternative are couched solely in those vague statements.

28
29 **03032011-17-2b p. 731**

30
31 Summary Statement: Water and soils report misrepresents State of New Mexico water
32 quality information.

33
34 Response: The watershed and soils specialist report provides a summary of information
35 obtained from New Mexico Environment Department (NMED) – Surface Water Quality
36 Bureau's 2010–2012 List of Assessed Waters. This report is available at
37 <ftp://ftp.nmenv.state.nm.us/www/swqb/303d-305b/2010/USEPA-Approved303dList.pdf>

38
39 **APPEAL POINT:** Rather than repeat the arguments of the comment, we refer you to
40 the original attached comment. The discussion of the FEIS misrepresenting the data
41 and results takes 9 pages (pp. 10-19) But to summarize, here is the initial part of that
42 section: (bold in original)

43
44 **III. Water and Soils Report Misrepresents State of New Mexico Water**
45 **Quality Information**

1 The Water and Soils Report misrepresents the New Mexico State water quality
2 information to invent and exaggerate negative impact attributed to OHV use. The
3 Report ignores the preponderance of information from the State that the two
4 largest causes of water quality problems are the agency's own activities of
5 silviculture and fire suppression. The information presented is for the entire
6 forest. The Report never discloses if any of the impaired reaches are in
7 wilderness areas. From Page 15 Table 6

8
9 Table 6 lists the water bodies that have been currently listed as in non-attainment
10 of state water quality standards, and the probable causes of impairment.
11 Currently there are 29 waterbodies (streams & lakes) within or adjacent to Forest
12 system land that are not meeting State water quality standards. Of these 29
13 waterbodies, **twelve reaches have listed a probable source of impairment as**
14 **either off-road vehicles, highway/road/bridge runoff, or surface/parking lot**
15 **runoff.** Five of the 29 waterbodies document a **probable cause of impairment**
16 **as turbidity**, which may be directly or indirectly linked to roads. Twenty of 29
17 waterbodies list a **probable cause of impairment as water temperature, which**
18 **may also be indirectly linked to roads if stream channel geometry has been**
19 **altered due to road-modified runoff.**

20
21 **Watershed and Soils report is contradicted by 6th Code Watershed report**

22 The FEIS provides information on water bodies with water impairment. The 6th Code
23 Watershed report makes this statement at p. 15: (bold added)

24
25 Currently there are 28 waterbodies (streams & lakes) within or adjacent to Forest
26 system land that are not meeting State water quality standards. **The impaired**
27 **water bodies are found throughout the Forest. Approximately 49% are**
28 **found within wilderness areas and 51% are found in non-wilderness areas**
29 **of the Forest.**

30
31 This data only adds to our comments argument that the data shows zero correlation
32 between water impairment and motorized use. This also indicates there are important
33 impairment factors that add far more impact to condition than motorized use.

34
35 This statement is in the 6th code Watershed report, p.19: (bold added)

36
37 **Approximately half of the impaired water bodies on the Gila National Forest**
38 **(198 miles out of 404 miles of impaired streams) are found within**
39 **wilderness areas, with these watersheds having some of the lowest route**
40 **density numbers on the Forest and no motorized stream crossings.** Given
41 multiple factors contributing to water quality impairments and the number of
42 impaired waters within wilderness areas, this attribute is expected to remain the
43 same. For the attribute of Other Water Quality Problems, **it is expected that this**
44 **attribute would show a slight improvement with the reduction in stream**
45 **crossings and motorized routes within 300 feet of perennial, intermittent**
46 **and impaired streams.**

1
2 Again, half the mileages of impaired streams are in the wilderness areas; zero
3 correlation between motorized use and impairment.

4
5 We point out that half the wilderness streams are impaired, even though there are NO
6 ROADS in wilderness, there are only trails. This casts even more doubt the watershed
7 analysis insistence of equating roads with motorized use with damage.

8
9 If there are routes within 300 ft. of routes in wilderness, they are getting no motorized
10 use. The FEIS data shows that route density and stream crossings do not correlate
11 with impairment. But the Watershed and Soils report was not corrected. It continues to
12 use road proximity road density and stream crossings as predictive of damage to
13 watersheds, p. 19: (bold added)

14
15 **High road densities can additionally contribute to unsatisfactory watershed**
16 **conditions** by increasing the connected disturbed areas associated with roads to
17 the drainage network, or **increasing the number of stream crossings within a**
18 **watershed.**

19
20 The 6th Code report just showed there is no predictive correlation between route
21 density, stream crossings and water quality. The Watershed and Soils report
22 contradicts that; its analysis uses road miles with 300 ft. of streams and stream
23 crossings as measures of water quality, p.53. (bold added)

24
25 Water Quality

26 *Indicator:*

27 • Motorized disturbance impacting perennial streams, intermittent streams,
28 303(d) streams, ONRW streams, and ephemeral drainages.

29
30 *Measure:*

31 • **Number of stream crossings** on perennial, intermittent, 303(d) streams,
32 ONRW streams, ephemeral drainages

33 • Miles of perennial streams, intermittent streams, 303(d) streams, and
34 ephemeral drainages potentially impacted by motorized routes, motorized big
35 game retrieval, motorized dispersed recreation, and motorized areas

36 • Miles of ONRW streams impacted by motorized routes.

37 • **Miles of motorized routes within 300 feet of ONRW wetlands.**

38 • Acres of motorized dispersed recreation, motorized big game retrieval and
39 motorized areas within 300 feet of ONRW streams and wetlands.

40
41 **03032011-17-2c 03032011-17-5 p.731**

42
43 Summary Statement: Analysis does not split out conditions from wilderness and non-
44 wilderness areas.

1
2 Response: The watershed and soils specialist report does not determine cause and
3 effect relationships with impaired stream listings on the forest. Thus, an analysis was
4 not done to correlate all land uses and activities, within and outside of wilderness, and
5 their potential impacts on impaired streams. The analysis looked at six alternatives with
6 variable route systems and what differences they had in potential to impact watershed
7 and soils resources. The report did not attempt to prove that routes and uses of routes
8 had the largest impact on these resources. However, it did evaluate peer-reviewed
9 literature to validate statements that routes and uses of routes can impact watershed
10 and soils resources (see references in watershed and soil specialist report and chapter
11 3 of the DEIS).

12
13 **APPEAL POINT:** The response ignores the substance of the comment. We refer you
14 to the original comment attached. A close review of the final Watershed and Soils report
15 showed the USFS has made no corrections. There is still no analysis that differentiates
16 between conditions on non-wilderness land and wilderness land. The same is true for
17 the 6th Code Watershed report.

18
19 **WHY It Matters:** It is impossible to tell how or if erroneous data and conclusions from
20 either report were brought into the FEIS. That would affect the comparison of
21 alternatives, thereby misinforming the decision-maker.

22
23 **03032011-17-2d, 03032011-17-5b, 03032011-17-2e, 03032011-17-5c p.732**

24
25 Summary Statement: Report fails to establish motorized use negatively impacts water
26 quality.

27
28 Response: The watershed and soils specialist report analyzed the change in potential
29 effects from motorized routes under each alternative. The report does disclose that
30 water quality can be negatively impacted from a motorized route system.
31 The watershed and soils specialist report provides a summary of information found in
32 NMED's list of Assessed Surface Waters (see
33 <ftp://ftp.nmenv.state.nm.us/www/swqb/303d-305b/2010/USEPA-Approved303dList.pdf>).
34 This report focuses on causes of impairment that may be road related. It is well
35 documented that roads may increase sediment delivery to stream networks, which in
36 turn can lead to associated water quality impairments. This report highlights where
37 those occur.

38
39 **APPEAL POINT:** We refer you to our other appeal points, for these issues:
40 1. Lack of correlation between impairment and motorized use
41 2. Failure to analyze use, no data on use
42 3. Statement in the FEIS reports that routes with and without motorized use have
43 different impacts.

44
45 **03032011-17-2e, 03032011-17-5c p. 732**

1 Summary Statement: Analysis fails to disclose the circumstances underlying watershed
2 quality.

3
4 Response: Comment noted. The cumulative effects analysis discusses activities across
5 watersheds that contribute to cumulative effects. New information at the 6th-code level
6 is currently available and will be used for analysis in the FEIS.

7
8 **APPEAL POINT:** Despite the claim of the response, the 6th Code analysis does not
9 discuss the factors contributing to cumulative effects. We refer you to the separate
10 discussion of the 6th Code report. Since that report did not exist at the time of the DEIS,
11 the public could not comment on it.

12
13 Cumulative effects come from more than “activities”. The following statement is from the
14 final Watershed and Soils report, p. 8: (bold added)

15
16 Watershed condition encompasses both aquatic and terrestrial processes and
17 functions as the quality of water and aquatic habitat is inseparably linked to the
18 integrity of uplands and riparian areas within a watershed. Aspects of a
19 watershed related to geomorphic integrity can be defined in terms of attributes
20 such as slope stability, soil productivity, channel morphology and other upslope,
21 riparian and aquatic habitat characteristics. Hydrologic integrity of a watershed is
22 related primarily to flow, sediment and water quality attributes. Biological integrity
23 can be defined by the aquatic characteristics that influence the diversity and
24 abundance of species. **In each case, integrity must be evaluated in the**
25 **context of the natural disturbance regime, geoclimatic setting and other**
26 **important factors. The geomorphic, hydrologic, and biologic components**
27 **are then combined and evaluated as a whole to assess watershed integrity**
28 **and health.**

29
30 We note that the components listed are primarily natural conditions, not human activities
31 on the tiny percentage of the forest surface taken by roads and trails: 0.02%. This
32 leaves 99.98% of the forest surface as natural. Even if one presumed to multiply
33 impacts from routes by a factor of 100 (because “everyone knows” roads and trails are
34 so bad for the environment), the impacted area would only be 2% of the forest.

35
36 FEIS p. 46 gives the planning area acreage as “...*approximately 2.44 million acres...*”

37
38 FEIS p. 56 shows the forest total of 3.39 million acres, and the wilderness total (792,584
39 acres in 3 wilderness areas)

40 The administrative boundary encompasses 3,392,519 acres. Twenty-four percent
41 of the forest’s land mass is included in congressionally designated wilderness
42 and is managed for primitive and semi-primitive nonmotorized use. These
43 wilderness areas are the Gila Wilderness (559,688 acres), Blue Range
44 Wilderness (29,099 acres), and Aldo Leopold Wilderness (203,797 acres).

1 P. 26 states only 6,900 acres of surface are occupied by routes:

2 Under the No Action Alternative, the existing motorized route system in place on
3 the Forest would not change, continuing to impact over 6,900 acres of Forest
4 where the routes are located.

5
6 As a percentage of the 2.44 million acres of non-wilderness lands, the routes occupy
7 0.0028, or less than one-third of one percent of the surface. The report does not
8 differentiate between wilderness and non-wilderness. Therefore, the forest wide
9 assessment of watershed condition was done on all 3.39 million acres. The 6,900 acres
10 of routes represent 0.002 of the forest surface. That is one-fifth of one percent of the
11 area assessed for conditions. In other words, the watershed conditions for soils,
12 vegetation etc., are based on conditions of the 99.98% of the surface where there are
13 no routes. Yet the FEIS and its reports insist that removing one use on 0.02% of the
14 surface will somehow significantly improve the conditions on the 99.98%. This is simply
15 not a rational conclusion.

16
17 **These numbers show the FEIS has abjectly failed to demonstrate the substantial**
18 **and significant impacts from a cause-and-effect relationship between routes and**
19 **environmental damage. This is the standard of analysis that CEQ requires for**
20 **cumulative effects.** Another factor that the analysis (and response to comment)
21 ignores is that 30% of the roads in the forest are non-USFS jurisdiction. We could
22 roughly estimate that 30% of the impacts come from roads the USFS can't control. This
23 is presented in our Watershed and Soil report comment, item 8 at p. 16.

24
25 Where we commented that the analysis should include natural conditions, the comment
26 was rejected. The response to comment 03032011-17-2m includes this statement
27 (Appendix B, p. 734 bold added)

28
29 The watershed and soils specialist report and chapter 3 of the DEIS discuss the
30 effects of roads on water quality and the potential for roads to impact water
31 quality under each alternative. **Discussion of geothermal activity and whether**
32 **it is responsible for temperature-related impairments is outside the scope**
33 **of this project. The State of New Mexico Surface Water Quality Bureau is**
34 **the appropriate agency to make these determinations.**

35
36 We have three observations on this response statement.

37
38 1. Geothermal activity is part of the natural disturbance regime and must be considered.
39 Geothermal activity is a natural part of the environment, just like soils, streams and
40 wildlife. The analysis does not decline to evaluate other natural factors of the
41 environment as being "out of scope". Geothermal activity is part of the environmental
42 baseline described in CEQ's Guidelines for Evaluating Cumulative Effects: (Executive
43 Summary p. vi. Bold added)

44

1 When the analyst describes the affected environment, he or she is **setting the**
2 **environmental baseline and thresholds of environmental change that are**
3 **important for analyzing cumulative effects.**

4
5 2. Geothermal effects are part of the cumulative effects and cannot be brushed off as
6 out of the scope.

7
8 3. The USFS is attempting to evade its responsibility for discussion of geothermal
9 effects, but claiming New Mexico Surface Water Quality Bureau is the appropriate
10 agency should be doing that evaluation, not the USFS. The State of New Mexico is not
11 legally responsible for producing the analysis in the FEIS. CEQ holds the USFS solely
12 responsible for that obligation.

13
14 **03032011-17-2f, 03032011-17-5d p.732**

15
16 Summary Statement: Fails to disclose how the assumptions were applied to the
17 analysis

18
19 Response: The watershed and soils specialist report identified assumptions and their
20 importance on page 29 of the report and in the DEIS on page 84.

21
22 **APPEAL POINT:** Summary statement and response are false representation of the
23 comment. The comment actually says this, p. 16:

24
25 **9: All the data comes from measurements taken on an environment**
26 **affected by cross country travel and by roads.** But the methodology fails to
27 disclose that, or account for it. Instead, the methodology operates under the false
28 assumption of direct linear relationship between the amount of impact and
29 mileage of roads. **If the agency maintains there is impairment from cross**
30 **country travel, it must separate out that amount from the impacts, and**
31 **ascribe only the remaining amount to the routes.**

32 If the agency believes that cross country travel is a significant source of water
33 quality impairment, it needs to identify that and not blame that impairment on
34 roads and trails. If the agency does not believe that cross country travel is a
35 significant source of water quality impairment, it needs to disclose that. But the
36 agency can't have it both ways.

37
38 The word "assumption" appears 3 times in the comment, none having anything to do
39 with demanding an explanation of how assumptions were applied to the analysis.

40
41 **03032011-17-2g, 03032011-17-5e p.732**

42
43 Summary Statement: Methodology does not identify motorized use as a watershed
44 threat.

1 Response: Comment noted. The watershed and soils specialist report and DEIS
2 analyzed the change in potential effects from a motorized route system under each
3 alternative. The report and the FEIS will be clarified to remove inconsistencies between
4 the motorized route system and motorized uses. These documents will be clarified and
5 they disclose the effects to watershed and soil resources that may be impacted by a
6 motorized route system.

7
8 **APPEAL POINT:** Same issue as other responses. See our other relevant appeal
9 points.

10
11 **03032011-17-2h p. 733**

12
13 Summary Statement: Table 6 provides list of probable sources and are not ranked or
14 weighted.

15
16 Response: This information is from NMED and displays the data in the same fashion.

17
18 **APPEAL POINT:** The full statement is at p. 10 of the comment, and says this:

19
20 **1: under the column for Probable Sources, the words 'either' and 'or'**
21 **NEVER appear.** Table 6 provides only LISTS of probable sources and does not
22 ever identify any source is being an only source or a more likely source. The
23 sources are merely listed. They are not ranked or weighted in any way.

24
25 Ranking or weighting of factors is an issue because the report misrepresents what is in
26 Table 6 of the NMED data. To be blunt, the report does not tell the truth about what is
27 in the NMED data. Instead, it misrepresents, omits and distorts it, to create a false
28 conclusion that motorized use is a major source of impairment. However, NMED lists
29 multiple sources of impairment, with no emphasis on any one. It never lists any one
30 factor as the only or major source.

31
32 The first few paragraphs of this comment section put this in context: Comment p. 10:

33
34 The Water and Soils Report misrepresents the New Mexico State water quality
35 information to invent and exaggerate negative impact attributed to OHV use. The
36 Report ignores the preponderance of information from the State that the two
37 largest causes of water quality problems are the agency's own activities of
38 silviculture and fire suppression. The information presented is for the entire
39 forest. The Report never discloses if any of the impaired reaches are in
40 wilderness areas. From Page 15 Table 6

41
42 Table 6 lists the water bodies that have been currently listed as in non-
43 attainment of state water quality standards, and the probable causes of
44 impairment. Currently there are 29 waterbodies (streams & lakes) within or
45 adjacent to Forest system land that are not meeting State water quality
46 standards. Of these 29 waterbodies, **twelve reaches have listed a**

1 **probable source of impairment as either off-road vehicles,**
2 **highway/road/bridge runoff, or surface/parking lot runoff.** Five of the
3 29 waterbodies document a **probable cause of impairment as turbidity,**
4 which may be directly or indirectly linked to roads. Twenty of 29
5 waterbodies list a **probable cause of impairment as water temperature,**
6 **which may also be indirectly linked to roads if stream channel**
7 **geometry has been altered due to road-modified runoff.**
8

9 Let's look at what Table 6 really says, and compare it to the bold text in the quote
10 above. We'll identify where the report says something that is not in the state's
11 table.

12
13 We refer you to pages 10-19 of the comment which detail each and every place where
14 the Watershed report makes a false statement about NMED data.

15
16 **03032011-17-2i p. 733**

17
18 Summary Statement: Factors of highway/road/bridge runoff and surface/parking lot
19 runoff are irrelevant to this analysis.

20
21 Response: The watershed and soils specialist report and the DEIS document existing
22 conditions and analyze the no action alternative B. Thus, considering factors of
23 highway/road/bridge runoff and surface/parking lot runoff are not irrelevant as they are
24 listed as a probable source of impairment to existing conditions.

25
26 **APPEAL POINT:** Response ignores the true statement in the comment, p. 10:

27
28 **2: The factors of highway/road/bridge runoff and surface/parking lot runoff**
29 **are irrelevant.** The Travel Management decision will not physically eliminate
30 ANY highway, road, bridge, surface or parking lot. The DEIS does not address
31 any paved road, paved surface or bridge. Table 6 identifies 6 reaches which
32 include off highway vehicles as a probable source, not twelve.

33
34 Please note also, the report claims (page 15, Table 6) that there are twelve reaches that
35 NMED lists as having OHV as a probable source of impairment. The true information
36 from the NMED is six reaches which INCLUDE OHV with other factors, as a probable
37 source of impairment. The report is deliberately misrepresenting the NMED data. We
38 suppose the USFS must think that people will only read what the report says about
39 NMED data, and not look at the NMED data itself. However, we checked to see if the
40 report was telling the truth.

41
42 **03032011-17-2j p. 733**

43
44 Summary Statement: For the twelve reaches the report targets, there is no reach for
45 which "off-road vehicles, highway/road/ bridge runoff, or surface/parking lot runoff" are
46 the only probable sources.

1
2 Response: Comment noted. The watershed and soils specialist report and the DEIS do
3 not state that off-road vehicles, highway/road/bridge runoff, or surface/parking lot runoff
4 are the only probable sources of impairment.

5
6 **APPEAL POINT:** As with the previous appeal point, we refer you to pages 10-19 of the
7 Watersheds and Soils comment.

8
9 **03032011-17-2k p.733**

10
11 Summary Statement: Five of the 29 waterbodies document a probable cause of
12 impairment as turbidity, which may be directly or indirectly linked to roads.

13
14 Response: The watershed and soils specialist report addresses routes associated with
15 motorized use, not just OHV activity.

16
17 **APPEAL POINT:** We refer you to the appeal point above, which discusses that the
18 new 6th code report identifies water impaired streams and waterbodies are even split
19 between wilderness and non-wilderness.

20
21 **03032011-17-2l p.733**

22
23 Summary Statement: Fails to provide an accurate assessment of OHV impacts from
24 table 9. The report fails to admit the state data does not show OHV as a major source of
25 temperature impairment.

26
27 Response: Comment noted. NMED does not list OHV-related activities as a probable
28 source of all temperature impairments on the forest. The agency, however, is disclosing
29 that road-related activities can impact stream temperatures (2012–2014 State of New
30 Mexico Clean Water Act §303(d)/§305(b) Integrated Report–Appendix A–List of
31 Assessed Surface Waters US EPA–Approved May 8, 2012). Where a stream on the
32 forest is already temperature impaired, further land-disturbing activities, including
33 motorized routes can cause continued or further impairment.

34
35 **APPEAL POINT:** Response evades the fact that while NMED might not list OHV as a
36 probable source, the Watershed and Soils report did. We refer you to pages 10-19 of
37 our comment, documenting how the report misrepresents the NMED.

38
39 **03032011-17-2m p. 733**

40
41 Summary Statement: The report invents causes and relationships not included in the
42 state's table.

43
44 Response: Current literature supports that roads have the potential to generate
45 sediment delivery to streams and alter channel configurations, which may impact water
46 quality.

1 The watershed and soils specialist report and chapter 3 of the DEIS disclose the effects
2 of roads on water quality, which is supported through literature and best available
3 science.

4 The watershed and soils specialist report and chapter 3 of the DEIS discuss the effects
5 of roads on water quality and the potential for roads to impact water quality under each
6 alternative. Discussion of geothermal activity and whether it is responsible for
7 temperature-related impairments is outside the scope of this project. The State of New
8 Mexico Surface Water Quality Bureau is the appropriate agency to make these
9 determinations.

10
11 **APPEAL POINT:** Response evades the proof provided in comment that the Watershed
12 report invented causes and relationships that are not in the state's table. The report
13 inserted unsubstantiated conjecture. From the comment, p.14:

14
15 **6: Invents causes and relationships not included in the state's table.**

16 The report says

17
18 Twenty of 29 waterbodies list a **probable cause of impairment as water**
19 **temperature, which may also be indirectly linked to roads if stream**
20 **channel geometry has been altered due to road-modified runoff.'**

21
22 The state data shows only FOUR reaches which include road runoff among the
23 Probable Sources for ANY type of impairment: South Fork Negrito Creek, Negrito
24 Creek, one reach of the San Francisco River, Tularosa River and one reach of
25 Whitewater Creek. Of those only TWO of those are temperature impaired: South
26 Fork Negrito Creek and Negrito Creek.

27
28 **Yet the report inserts the conjecture that roads may be the source of**
29 **temperature impairment for 20 reaches! The report blames road runoff for**
30 **temperature impairment of an additional 18 reaches, but it is simply making**
31 **this up.** Alteration of channel geometry due runoff from roads IS NOT mentioned
32 in Table 6 AT ALL. It is not identified as a Probable Source for any reach. This
33 idea is purely an invention of the report. It is unacceptable for the report to invent
34 causes and relationships which are not included in the cited material from the
35 state.

36
37 We refer you to the discussion of geothermal activity, and to other appeal points
38 showing lack of correlation between motorized use and impairment. We note that the
39 agency continues to cite studies as rebuttals to on the ground facts.

40
41 **03032011-17-2n p. 734**

42
43 Summary Statement: The report fails to disclose that there are 2,243 miles of non-forest
44 jurisdiction roads which contribute effects to the existing condition of water quality.

45

1 Response: The watershed and soils specialist report analyzed all roads under its
2 cumulative effects analysis. It did not analyze all routes, regardless of ownership, under
3 direct and indirect effects. Under the Travel Management Rule, the forest was tasked
4 with implementing a travel management plan for routes under forest jurisdiction and this
5 is what the alternatives are based on.

6 The analysis was a relative risk analysis, thus, as forest routes increase or decrease,
7 the risk of impacts from these routes increases or decreases accordingly.

8
9 **APPEAL POINT:** We refer you to other appeal points citing the CEQ requirements for
10 the analysis of cumulative effects, and for identifying if an impact is substantial and
11 significant. The analysis does not disclose the non-USFS jurisdiction roads make up
12 some 30% of the total road mileage in the forest. Therefore, the analysis fails to
13 disclose that some large amount of impact will not be reduced by banning motorized
14 use on the roads that the USFS does control.

15
16 **03032011-17-2o p.734**

17
18 Summary Statement: All the data come from measurements taken on an environment
19 affected by cross-country travel and by roads, but fails to disclose or account in the
20 methodology.

21
22 Response: The watershed and soils specialist report discusses impacts related to
23 routes and impacts related to off-highway travel, indicating that current impacts are
24 minimal. See pages 45 and 99. The report and FEIS will be further clarified to ensure
25 that these effects are clearly stated.

26 The watershed and soils specialist report displays potential effects to water quality as a
27 result of routes. It is not attempting to determine why impairments to water quality are
28 occurring. The State of New Mexico Surface Water Quality Bureau is responsible for
29 this determination.

30 The water quality information presented in the summary table on page 20 was extracted
31 from the following website <http://www.nmenv.state.nm.us/swqb/303d-305b/>. The report
32 does not attempt to assign importance on any one factor more than another. As this is
33 unclear, it will be clarified in the final watershed and soils specialist report and in the
34 FEIS.

35 The State of New Mexico Surface Water Quality Bureau is responsible for water quality
36 assessments and assigning probable sources of assessment. The State of New Mexico
37 has not ranked major and minor probable sources of impairment; it lists probable
38 sources in no particular order (NMED, personal communication, 2012).

39 The watershed and soils specialist report will be clarified to indicate that the analysis
40 covers direct, indirect, and cumulative impacts of routes related to motorized uses. In
41 addition, the report will remain consistent in its verbiage related to this.

42
43 **APPEAL POINT:** First, we agree, the sources are not ranked or weighted. That's the
44 point of our comment; the attempt by the report to exaggerate the blame NMED puts on
45 OHV as a probable source of impairment. The report did that through manipulation of

1 NMED information; misuse, misrepresentation, mis-combining categories, selective
2 omissions, gross miscounts etc.
3

4 We point out that this response is somewhat inconsistent with the response at 17-2h.
5 That response says makes this incomprehensible statement:
6

7 **03032011-17-2h p. 733**

8 Summary Statement: Table 6 provides list of probable sources and are not
9 ranked or weighted.
10

11 Response: This information is from NMED and displays the data in the same
12 fashion.
13

14 The response to 17-2o claims changes have been made to “clarify” the Final Watershed
15 report. The USFS has simply removed some of the more incriminating statements. For
16 instance it has removed this statement with the inventions, identified in Appeal Point for
17 17-2m.

18 Twenty of 29 waterbodies list a **probable cause of impairment as water**
19 **temperature, which may also be indirectly linked to roads if stream**
20 **channel geometry has been altered due to road-modified runoff.’**
21

22 Our comment pointed out the NMED data names four, not twenty.
23

24 The state data shows only FOUR reaches which include road runoff among the
25 Probable Sources for ANY type of impairment: South Fork Negrito Creek, Negrito
26 Creek, one reach of the San Francisco River, Tularosa River and one reach of
27 Whitewater Creek. Of those only TWO of those are temperature impaired: South
28 Fork Negrito Creek and Negrito Creek.
29

30 We can only surmise that someone realized we were right, and purged this from the
31 final report.
32

33 The larger errors and misstatements remain. The conclusions contain the same errors.
34 This is at p. 109 (bold added)
35

36 In comparison to Alternative B –No Action, all alternatives provide for a net
37 **decrease in adverse cumulative watershed impacts by reducing acres**
38 **related to motorized routes** and limiting acreage available for cross country
39 travel. **Closing of routes provides for the greatest benefit to aquatic,**
40 **riparian and wetland resources, and water quality improvement,** which all
41 alternatives accomplish to varying extents. Recovery, in particular, in the uplands
42 will be slow until routes are returned to a more natural state, either through
43 decommissioning or natural processes. **Limiting cross country travel will**

1 **reduce adverse cumulative watershed impacts slightly**, as this activity
2 currently has minimal impacts across the Forest (with localized exceptions).

3
4 This statement perpetuates the same myths that are disproven by the FEIS's own data
5 and statements. The new Watershed and Soils report has these errors:

- 6
7 • The facts disprove the indicators used for the analysis. Roads, road density and
8 stream crossings do not correlate with water impairment. Wilderness streams
9 and waterbodies are just as likely to be impaired as those in non-wilderness,
10 even though wilderness has only trails, no roads and no motorized use.

11
12 In fact since wilderness is a bit less than 25% of the forest area, one could
13 conclude that waters in wilderness are twice as likely to be impaired as waters in
14 non-wilderness.

- 15
16 • NMED data shows no correlation between watershed condition and OHV use.
17
18 • No discussion of geothermal activity as a potential source of temperature
19 impairment.
20
21 • No discussion that 36% of the forest has been burned in the last 28 years and
22 the impact that burned uplands have on soil movement, sedimentation and road
23 channelization. This is described in the 2011 Watershed Restoration Plan for the
24 Snow Canyon Watershed, p. 14:

25
26 Forest roads in the watershed were negatively impacted following the
27 Bear Fire due to an increase in stormflow runoff processes. Lack of
28 ground cover in the uplands resulted in excessive soil and water
29 movement, which subsequently damaged road/stream crossings in
30 addition to creating new channels.

- 31
32 • No differentiation between wilderness and non-wilderness areas. Summary of
33 condition on p. 38 does not admit that half the impaired waters are in wilderness,
34 and does not disclose which substandard watersheds or acres are in wilderness.
35
36 • No disclosure that forest-wide the wildlife is doing fine and the aquatic habitat is
37 improving, as stated in other reports.
38
39 • No disclosure that 30% of the road mileage in the forest is non-NFS roads, stated
40 in the Final Roads report. Closing half the NFS roads would not reduce impacts
41 by a similar amount, because 30% of the impacts come from roads the USFS
42 can't close.
43

1 These are each serious flaws taken individually. Combined, the report is grossly in
2 error, grossly misrepresents the current conditions, the effects of routes and motorized
3 use.

4
5 Contrary to CEQ, it presents conclusions that have no rational connection to the
6 information presented in the analysis. These conclusions have been brought forward
7 into the FEIS, which misinforms the decision maker and the public.

8
9 Here is the proof that the Final Watershed report still includes all forest land, with
10 wilderness, in its analysis.

11
12 Figure 1 p. 9 is a map of the 5th code watersheds, showing inclusion of wilderness
13 areas.

14
15 In the first report, that came out with the DEIS, numbers for all the acres analyzed are in
16 Tables 3 and 4, page 9:
17

The following tables displays acres and percent of Forest by soil condition and erosion hazard by rating:

Table 3. Summary of Soils Conditions on Gila National Forest

Soil Condition	Satisfactory	Unsatisfactory	Unsuited
Acres	1,812,649	861,620	714,928
Percent	53%	25%	21%

Table 4. Summary of Erosion Hazard on Gila National Forest

Erosion Hazard	Slight	Moderate	Severe
Acres	1,517,271	411,958	1,459,967
Percent	45%	12%	43%

18
19
20 Acres for soil condition add up to 3,389,197; the whole forest with wilderness
21 Acres for erosion hazard add up to 3,389,196; the whole forest with wilderness
22

23 The same tables 3 and 4 are in the new report at page 23. The tables in the new report
24 show exactly the same figures. The new report still has not differentiated between
25 wilderness and non-wilderness.
26

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-3**

2
3 The Comment is listed in Comments by Subject, p. 237 with this statement:

4
5 detailed criticism of agency methodology used to assess the impact of user
6 conflict.

7
8 **NO RESPONSE to code 03032011-17-3.**

9
10 The agency has not responded to the substantive issues raised in our comment. The
11 comment explicitly states it is challenging the agency's methodology and that the
12 agency must respond in a substantive and meaningful way (Forty Questions 29a). The
13 comment presents very specific issues, each explained fully. We summarize here. We
14 refer the Appeal Review Officer to a copy of our original comment, attached in Appendix
15 A.

16
17 Issue 1: The DEIS does not comply with Gila National Forest's Forest Plan
18 requirements for designating motorized use.

19 Issue 2: No Legitimate Methodology for Analysis

20 Issue 3: Methodology Contrary to MUSYA

21 Issue 4: Escalation of 'User Conflict' to 'Potential for Coming into Contact' and
22 'Perceived Effects'

23 Issue 5: Invention of an Imaginary Problem called 'Coming Into Contact'

24 Issue 6 (no content, mis-numbered in comment)

25 Issue 7: The Forest Plan Describes the R.O.S. 'Roaded Natural' area as having
26 'Opportunities for Social Interaction'

27 Summary: The DEIS has escalated the term 'user conflict'. It has been inflated
28 into the concept that the mere presence of motorized users in places where they
29 are allowed and expected causes unacceptable negative impacts on other users.
30

31 The comment says, in closing:

32
33 The DEIS has no plausible analysis of user conflict. There is no coherent
34 presentation of the existing condition or future cumulative effects. It has made an
35 assumption that miles = user conflict with no justification. It then proceeds to
36 contradict itself. The indicator produces results that are contradictory to the
37 Forest Plan and to the Multiple Use Sustained Yield Act, and the USFS's
38 statement of the legitimacy of motorized use.
39

40 **Responses to Comments on User Conflict from other Commenters**

41
42 There are responses on user conflict, made to other commenters. None of the other
43 responses address the issues raised in our comment. Some responses illuminate the
44 agency's confusion about the issue, and its inability (or unwillingness) to differentiate
45 between "user conflict" and "conflict among uses". At Appendix B, p. 618, the response
46 misrepresents the Travel Management Rule, saying:

1
2 The FEIS clarifies how user conflicts were considered under the Issue of
3 Motorized Use as directed by the Travel Management Rule.
4

5 The conflation of “user conflict” with “conflict among uses” persists in the FEIS, e.g. p.15
6 of the Final Air Quality Report: (bold added).
7

8 **Executive Order (EO) 11644 (February 8, 1972) and EO 11989 (May 24, 1977)**
9 –Provide direction for Federal agencies to establish policies and provide for
10 procedures to control and direct the use of OHVs on public lands so as to: (1)
11 protect the resources of those lands; (2) promote the safety of all users of those
12 lands; and (3) **minimize conflicts among the various users** on those lands.
13

14 There is absolutely nothing in the Travel Management Rule that tells the agency to
15 consider user conflicts. Like every EIS and EA on travel management in Region 3, this
16 response in the Gila National Forest FEIS misrepresents what the Travel Management
17 Rule says. The Rule (Travel Management Rule as published Federal Register, Nov. 9,
18 2005, p. 68289) states (36 CFR 212.55), that the responsible official shall consider
19 “conflicts among uses”. The phrase “user conflict” does not exist in the text of the Rule.
20

21 The various responses about user conflict, noise and quiet recreation are wildly
22 inconsistent: it’s in, it’s out, it’s included here but deleted there, it’s considered, it’s not
23 considered. P. 628 has these two separate responses:
24

25 Noise and user conflicts are not considered as an issue or a separate indicator
26 for this analysis. This topic will be revised in the FEIS and recreation report.
27

28 The FEIS updates the analysis and removes noise and user conflict from table
29 16, comparison of alternatives, in chapter 2. Noise and user conflicts have been
30 incorporated into the discussion of motorized routes.
31

32 And this at p. 654:

33
34 Noise and User Conflict will be removed from table 16 Summary of Effects within
35 chapter 2 of the FEIS.
36

37 The response at Appendix B, p 627 claims that quiet recreation has been removed as
38 an indicator:
39

40 Quiet recreation has been removed as an indicator in the FEIS analysis. Quiet
41 recreation was an issue addressed by the public, and it was not identified as a
42 significant issue; therefore it was not used to develop alternatives. Since the
43 concept of quiet or solitude recreational opportunities was identified as an issue,
44 the FEIS still evaluates the potential effects to users who want to experience
45 these types of opportunities on the forest.
46

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 The response says that FEIS still evaluates the “potential effects” of motorized use on
 2 users who want quiet and solitude. But the previous sentence said that quiet recreation
 3 is not an indicator for decision-making, so why is it being “evaluated” at all?
 4

5 Observe how the agency talks out of both sides of its mouth. First it says it removed the
 6 quiet recreation indicator. It claims quiet recreation wasn’t used to develop alternatives.
 7 But that is false. Since quiet recreation was an indicator in the DEIS, it influenced the
 8 development of alternatives. The alternatives in the FEIS are essentially the same as in
 9 the DEIS. Removing printed evidence of the phrase “quiet recreation” did not change
 10 the analysis in the FEIS. To truly remove an indicator, the agency must also remove
 11 the consequences of the indicator and its effects on the alternatives. This obviously has
 12 not been done. The agency has not really removed “quiet recreation”. It has only tried to
 13 “hide the body” by destroying evidence: expunging the words “quiet recreation”.
 14

15 The agency claims that they removed indicators for noise, user conflict, quiet recreation
 16 etc. These claims are exposed for the shams that they are, by simply comparing Table
 17 1 in the DEIS to Table 1 in the FEIS (provided below). Twiddling a few small numbers
 18 produced no change at all in the percentages of closure. The agency has merely
 19 “cleansed” the document of certain words, but it has not corrected the analysis and the
 20 conclusions. This shows the agency at its most deceitful, falsely claiming it has made
 21 corrective changes.
 22

DEIS for Travel Management, Gila National Forest

Table 1. Comparison of motorized system resulting from changes to alternative B, no action (asterisk means item will not be shown on the motor vehicle use map)

	Alternative B (No Action)	Alternative C	Alternative D	Alternative E	Alternative F (Modified Proposed Action)	Alternative G
Miles of roads designated open to the public for motor vehicle use	4,604	4,266	2,977	2,332	3,343	3,323
Miles of motorized trails (less than 50 inches in width)	16	204	125	0	182	182
Miles of single-track motorcycle trails	0	64	0	0	0	0
Miles of routes for administrative use or by written authorization only *	0	183	354	439	298	299
Total percent change in motorized roads and trails	0%	-2%	-33%	-50%	-24%	-24%
Miles open for motorized dispersed camping (300 feet on each side of the road)	5,197 (no distance limit, forest is open)	1,538	1,183	0	1,447	1,327

23
24

Appeal of the Record of Decision for Travel Management on the Gila National Forest

viii

Table 1. Comparison of motorized system resulting from proposed changes to alternative B, no action

Motorized System	Alternative B (no action)	Alternative C	Alternative D	Alternative E	Alternative F (modified proposed action)	Alternative G (preferred alternative)
Miles of roads designated open to the public for motor vehicle use	4,613	4,272	2,976	2,318	3,363	3,334
Miles of motorized trails (less than 50 inches in width) designated open to the public for motor vehicle use	16	205	125	0	179	179
Miles of single-track motorcycle trails designated open to the public for motor vehicle use	0	64	0	0	0	0
Miles of routes for administrative use or by written authorization only*	0	233	383	440	330	329
Total percent change in motorized roads and trails	0%	-2%	-33%	-50%	-24%	-24%
Miles of forest and county roads designated for motorized dispersed camping (300 feet on each side of the road)	5,076 (no distance limit, forest is open.)	1,524	1,178	0	1,434	1,316

FEIS for Tra

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Next, we examine the FEIS to see if anything was really changed. We find this statement at FEIS p. 445: (bold added)

By limiting motorized access to designated roads and trails, **all action alternatives reduce the probability of user conflict due to incompatible uses** at sites on the forest. Individuals who value the forest primarily for resource protection and nonmotorized uses are likely to prefer the action alternatives relative to existing conditions. **All action alternatives are expected to promote ecological health and provide numerous opportunities for solitude and quiet recreation.** Individuals who value the forest primarily for unfettered access for big game retrieval, dispersed camping, **and other motorized recreation activities are likely to feel worse off under the action alternatives.**

Here we see the real agenda and the results of the travel management planning. People who like nonmotorized use will like all the action alternatives over the existing condition. The Gila National Forest designed all the action alternatives to give preference to the non-motorized user, by “reducing the probability of user conflict”. As explained in detail in our original comment, the agency invented an absurd concept of user conflict that presumes any possibility that users would encounter each other at all is a conflict. Under this definition, designating any motorized use is equivalent to creating conflict. This is totally contradictory to the agency’s dutiful recitations in the FEIS that user conflict is a product of personal beliefs and prejudices. Conflict exists in the minds of some forest users, and is not related to any particular place or event. Quiet recreation and user conflict reduction are still being embraced as desired outcomes of the action alternatives. It is specious for the responses to claim that quiet recreation and user conflict were removed from the analysis, when the results of the analysis have not changed from the DEIS to the FEIS. In short, the responses to comments do not tell the truth.

1 In addition, this paragraph shows the agency “providing” (its own word) “**numerous**
2 **opportunities for solitude and quiet recreation**”. The responses to comment said
3 quiet recreation was supposedly removed as an indicator. We know that solitude is a
4 wilderness value, not a characteristic of areas managed for multiple use. Yet “solitude”
5 appears in 42 places in the FEIS itself, and appears 30 times in the new Recreation
6 IRAs-WSAs Report. There are numerous mentions of opportunities for solitude being
7 increased, as a beneficial effect of alternatives. The agency clearly intends to manage
8 land to increase a wilderness characteristic and to manage multiple use lands as de
9 facto wilderness, contrary to the will of Congress.

10
11 The claim that quiet recreation has been removed in the FEIS is simply not true. Quiet
12 recreation is still included, under the name of “solitude”, as an effect in the new
13 Recreation IRA’s and WSA’s report. Solitude is a higher standard than “quiet
14 recreation”. Solitude has specific formal meaning as a wilderness characteristic. Quiet
15 recreation is an undefined notion promoted by the environmentalists and adopted by the
16 agency even though it does not appear in any planning regulations.

17
18 Here are examples of “solitude” in the new recreation report, in Table 7, Effects
19 Analysis. (bold added) Under Effects of Alternative D, p. 16:

20
21 Alternative D provides more Primitive and Semi-Primitive Non-Motorized
22 **opportunities for visitors seeking solitude** that the other Action Alternatives.

23
24 Also, under Alternative E, p. 16:

25
26 Alternative E would provide **the most** Primitive and Semi-Primitive Non-
27 Motorized trail and non-motorized dispersed camping **opportunities for those**
28 **visitors seeking solitude**.

29
30 And under Alternative G, p.16-17

31
32 With less acres of MBGR proposed than Alternative F, this could provide **more**
33 **opportunities for those seeking solitude** in the fall.

34
35 It appears four times on p. 22, with this same statement under the Alternatives C,D,
36 F,G.

37
38 Non-motorized users would appreciate the **increased opportunity for solitude**
39 and unconfined primitive forms of recreation activities.

40
41 As noted earlier, playing word games with the terminology didn’t change the analysis.
42 The closures proposed in the DEIS have not been reduced in the FEIS, by allegedly
43 removing indicators for quiet recreation.

44
45 The agency is playing the same games with “noise”. The response at p. 654 claims will
46 be removed from the FEIS:

1
2 Noise and User Conflict will be removed from table 16 Summary of Effects within
3 chapter 2 of the FEIS.

4
5 But the word “noise” still appears in 44 places in the FEIS. There is no meaningful
6 change in closures, between the DEIS and FEIS. Here are just a few examples of
7 “noise” in the FEIS: (bold added)

8
9 FEIS, Table 2, p. 15. This table is titled “Roads and location descriptions to be open to
10 highway-legal vehicles only that would be implemented under all action alternatives “.
11 In the row for Road No. 819, Table 2 states:

12
13 Forest has right-of-way thru Oak Grove subdivision—no **ATVs to reduce noise**
14 **conflict**

15
16 We find this statement about noise and ‘use conflicts” at FEIS p. 60:

17
18 Many nonmotorized activities such as picnicking, hiking, viewing wildlife, biking,
19 hunting and fishing depend on motorized routes to access areas in which to
20 perform these primary activities. These same nonmotorized activities, however,
21 are among the most susceptible to the detrimental impacts of **noise**, emissions,
22 and use conflicts associated with the addition of unauthorized motorized routes.

23
24 If activities are susceptible to noise from designated routes, it doesn’t matter if the
25 routes were previously authorized or unauthorized. As disclosed in the Responses
26 (below), the TAP states that the existing inventory of unauthorized routes was converted
27 to ML-2 national forest systems roads in the late 1990’s. It is patently absurd for the
28 agency to claim that people are more bothered by noise from a designated
29 unauthorized route than by noise from designated authorized route. Prior to designation,
30 both routes were completely legal to use. Irrational statements such as this color the
31 analysis prejudicially against certain routes.

32

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-4**

2
3 The Comment is identified in Comments by Subject, p. 186, with this statement

4
5 No Analysis of Time (Secondary Sort: Cumulative Effects) Analysis fails to
6 address the motorized use of roads, fails to understand that 'use' is an event that
7 exists in time. Fails to think about when the existing condition came into being,
8 and if it is changing much
9

10 **NO RESPONSE to code 03032011-17-4.**

11
12 The agency did not respond at all to the comment. The FEIS contains the specific error
13 clearly identified in our comment. Comment, Page 2, describes the errors:

14
15 There is no place anywhere in the DEIS or reports that considers the factor of
16 time.

17
18 Analysis Ignores Historical Uses and the Historic Existing Condition

19
20 The DEIS never mentions or addresses the fact that certain conditions develop
21 on the forest, and then the effects and evidence of them persist for years. Fire is
22 the most obvious example. The DEIS has NOTHING that shows us what the rate
23 of change is, because it has no monitoring data. It is important to know the
24 existing condition. But it is also important to know how it came to be, and how
25 long it has been like that, and if it's changed very much.
26

27 The failings of the analysis are described in the final statement of the comment:

28
29 The DEIS must be corrected to include an analysis of existing conditions in the
30 context of the history of the forest. The analysis must disclose what conditions
31 have been in the past, and make some assessment of what has changed, where
32 and by how much. There must be some effort to disclose what portion of the
33 existing condition has historic causes and was not caused by any human use
34 (motorized or non-motorized) in the modern era.
35

36 CEQ requires the portrayal of the existing condition on the Forest. We word-searched
37 the Responses to Comment in Appendix B for any evidence that the agency responded
38 to the issue in our Comment 1. The following key phrases from the comment do not
39 appear anyplace in Appendix B: effects of time, transient event, history of the forest,
40 duration, historic existing condition, and historic causes.
41

42 We also find no responses to other comments that are relevant to our comment. There
43 is simply no response at all, anywhere. Therefore the agency has not provided a CEQ-
44 compliant response.
45

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-5**

2
3 The GNF's Comments By Subject document logs this comment at p. 398, with this
4 description:

5
6 Watershed analysis shows no logical connection between the analysis and the
7 closures proposed in the alternatives.

8
9 **ISSUE 1: WATER & SOILS ANALYSIS INCLUDES WILDERNESS. IT DOES**
10 **NOT DISCRIMINATE BETWEEN CONDITIONS INSIDE AND OUTSIDE**
11 **WILDERNESS.**

12
13 Appendix B does not respond to 03032011-17-5 as an integrated comment. Instead it
14 shows 5 responses co-listed with pieces of comment 03032011-17-2.

- 15 • 03032011-17-5 is co-listed with 03032011-17-2c
- 16
- 17 • 03032011-17-5b is co-listed with 03032011-17-2d
- 18
- 19 • 03032011-17-5c is co-listed with 03032011-17-2e
- 20
- 21 • 03032011-17-5d is co-listed with 03032011-17-2f
- 22
- 23 • 03032011-17-5e is co-listed with 03032011-17-2g
- 24
- 25

26 The FEIS's Appendix B misrepresents comments and omits issues; examples and
27 conclusions have been disconnected from arguments. The Appendix B summary
28 statements are not accurate or complete and the responses are usually irrelevant to the
29 comment. The responses are often totally irrelevant to the summary statement even
30 when the summary statement is irrelevant to the comment.

31
32 The FEIS provides no compendium of complete unadulterated original comments. This
33 is why we have provided the complete original comments (see Appendix A of this
34 document) with our appeal points. The original comments are the only way the Appeal
35 review staff can assess the comments.

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-6**

2
3 **03032011-17-6** appears in Comments by Subject on p. 207, with this description:

4
5 The agency makes sure that every route proposed for closure is under such a
6 vaguely stated mix of ‘impacts’, that they always have an ‘out’. The public can’t
7 ever figure out what is really going on. We challenge this based on CEQ
8 requirements to disclose methodology. We assert that the current methodology
9 fails to disclose the actual reasons that routes are closed in various alternatives.

10
11 **NO RESPONSE to code 03032011-17-6**

12
13 This comment raises critical issues underlying the entire DEIS analysis, and nothing has
14 been changed in the FEIS. Contrary to CEQ, the FEIS has failed to disclose reasons
15 why any particular road was closed. There is no methodology disclosed for how any
16 specific closure was decided. The comment explicitly identifies it is making a challenge
17 to methodology, which requires the substantive response as per 40 Questions 29a.

18
19 From the comment:

20
21 **DISCUSSION: DEIS Fails to Identify WHY Routes Are Closed.**

22
23 There is no place in the DEIS to look if you want to know why a particular road or
24 trail is being closed under any alternative.

25
26 That is why we titled our comment Whack-a-Mole, and produced this illustration for it.
27 The FEIS has no disclosure at all, about why any particular road or trail is closed.



1 The FEIS is playing Whack-a-Mole, the carnival game where you hit mechanical moles
2 with a hammer and they pop up again through different holes. The entire DEIS, and now
3 FEIS, is an exercise in Whack-a-Mole. It's is a 'now you see it, now you don't' game.
4 The agency never commits to its reasons for closing any particular route. There is no
5 cost-benefit analysis, because the TAP (the only site specific document) shows only
6 negative attributes and no beneficial ones. In fact, the entire FEIS has no discussion,
7 identification or count of beneficial routes.

8
9 It is completely impossible to trace individual roads or trails in the documents. The trails
10 are totally absent from the TAP. The only road segment labelling is in the TAP and
11 maps. There is zero information in the FEIS on individual roads.

12
13 The size of the FEIS does not mean it is complete or thorough. It lacks the most
14 essential elements of analysis: We can't tell why any particular route is open or closed.
15 There is zero correlation between parts of the analysis. There are indicators that were
16 apparently used, somehow, but no disclose of how, or what routes were closed because
17 of them. We know the agency "considered" many factors. "Considered" doesn't explain
18 what roads were closed for what reasons.

19
20 The FEIS analysis evades the subject of thresholds, and what is the threshold for an
21 acceptable impact. If no impacts were acceptable, there would be no human activity at
22 all in the forest.

23
24 From the comment:

25
26 **What Impacts Are Acceptable and What Are Not?**

27 The agency accepts impacts from all other users and uses of the forest. The
28 impacts (effects) of accepted uses must be compared to impacts from motorized
29 uses. Is motorized use causing the same, more, less, or different effects? What
30 is acceptable and what is not? This is the 'elephant in the living room' that the
31 agency is working very hard to ignore.

32
33 If the agency will accept some level of effects from the nonmotorized user, it
34 must accept those effects from the motorized user. There is nothing in the DEIS
35 that any particular factor in itself, of any identified severity, justifies closure.
36 Instead the DEIS presents an ever-shifting soup of factors, none of which can be
37 pinned down. Using 'whack-a-mole' the agency always has some other 'reason'
38 for a closure.

39
40 This is not adequate and this is not science. The DEIS must disclose what the
41 agency is proposing and for what reasons. There needs to be a clear link
42 between specific reasons and proposed closures. If some roads were closed in
43 one alternative because of the buffer zone, but not in another alternative, then
44 clearly the buffer zone was the criterion driving the closure. If not, then other
45 'resource damage' allegations must be sufficient in themselves to justify the
46 closures.

1 The comment (attached) includes examples, such as this:
2

3 **Example of Whack-A-Mole in Action:**
4

5 The following statement shows that every action alternative included closures
6 based on a half mile buffer zone. DEIS, page 57:
7

8 **Alternative C**

9 *The effects of motorized routes **in terms of noise, emissions, and user***
10 ***conflicts** that could be experienced by people located within **½ mile from***
11 ***populated areas, neighboring private land, roadless areas,***
12 ***wilderness boundaries, developed recreation sites, and***
13 ***nonmotorized trails** will be reduced by 19.3 percent when compared to*
14 *the no action alternative. Alternative C ranks last in this regard among the*
15 *five action alternatives proposed, offering the lowest reduction in miles for*
16 *the elements for which this indicator measures.*
17

18 This statement shows the two elements of the analysis being packaged as
19 'bundles'.
20

21 There are THREE very different criteria (noise, emissions, conflicts) being applied to
22 SIX very different types of land (*populated areas, neighboring private land, roadless*
23 *areas, wilderness boundaries, developed recreation sites, and nonmotorized trails*).
24 There is no way to discern how any particular criterion was applied to any particular
25 lands, and what closures resulted from it.
26
27
28
29

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-7**

2
3 **Appeal Point 1: Response Ignores Comment; “responds” to two invented issues**

4
5 The original comment presents one, and only one, very clearly stated issue; that the
6 Travel Management Rule is an illegal Categorical Exclusion. The FEIS Appendix B
7 response completely misrepresents our comment, summarizing it as two unrelated
8 issues; that the Travel Management Rule is unconstitutional, and that it is illegal to close
9 roads. Those issues are not in the comment. The response does not address the
10 substantive issue raised in our comment, and therefore fails to provide the CEQ
11 required response.

12
13 The response is numbered as 03032011-17-7 and appears on p.601 of Appendix B,
14 Responses to Comments. It incorrectly summarizes the comment as this:

15
16 Summary Statement: The Forest Service should not close open roads because it
17 is illegal and the rule is not constitutional.

18
19 The response discussion is about the agency’s rule-making authority. From the
20 response:

21
22 Response: It is not illegal or a misuse of regulations for the Forest Service to
23 close roads nor is the Travel Management Rule not constitutional

24
25 The first page of our original comment provides a concise statement of the error:

26
27 **Error:** The Travel Management Rule (TMR) is in violation of CEQ because it
28 does not qualify to be a Categorical Exclusion. By calling the TMR a Categorical
29 Exclusion, the U.S. Forest Service allowed itself to avoid a nation-wide
30 Environmental Impact Statement for the Rule. This allowed them to impose a
31 Rule which imposes major changes and reversals in long established planning
32 procedures, and do to so without the participation of the public and local
33 governments.

34
35 The comment then proceeds to describe the requirements of a categorical exclusion
36 and exactly how the travel management rule fails to qualify as a categorical exclusion.
37 The Response ignores the argument in the comment; therefore we refer the appeals
38 reviewing officer to our original comment, for the details of our argument.

39
40 **Appeal Point 2: Decision Elements are imposed by the Rule, regardless of**
41 **whether such elements are needed locally**

42
43 The Travel Management Rule imposed specific elements in the travel management
44 decision. These are elements that might not otherwise have been included in a travel
45 decision.

1 Under the Rule, the Gila National Forest was required to eliminate cross-country travel,
2 on the entire 2.44 million acre planning area, and to designate routes. The national level
3 Rule requires that this be done, regardless of whether such closure and designation is
4 needed or appropriate. The Rule states that decisions should depend on local
5 conditions, at p. 68268:

6
7 The Department believes that the scope, content, and documentation of NEPA
8 analysis associated with designating routes and areas for motor vehicle use will
9 ultimately depend on site-specific factors, including the local history of travel
10 planning, public input, and environmental impacts at the local level.

11
12 Regardless of the verbiage, the effect of the Rule is just the opposite. The Rule:

- 13
14 1) Specifically prevented the decision-maker from considering a decision that might
15 best suit the forest, based on the analysis presented in the FEIS.
16 2) Prohibits considering the full range of reasonable alternatives.
17 3) Forces the decision to include elements in the decision, regardless of whether
18 those elements are appropriate for the local forest.

19
20 The Rule requires that certain elements be in the decision, even if those elements
21 conflict with, or are contrary to, local site-specific conditions and contrary to the
22 analysis. This is exactly what happened in the Gila National Forest, as shown at many
23 places in the FEIS. Statements throughout the FEIS indicate the restrictions were not
24 needed. For example, FEIS page 375 states that under all alternatives, there are
25 no significant forest-wide negative cumulative effects for all species: (bold added)

26
27 **Cumulative Affects Assessment and Findings**

28 Across the Gila National Forest, the incremental impacts of the proposed project
29 and its associated alternatives, when added to other past, present, and
30 reasonably foreseeable future actions, are at levels that do not cause significant
31 affects to wildlife species or their habitat on the forest. **More specifically, the**
32 **incremental impacts of the action alternatives of travel management when**
33 **added to other past, present, and reasonably foreseeable actions of land**
34 **ownership, mining, grazing, vegetation management projects, and**
35 **recreation activities are at levels that do not cause significant affects to**
36 **species of concern identified in this analysis.** This analysis shows that if the
37 effects of all open roads are considered (private, county, State, and Federal),
38 there are localized areas of concern for species like ungulates, wide ranging
39 carnivores, and the Chiricahua leopard frog.

40
41 The FEIS concludes that the wildlife is essentially healthy and doing fine, with the
42 cumulative effects of decades of totally unrestricted motorized use. If the wildlife is
43 healthy, their habitats are in good condition. This indicates that decades of unrestricted
44 motorized use has not had significantly harmed the land. In sum, the cumulative affects
45 analysis shows there is no need to reduce the existing motorized use. However the

1 Rule forces the Gila National Forest to impose unnecessary restrictions which harm the
2 human environment.

3
4 **Appeal 3: The Rule falsely asserts that decision-making is local to the Gila**
5 **National Forest.**

6
7 The USFS maintains that our national forests are being managed properly and
8 appropriately. If that is the case, the national level of the USFS should have left the Gila
9 National Forest alone, and not interfered with local management by imposing the Rule.
10 The Rule makes the following statements about local decision making. Federal
11 Register, Vol. 70, No. 216 /Wednesday, November 9, 2005 /Rules and Regulations
12 page 68265 (bold added):

13
14 **Revised regulations are needed to provide national consistency and clarity**
15 **on motor vehicle use within the NFS.** At the same time, the Department
16 believes that designations of roads, trails, and areas for motor vehicle use should
17 be made locally. **The final rule provides a national framework under which**
18 **designations are made at the local level.**

19
20 The Rule fails to show what consistency means. It does not say what sort of national
21 consistency did not exist, and what consistency is needed now and why. The travel
22 policies in different national forests did not have this alleged “consistency” before. Each
23 forest was managed according to its local conditions and needs. The statement about
24 consistency is contradictory to the statements about local control. If decisions were
25 really allowed to be made locally, there would not necessarily be any consistency, and
26 indeed, there should NOT be consistency. Managing the Osceola National Forest in
27 Florida is entirely different from managing the Gila National Forest.

28
29 The Rule at p. 68266 reiterates the ephemeral idea of local choice and evaluation (bold
30 added):

31
32 It is entirely appropriate for different areas of the National Forests to provide
33 different opportunities for recreation. **The Department believes such choices**
34 **and evaluations are best made at the local level**, with full involvement of
35 Federal, tribal, State, and local governments, motorized and nonmotorized users,
36 and other interested parties, as provided for in this final rule.

37
38 This contradiction is captured at p. 68267 of the Rule, where it states:

39
40 **The final rule requires local agency officials**, working with the public, to
41 designate which roads, trails, and areas are available for motor vehicle use. **The**
42 **final rule prohibits use off the designated system.**

43
44 The Rule states local officials can make the decisions. But the local officials are
45 prohibiting from allowing cross-country travel. They must designate routes, and they
46 must publish a motor vehicle use map.

1
2 **Appeal Point 4: The FEIS states the effect of complying with the Rule is inevitably**
3 **a reduction**

4
5 The Rule severely limits the local decision; it must reduce use. FEIS, Summary p. iii:
6 (bold added)

7
8 **To comply with the Travel Management Rule**, the Gila National Forest (the
9 forest) proposes to provide for a system of roads, trails, and areas designated for
10 motorized use by making changes to the current travel system. **The proposed**
11 **changes will reduce the places where people can drive in the Gila National**
12 **Forest.**

13
14 **Appeal Point 5: The Rule Forces the Gila National Forest to violate NEPA**

15
16 To consider a full range of reasonable alternatives, the EIS could have maintained the
17 current level of motorized use. The cumulative effects analysis shows current forest
18 conditions do not justify reducing motorized use. But the Rule eliminates the option of
19 preserving the status quo. The Rule forces the Gila National Forest to make a decision
20 on an EIS whose range of alternatives is contrary to the analysis itself. There is no
21 rational cause-and-effect between the analysis and the decision. The Rule has forced
22 the Gila National Forest to make a decision that is inherently not compliant with NEPA.

23
24 **Appeal Point 6: The Rule falsely claims it is only a procedural framework, not**
25 **having any effect in the Gila National Forest until a decision is made**

26
27 At Federal Register p. 68267, the Rule states it is only establishing a procedural
28 framework, and it has no effect until decisions are made:

29
30 The final rule establishes **a procedural framework for local decisionmaking**
31 **and will not have any effect until designation of roads, trails, and areas is**
32 **complete** for a particular administrative unit or Ranger District, with opportunity
33 for public involvement and coordination with Federal, State, local, and tribal
34 governments.

35
36 Despite the claims that the Rule is only a framework, it has forced local forests to
37 amend their forest plans made as NEPA decisions. They are made with site-specific
38 analysis, and result in decisions appropriate for the local forest. But the Rule is forcing
39 forests to make fundamental changes in these locally decided plans, which reverse prior
40 decisions. The Rule has imposed elements that are contradictory to prior NEPA
41 decisions.

42
43 The Rule reverses the existing forest plan policy. The Rule forces the Gila National
44 Forest create a designated motorized use system, something which did not exist in the
45 Gila National Forest's forest plan. These statements in the FEIS indicate the impact

1 that the Rule has had, by forcing amendments of the Gila National Forest forest plan.
2 This is shown at FEIS, p.12:

3
4 **The Decision Will Change Where People Can Drive in the Forest**
5 **Currently, the Gila National Forest is open to motorized use** unless marked
6 “restricted to motor vehicle use.” **The Travel Management Rule reverses that**
7 **procedure:** the forest will be closed to cross-country motorized use except
8 where specifically designated for motor vehicle use and displayed on the motor
9 vehicle use map.

10
11 And at FEIS, Summary p. I:

12
13 The Gila National Forest (the forest) proposes to make changes to the current
14 system of National Forest System roads, motorized trails, and areas. The result
15 of these changes will be a system of roads, trails, and areas designated for motor
16 vehicle use **as required by the Travel Management Rule (USDA Forest**
17 **Service 2005).**

18
19 **Appeal Point 7: The Gila National Forest used money and staff for an**
20 **unnecessary EIS. This expenditure was not authorized by Congress.**

21
22 The EIS was done solely to comply with the Rule, which was not an executive order or
23 mandated by Congress. The Travel Management Rule is an invention of the USFS.
24 The travel management planning process is not in the Forest Service budget. The
25 USFS has not disclosed how it paid for this, or what mandated projects were not done
26 because funds from taken from them to pay for travel management planning.

27
28 The Purpose and Need statement shows that all of the four purposes of the EIS is to
29 comply with the Rule. The Travel Management EIS process is driven entirely by the
30 Rule. There was no “need” for any of these items until the Travel Management Rule
31 required it (bold added):

32
33 Summary p. iii

34
35 There is a need to **comply with the Travel Management Rule** by providing for a
36 system of NFS roads, NFS trails, and areas on NFS lands that are designated for
37 motor vehicle use by vehicle class, and if appropriate, by time of year (36 CFR
38 212.51(a)).

39
40 • There is a need to manage motorized vehicle use on NFS lands on the Gila
41 National Forest **in accordance with the provisions of the Travel Management**
42 **Rule** and 36 CFR parts 212, 251, and 261.

43
44 • There is a need to **comply with 36 CFR 261.13**, which requires that forests
45 prohibit motor vehicle use off the system of designated roads, trails, and areas
46 **(i.e., close the forest to motorized cross-country travel).**

- There is a need to **amend the forest plan to comply with the Travel Management Rule.**

Appeal Point 8: The Travel Management Rule FEIS's falsely claim no economic impact

The Rule, as published in the Federal Register, states that the Office of Management and Budget challenged the Rule being promulgated as a categorical exclusion because it exceeds the \$100 million limit on economic losses. The Gila National Forest EIS has not disclosed the true impacts to economic conditions in the affected counties. At Federal Register p. 68287, the Rule states:

In light of the substantial interest expressed in the proposed rule, **the Office of Management and Budget (OMB) has determined that the final rule is significant under E.O. 12866.** Accordingly, the Department has prepared a cost-benefit analysis for the final rule. This documentation is available in the rulemaking record.

The Department disagrees that the final rule will have annual economic impacts of over \$100 million. The final rule requires National Forests to designate which roads, trails, and areas are open to motor vehicle use. Once designation is complete, the rule will restrict motor vehicle use to designated roads, trails, and areas and prohibit motor vehicle use on those routes and in those areas that is inconsistent with the designations. Until designation is complete for a particular administrative unit or Ranger District, the rule will have no impact on motor vehicle use on NFS lands. **Even after designations are complete, the rule will have no direct economic impact because designations merely will regulate where and, if appropriate, when motor vehicle use will occur on NFS roads, on NFS trails, and in areas on NFS lands.**

The USFS claims that designation will “merely” regulate use now have proven to be false “Merely regulating” has happened nowhere. What has happened is that Forests are using the Rule to affect a massive shutdown of forest access. To claim this is “merely” coincidence is preposterous now.

The Socio-Economic report done for the GNF FEIS limited itself to an analysis of just motorized recreation. Even so, Table 11 at p. 20 identifies from \$1.53 to 2.88 million just in employment from motorized activities under the No Action Alternative. The report claims a linear relationship between miles and dollars. A decision closing half the roads would cut the income by half. That would be a \$1 million loss in just one forest, for one type of activity. Table 12 at p. 21 claims \$5.8 million for labor income from all recreation under Alternative B.

1 Our comment on hunting economics showed that inclusion of visitor expenditures would
2 increase the economic impacts by orders of magnitude. The true economic losses
3 include the loss of visitor spending that the Socio-Economic report refused to include.
4 As we showed in the hunting economics comment, and the economics appeal point,
5 visitor spending is a standard indicator for assessing a tourist economy, used by other
6 national forests and the USFS research stations. As stated in the FEIS, the Gila has
7 relatively low visitation. We look at more visited forests across the west, we look at the
8 NVUM numbers, and we look at the national NVUM's finding that 3.9% of visitors come
9 primarily for OHV use. Then we look at the record of road and trail closures being done
10 under the banner of travel management; across the west the closures are 50% and up.
11 There is absolutely no doubt that the economic impacts far exceed the \$100 million
12 limit. The Santa Fe National Forest closed over 70% of the roads and even more of the
13 trails. That same pattern is playing out all over the west.

14
15 **The Office of Management and Budget had it right the first time, the economic**
16 **losses are over \$100 million annually...far, far over that limit.** The USFS might
17 claim they didn't know the implementations would turn out like this. Of course it is hard
18 to believe they know so little about their own operations that they couldn't predict that.
19 But even so, now that the pattern is so consistent and so undeniable, the USFS at the
20 national level has done absolutely nothing to change this. The USFS could have
21 modified their Rule, to put in some minimum amount of routes left open, to limit how
22 much could be closed. They have done nothing. The only conclusion one can reach is
23 that the USFS is doing nothing to stop this, because they don't want to. A huge
24 reduction in public access is exactly what they want and what they intended to do all
25 along.

26
27 The economic impacts are undeniable, and enormous, just from motorized recreation.
28 And that's before considering other economic losses, like nonmotorized recreation that
29 is discouraged because reduced motorized access makes it harder to do other
30 activities, or losses from reduced productivity of ranches and other commercial forest
31 uses. The closure decisions have been coming in from around the western states. The
32 Wallowa Whitman National Forest attempted to close over 50%; closing 4,000 miles
33 and leaving 3,000 miles open, before Oregon senators forced the Regional Forester to
34 withdraw the decision.

35
36 The FEIS's across the west conclude little or no economic impact from closures. It is
37 obvious that this is blatantly false. But the USFS is compelled to make these claims of
38 no economic impact to prop up their categorical exclusion Rule. To admit to more than
39 \$100 million in economic losses would trigger the Benefit-Cost Analysis (BCA) required
40 under Executive Orders 12866 and 12291. Any honest discussion of the economic
41 losses would show the true impact of the Rule, and prove it should never have been put
42 out as a categorical exclusion.

43
44

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-8**

2
3 The GNF document Comments by Subject correlates comments to responses. At p. 171
4 there is an entry for 03032011-17-8:

5
6 No Action Alternative and violates the 1982 Planning Rule.
7 [See comment in Appendix A of this document for additional detail. It is similar to
8 comment 03022011-15 but there is some variation]

9 The response to 03022011-15-36 is at Appendix B, p. 613. The comment is represented
10 as this summary statement:

11
12 Disclose the planning rule that the proposed action is based on.

13
14 The response states only that the project is tiered to the forest plan.

15
16 **APPEAL POINT 1: No Response to Comment**

17
18 The response fails to even touch on the issues raised in comment 0302011-17-8. No
19 other response touches on the central issue of this comment, the requirements of the
20 1982 Planning Rule in regards to the No Action Alternative. The term “1982 Planning
21 Rule” does not appear in Appendix B. Neither does “1982”. Therefore, we conclude
22 there is no response.

23
24 **APPEAL POINT 2: FEIS/ROD Violates 1982 Planning Rule**

25
26 Our comment states that the FEIS/ROD was done under the 1982 Planning Rule. The
27 comment explains the FEIS fails to comply with the 1982 Planning Rule, because it
28 does not identify the current level of goods and services. The failure to describe the
29 goods and services is caused by the faulty No Action Alternative that excludes 37% of
30 the roads and trails that were legal to use. The exclusion from the analysis caused a
31 predetermined result that any choice made by the decision-maker will be missing 37%
32 of the recreation goods and services.

33
34 The comment is structured in two parts. The first part presents Issue 1 and documents
35 that the No Action Alternative omits 1,799 miles of NFS routes that were legal for
36 motorized use before the decision. The objective of Issue 1 is to fully identify the goods
37 and services that were provided to the public before the FEIS/ROD.

38
39 The comment documents Issue 1 entirely with quotes from the DEIS itself. These show
40 how the No Action Alternative was squeezed down via the illegitimate concept of using
41 “where people drive now” as the baseline. That is an improper baseline for the No
42 Action Alternative because it misrepresents the current travel policy of the forest plan.

43
44 The DEIS/FEIS also misrepresents the baseline by characterizing legal to use trails as
45 ‘nonmotorized’.

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The baseline was shrunk again by omitting non-USFS jurisdiction roads from consideration for dispersed camping and game retrieval.

Additional issues of exclusion are the identified unauthorized routes and legal to use OML-1 roads (administrative use only roads that are legal to use because they are in the “open forest” area.)

The conclusions of Issue 1 in the original comment include these statements:

NFS Trails: page 50 of the DEIS (bold added):

There are 1,577 miles of trail opportunities on the Forest, with 59% of these trails located within wilderness areas. There are currently few prohibitions on motorized use of the single-track system in the general forest area; however, evidence of motorized use of single-track trails is limited. (and) Many public comments on the matter expressed a desire to authorize motorcycle use of certain trails throughout the forest.

Throughout the document the DEIS erroneously refers to the existing system trails in the study area as ‘nonmotorized’, and to the 16 miles of motorized trails as the only current trails open for motorized use. This is patently false, the nonwilderness trails are open to motorized use and are in use, as stated in the DEIS. But the DEIS persistently tries to give the impression that motorized use of the trails is not legal.

Non-forest Jurisdiction roads: Access Closed with No Disclosure or Analysis

The agency cannot make decisions for the use of non-forest jurisdiction roads. However, the agency can block access to the forest lands from those roads. By excluding these roads from the No Action Alternative the use of those roads for game retrieval and dispersed camping is banned with no disclosure. The activities of dispersed camping and game retrieval are reduced. The DEIS does not disclose the reduction in access, or the effects or cumulative effects from reduction of access from these roads.

2,243.6 miles Non-forest jurisdiction roads: (source: Roads Report, page 8)

-593 miles of county road included in analysis (source DEIS, page 25)

-391.4 miles of Private Road (Roads Report, page 8)

1 Access from 1,259.2 miles of non-forest jurisdiction road not acknowledged or
2 analyzed

3 The original comment makes this statement:

4 **Routes Missing From the No Action Alternative.**

5 **In just a few pages, the No Action Alternative shrinks from 'current use' to**
6 **'existing direction', and then shrinks again to less than the 'existing**
7 **direction'.**

8 The No Action Alternative does not include the 1,169 miles of ML-1 and
9 decommissioned roads, 656 miles of forest system non-wilderness trail and
10 unknown mileage of unauthorized routes. In addition it excludes 337.5 miles of
11 U.S. highway and 686.6 miles of state highway from consideration for dispersed
12 camping and game retrieval. Some county roads are also excluded from
13 consideration for dispersed camping and game retrieval. (The exact figure for
14 county roads cannot be determined because of conflicting numbers).

15
16 In the original comment, Issue 2 presents the requirements of the 1982 Planning Rule,
17 which says the No Action Alternative shall reflect the current level of goods and
18 services:

19
20 1982 Planning Rule gives this definition for the No Action Alternative (bold
21 added):

22 (7) At least one alternative shall reflect the **current level of goods and**
23 **services** provided by the unit and the most likely amount of goods and
24 services expected to be provided in the future if current management
25 direction continues. Pursuant to NEPA procedures, this alternative shall
26 be deemed the "no action" alternative.

27
28 Recreation is an important part of the services provided. The DEIS tells us that
29 the current recreational use includes the use of the ML-1 roads, decommissioned
30 roads, unauthorized routes and the forest system trails. The No Action
31 Alternative B excludes these routes. Therefore the No Action Alternative fails to
32 comply with the direction of the 1982 Planning Rule. By omitting 37% of the
33 routes from the No Action Alternative, the alternative does NOT reflect the
34 current level of goods and services provided by the unit.

35
36 The comment quotes a statement in the DEIS about the importance of the routes to the
37 public. The existing system of allowed motorized use provided a valuable service to
38 both motorized and non-motorized users. Changing that system changes recreation
39 opportunities for everyone.

40

1 DEIS, page 52, emphasizes the importance of access for all forest users. Routes
2 are identified as important and the agency states that changing the existing
3 routes can change the diversity of recreational opportunities. Reducing
4 recreational opportunities reduces the current level of services. (bold added):

5 *Nearly all forest visitors, regardless of the purpose for their visit, use the*
6 *motorized transportation system to reach their destination. Recreation*
7 *activities many times involve a combination of motorized and non-*
8 *motorized activities; therefore, **making changes to the existing***
9 ***motorized transportation system by adding and/or removing roads***
10 ***and motorized trails, has the potential to affect the diversity of***
11 ***recreation opportunities for both motorized and non-motorized uses***
12 ***of the forest.***

13 Non-motorized opportunities are also reduced when motorized access is reduced. This
14 is another aspect of reduced service that is not disclosed by the faulty No Action
15 Alternative which does not comply with the 1982 Planning Rule.

16
17 Issue 3 shows that the DEIS/FEIS is non-compliant because it used different baselines
18 for different alternatives. Different action alternatives added varying amounts of
19 unauthorized and administrative use only roads, even while those entire categories
20 were excluded from the No Action Alternative.

21
22 The comment makes additional presentations and argument which can be read in the
23 attached original. There is no response to any of the identified violations in these
24 issues:

25
26 ISSUE 4: Unauthorized Routes Not Added to INFRA as per Region 3 Guidelines

27
28 ISSUE 5: Failure to Use the Public Input Data, Failure to Admit it has Public Input Data

29
30 ISSUE 6: Undisclosed Methodology and Criteria for Inclusion of Unauthorized Routes in
31 Alternatives

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-9**

2
3 **03032011-17-9** appears in Comments by Subject on p. 156

4
5 This comment is a detailed criticism of agency methodology used to assess the
6 impact of motorized use of roads. (flawed methodology, failure to use own tools
7 and data)

8
9 **NO RESPONSE to code 03032011-17-9**

10
11 The original comment is in the appendix to this appeal. The comment explicitly states it
12 is challenging agency methodology, and per CEQ 40 Questions 29a, the agency must
13 provide a substantive and meaningful response.

14
15 Instead, Appendix B refuses to show that the comment even exists.

16
17 Key issue in the comment are the analysis flaws, errors and violations that are created
18 by what is missing from the FEIS analysis, that could have and should have been
19 included. Topics headings in the comments are:

20
21 **FLAWED METHODOLOGY: AGENCY'S INEXPLICABLE FAILURE TO USE**
22 **ITS OWN TOOLS AND DATA.**

23
24 **FAILURE TO SET UP THE ANALYSIS TO PROVIDE THE NEEDED ANSWERS**

25
26 The complete and original comment is included in the appendix to this appeal. The
27 comment is titled "Methodology, Tools, Data"

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-10 and**
2 **10a-d**

3
4 The agency's responses ignore comment issues, incorrectly summarize the comment,
5 and/or provide incorrect response. The CLF comment was answered under five
6 separate responses in Appendix B. These are 17-10, and 17-10 a through d. We will
7 address each response separately.

8
9 **03032011-17-10**

10 **Summary Statement:** Chiricahua leopard frog analysis: The analysis is on the roads
11 themselves and never addresses use.

12
13 **Response:** An overview of the analysis process used for all terrestrial species is
14 documented on pages 134 to 137 of the DEIS. This section discusses how motorized
15 travel affects wildlife species. On pages 157 to 165, the DEIS completes an analysis of
16 direct and indirect effects to amphibians and the Chiricahua leopard frog by alternative
17 and a determination by alternative is documented in this same section of the DEIS. This
18 analysis discusses how the miles of routes (motorized roads and trails) would be used
19 as one indicator to where this use occurs and would have the potential to affect the
20 Chiricahua leopard frog.

21
22 On pages 134 and 136, the DEIS discusses how traffic affects wildlife and how miles of
23 road were used as an indicator of potential effects. Additionally, page 164 (table 84) of
24 the DEIS discusses how reduced traffic would benefit this species.

25
26 The wildlife report acknowledges that the higher the level of use on a road, the greater
27 potential to affect a species. Current traffic count data does not exist.

28
29 **Appeal Point 1:** The response ignores the DEIS references cited by the comment.
30 Threat of collision to the animal is not related to road mileage; it is related only to traffic
31 intensity and speed. The response ignores data in the DEIS and DEIS references, that
32 were presented in the comment. Those facts include these, each taken from a DEIS
33 source (comment p.8):

34
35 Now we can assemble the facts about "high potential for harvest" under the No
36 Action Alternative B with 71 miles of road.

37
38 Roads take .14 of one percent of the dispersal area
39 Roads are exactly where the frog is least likely to be (roads are dry and
40 lack cover)
41 Roads are used by vehicles during the day primarily in dry conditions
42 Frogs move only at night in rain, they are not on roads when vehicles are
43 present
44 Motorized vehicle use occurring during the day when the frogs are inactive
45 and hidden in moist regions off the roads. The likelihood of vehicles on an
46 ML-2 road on rainy nights is negligible

1 Traffic counts on ML-2 roads suggest less than five vehicles per day

2
3 CONCLUSION: the likelihood of a frog being killed by a vehicle on a road is
4 extremely low. There is no high potential for harvest on roads.

5
6 **The DEIS makes highly inaccurate statements of the impact of roads on the
7 CLF:**

8 At Page 141 the DEIS makes this statement

9
10 The **higher road density** and number of stream crossings the greater the
11 exposure rates between vehicles and the Chiricahua leopard frog, which
12 **facilitates the potential for harvest** of this species. **Alternatives C, D, F,
13 and G maintain higher road density levels** and a high number of stream
14 crossings **which continue to facilitate the potential for harvest.**

15
16 **The DEIS claims that higher road density increases the risk of harvest
17 (collision). This statement is simply not true. It is not supported by the
18 facts. But this statement forms the foundation of all the comparisons of the
19 alternatives.**

20
21 **Appeal Point 2:** The response claims there is no traffic count data. This is false. Our
22 comment on the DEIS cites traffic count data from the GNF document Final Engineering
23 Judgments, dated Sept 21, 2007, File 7700-1. These are ML-3 roads, with more traffic
24 and higher speeds than the ML-2 roads of concern in the CLF analysis. The comment
25 states:

26
27 The survey periods mentioned are 3 and 4 hours. Daily traffic on ML-3 roads
28 were 0, 11 and 18 vehicles with the counts of 11 and 18 including vehicles that
29 would not be on an ML-2 road (sedans, sports cars, RVs). Here are those
30 counts:

31
32 **Road 150, ML-3, monitored for 3 hours on a Friday, July 29, 2007: 11 full
33 sized vehicles plus 4 ATVs**

34
35 **Road 119, ML-2, (no observed traffic reported)** 'Traffic count information from
36 1986 shows an **average daily traffic of 20 vehicles** at the junction of C-010 and
37 US 180. It is estimated that **75% of the traffic never reaches the road segment
38 in question.** The following 3 miles of road is a popular OHV destination.

39
40 **Road 111 ML-3,** 'During the motorized mixed use (MMU) study period on
41 Tuesday July 31,2007, **eighteen vehicles were observed.** Vehicle types
42 included ATVs, RVs, motorcycles, jeeps, sedans, sports cars, pickups with
43 trailers, vans, and SUVs."

44
45 **Road 209, ML-3** The **average daily traffic** at the junction of US-180 is **12 ADT**
46 based on a 1986 traffic count. The MMU team setup a radar gun for

1 approximately **4 hours** on Monday 7/30/2007 and hid behind trees to try and get
2 a representative speed for the road, however there were **no other vehicles** on
3 the road while we were running radar.
4

5 **Appeal Point 3:** The response ignores the comment's challenge to the science cited in
6 the analysis. Our comment shows that the analysis grossly misused the cited reference
7 to support its claim of the risks of traffic density. The reference cited by the DEIS is
8 Fahrig et al. (1999).
9

10 We found the Fahrig study and read it. Our comment (p. 6) showed the DEIS used a
11 study on high speed paved roads of 500-13,000 vehicles per day to support its
12 statements about risk of collision on low speed unpaved forest roads with traffic of less
13 than ten vehicles per day.
14

15 At page 157-158 the DEIS cites a study indicating that traffic intensity is a factor.
16

17 *The literature documents that a large number of amphibians and reptiles*
18 *are killed on roadways (Maxwell and Hokit 1999). Fahrig et al. (1995)*
19 *documented that the higher the traffic intensity, the greater the number of*
20 *dead frogs and toads.*
21

22 First, we note the Fahrig study was done on two lane paved roads with traffic
23 counts of 500 to 13,000 vehicles per day. The DEIS here tells us traffic intensity
24 is a significant factor, but provides no traffic intensity information, either
25 anecdotal or quantitative. There is some traffic count data in the mixed used
26 monitoring done by the road engineers, in the document titled Final Engineering
27 Judgments, dated Sept 21, 2007, File 7700-1.
28

29 The misapplication of Fahrig et al. to forest roads indicates that the agency either didn't
30 read the study (didn't know what is in it), or deliberately used a high study on high
31 speed, high traffic paved roads, and attempted to claim it was relevant to low speed, low
32 traffic dirt roads. The FEIS has not changed anything. The quote from Fahrig still
33 appears in the Final Wildlife Report and Biological Evaluation p. 68, with no disclosure
34 of the limited applicability of the Fahrig study, or that the studies were done at night:
35

36 The literature documents that a large number of amphibians and reptiles are
37 killed on roadways (Maxwell and Hokit 1999). Fahrig et al. (1995) documented
38 that the higher the traffic intensity, the greater the number of dead frogs and
39 toads.
40

41 **Appeal Point 4:** Failure to present responsible opposing opinion in the project record,
42 which was presented in the comment on the DEIS.
43

44 (Center for Biological Diversity v. United States Forest Service **349 F.3d 1157** (9th Cir.
45 2003) the Ninth Circuit ruled "[T]he Final EIS fail[ed] to disclose and discuss responsible
46 opposing scientific viewpoints in the final statement itself in violation of NEPA and the

1 implementing regulations. NEPA and its accompanying regulations required "the agency
2 [to] disclose responsible opposing scientific opinion and indicate its response in the text
3 of the final statement itself."
4

5 Our comments gave the FEIS the opportunity to revise its analysis. Absent any revision,
6 the FEIS still has the obligation to present the responsible opposing opinions from cited
7 references in the text of the final statement itself. The DEIS cited references support
8 our comment that the DEIS failed to disclose that the frogs move only at night and are
9 not out during the day.
10

11 The field work for the Fahrig mortality study was done AT NIGHT. From Fahrig et al
12 (1995), p. 178 of Amphibians and Road Traffic (bold added)
13

14 **On six evenings**, between 2030 and 2230 h, during the spring breeding season
15 between 25 April and 24 May 1993, we traversed the road segments and
16 counted all dead and live frogs and toads along contiguous 1 km sections of the
17 roads (Fig. 1). Shaffer and Juterbock (1994) provide a discussion of this
18 sampling method.
19

20 Fahrig et al, p. 179:
21

22 **Differences in frog and toad activity between nights**, probably due mainly to
23 differences in weather conditions, were corrected for by including date as a class
24 variable in the models. **Effects of time of evening on frog and toad activity**
25 **were corrected for by including a variable giving the time of sampling.**
26

27 The FEIS also failed to present other pertinent facts in our comment on the DEIS:
28

29 -The Fish and Wildlife Service Recovery Plan for the CLF uses the Northern Leopard
30 Frog as a surrogate species for the CLF, because there is little CLF specific data.
31

32 -The Recovery Plan also supports our comment on the point about frogs moving only at
33 night and only in the rain. The Dole study cited in the Recovery Plan states the frog
34 moves less than 5 to 10 meters (3 to 4 feet) during the day.
35

36 Dole confirms that frog dispersal happens only on rainy nights. Our comment said "**The**
37 **frog dispersal in the area happens only on rainy nights**", and quoted the Dole
38 **abstract: (bold in comment)**
39

40 *In **nocturnal rains** leopard frogs occasionally made extended excursions off*
41 *their ranges. Such movement differed from home range movement in being*
42 *direct, more or less continuous through the night, and often covering distances of*
43 *100 m or more; one trailed frog moved 159 m in a single night. These **migratory***
44 ***movements stopped at daybreak**, the frogs commonly remaining in the region*
45 *they had reached for several days, unless forced by unfavorable moisture*
46 *conditions to move to more moist regions. Occasionally the **migration was***

1 *continued on the night following the initial movement; one trailed frog*
2 *traveled 240 m in two consecutive nights.*
3

4 The next section of the comment provides the Recovery Plan statements that frogs'
5 "adult survival" depends on staying moist. The comment is very clear about the
6 omissions and what should have been included in the discussion (comment p. 6)
7

8 The DEIS has inexplicably excluded the essential fact of nighttime movement
9 from the methodology.

10
11 CONCLUSION: The dispersal area is only relevant on rainy nights. The frog
12 could be present on roads only on rainy nights. Motorized vehicles on roads
13 during the day do not present a risk of collision. Failure to use the best available
14 science results in a faulty analysis that misinforms the decision maker.
15

16 The Final Wildlife and Biological Evaluation Report continues to make statements about
17 the CLF that ignore the facts about time and conditions for frog movement (night, rain).
18 The final report still uses road miles and road crossings as indicators for "potential
19 harvest" of CLF, p.17:
20

21 **For these focal species, route miles will be the only indicator used to**
22 **analyze the potential for harvest and disturbance. Number of road crossings**
23 **will also be used as a potential harvest indicator for occupied Chiricahua**
24 **leopard frog sites, occupied southwestern willow flycatcher sites, and**
25 **designated southwestern willow flycatcher critical habitat.**
26

27 And again, at p. 69:

28
29 **Harvest effects were analyzed by miles of roadway** within each habitat type
30 and disturbance effects were analyzed by distance from road within the identified
31 associated habitat out to 250 m (acres).
32

33 The analysis and conclusions ignore proven facts about the CLF life patterns and
34 biology: it will die if the skin is dry, and it only moves about on rainy nights, therefore
35 the daytime vehicle use on roads is not a threat.
36

37 **03032011-17-10a p.765**

38
39 **Summary Statement:** Chiricahua leopard frog analysis misapplies the dispersal area. It
40 uses dispersal, but for the wrong purpose. The Recovery Plan did not design the
41 dispersal area as a "road exclusion zone." The Recovery Plan never advises closing
42 roads, or using the dispersion area to identify roads for closure.
43

44 **Response:** The Forest used a U.S. Fish and Wildlife Service (USFWS) document cited
45 as "Southwest Endangered Species Act Team (2008)" and named "Chiricahua Leopard
46 Frog Considerations For Making Effects Determinations And Recommendations For

1 Reducing And Avoiding Adverse Effects” (CMED) as a reference to the methodology
2 applied; as discussed on page 159 of the DEIS. The introduction section of this
3 document states: “The CMED provides considerations in determining if the species may
4 be in the action area of the proposed activity and, if so, possible ways in which Federal
5 activities may affect various aspects of the species and habitat.” The wildlife specialist
6 report completed an effects analysis on each alternative (pages 157 to 165, DEIS), but
7 did not design road exclusion zones or provide advice.

8
9 **Appeal Point 1:** The Final Wildlife Biological Evaluation says this at p. 70 (bold added)

10
11 **Analyzing the change in miles of roads within a reasonable dispersal**
12 **distance from occupied sites between the different alternatives,** along with
13 the analysis of other focal amphibian species that are dependent on perennial
14 riparian areas will provide the bases needed to determine the potential affects to
15 this species from the different alternatives.

16
17 This statement makes it clear that the analysis is still using a zone in order to evaluate
18 the roads. It’s not called a zone, but the results are the same. The alternatives were
19 assessed based on how many miles of road are within a certain distance of CLF habitat.
20 There is absolutely NOTHING in the CMED that supports using road mileage as an
21 indicator to predict negative impacts to CLF.

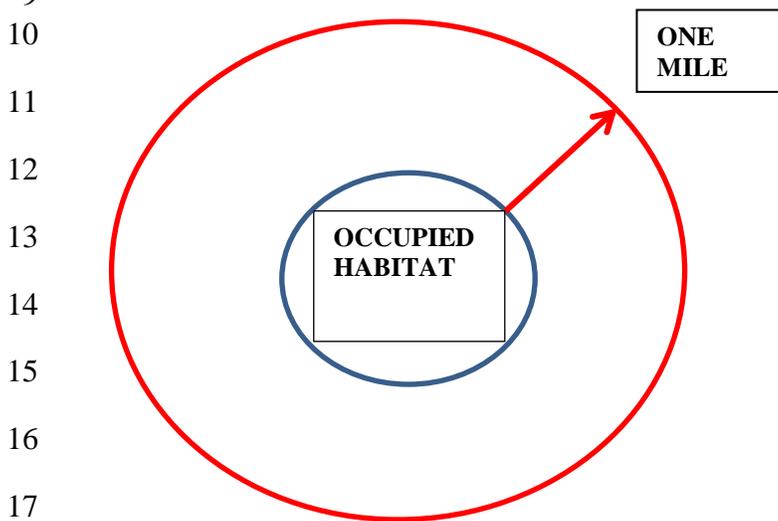
22
23 The analysis also continues to misunderstand and mis-use the dispersal concept. Frogs
24 disperse from an occupied area to OTHER suitable areas. They don’t disperse in all
25 directions from the occupied site.

26
27 If the frogs are in a water body and there is another suitable habitat a mile away,
28 overland to the north, the frogs could disperse (on a wet night) moving north to that
29 other water body. The frogs would disperse one mile NORTH. They would not go 1
30 mile south, east or west, because there is no suitable habitat in those other directions.
31 The agency seems to have a hard time understanding that one mile dispersal does not
32 mean drawing a circle around the occupied habitat that extends a mile in every
33 direction. Dispersing means a one mile line from occupied habitat to a suitable habitat.

1 **Agency’s Misconception of Dispersal: One mile dispersal in ALL directions from**
2 **occupied site**

3 **Wildlife Report and Biological Evaluation**
4 **p. 70 “Analyzing the change in miles of roads within a reasonable**
5 **dispersal distance from occupied sites between the different**
6 **alternatives...”**

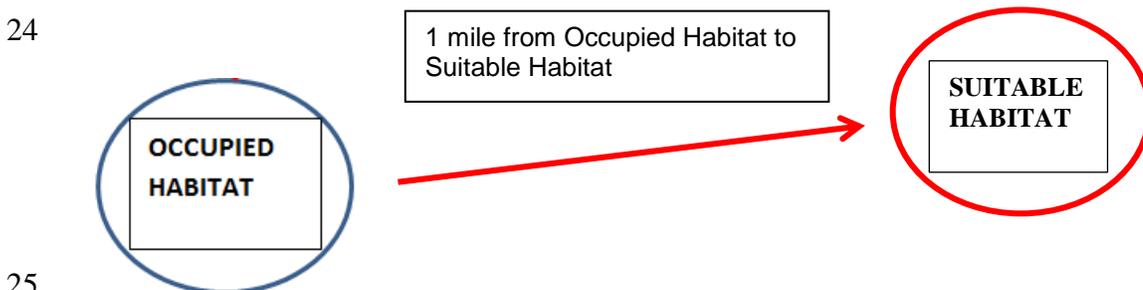
7 The analysis misunderstands the area for dispersal as being a circle one mile in
8 diameter extending in all directions around an occupied site.



18
19 **Accurate Depiction of Dispersal Distance: One mile distance between two points;**
20 **from an occupied site to another suitable habitat site.**

21 **CMED p. II-2 says**

22 **“Reasonable dispersal distances for the frog from occupied habitats to sites being**
23 **evaluated for occupancy include: a) within 1 mile overland,...”**



1
2 **Appeal Point 2:** The Final Wildlife Report and Biological Evaluation states the effects
3 for the CLF will be analyzed with two indicators; roads within dispersal distances, and
4 number of road stream crossings within this zone.

5 The effects were determined by using an approach that analyzed the change in
6 habitats that focal species are associated with between the different alternatives.
7 These selected species reflect general habitat conditions needed by other
8 reptiles and amphibians with similar habitats. There is an exception to this
9 approach of using habitat association as the analysis area. **For the federally**
10 **listed Chiricahua leopard frog, the analysis examined the change in miles**
11 **of road within dispersal distances of extant populations (the dispersal**
12 **distance identified by the FWS), and the change in the number of road**
13 **stream crossings within this zone** (Table 46).

14 In the previous point, we show that the Report misunderstands the dispersal distance in
15 the CMED report it cites in response to our comment. The analysis erroneously uses a
16 zone of the dispersal distance around existing populations. According to CMED, the
17 dispersal distance is a line from an occupied site to a suitable site. The other indicator
18 used in the analysis, stream crossings, is also wrong. The CMED report allows stream
19 crossings even for perennial streams, if an established road exists

20 P. III-12

21
22 Construction or development of a crossing for motorized vehicles across a
23 perennial stream will not be permitted, **unless an established road already**
24 **exists or where dry, intermittent sections occur.**

25
26
27 **Appeal Point 3:** The analysis uses existence of roads as a measure of impacts on
28 CLF. There are no statements in CMED suggesting roads should be closed because of
29 CLF habitat. The use of road mileage as an indicator is not supported by the CMED.
30 We can't determine how the GNF came up with its idea of using road mileage as an
31 indicator, but it didn't come from the CMED report.

32
33
34 **Appeal Point 4:** The CMED report reinforces our comment that CLF would never be on a
35 dry road. CLF need permanent to semi-permanent water to survive, only move in wet
36 conditions. At CMED p. I-6: (bold added)

37
38 **3. Frogs – feeding, predators, dispersal, hibernation, and vulnerabilities**
39 Post-metamorphic (i.e., metamorphs, subadults, adults) Chiricahua leopard frogs
40 are primarily aquatic and **need permanent to semi-permanent water for**
41 **survival.** Frogs are **rarely found far from water bodies except during**

1 **transient, overland movements during wet periods, and even then must**
 2 **remain moist** (USFWS 2007: 14-15, 50). Frogs do inhabit intermittent bodies of
 3 water, however. In these habitats, **frogs may be able to survive the loss of**
 4 **surface water by moving to more permanent sites (if ambient conditions**
 5 **are moist enough to permit overland movement)** or by burrowing into muddy
 6 cracks and holes around drying water sources (USFWS 2007: 17, 50).
 7

8 CMED states that dispersal requires wet conditions, CLF may move one mile overland, if
 9 the wet conditions permit. (p. I-8)

10
 11 Active movement of adult frogs up-and-down a drainage, or directional dispersal
 12 of metamorph and subadult frogs may be in response to deteriorating habitat
 13 (i.e., drying of breeding pond), predators (e.g., conspecifics and gartersnakes), or
 14 intraspecific competition (USFWS 2007: 14). Historically, it is likely that perennial
 15 corridors were important for dispersing individual frogs. **In the absence of**
 16 **perennial corridors, movement by frogs is likely facilitated by the presence**
 17 **of seasonal surface waters (lotic and lentic) and otherwise wet conditions**
 18 **during the summer rainy season that permit overland movement in**
 19 **typically dry environments (USFWS 2007: 14-15; R. Jennings, pers. comm.**
 20 **2006). Based on observations of various ranids in Arizona and New Mexico**
 21 **(USFWS 2007: 14-15), reasonable dispersal distances for the species are (1)**
 22 **one mile overland,** (2) three miles along intermittent drainages, and (3) five
 23 miles along permanent water courses (USFWS 2007: D-2,3), or some
 24 combination thereof.
 25

26 Tables 45 and 46 of the Final Wildlife Report and Biological Evaluation show that the
 27 analysis is still entirely based on two erroneous indicators of miles and stream
 28 crossings. These two indicators are irrelevant and contrary to all the references cited by
 29 the agency. The agency has refused to make any corrections or modifications to its
 30 analysis, even though these errors were pointed out at the draft stage, in our comments
 31 on the DEIS. The agency does not even offer any qualifying statements about CLF
 32 moving only on wet nights, or that adult survival is completely dependent on staying
 33 wet.
 34

Table 45: Summary of potential motorized route affects, analysis factors, and analysis indicators for amphibians and reptiles

Road Associated Factors	Motorized Trail/ORV Associated Factors ¹	Combined Analysis Factors	Analysis Indicator
Collisions, Collection	Collisions ² Collection	Harvest/Direct Effects	Route Miles
Disturbance, Displacement, Avoidance, Harassment	Disturbance, Displacement, Avoidance, Harassment	Disturbance/Indirect Effects	Disturbance Zone Summarized In Acres

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1
2

Table 46 summarizes the harvest indicator, disturbance indicator, and analysis area that will be used to analyze the effects of the different alternatives to amphibians and reptiles.

Table 46: Summary of the harvest indicator, disturbance indicator, and analysis area used to analyze the effects of the different alternatives to amphibians and reptiles

Focal Species	Motorized Activity	Harvest Indicator	Disturbance Zone	Analysis Area
Chiricahua leopard frog	Motorized trail/ORV use	Route miles Number of stream crossings	Miles of routes within: - 1 mile overland - 3 miles along an ephemeral or intermittent drainage - 5 miles along a perennial stream	Occupied sites and the area within the disturbance zone.
Mexican gartersnake	Motorized trail/ORV and roads	Route miles	250 meters	Low elevation riparian
Arizona toad Narrow-headed gartersnake	Motorized trail/ORV and roads	Route miles	250 meters	Low, middle, and high elevation riparian
Reticulate Gila monster	Motorized trail/ORV and roads	Route miles	250 meters	Desert shrub/Grassland

3
4
5
6
7
8
9

The agency insistence on the roads indicator is contradicted by the CMED. CMED recommendations on vehicle use are to prevent vehicles from going off established roads. There is nothing in CMED that motorized use of established roads is risk to the CLF.

10 **p. III-12**

11 Off-road vehicle activity should be kept to a minimum. Vehicles should be parked as
12 close to roads as possible, and vehicles should use wide spots in roads to turn
13 around.

14
15
16 **p. III-4**

17 7. Fire crews should, to the extent possible, obliterate vehicle tracks made during
18 the fire where presence of tracks is likely to encourage off-road travel by
19 recreationists.

20
21 **p. III-7**

22
23 Operation of off-road vehicles and creation of new routes will not occur around
24 potential breeding sites.

25
26 **p. III-11**

27 Use of motorized vehicles during prescribed burns or other fuels treatment
28 activities in suitable or occupied habitat will be restricted, to the extent feasible, to
29 existing roads, trails, washes, and temporary fuelbreaks or site-access routes.

1
2 All temporary roads, vehicle tracks, skid trails, and off-road vehicle (ORV) trails
3 resulting from fire suppression and the proposed fire management activities will
4 be rehabilitated (water bars, etc.), and will be closed or made impassible for
5 future use.

6
7
8 **Appeal Point 5:** The analysis continues to misapply the dispersal zone for evaluating
9 roads. The Final Wildlife Report and Biological Evaluation, p. 69:

10
11 The effects were determined by using an approach that analyzed the change in
12 habitats that focal species are associated with between the different alternatives.
13 These selected species reflect general habitat conditions needed by other
14 reptiles and amphibians with similar habitats. There is an exception to this
15 approach of using habitat association as the analysis area. **For the federally**
16 **listed Chiricahua leopard frog, the analysis examined the change in miles**
17 **of road within dispersal distances of extant populations (the dispersal**
18 **distance identified by the FWS),** and the change in the number of road stream
19 crossings within this zone (Table 46).

20
21 We refer to the original comment, Part ii, p. 3. That provides the Recovery Plan
22 definition and purpose of the dispersal distance. The dispersal distance is used to
23 estimate what other suitable habitat is close enough to an occupied habitat, that the
24 CLF might migrate to it. Recovery plan, as quoted in comment, p.3

25
26 Potential recovery and population establishment sites within a metapopulation
27 **should be within dispersal distance of other recovery sites or extant**
28 **populations.**

29
30 Dispersal to another habitat area would happen only at night. We re-state the Dole
31 study (cited in Recovery Plan) that migrations happen at night, and stop at daybreak:

32
33 *In **nocturnal rains** leopard frogs occasionally made extended excursions off*
34 *their ranges. Such movement differed from home range movement in being*
35 *direct, **more or less continuous through the night**, and often covering*
36 *distances of 100 m or more; one trailed frog moved 159 m in a single night.*
37 *These **migratory movements stopped at daybreak**, the frogs commonly*
38 *remaining in the region they had reached for several days, unless forced by*
39 *unfavorable moisture conditions to move to more moist regions. Occasionally the*
40 ***migration was continued on the night following the initial movement;** one*
41 *trailed frog traveled 240 m in two consecutive nights.*

42
43 **03032011-17-10b p.766**
44

1 **Summary Statement:** Chiricahua leopard frog analysis omitted fact is that frogs
2 disperse only on rainy nights. The DEIS omits traffic count data which the Gila National
3 Forest has on ML-2 and ML-3 roads.
4

5 **Response:** Factors identified as being important include rainfall, humidity, perennial
6 corridors, seasonal surface water, and mesic corridors. Some data exist on dispersal
7 distances and the Gila used the USFWS recommendations for these distances
8 (Southwest Endangered Species Act Team 2008 and U.S. Fish and Wildlife Service
9 2007). So, the existing information does suggest that frogs disperse on rainy nights, but
10 additionally the literature discussed above and on page 159 of the DEIS indicates other
11 conditions should be considered.
12

13 On pages 134 and 136, the DEIS discusses how traffic affects wildlife and how miles of
14 road were used as an indicator of potential effects. Additionally, page 164 (table 84) of
15 the DEIS discusses how reduced traffic would benefit this species.
16 The wildlife report acknowledges that the higher the level of use on a road, the greater
17 potential to affect a species. Current traffic count data does not exist.
18

19 **Appeal Point 1:** See discussion above on CLF science omitted from analysis. The
20 appeal point shows that the DEIS discussion at p. 134 and 136 is wrong because miles
21 of roads contradicts the science on CLF, as presented in the cited references.
22

23 **Appeal Point 2:** Response claims that current traffic count data does not exist. That is
24 a false statement. See appeal point 2 in response to 03032011-17, above. The DEIS
25 cites traffic count data from the GNF document Final Engineering Judgments, dated
26 Sept 21, 2007, File 7700-1.
27

28 **03032011-17-10c p.766**

29

30 **Summary Statement:** Chiricahua leopard frog analysis: Presence of roads themselves
31 not a significant issue within the habitat.
32

33 **Response:** An overview of the analysis process used for all terrestrial species is
34 documented on pages 134 to 137 of the DEIS. The analysis of direct and indirect effects
35 to this species by alternative and a determination by alternative is documented on
36 pages of 157 to 165 of the DEIS. Cumulative effects are documented on pages 207 to
37 212. Findings determination for reptiles and amphibians notes that none of the
38 alternatives would affect the viability of reptiles and amphibians that occur on the Gila
39 National Forest.
40

41 **Appeal Point 1:** The statement in the response says “none of the alternatives would
42 affect the viability of reptiles and amphibians that occur on the Gila National Forest.” By
43 none, we take that to include Alternative B, no action. This contradicts the analysis in
44 the Final Wildlife Report and Biological Evaluation, that evaluated alternatives based on
45 road mileage and stream crossings. Table 47 in the Report shows road and trail
46 mileage and stream crossings for each alternative.

1
2 The report states effects of Alternative B are not the same as those of action
3 alternatives. (report, p. 75)

4
5 So under this alternative through time the potential for the direct loss of
6 individuals and habitat would increase, as would the potential for disturbance
7 effects to the species and its habitat.

8
9 The report says (p. 76) of the action alternatives:

10
11 **The greater the reduction in miles of motorized routes and number of**
12 **motorized stream crossing in the analysis areas the less the potential for**
13 **direct and indirect effects.** Additionally, the more of these miles and crossings
14 that go to administrative use only the less the potential for direct and indirect
15 effects. The reduction in direct and indirect effects to the species and its
16 designated critical habitat is relative to the amount of miles and stream crossings
17 reduced and the reduction in use on these routes.

18
19 This clearly shows that the analysis does not consider impacts from all alternatives
20 would not affect viability. Please clarify.

21
22 **03032011-17-10d p.766**

23
24 **Summary Statement:** Chiricahua leopard frog analysis: Cumulative effects analysis
25 does not disclose what has caused the existing condition of the species.

26
27 **Response:** Page 159 of the DEIS acknowledges that disease has been a big
28 contributing factor to the existing condition of this species, but there are other forest
29 management actions that can cause direct and indirect effects including motorized use,
30 as discussed on pages 157 to 165 of the DEIS.

31
32 **Appeal Point 1:** The FEIS fails to reference or cite the GNF's own 2001 Monitoring
33 Report. We find this statement at p.40 of that report: (bold added)

34
35 **Trend:** Most of the suitable and potential habitat for the Chiricahua leopard frog
36 on the Gila has been excluded from management activities that have the
37 potential to directly impact this species habitat; therefore, habitat conditions for
38 this species are improving. Annual species monitoring by the Forest, New Mexico
39 Department of Game and Fish and U.S. Fish and Wildlife service indicates that
40 the population on the Forest continues to decline. **The continued decline is not**
41 **related to Forest management activities. The decline is a result of**
42 **competition with non-native species and disease.**

43
44 This states, in no uncertain terms, the factors causing the CLF decline are disease and
45 predation from invasive species. Decline is not related to Forest management activities
46 (e.g. travel management).

1
2 This is contradicted by statements in the FEIS, the Responses to Comments and the
3 Final Wildlife Report and Biological Evaluation that attempt to implicate roads and
4 motorized use with the species' decline. We request that the Gila National Forest 2011
5 Monitoring Report be added to the project record.

6
7 Roads and motorized use of roads are not a factor in the CLF decline, we note these
8 statements within the Aquatics Specialist Report. First from page 7, stating the identified
9 risk factors are highest in the no action alternative:

10
11 The no action alternative includes the most miles of routes within 300 feet of
12 streams including impaired waters, the highest number of motorized crossings on
13 streams including impaired streams, and the highest density of motorized routes
14 that will continue to have use on them. The risk of direct effects to stream banks,
15 riparian habitat, and aquatic species at motorized stream crossings is the highest
16 in this alternative. The risk of indirect effects from sediment movement, creation
17 of drainage pathways, which channel water directly into streams instead of
18 allowing runoff to be dispersed, is highest in this alternative.

19
20 Now we compare that to the following statements:

21
22 The Response at Appendix B p. 566 says road crossings impact the stream and aquatic
23 species:

24
25 The best available science supports our position that where roads cross streams
26 there are **impacts to not only the stream but to aquatic species** occupying
27 the stream. See aquatic specialist Report pages 6–8 and DEIS pages 103–105.

28
29
30 Response Appendix B, p. 572 says the overall trend for aquatic habitat is stable or
31 improving:

32
33 The aquatic specialist report states the following based upon personal
34 observations of the forest aquatic, watershed, and soils specialists.
35 “Although localized degraded habitats continue to be present, **the overall Forest**
36 **trend for aquatic and riparian habitat is stable or improving** (pers. Obs. J.
37 Monzingo, C. Koury, M. Natharius 2012) (draft aquatic specialist report page 58).
38

39 The response at p. 567 says this:

40
41 The conclusions of the aquatic specialist appear on pages 119–125 of the DEIS.
42 This conclusion identifies the relative risk of all alternatives as they relate to
43 species identified in the aquatics section of the analysis, including Region 3
44 sensitive species that occur in the action area.
45

1 In sum, the FEIS has contradictory statements identifying roads as being a risk to
2 habitat. The analysis makes statements about the potential damage to aquatic species
3 from roads, and shows conclusions that alternatives that close more roads will benefit
4 resources. But the empirical evidence stated is that the habitat existing condition is
5 stable or improving, under the current management, which is Alternative B, No Action.
6

7 The statement of fact, that aquatic habitat is stable or improving, is contradicted by
8 endless statements about how roads are so bad and can cause so much damage.
9 But, somehow, even after decades of unrestricted motorized use, the facts don't support
10 the claims.

11
12 When the predictions are contradicted by facts, you hold to the facts and revise the
13 theory. This is called science. If you discard the facts and insist on keeping the theory,
14 it's called denial. NEPA analysis is supposed to employ science.
15

16 Response Appendix B, p. 572 says the overall trend for aquatic habitat is stable or
17 improving:

18
19 The aquatic specialist report states the following based upon personal
20 observations of the forest aquatic, watershed, and soils specialists.
21 "Although localized degraded habitats continue to be present, **the overall Forest**
22 **trend for aquatic and riparian habitat is stable or improving** (pers. Obs. J.
23 Monzingo, C. Koury, M. Natharius 2012) (draft aquatic specialist report page 58).
24

25 The response at p. 567 says this:

26
27 The conclusions of the aquatic specialist appear on pages 119–125 of the DEIS.
28 This conclusion identifies the relative risk of all alternatives as they relate to
29 species identified in the aquatics section of the analysis, including Region 3
30 sensitive species that occur in the action area.

31 In sum, we have statements identifying roads as being a risk to habitat. The analysis
32 shows conclusions that alternatives that close more roads will benefit resources. But
33 the empirical evidence is that the habitat existing condition is stable or improving, under
34 the current management, which is Alternative B, No Action.
35

36 We conclude that the statements about Alternative B causing harm to the aquatic
37 resources are incorrect.
38

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-4-11**

2
3 The agency's response is inadequate because the agency did not respond at all to the
4 specific error clearly identified in our comment. In addition, the comment explicitly
5 identifies itself as a criticism of methodology, and asks for the required substantive
6 response specified in CEQ 40 Questions, No. 29a:

7
8 ...agencies must respond to comments, however brief, which are specific in their
9 criticism of agency methodology.the agency would have to respond in a
10 substantive and meaningful way to such a comment.

11
12 Comment Page 1, describes the error:

13
14 **THE DEIS methodology causes it to severely understates the closure of**
15 **dispersed camping and does not disclose the cumulative effects of the true**
16 **degree of closure.** Mileage and acreage numbers for dispersed camping were
17 calculated only from ML-2 forest roads and 593 miles of county roads.

18
19 The baseline for mileage excluded the agency's ML-1 and decommissioned
20 roads, and roads not under the jurisdiction of the agency. The disclosed camping
21 opportunity, the reduction of camping opportunity and the statements of effects
22 are drastically understated.

23
24 Comment charges that the DEIS understates the magnitude of closure by applying a
25 faulty methodology. The methodology selectively excludes certain categories of road.
26 This excluded fully 45% of the roads in the forest from the analysis. These are road
27 from which the public was allowed to camp prior to the decision. The existing condition
28 (no action) allowed camping on forest lands accessed from all roads in the forest, no
29 matter what entity has jurisdiction over the roads.

30
31 While the travel management decision cannot ban motorized use of private, federal,
32 state and county roads through the national forest, it can (and did) banned motorized
33 dispersed camping on forest lands accessed from non-USFS roads. From DEIS
34 sources, the comment calculated there are 1,852.2 miles of non-USFS roads in the
35 forest. 96% of these 1,852.2 miles of roads were closed to dispersed camping, but the
36 closures are not disclosed, identified or counted in the FEIS. Under the Record of
37 Decision, all motorized dispersed camping on forest lands is closed except for lands
38 accessed from the designated roads. Forest lands accessed from non-USFS roads that
39 were not included in the analysis, are also closed to motorized dispersed camping
40 although the closure is hidden. The closures include the 96% of non-USFS roads
41 identified in the comment. These closures were created by omissions in a faulty
42 methodology, and not the result of an analysis.

43
44 Comment 3 also identifies the methodology that created selective closure of camping
45 from county roads. Alternatives C-G included from 0 to 71 miles of county road where
46 motorized dispersed camping is allowed. There is no disclosed rationale for why these

1 certain small mileage amounts of county road were included, or why certain ones were
2 selected. They simply appear in the alternatives. The most mileage is in Alternative C,
3 with motorized dispersed camping allowed from 71 miles of county road. All the
4 alternatives close camping on USFS lands accessed from all the other non-USFS
5 roads. This is a 96% closure of camping from the 1,852.2 miles non-USFS jurisdiction
6 roads. Camping from 1,024 miles of state and U.S. road was totally banned without
7 even a mention. Those road miles were never counted. Closure of camping from them
8 is not counted, or identified as a negative impact. Information on the jurisdiction of
9 roads appears only in the underlying Roads report, and not in the body of the FEIS
10 itself.

11
12 We word-searched Responses to Comment for any evidence of response to our
13 comment. "County road" appears 21 times, but none of those are relevant to our
14 comment. There is one response on dispersed camping at page 633 that pertains to
15 camping along county roads. Neither of the two comment codes (02110211-01-1
16 03072011-78-97) are Spivack. Commenters apparently did not challenge methodology
17 or identify missing mileage, but they also had recognized the county road closures. The
18 comment summary statement is given merely as:

19
20 Dispersed camping should be available along highways and especially county
21 roads.

22
23 The response given is irrelevant to the issues raised in comment on faulty methodology;
24 that a substantial percentage of roads in the forest were excluded from the analysis,
25 and that the loss of camping from those roads was not counted as part of the closures,
26 and this presented a false picture of the degree of closure to the public (and to the
27 decision-maker).

28
29 The GNF analysis also fails to consider the effects of closures on non-motorized use,
30 which is described the Santa Fe National Forest FEIS for Travel Management. The
31 SNFN Final Recreation Report report (p. 68) concludes that reducing motorized access
32 will reduce camping for some forest users, a favorite place may not be accessible as a
33 day trip without motorized access. (bold added)

34
35 All action alternatives are likely to limit some people's camping experience. Some
36 people's favorite spots may be eliminated from motorized access and some of the
37 more remote corridors may not be available via motorized access. **This may mean
38 that a favorite place may not be available in a day anymore because it is too
39 far to walk to it.**

40
41 The Santa Fe National Forest FEIS also speaks to the impacts closure to motorized use
42 will have on non-motorized use:

43
44 P. 91: (bold added)

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1 People who drive cross country to get to places where they rock climb, ride horses, or
2 bicycle will also have to park next to a road and proceed without their cars. **A trip that**
3 **used to take a day may take longer because of the time required to get to the**
4 **desired destination without a vehicle. We expect that some people will forego the**
5 **trip altogether.**
6

7
8 Spivack comments were assigned code 03032011-17. None of the responses coded to
9 03032011-17 have any relationship to the issues in this comment. None of the
10 responses coded to 03032011-17 address dispersed camping at all. We also find no
11 responses to other comments that are relevant to the issues of faulty methodology
12 raised in our comment. There is simply no response at all, anywhere. Therefore the
13 agency has not provided a CEQ-compliant response, and failed to provide the required
14 substantive response when a comment challenges the agency's methodology.
15
16

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-4-13**

2
3 The response to this comment ignores the comment's specific criticism of the economic
4 analysis methodology. Here is issue as presented in the original comment:

5
6 **The critical factor missing from the economic analysis of hunting on the**
7 **Gila National Forest is trip expenditures.** The economic analysis shows only
8 direct job and income and the multiplier on that. It omits the usual tourism
9 economic analysis which shows trip expenditures (lodging, restaurant, gas,
10 supplies etc.), and the multiplier effect of that money in the local economy.
11 Inclusion of trip expenditures is standard for evaluating tourism economies.

12
13 The response (and p. 20 of the report itself) does not limit itself to the hunting issue. It
14 addresses the general topic of economic analysis. The response addresses argues that
15 trip expenditures (visitor spending) should not be included. (bold added)

16
17 **Visitor expenditures are available through the NVUM report for the Gila NF.**
18 **These visitor expenditures are used in the economic impact tool to**
19 **estimate economic impact. However, it is inappropriate to conflate visitor**
20 **expenditures with economic impact: not all (or even most) of the**
21 **expenditures will remain in the local economy. For instance, when gasoline**
22 **or groceries are purchased locally, only the retail mark-up remains in the**
23 **local economy.** Therefore, \$50 spent on gasoline does not translate to \$50 of
24 economic impact (page 22 of the social and economic specialist report).

25
26 As we will show later, visitor expenditures were not used in the analysis of economic
27 impact, despite the report's claims to the contrary.

28
29 **Appeal Point:** CEQ violations include the inadequate, incomplete analysis, refusal to
30 use standard indicators, flawed methodology, refusal to disclose and use its own data.
31 The FEIS does not even mention the existence of important data collected by the
32 agency. The agency's own readily available data was excluded from the analysis, and it
33 indicates conclusions contrary to those presented.

34
35 **Failure to Analyze the Social Economic Environment** Although the social economic
36 report represents a very small percentage of the FEIS's actual pages, it is tasked with
37 representing fully half of what must be considered in the decision; the human
38 environment. NEPA directs the decision-maker to make a decision that balances the
39 need for resource protection with the need for human use. No matter how much detail
40 the FEIS provides on the natural environment, if the human environment is not properly
41 analyzed, if it has been under-valued and under-estimated, the FEIS is inadequate and
42 does not properly informed the public and the decision-maker.

43
44 The response fails to resolve the comment's issue, and the FEIS conclusions are not
45 modified. The comment presented evidence that the methodology used in the social

1 economic report is contrary to standard practice, and contrary to methods used by the
2 USFS itself for economic impact assessments.

3
4 **Failure to Disclose Methodology, Reasons for Changes from Draft Report**

5 The revised social economic report (“the report”), released as part of the FEIS,
6 introduces new issues of inadequate, faulty and incomplete analysis. It has made
7 unexplained changes in its results, changes of orders of magnitude, with no
8 explanation. Despite the new estimates being some 20 times larger, there is no change
9 in the conclusions that motorized use is an insignificant piece of the economy, and that
10 the loss of it caused by road and trail closures would be insignificant. The report fails to
11 recognize that motorized access is needed for all forest activities.

12
13 **Failure to Use Accepted Methods and Data** The agency refuses to use standard
14 methods of analysis by excluding visitor spending, and the indirect and induced effects
15 of that spending. This insured an artificially low result which underweights the cost of
16 closure, and overweights the benefits of closure.

17 The response rests entirely on its argument that it is “inappropriate” to “conflate” visitor
18 expenditures with economic impact. With unconscious irony, the GNF says that right
19 after saying that the USFS NVUM uses visitor expenditures to estimate economic
20 impact.

21
22 **Failure to Disclose Existence of Agency’s Own Collected Data**

23
24 The economic contribution from the outfitting/guide business for hunting alone is
25 extremely significant. The GNF knows this, but it is not disclosed in the FEIS. CEQ
26 requires discussion of factors that are substantial and significant to the analysis.

27
28 The agency has collected precise and detailed data guide business for years. This
29 information is essential and germane to the analysis. The agency knows this and
30 deliberately withheld their data from the analysis. Instead, the Gila National Forest
31 allowed the FEIS economic analysis to be entirely generated in the Washington office
32 by an analyst there. The report was produced by running gross scale data from national
33 databases through a computer program.

34
35 **This is the Data that the Gila National Forest Deliberately Kept Out of the Analysis**

36 The GNF knows exactly how many guide businesses operate in the forest, because
37 they must be licensed. FEIS, p. 57, 58.

38
39 In order to ensure quality recreation experiences for the guided public, the Forest
40 Service requires that any commercial outfitter and guides operating on the
41 national forest have a special use permit

42
43 There are 86 outfitter and guide operations that provide services on the Gila
44 National Forest.

1 The FEIS provides no other data, although the GNF has collected data for years. It
2 knows everything about the guide business activity in the forest. Every ranger district is
3 required to keep a record of every trip done by every guide company. The ranger
4 districts logs record details of every outfitter trip, including how many guests, how many
5 guides, pack animals, number of days and exactly where they are going.

6
7 The GNF knows how many people are employed, since the trip logs record all guide
8 personnel.

9
10 The GNF knows how much money the guide business generates. Outfitters are required
11 to remit 3% of gross revenues to the USDA.

12
13 The GNF knows the split between wilderness and non-wilderness guided trips. Of the
14 60 hunting outfitters, only some 6 specialize in wilderness trips. The other outfitter
15 companies use the roaded areas, and these will be severely impacted by the road
16 closures, and reduction in motorized camping and game retrieval.

17
18 **The GNF does not even mention the existence of its extensive guide business**
19 **data, anywhere in the FEIS or reports.** We request that the last ten years of guide
20 business logs from every ranger district be added to the project record.

21 22 **Faulty Methodology in the Social Economic Report**

23
24 The Final Social Economic Report added Appendix A that details the methodology. But
25 like the analysis done for the DEIS; it includes only jobs and income, not visitor
26 spending and the effects of it. Appendix A still excludes visitor spending, and the
27 induced and indirect effects of that spending.

28
29 Visitor spending/visitor expenditures are not identified in any inputs to the analysis, and
30 are not presented as any outputs in the conclusions or summary tables. There are
31 repeated statements that the economic impacts were figured from jobs and income.
32 The Social Economic report falsely claims that it included visitor expenditures in its
33 analysis.

34
35 The description of IMPLAN methodology at page 18 of the report provides definitions for
36 indirect and induced impacts. However, nothing in the report shows any analysis of
37 those factors, or inclusion of visitor spending. The following statements in the report
38 indicate the analysis is still limited to employment and income, and hence did not
39 measure overall economic impact. There are no similar statements that visitor spending
40 is included. (bold added)

41
42 P. 3: (the alternatives were evaluated for the effect on jobs)

43
44 **Employment related to recreation tourism** as an indicator of the proposal's
45 effects to the tourism industry and general economy of the area. ...**The IMPLAN**

1 **model will be used to evaluate effects of the alternatives on recreation-**
2 **based jobs.**

3
4 P. 3: (the analysis will focus on income)

5
6 **The analysis will focus on the quantitative income discussion. Income**
7 **effects related to recreation** on the Forest is addressed parallel to the
8 employment effects for the four-county region

9
10 P.4: (IMPLAN used to estimate changes to employment and income)

11
12 IMPLAN Professional Version 3.0 was used to **estimate changes to**
13 **employment and income** under the various alternatives.

14
15 Report Claims About Expenditures in Appendix A:

16
17 The report (p. 19) claims Appendix A shows that NVUM expenditure profiles were used
18 in the analysis.

19
20 Appendix A: Detailed Economic Impact Procedure provides a systematic
21 overview of the economic analysis steps. The economic analysis incorporates
22 the following information:

23
24 (1) **NVUM expenditure profiles** specific the Gila NF were used for the analysis

25
26 We examined Appendix A, looking for NVUM expenditure profiles. The term “NVUM”
27 appears once in Appendix A, at page 30, used only to identify segment shares; (dividing
28 usage between motorized and non-motorized). There are no NVUM expenditure profiles
29 in Appendix A.

30
31 The word “expenditures” appears in Appendix A, (p. 20) to say that economic impacts
32 do not include visitor expenditures. (bold added)

33
34 **The changes in employment and income are relatively minor, particularly**
35 **within the context of the regional economy.** Under all alternatives, the
36 potential changes in employment and income due to travel management are
37 equivalent to less than one-third of one percent in the local economy. **The**
38 **economic impact estimates are not estimates of visitor expenditures,** but
39 rather a reflection of money being introduced and recycled through the local
40 economy.

41
42 This conclusion has two flaws. First, it asserts that changes are “relatively minor”, but
43 the analysis excludes the factor that would produce the great change; visitor
44 expenditures. The analysis then places the economic effects in the wrong context,
45 comparing them to a regional economy that includes cities with income opportunities not

1 available in the rural areas. The rural areas in the four counties are extremely
2 dependent on the forest (UNM report on the Gila National Forest), and their economies
3 must be evaluated in the proper context of their location and limited options for alternate
4 sources of income.

5
6 “Expenditures” appears for the second and last on p. 30 in Appendix A, in connection
7 with IMPLAN. In the space of four lines, the report makes two consecutive, contradictory
8 statements. The first sentence says “expenditure profiles” are somehow built into
9 IMPLAN, using a “low expenditure” profile (with no explanation of what that means,
10 what it is, or how it is used). (bold added)

11
12 The economic impact of recreation on the Gila NF is **modeled in IMPLAN using**
13 **the “low spending” expenditure profiles.**

14
15 The next sentence says the total economic impact of recreation is employment and
16 income.

17
18 The **total economic impact of recreation (employment and income)** is then
19 multiplied by the share of motorized activities on the Gila NF.

20
21 The Summary of Economic Impacts are displayed in Table 11, p. 20. The summary
22 information is presented solely as employment and labor income. There are no numbers
23 for visitor expenditures or their effects on total economic impact. Table 11 is titled
24 “Recreation-related Employment and Income by Alternative” and displays employment
25 and income by alternative.

26
27 Elderly and disabled population:

28
29 At pages 5 -6, the report presents that the local population in the four counties is more
30 elderly and more disabled than the average population, and more dependent on
31 motorized access. (bold added)

32
33 However, population decreased between 2000 and 2010 in all counties except
34 Catron County. **Declining populations may be due to aging populations**
35 (deaths exceed births) and out-migration.

36
37 However, positive population growth rates are expected to return as a result of
38 the anticipated influx of amenity **retirees** (SWCOG, 2010).

39
40 **The median age of a population is relevant for social and economic**
41 **analysis of travel management planning. Older populations are likely to**
42 **have different needs** and preferences related to Forest use than younger
43 populations.

44
45 **Catron and Sierra counties are substantially older than the other planning**
46 **area counties, the state, and the nation. Catron County experienced the**

1 **most striking change between 1990 and 2010 - the median age in the**
2 **county increased by 48% during the period. Grant and Hidalgo counties**
3 **also have older populations than the state and the nation.** Issues concerning
4 elderly and aging populations, particularly related to access to Forest resources,
5 are a concern in all study area counties; particularly in Catron and Sierra
6 counties.

7
8 Table 2 reports age and disability data. **All counties in the planning area have**
9 **higher percentages of disabled and elderly residents than the state or the**
10 **nation. Catron and Sierra counties have the highest concentrations of**
11 **elderly residents – approximately 30 percent of Sierra County residents are**
12 **over age 65.** Grant County has the most disabled residents; however, in
13 percentage terms Grant County has the lowest frequency of disability due to its
14 relatively large population. **Hidalgo and Sierra counties have the highest**
15 **percentages of disabled residents. Mirroring the concentration of elderly**
16 **residents, approximately 30 percent of Sierra County residents are**
17 **disabled.**

18
19 **Elderly and disabled residents may be more reliant on motorized access to**
20 **participate in activities on the Forest.** Some comments received during the
21 scoping period identified limitations in motorized access as potentially detrimental
22 to **mobility-impaired (due to age, disability, or both) people.**

23
24 The report mentions these factors in Table 12, but apparently made no adjustments in
25 of how a large percentage of local people will be impacted. Table 12 presents this
26 statement under Access for Elderly and Disabled (p.21):

27
28 May limit access of elderly and disabled populations to some non-motorized
29 areas. However, in accordance with ADA, mobility devices that are suitable for
30 indoor pedestrian use are permitted on all NFS lands open to foot travel.
31 Furthermore, under all alternatives, diverse motorized options remain.

32
33 This is the standard agency boilerplate with the insultingly statement that electric
34 wheelchairs or scooters designed for indoor use are allowed on primitive trails, and that
35 this somehow compensates for the closures.

36
37 P. 22 says: (bold added)

38
39 The number of miles of motorized routes varies by alternative and **could affect**
40 the ability of mobility impaired people to reach their favorite places, where those
41 places are not accessible in any other way.

42
43 This evades the reality the closures absolutely have an unavoidable impact of locking
44 out the elderly/disabled; there is no “could affect”. The mobility-impaired require
45 motorized vehicles for any and all access, and they have no other choices. The
46 elderly/disabled will not proceed on foot, bicycle or horse where motorized use is

1 prohibited. They aren't going to travel cross country by non-motorized means. Their
2 forest use is completely limited to where vehicles are allowed. The report refuses to
3 admit that closures affect them more severely than the able-bodied population. The
4 impacts of the closures on the mobility-impaired are most egregious where the agency
5 has selectively closed motorized access in large areas, notably in the IRA's and the
6 agency's de facto "buffer zones" adjoining wilderness areas.

7
8 The impacts on the mobility-impaired are brushed off; go use your wheelchair on the
9 trails. P. 22 states:

10
11 There is no legal requirement to allow people with disabilities to use motor
12 vehicles in areas that are closed to motor vehicle use.

13
14 This evades the reality of the 'other side of the coin'. There is no legal requirement to
15 allow disabled use. But neither is there anything that prohibits the forest from allowing
16 disabled people to use vehicles in closed areas. We see nothing cited that prevents the
17 forest from making that decision. The forest is giving special permission to grazing
18 permittees. They could give special permission to the disabled, if they wanted to.
19 Nothing is stopping that, except that the forest just doesn't want to. Because they don't
20 want do, they don't analyze this reasonable alternative.

21
22 NVUM and Activity Participation:

23
24 The GNF report uses the NVUM table of activity participation (Table 4, p. 8). But it omits
25 the critical statements (included in the Santa Fe National Forest Travel Management
26 FEIS) that describe the limitations of the NVUM.

27
28 The following two quotes are from the Santa Fe NF TM FEIS Recreation Report clarify
29 the NVUM methodology, and its limitations. The limitations include both its methodology
30 and how data collection is done.

31
32 p. 23: (explaining that NVUM respondents can select more than one activity and 15 of
33 the 29 activities are not specific to motorized or non-motorized. The national survey
34 figure for specifically motorized recreation is 39.9%)

35
36 The NVUM measures visitors pursuing a recreation activity physically located on
37 Forest Service lands. Visitors are surveyed for which of 29 different recreational
38 activities they participate in on National Forest land (Table 3). **Survey**
39 **respondents could select multiple activities**, so participating percentages may
40 total more than 100%. Respondents were asked to select one activity as their
41 primary activity. Some selected more than one, so the percentage that considers
42 that activity as their primary may total more than 100%. **Of these activities, 6**
43 **are specifically motorized recreation, 8 are specifically non-motorized**
44 **recreation, and 15 are not specific to motorized or non-motorized**
45 **recreation.**
46

1 The 2009 NVUM National Summary Report shows that the highest percentage of
2 visitors (> 20%) enjoyed five activities: viewing natural features (43.9%), relaxing
3 (36.4%), driving for pleasure (24%), hiking/walking (42%), and viewing wildlife
4 (37%). This report also shows that nationwide, **specifically motorized**
5 **recreation accounted for 39.9% of visitors** and specifically non-motorized
6 recreation and account for 78.2% of visitors (as noted below, survey respondents
7 could select more than one activity, so percentages may add to more than 100.)
8

9 p. 25: (The NVUM surveys are done primarily at developed sites, and tend to not
10 capture dispersed recreation activity like OHV use.)
11

12 The NVUM does have several limitations. Visitor use is measured at specific
13 recreation sites classified as high, medium, or low use by the forest and therefore
14 small sites used by few people are not recorded. These unrecorded recreational
15 visits may represent a significant contribution to one recreation type and
16 therefore numbers reported in the NVUM may be low.
17

18 The FEIS for the Santa Fe National Forest, Chapter 1, Purpose and Need, p.1: (bold
19 added) statement on the importance of motorized access for non-motorized activities
20 shows that motorized access is important to virtually all 29 activities surveyed in the
21 NVUM.
22

23 **Driving a vehicle is an important part of virtually every activity on the**
24 **forest.** Most visitors drive to the forest to sightsee, camp, hike, hunt, fish, ride
25 horses, collect firewood, picnic, sit by the water, or for a number of other
26 activities. People come to the forest to ride on roads and trails in pickup trucks,
27 ATVs, motorcycles, and other vehicles.
28

29 The GNF does not consider the impact of road closures on non-motorized activity or the
30 economic impacts of that. This is described more fully in another section below on
31 Affected Users.
32

33 Economic Impact of Wildfire: 34

35 Another error is the report's failure to consider the economic impact from the
36 catastrophic fires that hit the GNF between the dates of the DEIS and the FEIS. The
37 report makes this tragically inept statement at p. 5:
38

39 The Catwalk near Glenwood and the Cliff Dwellings each receive about 50,000
40 visitors a year.
41

42 The Catwalk was the pride of Glenwood and its main attraction. The Catwalk was a
43 marvelous construction of steel walkways and bridges that provided a scenic path over
44 the stream in Whitewater Canyon. The USFS hacked the Catwalk into pieces and
45 airlifted it out of the canyon after the wildfires. We will not digress into whether or not
46 this was justified. But the reality is that this National Scenic Trail treasure is gone. The

1 GNF claims it is working on it, but talks only about the foot path, not about restoring the
2 scenic engineering marvel that was the unique attraction.

3
4 USFS research is available on the economic impacts of catastrophic wildfire, e.g.
5 <http://www.srs.fs.usda.gov/econ/pubs/misc/fl-fire-report2000-lores.pdf>. This is
6 publication SRS4851, the Final Report for Economic Effects of Catastrophic Wildfires,
7 written by the USFS Southern Research Station.

8 This analysis of 1998 Florida wildfire examined tourist spending, lodging receipts. The
9 Florida analysis points to what could have been, but was not, included in the GNF
10 economic analysis. From p. 16 of the Florida study:

11
12 Tourism and overall sales fared the worst during August, weeks after the last
13 wildfire, prompting the question whether the steep drop was due to the wildfires
14 or some other event(s). Therefore, **a regression model was estimated to**
15 **examine statistical links between wildfire in a county and tourism**
16 **spending**. See Table 2.7. Changes in hotel revenue were modeled as a function
17 of wildfire size, year, and economic productivity (US GDP). Initial results failed to
18 establish a statistical relationship between wildfire size and percent change in
19 hotel revenue (used as a proxy for tourism). **The regressions exhibited a**
20 **statistically significant negative relationship between tourist spending and**
21 **the year 1998, meaning that 1998 was unique compared to the ten previous**
22 **years**. From the standpoint of tourism, 1998 was different for several reasons.
23 First, the hot, dry conditions found that summer may have served to reduce the
24 attraction of Florida. **Second, nationwide media coverage that detailed the**
25 **extent and side effects of the 1998 wildfires—mandatory evacuations,**
26 **smoke, and road closures—may have served to discourage travel to the**
27 **state.**

28
29 **Best Methodology** Note that when the initial results did not show relationship, the
30 USFS analysts at the Southern Research Station didn't just declare "no relationship".
31 They looked deeper and employed another analytic tool. Regression analysis is a
32 standard tool for analyzing relationships. They also don't declare relationships without
33 presenting statistical support.

34
35 The USFS Southern Research Station study shows us two things. First, the GNF report
36 fails to use accepted analytical methods. It simply declares there are relationships
37 without proving them statistically (e.g. GNF's entire analysis is based on its unproven
38 assumption of a direct and linear relationship between miles and dollars).

39
40 Second, the GNF report fails to consider the economic impact of catastrophic fire. The
41 GNF had the opportunity to update the economic analysis in the 3 years between the
42 DEIS and the FEIS. But the economic report fails to even mention this enormous event.
43 The Baldy-Whitewater fire destroyed large areas of forest around Glenwood, NM. The
44 forest will not recover for decades. This change is permanent in terms of the timeframe
45 of the planning, and will have long term effects on visitation and recreation spending.
46 The GNF study fails to consider that the fire made part of the forest unusable for

1 recreation. This reduction makes the opportunity to use the remaining forest even more
2 important and valuable.

3
4 The GNF could have at least made some estimate of impact. Instead the economic
5 report doesn't even mention the fires or that there would possibly be an economic
6 impact. It also totally fails to mention the USFS's removal of the historic Catwalk in
7 Glenwood, which was the most popular attraction in Catron County, and the 2nd most
8 popular in the region (after the Gila Cliff Dwelling National Monument). The analysis
9 fails to even mention that the USFS removed the Catwalk and now years later has
10 made no significant progress in re-installing it. Reopening the catwalk foot trail is NOT
11 the same as re-installing the actual steel Catwalk itself.

12
13 The response ignores our original comment, which showed that by excluding visitor
14 spending, the GNF's report has severely underestimated economic impacts, and
15 understates the effect of reducing recreational opportunity by closing roads. The GNF
16 has understated both the social quality and the economic quantity of impact. It
17 understates who is affected and what the dollar impact is on the local economy. It fails
18 to consider factors and methodology that we find commonly included in other economic
19 analyses done by and for the USFS.

20
21 **The Affected User:**

22
23 The report grossly understates the impact of road closure by assuming the effects are
24 only on motorized recreation. This fails to acknowledge that closing roads to motorized
25 use affects every forest user. The following statement is from the FEIS for the Santa Fe
26 National Forest, Chapter 1, Purpose and Need, p.1: (bold added)

27
28 **Driving a vehicle is an important part of virtually every activity on the**
29 **forest.** Most visitors drive to the forest to sightsee, camp, hike, hunt, fish, ride
30 horses, collect firewood, picnic, sit by the water, or for a number of other
31 activities. People come to the forest to ride on roads and trails in pickup trucks,
32 ATVs, motorcycles, and other vehicles.

33
34 The report also fails to consider the economic impact effects of closures on non-
35 motorized use. Effects of closure on non-motorized use is described the Santa Fe
36 National Forest FEIS for Travel Management. The SNFN Final Recreation Report (p.
37 68) concludes that reducing motorized access will reduce camping for some forest
38 users, a favorite place may not be accessible as a day trip without motorized access.
39 (bold added)

40
41 All action alternatives are likely to limit some people's camping experience. Some
42 people's favorite spots may be eliminated from motorized access and some of
43 the more remote corridors may not be available via motorized access. **This may**
44 **mean that a favorite place may not be available in a day anymore because it is**
45 **too far to walk to it.**

1 The Santa Fe National Forest FEIS also speaks to the impacts closure to motorized use
2 will have on non-motorized use.

3
4 Santa Fe National Forest FEIS P. 91: (bold added)

5
6 People who drive cross country to get to places where they rock climb, ride horses, or
7 bicycle will also have to park next to a road and proceed without their cars. **A trip that**
8 **used to take a day may take longer because of the time required to get to the**
9 **desired destination without a vehicle. We expect that some people will forego the**
10 **trip altogether.**

11 12 Visitor Spending, Indirect and Induced Impacts:

13
14 The first report simply ignored visitor spending. But the second report argues explicitly
15 against it, actively defending its faulty methodology. That defense is at p. 20 of the
16 Final Social Economic Report: (bold added)

17
18 The economic impact estimates are not estimates of visitor expenditures, but
19 rather a reflection of money being introduced and recycled through the local
20 economy. **If a visitor purchases gasoline at a local station for their OHVs,**
21 **only a fraction of the purchase price remains in the local economy.** Much of
22 the money leaks out of the regional economy (e.g., to oil producers in other
23 states or nations).

24
25 We reviewed USFS sources, and find that the standard methodology for evaluating
26 economic impacts includes visitor spending. There is a review of the literature, at
27 http://www.nrs.fs.fed.us/pubs/gtr/gtr_ne276/gtr_ne276_074.pdf. The study and all the
28 other studies cited include visitor spending.

29
30 Wendell G. Beardsley, economist, Intermountain Forest and Range Station, USFS
31 describes the economic impacts of tourism in the proceedings of The Forest Recreation
32 Symposium, 1971, USDS, Northeastern Forest Experiment Station
33 http://www.nrs.fs.fed.us/pubs/other/recsym/recreation_symposium_proceedings_028.pdf
34 The larger document for the symposium is at <http://www.treesearch.fs.fed.us/pubs/14541>
35 Mr. Beardsley clarifies that impact means business activity, and that personal income is
36 only a portion of impact. (P. 28, bold added)

37 38 **DEFINING IMPACT**

39 To provide a base for further discussion, a few underlying concepts deserve
40 mention. **First, economic impact can be defined in at least two different**
41 **ways, and it should be made clear which we are referring to. Often "impact"**
42 **is used to mean "total spending," or "total business activity" created by the**
43 **spending of new (outside) dollars in a particular area.** Alternatively, it can
44 refer to personal income that accrues to the area's residents in the form of
45 wages, profits, rents, etc., because of the new spending. **Obviously personal**

1 **income is only a portion of total business activity generated when new**
2 **money is attracted to a particular local area.**
3

4 Second, we look at the response's claim about leakage of visitor dollars out of the local
5 area. The fact that there is leakage does not justify excluding 100% of visitor spending,
6 which is precisely what the GNF report does. Mr. Beardsley addresses the "leakage"
7 effect; part of a dollar spent does leave the area. However, part of it does stay. The
8 GNF report decided to count none of the tourist dollar, under the excuse that some part
9 of it leaves the local economy.

10 Mr. Beardsley presents data that strongly indicate the GNF report has made a serious
11 error by excluding visitor spending. This is succinctly captured in the abstract:

12
13 **ABSTRACT.** Economic impacts per dollar of tourist expenditure have generally
14 been found to be low compared to other economic sectors in local less-
15 developed areas where recreation development is often proposed as a stimulus
16 for economic growth. Tourism, however, can be economically important where
17 potential or existing recreation attractions can encourage tourist spending in
18 amounts large enough to offset these lower per-dollar impacts.

19
20 Mr. Beardsley (using the example of Teton County, WY) raises another pertinent issue
21 that the GNF report ignores. The issue is the importance of the recreation economy,
22 due to lack of other sources of income (p. 30): (bold added)

23
24 Because of the uniqueness of the county's recreational resources and the
25 **relative lack of opportunities for economic growth in other sectors,**
26 improvement of the economy may depend in large measure on further recreation
27 development.

28
29 This echoes the findings of the UNM's report on the economic impact of the Gila
30 National Forest; e.g. the importance of recreation spending, because of the decline of
31 other industries, and the lack of alternative sources, and the dependence of an isolated
32 country (Catron) on spending by national forest visitors.

33
34 We provide another example of economic impact analysis done for the USFS in Florida.
35 This 2013 analysis examines the economic impact created by USFS project spending in
36 the Osceola National Forest. It is similar to the GNF planning area; it includes a three
37 county area adjacent to a national forest. The Economic Impact Analysis Of The
38 Collaborative Forest Landscape Restoration Program can be found online at
39 [http://ftp.fs.fed.us/restoration/documents/cflrp/results/AcceleratingLongleaf/EconomicAn](http://ftp.fs.fed.us/restoration/documents/cflrp/results/AcceleratingLongleaf/EconomicAnalysisCFLRPreport.pdf)
40 [alysisCFLRPreport.pdf](http://ftp.fs.fed.us/restoration/documents/cflrp/results/AcceleratingLongleaf/EconomicAnalysisCFLRPreport.pdf)

41
42 The methodology applied in the Osceola National Forest study is explained at p. 1,
43 below. Like all other USFS economic analysis, and the FEIS cited references, this study
44 indicates that the GNF was wrong to exclude direct, indirect and induced effects of
45 visitor spending from economic analysis. (Bold added)

1 **Outside sources include tourists bringing dollars into a local economy or**
2 **the sale of services and products to people outside of the region.** Sales and
3 other transactions between people and businesses within an economy typically
4 do not result in economic growth but is mainly a redistribution of resources.
5 However, this form of economic activity is still important and sustains jobs and
6 more. This broader form of economic activity is often referred to as “economic
7 contributions.” **This study measures the economic impact for the local forest**
8 **area and the State of Florida as the dollars are brought into these**
9 **economies from the outside.** The national effects are considered economic
10 contributions. Economic impacts and contributions can be expressed in terms of
11 jobs, income, output (expenditures) and tax revenues. **Economic contributions**
12 **and impacts, for the purpose of economic modeling, can be divided into**
13 **three standard components: direct, indirect and induced effects. The**
14 **indirect and induced effects are the two components of the “multiplier” or**
15 **“ripple” effect. Each of these is considered when estimating the overall**
16 **effects of any activity on the economy. A direct effect is defined as the**
17 **result of the initial purchase made by the consumer.**

18
19 **Only the amount of the purchase that remains in the region under study is**
20 **retained as the direct effect.** For example, when a person buys a restaurant
21 meal for \$20, there is a direct effect to the restaurant and the local economy of
22 \$20 assuming all of the supplies needed for the meal were provided locally.
23 However, recognizing much of the consumed food and supplies were likely
24 bought from sources outside of the region of study, a lower amount, for example,
25 \$10, actually remains in the local economy as a direct effect. **Indirect effects**
26 **measure how sales in one industry affect the various other industries**
27 **providing supplies and support. For example, the restaurateur must**
28 **purchase additional food and supplies, plus pay costs such as power, rent,**
29 **etc.; local food suppliers must buy more product, and so on. Therefore, the**
30 **original direct effect of \$10 benefits many other industries within the**
31 **regions. An induced effect results from the wages and salaries paid by the**
32 **directly and indirectly impacted industries. The employees of these**
33 **industries then spend their incomes. These expenditures are induced**
34 **effects that, in turn, create a continual cycle of indirect and induced effects.**

35
36 **The sum of the direct, indirect and induced effects is the total economic**
37 **impact or contribution.** As the original retail purchase (direct effect) goes
38 through round after round of indirect and induced effects, the economic
39 contribution of the original purchase is multiplied, benefiting many industries and
40 individuals. **Likewise, the reverse is true. If a particular item or industry is**
41 **removed, the economic loss is greater than the original retail sale.**

42
43 We will be referring to that last sentence later. When an item is removed, the economic
44 loss is greater than the original sale, because the indirect and induced effects are also
45 lost. This means it is a nonlinear effect.

1 Appendix A details the procedure used for dividing the activities into percentages for
2 motorized and non-motorized. This at p.30: (bold added).

3
4 The result of this split is motorized activities accounting for 26.3 percent to 49.5
5 percent and non-motorized activities accounting for 52.7 percent to 75.9 percent
6 of Gila NF recreation.¹

7 **An analysis of visitor spending data by Forest Service and academic**
8 **economists has revealed that differences in spending between most**
9 **activities are not statistically different from each other. As a result, we do**
10 **not gain precision from modeling activities separately**

11
12 The report leaves out visitor spending under the excuse that it wouldn't help the
13 analysis differentiate between motorized and non-motorized recreation, because the
14 spending patterns are similar. However, what we are after here is dollars, not just
15 percentages of how the pie is split. Including visitor spending would have produced a
16 much more accurate picture of what the local economy stands to lose, if closures
17 discourage visitors because of reduced opportunity for motorized recreation. The object
18 of this analysis is not just to differentiate between motorized and non-motorized effects,
19 but to assess the economic impacts of motorized use. It needs to find all the dollars; it
20 doesn't.

21
22 Statements that there is little spending difference among different activities are strongly
23 contradicted by data on actual expenditures by elk hunters, collected by the USGS for
24 the Bridger-Teton National Forest analysis. We presented these figures in our comment.
25 The agency's statement that spending doesn't vary by activity is also contradicted by its
26 own cited reference, the 2008 National Forest Visitor Spending research. Activities like
27 snowmobiling generated far more spending than hiking.

28
29 In our comment we provided a useful and very pertinent USFS economic analysis,
30 Economic Importance of Elk Hunting in Jackson Hole, Wyoming, 2005, by USGS for the
31 Bridger-Teton Nation Forest. It is clear that the GNF did not use anything in that study,
32 the GNF didn't even include it as a reference in the FEIS.

33
34 In the next paragraph we see that the 'total economic impact of recreation' is defined as
35 employment and income. This confirms again that visitor spending/trip expenditures are
36 not included. All the tables and data then presented are only for jobs and labor (direct
37 income).

38
39 **The total economic impact of recreation (employment and income) is then**
40 **multiplied by the share of motorized activities on the Gila NF.** Table 14
41 shows the estimated employment associated with motorized recreation on the
42 Gila NF. Alternative B reflects current conditions. **The changes between**
43 **alternatives are linear to the change in motorized route miles** (shown in
44 Table 17). Table 15 follows the same steps for income.

1 The report declares that the economic changes are linear with changes in miles. It
2 assumes a totally linear correlation between miles and dollars; two totally dissimilar
3 measures with no identified relationship. There is no demonstrated relationship at all
4 between miles and dollars at all, let alone a linear one. Here again, the agency is
5 making declarative statements with no support.

6
7 Linear means that a particular percentage of road closure will produce the identical
8 percentage of reduction in jobs and labor income. Economics don't work that way. Now
9 we revisit the last sentence in the quote from the Florida national forest study:

10
11 **Likewise, the reverse is true. If a particular item or industry is removed, the**
12 **economic loss is greater than the original retail sale.**

13
14 When an item is removed, the economic loss is greater than the original sale, because
15 the indirect and induced effects are also lost. This is a nonlinear effect. The GNF is
16 wrong to assume a linear relationship between miles and dollars.

17
18 The agency's motivation to grossly understate economic impact is visible in the
19 following cite from p. 20 of the Final Social Economic Report (bold added)

20
21 Two additional reasons for the small economic impact are:

22 (1) Access will continue for administrative purposes (e.g., grazing, emergency
23 services).

24
25 **(2) Approximately 1 percent of employment and income in the local**
26 **economy comes from recreation activities on the Gila NF. Therefore,**
27 **changes will not substantially affect regional employment conditions or**
28 **county revenue.**

29
30 The GNF produced a report that supports their travel management decision by
31 concluding the closures won't have a substantial impact on regional employment or
32 county revenue. They've manufactured that conclusion by constructing an economic
33 analysis that deliberately omits the largest contributing economic factor in a recreation-
34 based economy; the trip expenditures.

35
36 The first so-called "reason" is pure nonsense; access for administrative and emergency
37 purposes is not motorized recreation.

38
39 The second "reason" shows the agency's desire to trivialize negative impacts from
40 closures. It makes the unjustified statement that "mitigating factors in the qualitative
41 analysis would lessen the economic consequences". This has no supporting data or
42 citation. Saying something in a report doesn't make it science.

43
44 From p. 18 of the Social Economic report: (bold added). The agency admits it lacks the
45 information to do a proper analysis, so they'll go ahead with the 'simplest' one. Simplest
46 does not necessarily equate to scientifically sound or accurate. But it is easier.

1
2 A change in supply (motorized opportunities) will affect quantity demanded
3 (visitation). However, the precise relationship between opportunities and
4 visitation is uncertain. **Given data limitations, an assumption of a linear**
5 **relationship between motorized opportunities and motorized visitation is**
6 **least likely to bias the analysis toward either motorized or non-motorized**
7 **interests.** If we assume a nonlinear relationship, we would need to know how the
8 rate of change in visitation varies across the function (i.e., between current miles
9 and zero). **This information is unknown and cannot be ascertained given**
10 **available resources. The economic modeling, therefore, makes the simplest**
11 **and most defensible assumption (linearity).** The numerical nature of the
12 economic outputs can give a false sense of precision.

13
14 Assuming a linear relationship does not reduce bias. The linear assumption biases the
15 analysis against motorized use by underestimating the negative impacts of closure. As
16 discussed herein, when an industry or item is lost, the economic loss is greater than the
17 initial value of the item itself. (e.g. a visitor dollar not spent causes a loss in the
18 economy of more than one dollar.)

19
20 Justifying the simplest assumption (of linear relationships) because it is the “most
21 defensible” is bad science. “Defensible” means defensible in court, not defensible as
22 proper science. The agency is apparently more concerned with covering its butt, than
23 doing a good analysis. Ironically, its butt would be better covered if it did better science.
24 If it doesn’t have the data and methods to produce a valid conclusion, then the
25 statement should say exactly that. If the agency can’t do a proper analysis, presenting a
26 bad analysis is not an acceptable substitute.

27
28 We point out t(again) that the relationships between land closures and economic
29 impacts are inherently nonlinear. From the Florida study cited above:

30
31 **Likewise, the reverse is true. If a particular item or industry is removed, the**
32 **economic loss is greater than the original retail sale.**

33
34 Not having data does not justify using the wrong methods for analysis just because it’s
35 easier.

36
37 Also at p. 18:

38
39 Therefore, it is appropriate to heavily weigh the qualitative social and economic
40 analysis in the evaluation of tradeoffs. **The qualitative analysis emphasizes the**
41 **mitigating factors that would lessen the economic consequences,** such as
42 the prevalence of substitution behavior and the potential increased demand for
43 the services of outfitter guides.

44
45 There is nothing in the report that presents an ‘appropriate’ analysis. The report
46 proposes that some imagined factors would (not “might” or “may”, but “WOULD”) reduce

1 negative impacts. Maybe they mean the tooth fairy. Substitution behavior does not
2 mean that the tooth fairy turns all the OHV users into hikers. Substitution behavior
3 means the OHV users substitute one place for another. They vote with their dollars, and
4 go to places where there is opportunity for their recreation (i.e. Colorado, Utah, and
5 Arizona). The report has no balanced qualitative analysis. It never even mentions
6 factors that could increase the (negative) economic consequences. The report does not
7 use the information that is in studies cited by the FEIS.

8
9 The economic consequence of losing a motorized visitor cannot be assumed as
10 equivalent to losing a non-motorized visitor. That difference is supported by references
11 cited in the FEIS. Motorized users are richer and better educated than average (USFS
12 RecStat, updated 2008) and they spend more than non-motorized users (National
13 Forest Visitor Spending, White and Stynes, Journal of Forestry, Jan/Feb 2008). Also,
14 OHV users are more active than the average user in every type of outdoor recreation.
15 Lose an OHV user, and the economy is also losing a hiker, a nature-viewer, mountain
16 biker, and/or hunter, etc. (USFS RecStat)

17
18 The GNF Social Economic Report presents has no balanced view at all. It doesn't look
19 at both the positive and negative possibilities. Every assumption is slanted against
20 motorized use. It refuses to consider any possible negative economic outcome from
21 reducing access for motorized recreation. The report never considers the outcomes if
22 its assumptions turn out to be wrong.

23
24 The report is not a neutral assessment. It is entirely one-sided. It trivializes and
25 obscures negative impacts, refuses to include relevant data, employs a faulty
26 methodology, ignores impacts to non-motorized users, ignores the responsible
27 opposing opinion in its own cited references, claims that vague "mitigating" factors will
28 offset negative effects. This is all done to produce the desired conclusion that massive
29 reduction in forest motorized access will have little to no negative economic
30 consequences. This is not science or analysis, it is propaganda.
31 The final report completely ignores every suggestion and fact we submitted in comment.
32 The report could have been adjusted to include at least some measure of trip
33 expenditures, some factor for induced and indirect effects of that spending. But it
34 refuses to include any of these.

35
36 The GNF is directed (by case law) to present responsible opposing opinion, especially
37 from its references in the body of the FEIS. FEIS references confirm that visitor
38 spending is an important component of analyzing economic impact. The report argues
39 against it, but provides no credible justification.

40
41 The following reference cited by the FEIS (and ignored by the FEIS analysis) was
42 produced for Region 3. We presume that Region 3 finds the analysis from the University
43 of New Mexico Bureau of Economic Research used the correct methodology. We
44 provide quotes from it about the importance of visitor spending to the communities
45 around the GNF.

1 The quote at p. 92 describes the indirect and induced multipliers omitted in the GNF's
2 report. Table 7.7 at p. 93 uses the indirect and induced impact in its calculations. There
3 are many mentions of the importance of visitor spending to the rural counties.

4
5 **SOCIOECONOMIC ASSESSMENT OF THE GILA NATIONAL FOREST, 2007 done**
6 **for Region 3 by UNM Bureau of Business and Economic Research.** (bold added)

7
8 At p. 4:

9
10 The direct impacts indicate that **visitor spending is by far the largest**
11 **contributor to the economic activity in the assessment area**, providing \$111
12 million in output and 2,122 jobs.

13 (and)

14 The direct activities associated with the Gila NF create **indirect and induced**
15 **impacts**, as businesses and workers make expenditures and purchases and
16 these funds cycle through the local economy. In total, the Gila NF contributes
17 directly or indirectly an estimated 3,376 jobs and \$63.9 million in income to the
18 economies of the four counties included in this study. This is equivalent to about
19 17.5 percent of the 19,245 jobs in these areas in 2002. **Visitor spending is by**
20 **far the largest source of activity, contributing a total of 75 percent of the**
21 **jobs and 80 percent of the labor income impacts**

22
23 At p. 60:

24
25 **Visitor spending is the single most important contributor to the economic**
26 **impact of the Gila NF.** Spending profiles of various recreational visitors is
27 discussed in Chapter 7, "Economic Impacts."

28
29 At page 83:

30
31 The increased relative size of retail and services within the assessment area
32 reflects a **growing dependence on tourism and visitor spending, much of**
33 **which is directly related to the Gila NF.**

34
35 At p. 84:

36
37 A significant portion of economic activity in Catron County is **derived from**
38 **tourist spending, much of which is likely to be related to forest uses.**

39
40 At p. 91:

41
42 The direct impacts indicate that **visitor spending is by far the largest**
43 **contributor to the economic activity of the assessment area, providing \$111**
44 **million in output and 2,122 jobs.**

45
46 At p. 92

1 **Economic Impacts and Multipliers**

2 The direct activities associated with the Gila NF create **indirect and induced**
3 **impacts, as businesses and workers make expenditures and purchases**
4 **and these funds cycle through the local economy.** The sum of the direct,
5 indirect, and induced expenditures constitutes the total impact that the Gila NF
6 has on the economies of the neighboring communities. These impacts, in terms
7 of employment, income, and total output, are summarized in **Table 7.7.**

8
9 At p. 93

10
11 In total, the Gila NF contributes **directly or indirectly** an estimated **3,376 jobs**
12 **and \$63.9 million in income to the economies of the four counties** included
13 in this study. This is equivalent to about 17.5 percent of the 19,245 jobs in these
14 areas in 2002.

15
16 At p. 93 Table 7.7 shows how inclusion of indirect and induced impacts affects the
17 totals.
18

Table 7.7: Direct, Indirect, and Induced Impacts of the Gila NF, 2004

TOTAL OUTPUT IMPACTS (000s of 2002 \$)				
	Direct	Indirect	Induced	Total
Ranching	11,617	7,230	989	19,836
Timber Harvesting	1,244	317	123	1,685
Visitors & Recreation	111,170	15,196	14,993	141,359
Forest Service Operations	--	8,940	5,546	14,485
Total	124,031	31,683	21,652	177,366

TOTAL EMPLOYMENT IMPACTS (#)				
	Direct	Indirect	Induced	Total
Ranching	161	109	15	285
Timber Harvesting	4	5	2	10
Visitors & Recreation	2122	196	222	2540
Forest Service Operations	374	88	79	540
Total	2661	398	317	3376

TOTAL LABOR INCOME IMPACTS (000s of 2002 \$)				
	Direct	Indirect	Induced	Total
Ranching	1,254	1,740	301	3,295
Timber Harvesting	270	93	38	400
Visitors & Recreation	42,009	4,750	4,561	51,319
Forest Service Operations	4,172	3,118	1,604	8,894
Total	47,705	9,699	6,504	63,908

At p.95, it discusses Catron County’s dependence on the Gila NF, which is not considered in the GNF report. In the GNF report, no county is weighted differently in the report, for its dependence on the GNF resources. This is the same issue raised in Beardsley; Catron County residents lack other sources of income, therefore the few they have are critical.

Catron County is possibly, for a variety of reasons, the most dependent of the four counties on the use of the Gila NF. First of all, a large portion of its land is forest land. Additionally, the county is extremely rural, with a very small population and economic base. In **Table 7.3**, it can be seen that just over 25 percent of Catron County’s economic output is from ranching and farming, and it is likely that a substantial portion of these activities make use of the Gila NF. Additionally, **in economies as small as that of Catron County, visitor spending is a vital source of money, and the Gila NF is the primary tourist**

1 **attraction of Catron County. The dependence of the Catron County**
2 **economy on the Gila NF is very probably limitless.**
3

4 The Social Economic Report could have (but obviously did not) use the numbers or
5 make estimates based on the numbers in the 2007 UNM report. The GNF cites
6 decades-old research from other countries, about animals that don't live here, to
7 support their claims about roads damaging wildlife. But the GNF refused to use
8 research done for the USFS itself, specifically for this planning area, in order to form a
9 more complete and accurate assessment of economic impacts. The GNF's selective
10 vision is damning, revealing a deep prejudice that taints the entire FEIS and ROD.
11 Another FEIS cited study is the National Forest Visitor Spending Averages and the
12 Influence of Trip-Type and Recreation Activity, White and Stynes, Jan-Feb 2008,
13 Journal of Forestry. This study also supports the use of trip expenditures for estimating
14 economic contributions. We cite from this study, P. 17: (bold added)
15

16 Over the past 20 years, rural public lands have been recognized increasingly as
17 important tourist destinations that bring visitors to the region (e.g., Douglas and
18 Harpman 1995, Donnelly et al. 1998, and English et al. 2000). **The expenditures**
19 **of these visitors support local businesses and bring income and jobs to the**
20 **region.** Because some regions have experienced declines in timber harvests,
21 tourism development has been advanced as one means of supporting the
22 economies of local communities. Additionally, forest recreation management and
23 planning now gives more attention to marketing (e.g., national forest niche
24 analysis) and identifying the recreation-related economic linkages (e.g.,
25 economic impact and economic contribution analysis) between the forest
26 resource and local communities. **Estimates of the spending of national forest**
27 **recreation visitors provide the basis for estimating the economic**
28 **contributions of forest recreation to local economies.**
29

30 Here is another report cited in the USFS research archive, in which visitor spending is
31 identified as an essential part of the economic impact analysis, and which calculates
32 indirect and induced effects:

33 The Economic Impact of Snowmobiling in Maine
34 http://www.nrs.fs.fed.us/pubs/gtr/gtr_ne241/gtr_ne241_073.pdf
35

36 P. 74: (bold added)
37

38 Three additional questions provide the remaining information needed to estimate
39 the economic impact of snowmobiling in Maine for these groups. **The first**
40 **question asked for trip-related expenses associated with the use of the**
41 **specified snowmobile.** These expenses include gas and oil for the snowmobile,
42 a share of gas expenses for the tow vehicle, a share of restaurant /lounge
43 purchases, groceries, accommodations and other expenditures related to
44 snowmobile trips.
45

46 P. 77 shows how total economic impact was calculated: (bold added)

1
2 Finally, the following formula is used to estimate the total
3 economic impact for each sector:

4
5 Total Sector Impact = Direct expenses
6 + Margined expenses x (sector multiplier - 1)
7

8 This formula provides an estimate of the total economic impact for each sector.
9 The total expenses for a given sector represent the direct impact, and
10 **multiplying the margined expenses by the sector multiplier less one yields**
11 **the indirect and induced impacts. This equation is applied to every**
12 **economic sector from which snowmobilers purchased goods and services,**
13 **and the results are summed over all sectors to estimate the total impact of**
14 **snowmobiling in Maine.** The process results in an estimate of \$225,973,240 for
15 the total economic impact of snowmobiling. **The total impact is composed of**
16 **\$152,487,621 in direct impacts and \$73,485,569 in indirect and induced**
17 **impacts.** The overall multiplier for the snowmobiling expenditures can be
18 determined by dividing the total impact by the direct impact, or \$225,973,240 /
19 \$152,487,621.

20
21
22 **Unexplained Major Change in Final Numbers in Social Economic Report:**

23
24 The analysis in the Final Social Economic Report has (for undisclosed reasons), greatly
25 increased the number of jobs and the income for motorized recreation. The new
26 numbers are 24 times larger. That is not a minor correction. The analysis doesn't say
27 how or why this happened. The Soc-Econ report released with the DEIS claimed these
28 figures, for Alternative B, the No Action: (p. 24) (bold added)

29
30 **The economic contribution of recreation on the Forest is provided in Table**
31 **12,** Table 13 shows that motorized recreation activities on the Forest contribute
32 approximately **3 jobs and \$64,243 in labor income** to the local economy,
33 annually.
34

35 The revised final analysis shows Alternative B with 73-138 jobs and \$1.5-2.9 million in
36 labor income. Below is a section from Table 11, p. 20, showing employment and labor
37 income from motorized recreation activities

Table 11. Recreation-related Employment and Income by Alternative

Employment	Alt B	Alt C (93%)	Alt D (66%)	Alt E (50%)	Alt F (76%)	Alt G (76%)
Employment from Motorized Recreation Activities	73 – 138	68 – 128	47 – 89	37 – 69	53 – 101	53 - 100
Labor Income from Motorized Recreation Activities (\$000s)	\$1,532,501 - \$2,884,365	\$1,419,096 - \$2,670,922	\$988,463 - \$1,860,415	\$769,316 - \$1,447,951	\$1,117,193 - \$2,102,702	\$1,107,998 - \$2,085,396

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Even though the numbers are much larger, they still include nothing for visitor expenditures. The per job income is the same in the old report and the new report. The only thing the new report does is increase the number of jobs.

For the No Action, the first report (estimated jobs and income created by motorized recreation), showed 3 jobs and \$62,243 of income. That figures to \$20,747 per job. The second report showed 73-138 jobs. At the low end, the 73 jobs produce \$1,532,501 of income; that is \$20,993 per job. At the high end of the estimate, 138 jobs and \$2,884,365, each job is paying \$20,901.

Bigger Numbers, But No Change in Methodology:

Although the new numbers look a lot bigger, it’s just ‘more of the same’. The money is all still just income. The report claimed that the methodology in Appendix A included some factor for expenditures. Simple arithmetic proves that claim is not true.

The new report doesn’t even mention that the numbers are greatly changed from the first report (let alone explain why). At the low end of the estimates for Alternative B, the jobs increased from 3 to 73, and the income increased from \$64,243 to \$1.53 million. This is a 2400% increase. That’s not just a “correction”.

An analysis that can’t explain a 100% variability within its own figures, and a 2400% difference from its prior version, has absolutely no credibility.

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT 03032011-17-14**

2
3 **03032011-17-14** appears in Comments by Subject on p. 158

4
5 The action alternatives improperly propose to close some undisclosed amount of
6 routes by creating a ½ mile buffer zone border for ‘reasons’ which include
7 wilderness areas, roadless areas and trails that are legally open, etc.

8
9 **NO RESPONSE to code 03032011-17-14**

10
11 This comment raised substantial challenge to the buffer zones and analysis of roads in
12 or close to IRAs and close to wilderness.

13
14 The issues raised in this comment are not addressed in Appendix B. There are no
15 corrections in the FEIS. The FEIS and the new Recreation WSA/IRA report continue to
16 describe IRAs as if motorized use is illegal. There is no place in the analysis of IRA that
17 states motorized use of existing roads and trails is legal.

18
19 The comment is explicitly presented as challenge to methodology, requiring the
20 substantive response required by CEQ’s 40 Questions No. 29a.

21
22 The excerpt shown in the Comments by Subject is only one of the issues in the
23 comment. The comment includes the following issues:

- 24
- 25 • No disclosure miles closed under each alternative under indicators (Table 16, p.
 - 26 34 DEIS)
 - 27 • Recreation Opportunity Spectrum of the forest plan
 - 28 • Managing for wilderness characteristics in IRAs and outside wilderness
 - 29 • No definition for noise
 - 30 • No mandate to manage legal uses for their effects on private lands
 - 31 • No definition or standard for user conflict
 - 32 • Undisclosed process that turned “noise and user conflict” into mileage numbers
- 33
34

1 **INADEQUATE AGENCY RESPONSE TO LETTER/COMMENT COMMENT 03072011-**
2 **121-1 thru 7**

3
4 There is no commented coded to 03032011-17 for our submitted comment on the San
5 Francisco River. There are responses to comments, submitted by others, coded as
6 03072011-121.

7
8 03072011-121-3 failure to analyze unique aspects

9
10 03072011-121 2-7 failure to analyze traditional and recreational values.

11
12 The Response to that comment is this statement (p. 716):

13
14 The DEIS analysis is forestwide analysis. The area of the San Francisco River
15 was analyzed, but not specifically spoken to within the document. With the
16 specific concern over this area, analysis of the lower San Francisco River will be
17 added to the FEIS.

18
19 The current traditions, cultural and social values for the area are not mentioned in the
20 Cultural Resources report (that is only about prehistoric resources). Social values for
21 the San Francisco River are not mentioned anywhere in the FEIS or underlying reports.
22 They are not in the original Recreation report, the revised Recreation WSA/IRA report,
23 and are not in the Social-Economic report. The GNF has utterly failed to do the social
24 analysis required in the USFS planning regulations, and under NEPA law. The only
25 concerns addressed in the FEIS are from one side; the side that hates motorized use
26 and wants it banned.

27
28 The agency did not respond at all to the specific error clearly identified in our
29 comment about the lack of the required social analysis:

30
31 **ERROR:** The DEIS and supporting Specialist Reports fail to acknowledge the
32 special status and value of the Lower San Francisco River motorized access.
33 They fail to disclose the existing condition or the cumulative impacts on the social
34 environment from a closure. The methodology of merely counting and comparing
35 miles is completely inadequate. This methodology results in conclusions which
36 fail to inform the public and the decision maker about the values of this unique
37 location and access which is so important to the public. The analysis consists
38 solely of mileage comparisons and provides no qualitative discussion, and fails to
39 provide any presentation of the social and recreational values of this (or indeed
40 of any) location or route.

41
42 The lack of proper social analysis has not been corrected in the FEIS. The analysis has
43 only gotten worse, and even more one-sided. The phrase "San Francisco River"
44 appears 77 times in the FEIS. There is not one single statement speaking to value of
45 the local traditional uses, and the unique value of this place to local residents.
46 The initial statement at p. 137 states the area is controversial: (bold added)

1 **Motorized use in the San Francisco River corridor has been and is very**
2 **controversial.** Opinions expressed by the public range from a total closure of the
3 entire River corridor, to keeping the entire corridor open to motorized vehicle use.
4 This wide range of opinion and the concerns raised were considered in
5 developing the Travel Management Rule proposed action and in the
6 development of alternatives. During the comment period for the Draft EIS,
7 specific concerns were raised about the effects of maintaining existing user
8 created roads within the Lower San Francisco IRA and Wilderness Study Area.

9
10 The San Francisco River corridor is more than just the Lower San Francisco River. It
11 includes the stretch between Reserve and Glenwood. This is accessed via a road which
12 runs along the river. The valley floor is a treasured location for the local community, and
13 motorized access is long established. The analysis does not show any consideration of
14 the social values associated with the controversial San Francisco River corridor, even
15 though those values are clearly identified in our comment and comments from
16 others. The FEIS then makes this outrageous statement at p.153:

17
18 **Other Locally Unique Characteristics**

19 There are no other known unique characteristics in the area.

20
21 The San Francisco River road between Glenwood and Reserve is itself is the subject of
22 controversy that is not discussed in the FEIS. There is not one statement in the
23 analysis disclosing that the local county considers that part of the San Francisco River
24 road to be a county road.

25
26 There is no mention that the controversy is not just among members of the public.
27 There is no mention that the county maintained the road, triggering threats of suit from
28 the USFS and CBD, just a few years ago. (Bold added)

29
30 **In an Aug. 25, 2011 letter to then-Catron County Commissioner Hugh B.**
31 **McKeen, GNF Forest Supervisor Kelly Russell wrote, "you caused damage**
32 **to National Forest System lands when you maintained the road without**
33 **Forest Service authorization"** and said that the work was "under investigation."
34 and "Based on the results of that investigation, I will take appropriate actions to
35 hold Catron County accountable for damages or violations of law,"

36
37 ([http://www.nytimes.com/gwire/2011/10/04/04greenwire-enviros-blame-rep-pearce-for-](http://www.nytimes.com/gwire/2011/10/04/04greenwire-enviros-blame-rep-pearce-for-inciting-nm-county-1907.html)
38 [inciting-nm-county-1907.html](http://www.nytimes.com/gwire/2011/10/04/04greenwire-enviros-blame-rep-pearce-for-inciting-nm-county-1907.html))

39
40 On Oct. 3, 2011, CBD sent a letter to Catron Country, with a Clean Water Act Sixty Day
41 Notice that they intended to file a citizen suit. CBD accused Catron County of damage
42 to the water from dredging, sediment and so forth. The U.S. Army Corps of Engineers
43 made a field evaluation, and found no violations of the Clean Water Act. Since then,
44 there have been no public statements from CBD or USFS about using the Clean Water
45 Act to sue Catron Count for maintaining its county road.

1 **PRESERVATION OF NHPA ARTIFACTS IN THE SAN FRANCISCO RIVER VALLEY:**

2
3 In 2011, NMOHVA made a photographic record of homestead artifacts along the river
4 between Glenwood and Reserve. The USFS has been buying up private land in the
5 valley. We are concerned that the agency will “cleanse” the area of evidence of
6 inhabitation and human use, in order to make it suitable for wilderness designation
7 proposals.

8
9 The historic artifacts that exist along the San Francisco River between Glenwood and
10 Reserve include buildings, household goods, tools, implements and the remains of
11 wagons and old cars. These have been respectfully left in place for decades, by the
12 motorized users in the valley. We ask that the U.S. Forest Service have a similar
13 respect for these beloved traces of local history. We should not have to remind the
14 USFS that these artifacts are protected under the National Historic Preservation Act.
15 We know what is there, and we know it should remain there.

16
17 **Analysis Content and Methods:**

18
19 The analysis is entirely obsessed with demonizing motorized use and the uses and
20 access that are so important to the community. The analysis portrays the area solely in
21 terms of IRA’s, WSA’s, wilderness characteristics, and the usual recitation of “potential”
22 resource issues. There is no social analysis; there is no mention of any historic roads
23 protected under the National Historic Preservation Act.

24
25 FEIS Chapter 3 Affected Environment presents the analysis method, starting at p. 138.
26 The method is entirely focused on impacts to forest resources, impacts to WSA’s,
27 wilderness and roadless characteristics, and entirely omits social, traditional and historic
28 values.

29
30 **Analysis Methods**

31 In this analysis, potential impacts to wilderness study areas and their values are
32 discussed for the purpose of compliance with the National Environmental Policy
33 Act, which requires disclosure of expected impacts to forest resources. This
34 analysis is not meant to have any bearing on proposing these areas for
35 wilderness designation other than to understand the potential effects to
36 wilderness character and roadless characteristic values from the proposed action
37 alternatives. The analysis also includes the consideration of irreversible and
38 irretrievable commitments of resources on Wilderness Character and Roadless
39 Area Characteristics effects for potential designation as wilderness under the
40 1964 Act. The document “Applying the concept of wilderness character to
41 national forest planning, monitoring, and management” (Landres et al. 2008) was
42 used to direct the analysis on wilderness character.

43
44
45 **Failure to Provide Physical Analysis of River Flow and Flooding Characteristics:**

1 The FEIS fails to disclose the enormous and powerful flood water flows that periodically
2 scour the valley. Effects from motorized use are trivial compared to the natural events.
3 The species in the river have evolved to survive the sediment, turbidity and force of
4 flash flood waters. Analysis has not presented allegations of motorized use damage in
5 the context of the natural conditions. This fails the CEQ requirement about substantial
6 and significant cumulative effects.

7

8 **Cumulative Effects: Natural Events compared to Motorized Use:**

9 Consider the erosion of banks along the San Francisco River by violent flooding events.
10 These are substantive, significant impacts; cutting river bank sidewalls, exposed roots,
11 erosion and soil movement.
12



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14



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The analysis fails to present impacts from motorized use in the proper context of comparison. Human use impacts are trivial compared to impacts from the predictably recurring natural flash floods. The floods continually remodel the riverbed. CEQ tells the agency that the analysis of cumulative effects whether impacts are substantial and significant. Compared to the annual flooding, impact from motorized use is not substantial or significant, or permanent, and tracks are scrubbed away by rising river water and by floods.

1 PHOTO BELOW: OHV users on the San Francisco River road between Glenwood and
2 Reserve, now closed to motorized use by the decision. This is NOT substantial,
3 significant impact:
4



5
6
7 The analysis indicates low impacts, Watershed and Soils Specialist Report, P. 74 :

8
9 The effects from stream crossings are two-fold. They directly impact the stream
10 by the action of vehicle tires disturbing and mobilizing stream bottom sediments.
11 **This effect is typically short-lived**, provided there is not continual traffic going
12 across the stream, or up and down the stream.

13
14 The analysis indicates no correlation between motorized use of stream crossings and
15 water quality. From the 6th Code Watershed Report, p. 19:

16
17 However, implementation of any of the action alternatives does not presume that
18 a delisting would, or could, occur as the State of New Mexico lists multiple
19 probable sources of impairment for many streams. **Approximately half of the**
20 **impaired water bodies on the Gila National Forest (198 miles out of 404**
21 **miles of impaired streams) are found within wilderness areas, with these**
22 **watersheds having some of the lowest route density numbers on the Forest**
23 **and no motorized stream crossings.**
24
25
26

1 This motorized use is not a substantive or significant impact either.
2



3
4
5 But the FEIS thinks these people are harming “scenic beauty”. From the Recreation
6 IRA/WSA Report p. 60:

7
8 **Natural appearing landscapes with high scenic quality**

9
10 The Lower San Francisco River is well known for its’ scenic beauty. Visual
11 Quality could be improved in all Action Alternatives due to the proposed
12 prohibition on cross-country travel and limiting motorized use to designated
13 routes within the WSA.

14
15 The FEIS performs the required recitation of the legitimacy of motorized use. But
16 statements like the one above show the agency’s pervasive institutional hatred of
17 motorized use, that distorts the analysis . The FEIS is here stating that the mere sight
18 of a vehicle harms scenic beauty; the removable of the sight of the vehicle will “improve”
19 the visual quality.

20
21

1 PHOTO BELOW: Many parts of the San Francisco River road between Glenwood and
2 Reserve are on dry areas that get flood waters when the river overflows. Debris from
3 flooding is seen lodged in trees, six feet off the ground.
4



5
6
7 PHOTO BELOW: No visible tracks behind a 4,000 pound truck. Where vehicles do
8 leave tracks they are scrubbed away by flood waters. Vehicle tracks on the San
9 Francisco River roads are like footprints in the sand, being constantly washed away by
10 waves and tides.
11



12
13

1 **OTHER APPEAL POINTS RAISED BY AGENCY VIOLATION OF**
2 **ENVIRONMENTAL DOCUMENT PREPARATION AND APPROVAL**
3 **REGULATIONS**

4 **UNAUTHORIZED ROUTES IN RESPONSE TO COMMENTS**

5
6 The responses present inconsistent and irrational statements about unauthorized
7 routes. The responses also present information from the Travel Analysis Process report
8 which tends to discredit statements made in the FEIS about the origins and effects of
9 unauthorized routes.

10
11 The word “unauthorized” appears in 158 places in the FEIS, and in 42 places in the
12 responses to comments. At Appendix B, p 612, a comment says:

13
14 There is lack of data regarding traffic data and puts the DEIS in a poor position.

15
16 The response somehow misses that the commenter’s point about traffic data. It
17 responds by talking about route inventory, and makes this statement: (bold added)

18
19 **The forest doesn’t have complete information on the condition and level of**
20 **use of its forest system roads and trails, unauthorized routes, or motorized**
21 **cross-country use.** Collecting that information over the entire forest system
22 routes, an unknown amount of unauthorized routes, and the entire National
23 Forest System lands would be exorbitant and time consuming.

24
25 The claim that there is incomplete information for unauthorized routes fails to satisfy the
26 CEQ requirements for disclosure. The TAP states that the analysis proceeded with
27 incomplete information. In the TAP, at p. 4:

28
29 Information gathering is a never-ending process. The analyses proceeded under
30 the assumption that all desired information would not necessarily be available or
31 readily obtained during the analysis period.

32
33 CEQ requires that information used in the analysis be made available to the public in
34 the project record. There is no exemption for agency claims that data is incomplete.
35 The agency has some inventory of unauthorized routes, because they are designating
36 varying unauthorized routes in five alternatives. (Responses, p. 751: unauthorized
37 routes would be added to alternatives C, D, E, F, and G.) The agency obviously has
38 information on unauthorized routes, but refuses to disclose what or how much. There is
39 a big difference between an inventory being 95% complete and being 95% incomplete.
40 There are two issues present here. First is the undisclosed information itself. Second,
41 and no less important, is the agency’s poor attitude about the intent of NEPA in regards
42 to disclosure and public participation.

1 The response at p. 666 cites the Travel Analysis Process (TAP) report, which states the
2 agency had an earlier inventory of unauthorized routes, and with Region 3's approval,
3 converted them all to OML-2 roads in the late 1990's. The response is copied verbatim
4 from the TAP report, (p. 9-10): (bold added)

5
6 The Gila National Forest conducted a GPS inventory of the road system from
7 1992 through 1999. **The inventory identified user-created routes that were**
8 **recorded in the corporate database,** Travel Information System (TIS). When
9 the Forest Service adopted the current corporate database, INFRA Travel
10 Routes (INFRA), **in the late 1990s all road data was converted from the TIS**
11 **to the INFRA format. Unfortunately, the "user-created" field was not**
12 **converted to INFRA and the Gila National Forest lost their "user-created"**
13 **identifier. The Gila National Forest then made a decision, with the**
14 **concurrence of the Regional Office to continue inventorying "user-created"**
15 **roads in their database and to code them as National Forest System Roads**
16 **(NFSRs) operating at a Maintenance Level 2.** At that time, the features to track
17 "user-created" roads were not available. As a result, the existing inventory of
18 NFSRs coded as Operational Maintenance Level 2, on the Gila NF now consists
19 of a combination of:

- 20
21 1) "User-created" routes that were inventoried in TIS,
22 2) "User-created" routes that were inventoried in INFRA before the
23 Roads Policy,
24 3) FS authorized routes not managed as NFSRs, and
25 4) All NFSRs operated at Maintenance Level 2.

26
27 The Gila National Forest completed most of its inventory of "unauthorized" roads
28 before the tools to track them separately became available in 2001 and **at this**
29 **time, the Gila National Forest cannot determine exactly which of their**
30 **existing NFSRs are "user-created."** The Forest acknowledges there may be
31 errors in the INFRA database entries and associated mapped routes. Updates
32 and corrections to the database have occurred during the course of the analysis
33 and through public involvement.

34
35 Given that checkered ancestry of the ML-2 roads, the agency is unjustified in concluding
36 that the unauthorized routes (or the use of them) will have more or different effects than
37 the use of authorized routes.

38
39 The FEIS provides no data or maps on any current unauthorized routes. It says it has
40 no complete inventory (FEIS, p. 63). But the TAP citation in the response informs us
41 that tools to track unauthorized routes currently exist, and have existed for the past 13
42 years. If unauthorized routes have increased over the past 2 decades, as claimed, the
43 agency has had 13 years to get them into the inventory.

1 This statement in the Final Roads Report indicates that in 1998, the forest completed a
2 total inventory of any route over 50 inches wide. The FEIS has failed to disclose this
3 significant information in the body of the analysis as required.
4

5 From the Roads Report, p 1. (bold added):
6

7 In early 1992, the Gila National Forest initiated its GPS road inventory effort. **The**
8 **objective was to GPS all roads found on Gila National Forest lands** in order
9 to update both the digitized line-work in the map series and the corresponding
10 characteristic data housed in the TIS database. **A road was defined as “A**
11 **general term denoting a facility for the purposes of travel by vehicles**
12 **greater than 50 inches in width (FSM 2355.05)” (USDA Forest Service 1990).**
13 **Any route meeting the definition of a road was GPS'ed, updating both the**
14 **“inventory record” and the map line-work. The Forest completed the**
15 **inventory process in 1998.** Shortly thereafter, a new national database called
16 Infra Travel Routes replaced TIS. The Infra database introduced some new terms
17 and tools to assist forests with managing their road systems and to comply with
18 the new road policies. The newly GPS'ed line-work would become a GIS
19 coverage which would be linked road-by-road to its “inventory record” in the new
20 Infra Travel Routes database. Forests were required to migrate the TIS data into
21 Infra by February 1, 1999.
22

23 At p. 612, Appendix B, the response invokes the excuse that they couldn't inventory
24 unauthorized routes, because it would be of exorbitant cost and be time-consuming.
25 However, the FEIS and Responses fail to disclose that the true gap in inventorying
26 unauthorized routes was only three years; the three years between the 1998 completion
27 of inventory and 2001 when tracking tools became available. Since 2001, the agency
28 has had 13 years to collect the data. 13 years seems like sufficient time to get caught
29 up on 3 years.
30

31 The claimed lack of information on unauthorized routes did not prevent agency from
32 indulging in conjecture about the effects of them, such as at p. 60 (above), and here at
33 p. 123: (bold added)
34

35 In some areas this alternative **increases disturbance effects** to wildlife by
36 **maintaining the use** of unauthorized routes.
37

38 It is irrational to claim that keeping a used route in use will increase disturbance effects.
39 Maintaining an existing use maintains existing effects, but does not increase them. The
40 administrative act of designating a route that is already in legal use does not change the
41 effects.
42

43 As discussed throughout the FEIS and reports, effects to wildlife depend on the species
44 and the type of disturbance, the proximity, intensity, frequency and sometimes the
45 season. This response at p. 123 is a stellar example of the typical quality of USFS site-

1 specific scientific analysis: the agency claiming unidentified disturbances to unidentified
2 species from unmeasured use on unidentified routes in an unidentified area.

3
4 Another claim of effects from unauthorized routes appears in the Responses, at p. 719:

5
6 See DEIS page 222 General Effects to Plants for effects of unauthorized
7 motorized routes.

8
9 DEIS, p. 222 says this:

10
11 The development of unauthorized routes has grown during the last 2 decades
12 and some are causing natural resource damage within the forest. The amount of
13 unauthorized routes is difficult to measure accurately. Since unauthorized routes
14 are not engineered, some are having direct habitat damage such as soil
15 disturbance, which can result in decreased vegetation cover and density

16
17 The agency says unauthorized routes have grown in the last 2 decades, so they must
18 know something about them, but they provide no information at all to support their
19 claim. When challenged on lack of data, the responses state they have no information
20 and don't have to get it because of cost and time constraints.

21
22 The Response citing the TAP, confirms that some percentage of the OML-2 roads were
23 previously classified as unauthorized, and hence not engineered. This indicates some
24 undisclosed amount of the current OML-2 roads would be producing the same effects
25 are attributed to unauthorized routes at DEIS, p. 222. However, the DEIS/FEIS never
26 states that any OML-2 roads have the same effects as unauthorized roads (even though
27 some are both; OML-2 of unauthorized origin). The TAP citation in the response
28 informs us that for the past 13 years the agency has had the database capability to
29 inventory the unauthorized routes. We also know the agency must have some current
30 inventory on unauthorized routes that they are not disclosing because they are
31 designating varying amounts of routes in five alternatives. At the very least, the agency
32 is refusing to disclose information it obviously has, that it was asked for in comments.

33
34 The agency is hiding what it knows and faking what it says about unauthorized roads.
35 The agency is pretending that there are substantial differences in engineering and
36 effects between OML-2 and unauthorized routes, even while it admits that a) the current
37 inventory contains both, and, b) it can't tell them apart because the origin code was lost
38 in the system change from TIS to INFRA. They are claiming a database code is the only
39 way to tell them apart. That means the agency is unable to go out in the field look at a
40 road and determine if it was engineered or not. Maybe some so-called unauthorized
41 roads really were engineered. Either way, the FEIS sweeping generalizations about the
42 inferior conditions and greater resource impacts of unauthorized roads are a lot of hot
43 air.

1 **IMPROPER REGION 3 RESPONSE TO NMOHVA FOIA REQUEST**

2
3 On Feb. 7, 2014, the Region 3 responded to our Sept. 11, 2013 FOIA request for a
4 project record index. That was our third request in three years for the index. Region 3
5 applied the deliberative material Exemption 5 to the entire project record contents as
6 well as the index. The letter from Region 3 has this statement:
7

8 The Gila National Forest advises they are still in the process of developing the
9 project record index which is still in the "draft" stage; therefore, a final listing is
10 not available for release. Although we do not have a projected date, the
11 requested document will be available with the release of the final Environmental
12 Impact Statement. Therefore, pursuant to the deliberative process privilege of
13 FOIA Exemption 5, 5 U.S.C. §552(b) (5), we are withholding the "draft project
14 records for the DEIS for Travel Management.
15

16 We find this assertion to be illegal and improbable, for the following reasons.
17

18 First, CEQ mandates transparency in the NEPA process. CEQ specifically requires
19 public access to the environmental decisions before a decision is made.
20

21 NEPA procedures must insure that environmental information is available to
22 public officials and citizens before decisions are made and before actions are
23 taken. 40 CFR1502.21
24

25 Second, Dept. of Justice guidelines and numerous legal decisions (cited by DOJ), state
26 the agency cannot use Exemption 5 on an entire body of documents. The agency
27 segregate and release documents that do not qualify for Exemption 5 (from DOJ's An
28 Overview of the Freedom of Information Act Procedural Requirement, p. 32):
29

30 Agencies are to clearly identify the exempt information and apply the appropriate
31 exemption beside each redaction

32 Attorney General emphasizes agency obligation to segregate and apply
33 foreseeable harm standard
34

35 Third, Region 3 and the Santa Fe National Forest did not apply Exemption 5 to
36 NMOHVA FOIA requests sent (and filled) by the Santa Fe National Forest on its Travel
37 Management DEIS. The SFNF provided pre-decision draft versions of the project record
38 index (updated as documents were added to it), and provided documents (including
39 habitat maps for threatened and sensitive species).
40

41 Fourth, the GNF sent FOIA'd documents to NMOHVA in 2011, with no fuss or
42 argument. The following image shows the FOIA'd documents we have. These
43 obviously include deliberative documents concerned with decision-making, such as
44 issue determination, assumptions, developing framework, developing alternatives.
45

Appeal of the Record of Decision for Travel Management on the Gila National Forest

Gila FOIA Results Revisited 042611 ▶	
Name	Date modified
2010_Jan_Feb_Mar_district_IDT_alt_devel...	7/11/2014 3:06 PM
Priority1and2RoadSurveys All Districts	4/26/2011 3:27 PM
2006cda_tm_form	4/26/2011 6:01 AM
2008QueCommentReview	3/1/2011 3:53 AM
2008reserve_comment_analysis	4/26/2011 6:44 AM
2009_0917_pa_table	4/26/2011 6:46 AM
2009BR_public_input	4/26/2011 6:42 AM
2009CommentbyCodeSummary	4/26/2011 6:43 AM
2009CommentCodes	4/26/2011 6:42 AM
2010_01_14_Alternative_Framework_revis...	4/26/2011 7:08 AM
2010-01-11_Alt_Dev_mtg_notes	4/26/2011 6:51 AM
2010DistrictSiteSpecificComments	4/26/2011 7:11 AM
2010INFRA_ROAD_LINEAR_EVENTS_0306...	3/1/2011 3:53 AM
2010SilverCitycomments	4/26/2011 7:08 AM
20091201_preliminary_issue_identificatio...	4/26/2011 6:31 AM
20091215_content_analysis_summary_no...	4/26/2011 6:32 AM
20091216_content_analysis_summary_sig	4/26/2011 6:32 AM
20091218_content_analysis_revised_sig_n...	4/26/2011 6:36 AM
20091223_content_analysis_revised_sig_w...	4/26/2011 6:42 AM
20100106_Alt_emphasis	4/26/2011 6:52 AM
20100106_Alternative_framework	4/26/2011 6:52 AM
20100115_Issue_Determination_Process_a...	4/26/2011 6:52 AM
20100208_core_extended_idt_handouts1	4/26/2011 6:53 AM
20100208_core_extended_idt_handouts2	4/26/2011 6:54 AM
20100208_mtg_notes	4/26/2011 6:55 AM
20100208_mtg_sign_in_sheets	4/26/2011 6:55 AM
20100308_email_handouts_Mar9_idt_mtg	4/26/2011 6:56 AM
20100311_Issues_Statements_Measures_...	4/26/2011 7:02 AM
20100316_editedAlternativeFramework	4/26/2011 7:04 AM
20100414_Markley_AltG_development_n...	4/26/2011 7:04 AM
20100427_issues_alts_AltKey	4/26/2011 7:06 AM
20100506_Alternative_Framework_appro...	4/26/2011 7:06 AM
20100619_Assumptions_for_Travel_Man...	4/26/2011 7:06 AM
20100730_alternatives_final_approved	4/26/2011 7:07 AM
20100730_issues_final_approved	4/26/2011 7:08 AM
forest_rds_0908	4/26/2011 7:14 AM

1

1 **NEW SPECIALIST REPORT, 6TH CODE WATERSHED REPORT, SOILS AND**
2 **AQUATICS CUMULATIVE EFFECTS**

3
4 The FEIS for the Gila NF Travel Management included a specialist report that did not
5 exist with the DEIS. This is the 6th Code Watershed, Soils and Aquatics Cumulative
6 Effects.

7
8 **ISSUES:**

9
10 1) The 6th Code Report fails to differentiate between wilderness and non-wilderness
11 areas. The word “wilderness” appears in 32 places in the report. There is only one place
12 where the report differentiates between resource conditions in wilderness and non-
13 wilderness areas, at page 15:

14
15 Impaired Waters *Appendix J* lists the water bodies that have been currently listed
16 as in non-attainment of state water quality standards, and the probable causes of
17 impairment. Currently there are 28 waterbodies (streams & lakes) within or
18 adjacent to Forest system land that are not meeting State water quality
19 standards. The impaired water bodies are found throughout the Forest.
20 **Approximately 49% are found within wilderness areas and 51% are found in**
21 **non-wilderness areas of the Forest.**

22
23 The absence of roads and motorized use in the “pristine, untrammled” wilderness
24 areas has not necessarily resulted in conditions superior to non-wilderness areas, with
25 their long history of unrestricted motorized use. The 6th Code Report ignores this, and
26 throughout it declares that road closures will produce improvements in resource
27 conditions.

28
29 Evidence that the analysis included wilderness is found at page 272. The listing of road
30 densities for watersheds shows 11 watersheds with road density of zero. The next 17
31 watersheds are 0.10 mile/sq. mile or less.

32
33 This statement at page 22 is typical, and presents 100% of the watersheds in the
34 Forest. In this description of soil condition, the 6th Code Report does not differentiate
35 between wilderness and non-wilderness (p. 24):

36
37 Overall, on 42% of the 180 watersheds assessed on the Forest, the soil condition
38 indicator was rated as Functioning Properly, 46% were rated as Functioning at
39 Risk, and 12% were rated as having Impaired Function. Soil Condition is
40 considered “poor” when there is evident alteration to reference soil conditions
41 and overall soil disturbance is characterized as extensive.

42
43 Since 49% of impaired waters are within wilderness areas, there is no reason to
44 presume that at impaired soils and vegetation conditions are caused primarily by roads
45 or motorized use. Neither can one assume that impaired conditions for other indicators
46 are in non-wilderness and that the good conditions are in wilderness areas.

1
2 **There is also no correlation between water quality and route density or stream**
3 **crossings.** This statement on wilderness and non-wilderness condition is at p. 19 of the
4 6th Code Report: (bold added)
5

6 **Approximately half of the impaired water bodies on the Gila National Forest**
7 **(198 miles out of 404 miles of impaired streams) are found within**
8 **wilderness areas, with these watersheds having some of the lowest route**
9 **density numbers on the Forest and no motorized stream crossings. Given**
10 **multiple factors contributing to water quality impairments and the number**
11 **of impaired waters within wilderness areas, this attribute is expected to**
12 **remain the same.**
13

14 These “multiple factors’ contributing to wilderness area impaired waters are not
15 identified and not considered as sources of impairment in the non-wilderness areas.
16 Instead, the analysis always presumes that removing motorized use will improve
17 conditions, even though the analysis never differentiates between road effects and
18 effects from use.
19

20 FEIS p. 46 gives the planning area acreage as “...*approximately 2.44 million acres...*”
21

22 FEIS p. 56 shows the forest total and the wilderness totals (792,584 acres in 3
23 wilderness areas)
24

25 *The administrative boundary encompasses 3,392,519 acres. Twenty-four percent*
26 *of the forest’s land mass is included in congressionally designated wilderness*
27 *and is managed for primitive and semi-primitive nonmotorized use. These*
28 *wilderness areas are the Gila Wilderness (559,688 acres), Blue Range*
29 *Wilderness (29,099 acres), and Aldo Leopold Wilderness (203,797 acres).*
30

31 At 24%, wilderness is one-fourth of the forest, but holds half of the 28 impaired quality
32 water bodies (49% compared to 51% outside wilderness). Waters in wilderness are
33 twice as likely to be of impaired quality as waters outside wilderness. The p. 19
34 statement in the Report admits there is no correlation between road density, stream
35 crossing and water quality. Yet the summary discussions of the alternatives all portray
36 reduction of roads and crossings as producing benefits to water quality. Contrary to
37 CEQ there is no rational connection between the analysis and the conclusion.
38

39 P. 26 states only 6,900 acres of surface are occupied by routes:
40

41 Under the No Action Alternative, the existing motorized route system in place on
42 the Forest would not change, continuing to impact over 6,900 acres of Forest
43 where the routes are located.
44

45 As a percentage of the 2.44 million acres of non-wilderness lands, the routes occupy
46 less than one-third of one percent of the surface. The report does not differentiate

1 between wilderness and non-wilderness. Therefore, the forest wide assessment of
2 watershed condition is on all 3.39 million acres. The 6,900 acres of routes represent
3 0.002 of the forest surface. That is one-fifth of one percent of the area assessed for
4 conditions. In other words, the watershed conditions for soils, vegetation etc., are based
5 on conditions of the 99.98% of the surface where there are no routes. Yet the report
6 insists that removing one use on 0.02% of the surface will somehow improve the
7 conditions on the 99.98%. This is simply not believable.

8
9 The analysis never states any possibility that impaired conditions might NOT be
10 improved by road and trail closures. The discussions include generalized statements
11 that there will be benefits from reductions in routes. For example, at p. 22, this
12 discussion of riparian/wetlands is typical of the presumption of improvement. (bold
13 added)

14
15 All action alternatives would decrease the acres of motorized routes within
16 wetlands, ranging from 6% (Alternative C) to 44% (Alternative E). **A reduction in
17 acres of motorized routes within riparian areas and wetlands often results
18 in an improvement to these site-specific locations where the route
19 previously was open and is now closed to motorized traffic.**

20 21 2) Implementation Guide and Technical Guide for Watershed Condition

22
23 The 6th Code Report Page 6 refers to "Implementation Guide for Assessing and
24 Tracking Changes to Watershed Condition".

25
26 Road density in the 6th code watersheds across the Forest is displayed in
27 *Appendix D*. 6th code watershed densities were evaluated using the criteria
28 established in the Implementation Guide for Assessing and Tracking Changes to
29 Watershed Condition. The Guide uses a Road and Trail Network Indicator as one
30 of twelve factors to consider in assessing 6th code watershed condition. This
31 indicator identifies the following three condition ratings for road densities:

32
33 1 mi/mi² = Good (Functioning Properly)
34 1 mi/mi² – 2.4 mi/mi² = Fair (Functioning at Risk)
35 2.4 mi/mi² = Poor (Impaired)

36
37 Pages 272-276 list the 180 6th code watersheds, in order of road density, and assigned
38 a rating of good, fair or poor, depending on the road density.

39
40 3) There are two new USFS guides being applied. These are not listed as references in
41 the FEIS. One is the Implementation Guide described above, the other (not mentioned
42 in the FEIS or 6th Code Report) is the specific direction on how to do watershed
43 condition analysis. This is the Watershed Classification Technical Guide (referred to in
44 the Implementation Guide).

1 The Implementation Guide and Technical Guide are based entirely on the existence of
2 roads and trails. Neither has any discussion at all of use of roads and trails, by either
3 motorized or non-motorized users.

4
5 4) Prejudicial selective omissions in the 6th Code Report contradicted by statements
6 elsewhere in the FEIS. Example: p. 20 of 6th Code Report:

7
8 At the 6th code watershed level the trend for aquatic habitat would be upward at
9 those site specific areas where a road is non-motorized or where stream
10 crossings are eliminated as a result of this project. However, improvement to the
11 Aquatic habitat indicator score would likely be immeasurable within a 10 year
12 period. It is expected that the Aquatic Habitat Indicator would remain the same
13 for all action alternatives, with upward trends in watershed and habitat conditions
14 more prominent in Alternatives D, E, F and G.

15
16 That statement is constructed to convince the reader that “upward” improvements could
17 come only from action alternatives, and from eliminating motorized use. By omitting the
18 statement of the existing condition, it fails to honestly report that the overall trend for
19 aquatic habitat is stable or improving now, under the No Action Alternative. Response
20 Appendix B, p. 572:

21
22 The aquatic specialist report states the following based upon personal
23 observations of the forest aquatic, watershed, and soils specialists.
24 “Although localized degraded habitats continue to be present, **the overall Forest**
25 **trend for aquatic and riparian habitat is stable or improving** (pers. Obs. J.
26 Monzingo, C. Koury, M. Natharius 2012) (draft aquatic specialist report page 58).

27
28 5) The 6th Code Report entirely omits the critical information in Technical Guide, which
29 describes the limitations of the methodology, cautions against misuse, and how the
30 methodology should be used so it is appropriate to the area. The 6th Code Report
31 presents no discussion or evidence that that the methodology for roads and trails was
32 properly applied, or even applied at all. The 6th Code report applied the road density
33 parameters lifted straight from the Technical Guide, with no consideration of
34 appropriateness.

35
36 The 6th Code Report “over-weights” the roads and trails indicator for negative effects.
37 The 12 indicators in the Technical Guide are presented as discrete independent
38 measures. The Terrestrial Physical category is assigned 30% and that holds both the
39 roads and the soils indicators. The 6th Code Report provides no description of how the
40 weighting factors were applied, if at all.

41
42 The following quotes are from the Technical Guide and describe the limits and the
43 proper use of the factors and attributes. We find the following problems in the 6th Code
44 Report

- 1 1. No evidence that the attributes were properly interpreted and appropriate for the
2 watersheds.
3
- 4 2. Cause and effect relationship between road density and condition is assumed rather
5 than demonstrated. Correlation does not equate to cause and effect
6
- 7 3. The quality of road density as a predictor depends on the research supporting it. The
8 6th Code Report shows no such research.
9
- 10 4. The 6th Code Report does not address whether or not default values should have
11 been modified to fit the local conditions.
12
- 13 5. Item 5 at page 11 tells the forest to include recent large fires. Page 11 of the 6th
14 Code Report says the Whitewater-Baldy Fire impacts have not been assessed.
15
16 The other factors from item 5 are also missing from the report: **insect and disease**
17 **maps, as well as local GIS data such as roads and trails, dams and diversions,**
18 **active and abandoned mines, and forest cover.**
19
- 20 6. The other factors affecting condition (described in Technical Guide p. 28) are not
21 described in the 6th Code Report.
22

23 From the Technical Guide:

24
25 p. 7

26 **Numeric attributes** have associated numeric values (e.g.,
27 road density <1 mile/mile²). **Quantitative attributes are**
28 **simple to use but they need to be properly interpreted and appropriate for**
29 **the geographical setting of the watershed.**
30

31
32 p. 8

33 As simple surrogates for complex ecological processes, **indicators do not**
34 **necessarily represent cause-and-effect relationships.** Indicators are derived
35 from studies that correlate the behavior of indicators with environmental
36 response variables of interest. **For example, increasing road density has been**
37 **correlated with increasing sediment yield in many studies nationwide.**
38 **However, the true set of environmental conditions that produce**
39 **sedimentation are complex, unmeasured, or unknown.** Numerous other
40 factors including soils, geology, slope, and road condition also influence
41 sediment yield. The result is **that road density is not a perfect predictor of the**
42 **effects on sediment yield. The quality of an indicator ultimately depends on**
43 **the quality of the research used to support it** and its applicability to different
44 environmental settings, but **no single indicator is a perfect predictor of an**
45 **environmental response.**
46

1 p. 9

2 Forests may adjust attributes in one of three ways: **1. Modify the default values**
3 **of an attribute.** For example, the default ranges in the basic model for road
4 density may be inappropriate for certain physiographic settings. Forests may
5 adjust the range and breaks between good, fair, and poor ratings if they are
6 supported by forest plans or local analysis and data.

7
8 p. 11

9 5. Arrange for support from forest GIS specialists who can
10 provide analysis support (e.g., road density, and road
11 proximity to water analysis) that summarizes data by 6th level
12 HUCs. **Obtain the most current national GIS data coverage that is relevant**
13 **to the analysis such as 303(d) impaired streams, Fire Regime Condition**
14 **Class, and insect and disease maps, as well as local GIS data such as**
15 **roads and trails, dams and diversions, active and abandoned mines, forest**
16 **cover, recent large fires, etc.**

17
18 The 6th Code report concludes that none of the alternatives would result in a change to
19 the watershed condition classification of any watershed. But the report still claims that
20 road closures would improve the conditions of water quality etc. (pp. 26-28)

21
22 Alternative B – No Action

23 The effects of past and present activities to watershed, soil, and aquatic
24 conditions are described in the affected environment section of the FEIS.

25
26 This recent assessment provides a “baseline” at which to assess all of the action
27 alternatives versus the No Action Alternative.

28
29 (We remind the reviewer that this baseline does not differentiate between wilderness
30 and non-wilderness, or between natural and manmade causes, and does not identify
31 any rates of change.)

32
33 Implementation of Alternative B – No Action would result in no change in
34 cumulative impacts to watershed, soil and aquatic condition at the 6th code level,
35 and thus **no change to watershed condition classification of any watershed.**

36
37 Alternative C

38 Alternative C proposes the least decrease in acres impacted by motorized routes
39 across the Forest of all action alternatives.

40
41 Cross country travel related to motorized dispersed recreation is reduced by
42 96%, which is comparable to all action alternatives.

43
44 Alternative C would be similar to Alternative B – No Action in terms of cumulative
45 effects, with some upward trends in watershed condition realized with reductions
46 of motorized cross country travel. However, these upward trends would be

1 immeasurable at the watershed scale and are **not expected to result in large**
2 **enough improvement to change overall watershed condition classification.**

3
4 Alternative D

5 Alternative D proposes the second largest decrease in motorized routes across
6 the Forest, behind Alternative E.

7
8 Alternative D poses the **second best opportunity of all alternatives for**
9 **upward trends to occur in watershed condition, related to the watershed**
10 **indicators of water quality, water quantity, aquatic habitat, aquatic biota,**
11 **riparian/wetland condition, roads and trails, soils, and terrestrial invasive**
12 **species.** However, similar to Alternative E, these upward trends are **not**
13 expected to result in large enough improvement across any individual watershed
14 to change overall watershed condition classification in the next 10 years.

15
16 Alternative E

17 Alternative E proposes the largest decrease in motorized routes across the
18 Forest.

19
20 Alternative E poses the **best opportunity of all alternatives for upward trends**
21 **to occur in watershed indicators of water quality, water quantity, aquatic**
22 **habitat, aquatic biota, riparian/wetland condition, roads and trails, soils,**
23 **and terrestrial invasive species.** However, these upward trends are not
24 expected to result in large enough improvement across a watershed within a 10-
25 year period to change overall watershed condition classification.

26
27 Alternatives F and G

28 Alternatives F and G show similar reductions related to acres impacted by
29 motorized routes and acres open to motorized dispersed recreation, behind
30 Alternatives E and D.

31
32 Although there may be some upward trends to the attributes as described in the
33 above section, implementation of either Alternative F or G is **not expected to**
34 **change the overall watershed condition classification in any watershed.**
35 Improvements expected in these two alternatives would be less than those
36 expected in Alternatives E or D.

37
38 The 6th Code Report Appendix A details the percentage of ownership in each
39 watershed. The analysis provides no discussion of any possible correlation between
40 road density, water impairment, resource conditions and percentage of land ownership.

41
42 The 6th Code Report does not add the acreage of the watersheds, to describe how
43 many acres are functioning in the different categories of good, at risk, and poor.
44

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Appendix D lists the 180 forest watersheds classified by road density, with all
2 watersheds over a certain road density listed as “Poor” condition. The watersheds listed
3 as “Poor” are these twelve.
4

150400010501 T Bar Canyon	101.54	2.45	Poor
150400040305 SA Creek	87.93	2.49	Poor
150400030405 Thompson Canyon-Lordsburg Draw	114.96	2.52	Poor
150400040503 Campbell Blue Creek	135.42	2.53	Poor
150400020301 Willow Creek-Mangas Creek	138.31	2.54	Poor
150400040303 Stone Creek-San Francisco River	146.21	2.62	Poor
150400040302 Trout Creek	87.51	2.68	Poor
130302020201 Rio de Arenas	75.12	2.91	Poor
150400040203 South Fork Negrito Creek	149.82	3.02	Poor
150400040205 Sign Camp Canyon	133.30	3.25	Poor
130302020302 Headwaters Whitewater Creek	171.41	3.67	Poor
130302020203 Pipeline Draw-San Vicente Draw	306.55	5.56	Poor

5
6
7 Yet at p. 14, only one watershed, Snow Canyon, is shown as “Impaired Function”.
8

1 **IRREVERSIBLE OR IRRETRIEVABLE COMMITMENTS OF RESOURCES**

2
3 NEPA law at 40 CFR 1502.16 says the agency must identify an irreversible or
4 irretrievable commitment of resources. The new Recreation IRA/WSA report makes
5 this statement at p. 26, on *Irreversible or Irretrievable Commitments* (bold added)

6
7 **All of the Action Alternatives may or may not result in the irreversible or**
8 **irretrievable commitment** of some of the forest’s soil resources within IRAs.
9 See Watershed and Soils Specialist Report (USDA Forest Service 2013d).

10
11 “I don’t know” doesn’t meet the requirement of 40 CFR 1502.16 to identify
12 commitments. The statement in the Rec/IRA, WSA report is actually inaccurate about
13 what the Watershed and Soils report says. The statement in the Water and Soils report
14 is far worse than just saying, “I don’t know”.

15
16 This statement at the Final Watershed and Soils report p. 109 is false. It is written as if
17 roads closed to motorized use under a decision, will cease to be used, and could
18 possibly revert to an uncompacted and vegetated state, and hence not be an
19 “irreversible and irretrievable commitment of resources”.

20
21 **Irreversible and/or Irretrievable Commitment of Resource**

22 Alternative B (No Action) already possesses an intrinsic commitment of the soil
23 resource. Undoubtedly, it would be very difficult, if not impossible, to reverse,
24 retrieve, or restore soil productivity back to its original condition if, hypothetically,
25 all routes were removed. Continuation of unlimited motorized cross-country travel
26 would allow for the opportunity of new soil resource degradation to occur,
27 possibly having future irreversible and/or irretrievable impacts.

28
29 **The selection of any of the action alternatives will affirm the above-**
30 **mentioned commitment of the soil resource for whichever motorized routes**
31 **are included in the selected alternative. In considering all routes, both open**
32 **and closed, every action alternative proposes an overall increase in miles**
33 **of routes over Alternative B (No Action) (see Table Below).** While however
34 minor these proposals are, and considering that none of these new routes are
35 located in riparian areas, wetlands areas, or adjacent to perennial, intermittent, or
36 impaired waters, there would still be disturbance to and commitment of the soil
37 resource. This disturbance may or may not be irreversible or irretrievable,
38 depending on: 1) conditions of the route when traveled (wet or dry); 2) the
39 amount of compaction created; 3) associated loss of soil productivity; and 4)
40 related sediment losses or erosion created from the new route. **Soil could be**
41 **irretrievably lost and carried down the watershed, resulting in on-site loss**
42 **of soil productivity. Compacted soils could take decades to improve soil**
43 **properties, and while not irreversible, would be considered a long-term**

1 **impact.** Site-specific evaluation would be appropriate during establishment of
2 these new routes to insure that mitigation measures or Best Management
3 Practices are in place to minimize the effects to the soil resource from such
4 irreversible and/or irretrievable losses.
5

6 There are 6 distinct reasons this statement is FALSE:
7

8 **1) The statement falsely equates the soil commitment with designation of**
9 **motorized routes.**

10 The first sentence states that the routes designated under one of the action alternatives
11 create the commitment of soil resources; “selection of any action alternative will affirm
12 the commitment of resources for the selected motorized routes.”
13

14 That is FALSE. No matter what action alternative becomes the decision, the ONLY
15 thing changed is where public motor vehicle use is allowed. All of the other uses will
16 remain on all the roads and trails. Those uses include all public non-motorized uses
17 (foot, horse, pack animals, and bicycle), use by grazing permittees, use by the agency
18 for its management activity, permitted commercial uses, use by law enforcement. All
19 the roads and trails will continue to be used and will continue to exist, meaning there is
20 commitment of soil resources on all routes.
21

22 **2) Commitment of soil resources will continue to increase under current forest**
23 **policy, regardless of the travel management decision, because of unmanaged**
24 **non-motorized use.**
25

26 The travel management decision does not control, limit or ban cross-country travel by
27 non-motorized means. Unauthorized routes will continue to appear from legal non-
28 motorized use, from hikers, horse and mountain bicycles. The decision does not control,
29 limit or ban camping and game retrieval by non-motorized means. In particular the most
30 damaging sort of soil impacts will continue and grow. Current forest policy allows
31 unlimited non-motorized camping in the most sensitive soil areas, along streams and
32 riparian areas. That use will continue unmanaged and unrestrained unless/until the GNF
33 undertakes a major revision of policy, which is not likely. As is stated above, in the
34 quote from the watershed report, “Soil could be irretrievably lost and carried down the
35 watershed, resulting in on-site loss of soil productivity.”
36

37 **3) The statement makes a false assertion about increasing miles of routes.**
38

39 In considering all routes, both open and closed, every action alternative proposes
40 an overall increase in miles of routes over Alternative B (No Action)

1
2 As shown in other NMOVHA comments, the No Action alternative grossly understates
3 the current mileage of roads and trails that are legal for motorized use. The truth is
4 exactly the opposite of what is said; all the alternatives propose a severe DECREASE in
5 miles. By extension, the action alternatives also grossly misrepresent the true degree of
6 closure being proposed. For example, there are over 2,200 miles of non-Forest
7 jurisdiction roads through the forest. These miles are ignored in all the alternatives, and
8 camping from non-Forest roads is entirely banned except for a paltry 61 miles of county
9 road. The miles are not counted, and the loss of camping is not counted. Allowed
10 camping also creates a commitment of soil resources, where potential loss of vegetation
11 and compaction are being allowed.

12
13 **4) Impacts from the commitment of soil resources do not come only from**
14 **designated motorized routes in the planning area. Commitment of the soil**
15 **resource also comes from unmanaged non-motorized use that will continue (and**
16 **continue to increase) in the 24% of the forest under wilderness designation. The**
17 **particular use impacts both wilderness and non-wilderness areas.** Unmanaged
18 wilderness uses include camping along streams, existence and use of trails close to
19 streams and that cross streams. Unmanaged recreation in wilderness areas moves
20 sediments into streams, which move downstream into non-wilderness areas. As stated
21 above, in the quote from the watershed report, in regards to roads, “Soil could be
22 irretrievably lost and carried down the watershed, resulting in on-site loss of soil
23 productivity.” Any erosion causing activity has the same effect. No matter what uses are
24 banned in non-wilderness, impacts from unmanaged use in wilderness will continue to
25 move downstream in the watersheds.

26
27 **5) Roads and trails identified under any action alternative do not include all the**
28 **“authorized used only” OML-1 routes. Those will continue to be used by the**
29 **agency and the public, and are a commitment of the soil resource.** The alternatives
30 do not show all the OML-1 roads. Not even the No Action alternative shows all the
31 OML-1 roads. As shown in our comments, the data in the FEIS shows the agency
32 excluded most of the OML-1 (authorized use only) roads from the analysis. No matter
33 what decision is made, OML-1 roads will continue to exist and be legal for non-
34 motorized use. The agency use, permitted use and non-motorized use will keep those
35 roads in existence. The OML-1 roads are a commitment of soil resources that is hidden
36 in the FEIS, because it is not counted in any action alternative.

37
38 **6) The soil commitment under the Minimum Road System is hidden.** The
39 commitment caused by the minimum road system was unknown when the minimum
40 road system was described (TAP Nov 2009), because the minimum road system was

1 equated to the as-yet undetermined public use system. The minimum road system
2 description came out a year before the public use alternatives were even released
3 (DEIS Oct 2010).
4

5 Under the travel management rule, the agency must identify the minimum road system
6 it needs to manage the forest. The agency identified the minimum road system as “the
7 public use system” in this same statement in the 2009 TAP (p. 19) and in TAP Appendix
8 L (p. 19-20) of the Travel Analysis Process (TAP).
9

10 *“The recommended road system is the system needed to manage the Forest, not*
11 *just resource management, but also public uses. This is the interdisciplinary*
12 *team’s recommendation of the minimum road system for the Forest. It should be*
13 *recognized that through the NEPA process, roads may be added or removed in*
14 *order to address other issues that may arise during the NEPA process and refine*
15 *the minimum road system.: TAP – page 19*
16

17 Now, post-decision, the commitment of soil resources from the minimum road system is
18 still partially hidden and still under-described. The decision-maker’s choice of any
19 action alternative as the “designated public use system” does not fully disclose the soil
20 commitment. That is because the designated public motorized use system does not
21 include all the allowed uses that will keep the footprint of the road on the landscape. It
22 doesn’t include the “authorized use only” roads where agency, permitted and non-
23 motorized uses are still allowed and on-going. It also does not include decommissioned
24 roads that the Roads report admits are still in use. It doesn’t include non-USFS roads.
25

26 The minimum road system needed to manage the Forest was described at p. 19 of the
27 TAP, originally published in November 2009. At that time, there was no DEIS, and
28 action alternatives had not been identified. There was no “system identified for public
29 uses” at that time. Therefore, it was not possible to identify what commitment of soil
30 resources would be caused because the minimum road system would match the as-yet-
31 undetermined decision for public use. The Draft EIS was released in October 2010.
32 This is the first time action alternatives were seen. The alternative that became the
33 decision, Alternative G modified, was not seen until release of the Final EIS.
34

35 **Equating the soil commitment from the public road system with the minimum**
36 **road system still does not account for the existing OML-1 “authorized use only”**
37 **roads.** Hundreds of miles of those roads were not counted in either the no action and
38 action alternatives.
39

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 The amount of OML-1 roads in the action alternatives changed drastically in the 3 years
 2 and 7 months between the October 2010 DEIS and the May 2014 FEIS. The DEIS
 3 showed from 183 miles to 439 miles of “authorized use only” designated in action
 4 alternatives. There are 299 miles designated under Alternative G (Table 1, DEIS
 5 Summary p, v.) The FEIS Comparison of Alternatives Table 15 (p. 33), doesn’t even
 6 have a row for the “authorized use only” roads. Zero miles are designated under any
 7 alternative.

8
 9 The image below is from the DEIS Table 1, showing “authorized use only” roads
 10 designated.
 11

DEIS for Travel Management, Gila National Forest

Table 1. Comparison of motorized system resulting from changes to alternative B, no action (asterisk means item will not be shown on the motor vehicle use map)

	Alternative B (No Action)	Alternative C	Alternative D	Alternative E	Alternative F (Modified Proposed Action)	Alternative G
Miles of roads designated open to the public for motor vehicle use	4,604	4,266	2,977	2,332	3,343	3,323
Miles of motorized trails (less than 50 inches in width)	16	204	125	0	182	182
Miles of single-track motorcycle trails	0	64	0	0	0	0
Miles of routes for administrative use or by written authorization only *	0	183	354	439	298	299

12
 13
 14 Below, Table 15 in the FEIS has no row for “unauthorized roads”.

Comparison of Alternatives

Table 15. Overview of the elements of the alternatives that would be open to the public and included in the motor vehicle use map

Key Elements	Ait. B*	Ait. C	Ait. D	Ait. E	Ait. F*	Ait. G
Miles of roads open to the public for motorized use	4,613	4,272	2,976	2,318	3,363	3,334
Miles of motorized trails (less than 50 inches in width)	16	205	125	0	179	179
Miles of single-track (motorcycle) trails	0	64	0	0	0	0
Total percent change in motorized roads and trails	0%	-2%	-33%	-50%	-24%	-24%

16
 17

1
2 The soil commitment from “authorized use only” roads is hard to determine because the
3 agency changed the mileage and categories between the DEIS and the FEIS. The Aug
4 2013 Roads Report released with the FEIS shows 530.9 miles of OML-1 roads. The
5 first Roads Report, July 2010, showed 1,169 miles of “OML-1” closed or
6 decommissioned roads.
7
8

Gila National Forest NFS Roads – July 2010

Table 3. Existing Gila NFS roads by operational maintenance level

Operational Maintenance Level	Miles
1 - Basic Custodial Care (Closed or Decommissioned)	1169
2 - Open to high-clearance vehicles	4196.3
3 - Suitable for Passenger Cars at lower speeds, typically single lane with turnouts	261.7
4 - Moderate Degree of User Comfort, typically double lane with aggregate surfacing	130.7
5 - High Degree of User Comfort, typically a paved double lane road	24.2
Total Miles	5781.9

9
10
11 The Final Roads Report has lowered the number. Some of that might have been from
12 subtracting decommissioned roads. But as the report itself admits, the decommissioned
13 roads will continue to be used. (p.9) (bold added)
14

15 Being that the Gila National forest is an “open unless designated closed” forest,
16 the **public has continued to use some roads which were once closed and/or**
17 **thought to be decommissioned. Users have also continued to create roads**
18 **through cross-country use.**
19

20 The on-going creation of routes through cross-country use is not limited to vehicles.
21 Non-motorized uses continue to create new routes, including in terrain that is
22 inaccessible to vehicles because it is too steep. Page 9 also tells us that some miles of
23 unauthorized were added back into the OML-1 and OML-2 categories. The quote also
24 tells us the so-called decommissioning was a minor attempt to block entry. The
25 decommissioned roads were not removed from the landscape, the soil commitment is
26 there and maintained by use.
27

28 **The mileages shown under OML 2 in each of the alternatives in Appendix A**
29 **include the proposed additions of unauthorized and decommissioned**
30 **roads as well as re-opening closed NFSRs (table 8). Most of these roads do**
31 **not need any work to allow passage except for NFSR 3050 (0.2 mile) where**
32 **existing berms would be removed or reworked to allow passage and maintain**
33 **drainage features (applicable to all action alternatives).**
34

1 Roads Report Table 8 p. 10 shows the mileages of OML-1 or decommissioned roads
 2 added to alternatives, which are trivial amounts. In reality, the vast majority of the 1,169
 3 miles of “authorized use-decommissioned” roads shown in 2010, have now simply been
 4 wiped out of the analysis.
 5

Table 8: Addition of proposed road miles by alternative

Type of addition	Alt B	Alt C	Alt D	Alt E	Alt F	Alt G
Add unauthorized roads to NFSRs open to all vehicle types	0	7.2	5.8	1.8	5.9	6.6
Re-open OML 1 closed NFSRs to all vehicle types	0	3.5	0.9	0.9	1	1
Re-open decommissioned roads to all vehicle types ¹	0	2	1.5	0	1.5	1.5
Total additional roads open to all vehicle types	0	12.7	8.2	2.7	8.4	9.1
Add unauthorized roads to NFSRs for administrative use or by written authorization only	0	26.5	27	3.5	25.2	25.7
Re-open OML 1 closed NFSRs for administrative use or by written authorization only	0	2.7	2.7	0.3	2.7	2.7
Re-open decommissioned roads for administrative use or by written authorization only ¹	0	5.8	5.8	2.9	5.8	5.8
Total additional roads for administrative use or by written authorization only	0	35	35.5	6.7	33.7	34.2
Overall Total	0	47.7	43.7	9.4	42.1	43.3

¹ These roads are currently receiving traffic and are thus not truly decommissioned

6
 7
 8 The footnote under the table reads “1 These roads are currently receiving traffic and are
 9 thus not truly decommissioned”. This calls into question whether “decommissioned”
 10 really means anything on the ground, or if it is mostly a database notation. Since non-
 11 motorized use, agency, and permitted uses will continue, these miles continue to be
 12 “permanent”, e.g. a commitment of the soil resource.
 13

14 The FEIS fails to identify another major commitment of the soil resource. This
 15 commitment is roads that show only in the Roads Report. These are the 2,243.6 miles
 16 of road in the forest that are not under USFS jurisdiction. These were identified in the
 17 original 2010 Roads Report at p. 8. While not part of the decision, they are part of the
 18 Affected Environment and a source of impacts caused by the existing condition.
 19
 20

Gila National Forest NFS Roads – July 2010

Table 2. Roads under other jurisdiction within or access Gila National Forest

Road Jurisdiction ^a	Miles
Bureau of Land Management	1.8
County	802.6
Other Forest Service	23.8
Private	391.4
State Highway	686.5
US Highway	337.5
Total Miles	2243.6

21

1 **GRAZING ECONOMICS, ACCESS and RIGHTS**

2
3 The FEIS p 2 shows that grazing permittees will now need to obtain permission to
4 continue using roads that they have used for decades in the past, without interference
5 or fear of general access being prohibited. The permittees had the same rights as the
6 public to use roads.

7
8 **Motor vehicle use that is specifically authorized under a written**
9 **authorization may include activities such as livestock operations,** mining,
10 logging, firewood collection, forest products, private land access, and
11 maintenance of pipeline and utility corridors (36 CFR 212.51(a)(8) and 261.13(h)).
12

13 **The FEIS fails to disclose or discuss that reduction of access can affect the**
14 **efficiency and viability of the ranching operation.** The grazing permittees are losing
15 the previously assured use of all existing roads. This is a use they have had for all of the
16 decades prior to this decision. The permittees developed their operations based on
17 access via the existing legal roads, and the knowledge they could continue to use those
18 roads. This right of use has never before been broadly revoked.
19

20 **The FEIS puts no value on what it means to take away the assured access the**
21 **permittee has always had in the past.** That includes, but is not limited to, the
22 psychological cost. He has enough uncertainty from nature. It is unconscionable to
23 injure him with the unnecessary uncertainty created when access is made
24 unpredictable.
25

26 **The FEIS presents no rationale at all for why it is necessary or reasonable to**
27 **force each individual permittee to negotiate for access.** There is a rationale for
28 assessing forage to determine AUM. There is no rationale for forcing the permittee to
29 negotiate for road use. This serves no purpose.
30

31 **The FEIS presents no discussion at all about grazing allotment road use impacts.**
32 There is no analysis. The FEIS does not even disclose how many individual ranchers
33 have permits on the forest. There is no discussion of impacts from motorized use of
34 existing routes by permittees. Therefore, there is no evidence at all that it was
35 necessary to reduce motorized use by permittees.
36

37 **Under the Rule and this decision, the permittees have even less rights than the**
38 **public.** At least the public knows what roads it can use year to year, and the burden
39 falls on all of the public equally. The permittees don't know from year to year how their
40 allowed access might change. There is nothing inherent in the system to produce
41 fairness. At least the public knows that any changes in designation must be made in
42 public. Agency changes in the road system must be documented. The public has the
43 right to obtain information about changes in road designations. Unjustified changes can
44 be challenged.
45

1 The permittee has no such rights. He is isolated from the public and his peers, in his
2 solitary struggle to preserve the access essential to his operation. There is no process
3 to protect him. There is no requirement for transparency or reason. He is at the mercy of
4 staff personalities, prejudices and personal agendas. The process of his road permitting
5 renders him invisible and impotent.

6
7 **The Travel Management Caste System** The following statement in the Rule as
8 published, presents a happy picture of multiple use management where forest uses are
9 balanced and one use does not have preference over another (p. 68266):

10
11 National Forests are managed by law for multiple use. They are managed not
12 only for the purposes stated in these comments, but for timber, grazing, mining,
13 and outdoor recreation. These uses must be balanced, rather than one given
14 preference over another.

15
16 The reality of the Rule's effect is revealed in the decision. The Rule does not result in
17 balanced multiple use, where one is not given preference over another. The result is
18 exactly the opposite; a caste system of elites and disadvantaged.

19
20 Before the Rule, all users were equal and had equal rights. The Rule destroyed that.
21 The Rule deliberately creates a caste system of forest users. Non-motorized users are
22 the kings, at the top of the heap. There are no restrictions on them at all. They can go
23 anywhere, including cross-country. The blanket excuse for that is that the Rule was
24 written only for managing motorized use. What this really means is the Forest Service
25 made an active decision to manage and restrict only certain users. Likewise they made
26 an active decision to give other users preference by not managing them. The Rule
27 states its preference of nonmotorized use over motorized use at p. 68274:

28
29 At this time, the Department does not see the need for regulations requiring
30 establishment of a system of routes and areas designated for nonmotorized
31 uses.

32
33 In that same paragraph, the USFS states its acceptance for "inconsistent" management
34 and policies for nonmotorized use among different forests. There is no mandate to
35 make policy uniform across all forests.

36
37 On some National Forests, and portions of others, bicycles and/or equestrians
38 are restricted to designated routes, or even prohibited altogether. On other
39 National Forests, cross-country use of bicycles and horses is permitted.

40
41 At p. 68265, the USFS declared some unidentified "need" for "consistency" in regards to
42 motorized use. The USFS caste system is visible here too; motorized use policy must
43 be consistent (and nonmotorized use does not need to be consistent). There is no
44 discussion of this alleged "need", it is presented as self-evident. It is not.

1 **Revised regulations are needed to provide national consistency and clarity**
2 **on motor vehicle use within the NFS.** At the same time, the Department
3 believes that designations of roads, trails, and areas for motor vehicle use should
4 be made locally.
5

6 Next in the caste system is the motorized users; restrained to designated routes and
7 prohibited from cross country travel, but at least all public members are allowed use on
8 the designated system. At the bottom of the heap are the permittees, who aren't even
9 assured of access on roads other permittees can use. The only assured use is what is
10 allowed to the motorized public. They may wind up with more total miles allowed. But
11 they are at the bottom of the caste system because access for them is the most
12 arbitrary, unreliable and unpredictable of all the user types. They have more at stake
13 and more to lose. Roads aren't just recreation, for them it's their livelihood at stake.
14

15 Nonmotorized users enjoy total freedom. They can take all access for granted as an
16 agency-given right. Permittees have no rights at all that each individual can rely on from
17 year to year, beyond the public motorize system. Motorized users fall in between; with
18 limited use allowed to the entire group.
19

20 **The FEIS does not recognize the social impact of this system,** which makes the
21 permittee a second class citizen.
22

23 **The FEIS ignores what is at stake for the permittee;** his livelihood and survival, the
24 quality of life for his family and neighbors, and his community.
25

26 **The FEIS is silent on the traditional cultural impact** of a road permitting system that
27 will discourage the next generation from continuing to ranch.
28

29 **The FEIS is silent on what happens in the local economies if ranching declines.**

30 The Social-Economic report looked only at recreation for effects from proposed
31 alternatives. The Social-Economic Report confirms that it analyzed the effects of the
32 alternatives only on recreation based jobs and not on any other sectors of the economy:
33 P. 3 **(bold added)**
34

35 Recreation-based tourism is likely to be more sensitive to the proposed action
36 and alternatives than other employment because of **the Travel Management**
37 **Rule's provision for written authorization applicable to livestock grazing**
38 **permits,** mining plans of operations, etc. **The IMPLAN model will be used to**
39 **evaluate effects of the alternatives on recreation-based jobs.**
40

41 **Alternatives Fail to Capture Impacts to Permittees** Potential impacts to grazing from
42 different alternatives are entirely ignored. This big empty spot was created because
43 permittee use is entirely excluded from the analysis, under the excuse that his use will
44 be covered under a permitting system. The Social-Economic Report repeats this at p.
45 21:
46

1 Two additional reasons for the small economic impact are:

2 (1) **Access will continue for administrative purposes (e.g., grazing,**
3 emergency services).

4
5 What “access” is it that might be allowed to continue? The FEIS is silent. The full range
6 of possibilities varies from “use all existing roads” to “use only the roads open to the
7 public, and maybe a tiny bit more”. If the second case turns out to be the reality, the
8 permittees will be confined to the same motorized roads as the public. But the socio-
9 economic impacts to permittees will be far, far more severe than impact to the public,
10 under the same miles of road. This exposes another serious flaw in the Socio-
11 Economic analysis, which bases its assumptions and conclusions solely on mileage. An
12 analysis curtailed to the one indicator of mileage fails to produce a real analysis.

13
14 **The FEIS is silent on all these impacts to permittees.** The official response will no
15 doubt be reassurances that the permittee road use process will turn out just fine. We
16 are not reassured. There is a well-documented history of bullying from the federal
17 agencies. The Rule and subsequent decision only adds more potential for abuse to a
18 system that puts the permittee totally at the mercy of the agency. Threats, real or
19 implied, of agency reduction of access will make it even harder for the permittee to
20 negotiate other aspects of his operating plan.

21
22 **The FEIS method of analysis is not appropriate or meaningful for assessing**
23 **impacts to permittees.** The entire FEIS is written in terms of mileage. All the
24 comparisons are in mileage. There is precisely zero qualitative analysis on roads.
25 Permittee impact cannot be measured in mileage. Having the right to use the same
26 designated roads as the public doesn’t mean those are the roads a permittee needs.
27 The FEIS has not looked at this issue at all, never mentions it. As we said above,
28 permittee use cannot be evaluated by counting how many miles of allowed use the
29 public has or how many miles a permittee is allowed to use (for now, until his next
30 operating plan review). The permittee has to have access to the roads he needs; not ten
31 times as many roads he doesn’t need. The appropriate measure for permittee road
32 needs is inevitably and necessarily qualitative.

33
34 **The FEIS fails to consider if permittee road use could be handled as authorization**
35 **to use an identified roads system, or if it is a “valid existing right’ under the Rule.**
36 Rule as published, p. 68274 (bold added)

37
38 **Motor vehicle use that is specifically authorized pursuant to a written**
39 **authorization** issued under Federal law (§ 261.13(h) of the final rule) is
40 exempted from this prohibition. In addition, in making these designations, **the**
41 **responsible official must recognize valid existing rights** (§ 212.55(d) of the
42 final rule).

43
44 **Prior Existing Right to use roads:**
45

1 Under all prior approved operating plans, the permittee had a valid existing right to use
2 the existing roads. The operating plan, locations of improvements etc. were based on
3 the implicit assumption of the existing right to use the roads. The denial of this prior
4 existing right has not been analyzed in the FEIS.

5
6 **Rule Creates an Administrative Void:**

7 Under the Rule, the Record of Decision has created an administrative void. The FEIS
8 contains no discussion of the administrative decision-making process that would replace
9 the access system that is removed by the decision. The Record of Decision doesn't
10 even mention that such a process is needed, or how it would be designed and by
11 whom. There are no protocols or guidelines for how road negotiations would be done.
12 There is nothing about a permittee's rights or recourse, if he cannot reach agreement on
13 the roads with the local forest management.

14
15 **Failure to Consider Other Options; It Didn't Have to Be This Way:**

16 The Gila National Forest could have taken a different approach, by designating a
17 system of roads for ranching operations that would be open to all permittees. The
18 forests are compelled by the Washington office to implement the Travel Management
19 Rule. We see nothing in the Rule prevents a forest from analyzing and designating a
20 system of roads for permittee use. The decision includes a designated Minimum Road
21 System for the agency's own administration of the forest. We see nothing in the Rule
22 that prevented the agency from considering an alternative that would have allowed
23 permittees to use this same road system, or part of it. The agency could have
24 considered a hybrid system; with assured access on a basic network of roads, and
25 permitted access on additional needed roads. The agency did not consider any such
26 reasonable alternatives.

27
28 The USFS has replaced the permittee's rights to use roads with a process that is
29 unknown, secretive, with no identified rules, no disclosure, no transparency, no required
30 consistency, no public record of the process and no identified recourse for complaint or
31 appeal. This resembles the procedures of a medieval inquisition rather than a modern
32 government. Permittees now have no assurance that decisions will come out of any
33 particular process at all, rather than personal staff prejudices. They are subjected to the
34 unfettered whim of the agency.

35
36 Decades of traditional use and existing rights were erased, with one decision of one
37 woman transplanted a few years ago from California. She has no knowledge or concern
38 for the local communities or culture. She will be gone as quickly as she came, just like
39 her predecessors. The forest supervisors (and district rangers) come and go. The
40 damage from their decisions remains as a burden far into the future. The local counties
41 which have so much land under federal management, suffer under what functions like a
42 foreign occupation. The counties' futures are decided by appointed federal managers
43 who are not elected and cannot be removed by a democratic process.

1 **USER INPUT MAPS**

2
3 Very early in the planning process, the GNF asked the public to identify routes that they
4 use. The public submitted maps of roads and trails they use, with GPS data. These
5 GPS tracks were entered into the GNF database so they could be overlaid on forest
6 maps. These public input maps were part of the scoping process. They were prepared
7 for each ranger district, and were briefly posted on the GNF website but removed when
8 the proposed action came out.

9
10 The FEIS has not disclosed they have these maps. The FEIS has not accounting for
11 the roads and trails submitted by the public. The FEIS does not mention these maps.

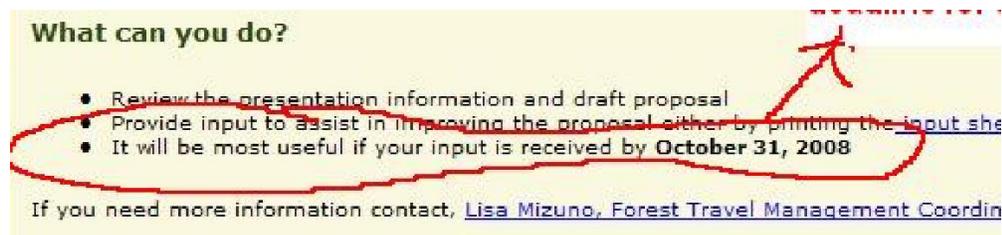
12
13 Below are images of the GNF website on Sept. 16, 2008, when these maps were still
14 posted. As noted on this webpage, the GNF was asking the public for input, saying it
15 would be most useful if received before Oct. 31, 2008.

16
17 The maps are not listed in the Project Record Index. As part of the scoping process, the
18 information on the maps are part of the environmental information used for preparing
19 the NEPA document. Document No. 0123 in the current project record index is a FOIA
20 request from CBD regarding the user-created maps. Document No. 0426 is a letter from
21 Blue Ribbon Coalition regarding the user routes. Document No. 1765 is a conversation
22 with Donna Stevens of UGWA, about user created routes. But the maps themselves are
23 not listed.

24
25 We know the GNF has these maps. We have the maps, downloaded from the GNF
26 website six years ago. But that is not enough; all the maps must be in the project record
27 as part of the official NEPA records.

28
29 The user input maps are the only record of requested routes, and the only evidence of
30 positive value and benefits for keeping routes open to the public. There is no other site
31 specific assessment in the FEIS that shows positive attributes or benefits of motorized
32 routes. Without the user input maps, the decision-maker has remained uninformed as to
33 the specific desires, needs and requests submitted by the public. This is especially true
34 since the current supervisor, and decision-maker, arrived at the GNF long after these
35 maps were taken off the website in 2008.

36
37 **We request that the user input maps of 2008, of each ranger district, be added to**
38 **the project record.**



Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Images of GNF Website on Sept. 16, 2008, with user input maps described
 2

Travel Management

You are here: [Welcome](#) > Travel Management

More Information

Upcoming Wrkshops
 Regular [public meetings](#) will be held throughout the process.

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Useful Resources

- [National Forest Service Travel Management Website](#)
- [Regional \(AZ/NM\) Forest Service Travel Management Website](#)
- [Tread Lightly](#)

Adobe Acrobat Reader is required to view PDF documents. Acrobat is available as a free plugin from [Adobe Systems Inc.](#)

On November 9, 2005, the Forest Service published a new Travel Management Rule, governing off-highway vehicles (OHV) and other motor vehicle use on national forests and grasslands. The new rule requires each national forest to designate those roads, trails, and areas open to motor vehicle use.

From November 2005 to 2007 the Ranger Districts held 46 public meetings/open houses introducing the Travel Management Rule and soliciting input to the Forest designation process. As a follow-up to those meeting/open houses, the Gila National Forest is hosting a series of workshops throughout the month of September. The purpose of the workshops is to:

- Solicit additional input to the draft proposal
- Reconnect with those who provided input
- Identify if some important points or coordination was missed
- Improve our proposal
- Resolve as many conflicts as possible in order to have the best proposed action to move into NEPA

If you are unable to attend one of the workshops or would like more time review the presentation materials and draft proposal and provide input; the presentations and maps that will be presented at the Workshops are available for review:

Slide presentations:

1. [Overview of the Travel Management Rule](#) (Powerpoint 126Kb)
2. [Gila NF's process to implement the Rule](#) (Powerpoint 86Kb)
3. [Draft Proposal](#) (Powerpoint 3.29Mb)

Maps:

Maps	Black Range RD	Glenwood RD	Quemado RD	Reserve RD	Silver City RD	Wilderness RD	Burro Mtn. Area
Existing Direction Map	View Map (PDF 9.9Mb)	View Map (PDF 8.0Mb)	View Map (PDF 7.1Mb)	View Map (PDF 8.4Mb)	View Map (PDF 5.4Mb)	View Map (PDF 7.9Mb)	View Map (PDF 3.1Mb)
Draft Proposal Map (all roads)	View Map (PDF 12Mb)	View Map (PDF 4.1Mb)	View Map (PDF 9.3Mb)	View Map (PDF 11.5Mb)	View Map (PDF 7.1Mb)	View Map (PDF 12.1Mb)	View Map (PDF 4.0Mb)
Motorized Transportation Map and Dispersed Camping	View Map (PDF 9.7Mb)	View Map (PDF 7.6Mb)	View Map (PDF 6.5Mb)	View Map (PDF 7.9Mb)	View Map (PDF 5.7Mb)	View Map (PDF 7.6Mb)	View Map (PDF 3.1Mb)
Public Input Map	View Map (PDF 3.8Mb)	View Map (PDF 9.8Mb)	View Map (PDF 4.3Mb)	View Map (PDF 4.6Mb)	View Map (PDF 3.3Mb)	View Map (PDF 4.2Mb)	View Map (PDF 1.1Mb)

Additional information:

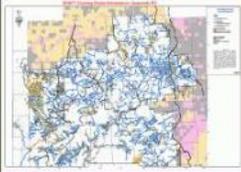
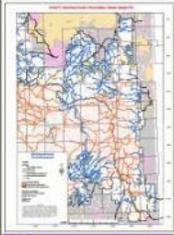
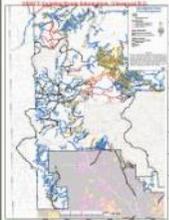
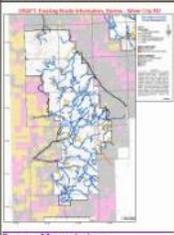
3

Gila National Forest

Search

Travel Management - Maps

All maps are considered draft until a final decision is made
Adobe Acrobat Reader is required to view PDF documents. Acrobat is available as a free plugin from [Adobe Systems Inc.](#)

 <p>Guamado 11.7Mb PDF (~ 60 in x 36 in)</p>	 <p>Black Range 13.5Mb (~ 36 in x 60 in)</p>
 <p>Reserve 13.2Mb PDF (~ 44 in x 34 in)</p>	 <p>Glenwood 12.7Mb PDF (~ 34 in x 44 in)</p>
 <p>Silver City and Wilderness 13.3Mb PDF (~ 60 in x 36 in)</p>	 <p>Burro Mountains 5.6Mb PDF (~ 34 in x 44 in)</p>

1

FAILURE TO ACCOUNT FOR VALUE OF ROADS

The assessment of cost to maintain roads (FEIS and Roads Report) fails to address the cost of losing valuable infrastructure when roads are allowed to deteriorate and be absorbed back into the forest. Value is also lost when roads are allowed to overgrow, and be so narrowed as to be unpassable to vehicles. The analysis has much to say about what it costs to maintain roads. The analysis has nothing to say about how public motorized user helps keep roads passable.

The planning horizon in the FEIS was set at 20 years, as an estimate of long it takes for unauthorized routes to revegetate. Roads used only for nonmotorized uses become more narrow, and eventually impassable to everyone; choked with deadfall and overgrown. The analysis ignores the value of the infrastructure being destroyed.

First, we point out the high degree of uncertainty in the contradictory figures the FEIS presents on road maintenance. The FEIS describes the budgetary benefits of reducing the maintenance needs on the forest. FEIS p. 34 Table 16 states the no action Alternative B has \$5.169 million in deferred (e.g. overdue) maintenance. The action alternatives range from a low of \$4.6 million (Alt. E) to \$5.130 million (Alt. C).

34

Table 16. Comparison of resources by alternatives

Resource	Alternative B	Alternative C	Alternative D	Alternative E	Alternative F	Alternative G
Roads						
Public safety	Route safety concerns relatively low.	No change.				
Deferred maintenance needs (cost)	\$5,169,689	\$5,130,016	\$4,791,394	\$4,616,603	\$4,889,869	\$4,880,903

We're uncertain of the accurate figure for deferred maintenance. FEIS p. 50 identifies \$272.6 million of deferred maintenance on GNF's NFS roads: (bold added)

The result of the forest's inability to perform full maintenance is a maintenance backlog known as deferred maintenance. Examples of deferred maintenance include replacing culverts, cattle guards, surfacing and signs based on their life cycle or when needed and removing all roadside vegetation encroaching into the roadway or that which is limiting site distances. **An estimate of the current deferred maintenance for NFS roads on the Gila National Forests is \$272,265,429.** This number is based on Region 3 (Southwestern Region) 2005 Roads Deferred Maintenance summaries which were compiled from random surveys across various NFS roads within Region 3. The costs are based on a random sample of NFS roads which were then extrapolated across the rest of the

1 road miles to be used as an indicator of maintenance needs for the existing road
2 system. The costs have been adjusted to account for inflation.

3 We are unable to find any explanation of why deferred maintenance is \$5.1 million on
4 page 34 and 54 times greater (\$272 million) on page 50.

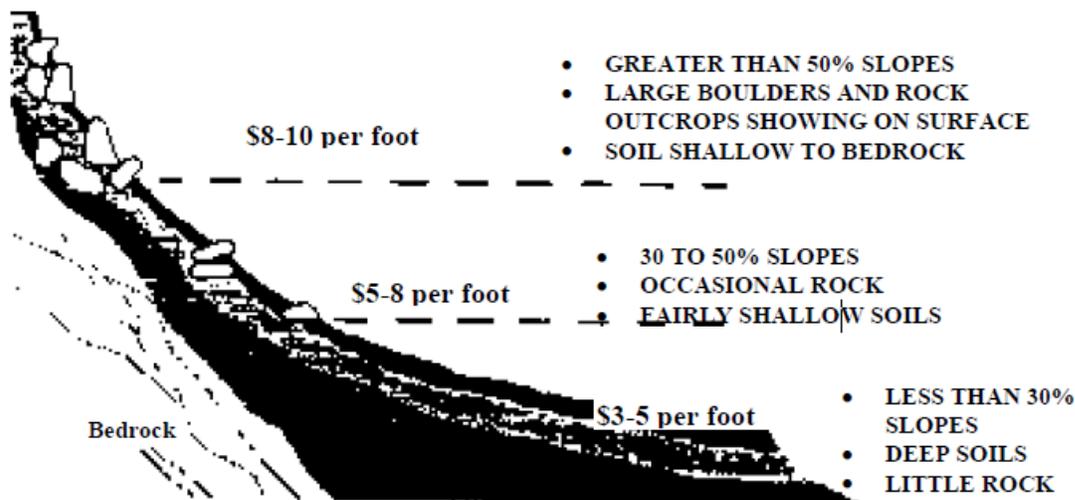
5 The FEIS places no value on the existing infrastructure of the road system. Various
6 places in the analysis (e.g. TAP) discuss that roads would be decommissioned. There is
7 no acknowledgement that decommissioning would be destroying an asset that has real
8 dollar value, and that would be difficult and expensive to replace.

9 The FEIS provides no information on road value or cost. It is reasonable to consider
10 cost of replacement to gain a rough estimate of the value of the dirt roads in the GNF.

11 We use USDA suggested estimates for constructing dirt roads. This is from the 1999
12 Larimer County Colorado guide for homeowner's building private roads,
13 <http://www.larimer.org/engineering/devel/privrdconst.pdf>

14 We note that the pricing estimates are 15 years old, and likely understate current costs.
15 This diagram and estimated costs are at p. 6:

APPROXIMATE COST PER LINEAR FOOT OF ROAD



16 ***One important point!*** - if you cut corners during planning and construction, you will pay
more for future maintenance.

17 We used a price of \$7.50 per linear foot. This is conservative figure, considering it's a
18 15 year old number. \$7.50 per linear foot calculates to \$39,600 per mile. The Roads

1 Report states there are 4,197 miles of OML-2 roads. At \$39,600 per mile, the inventory
2 of OML-2 roads has a current value of at least \$166 million.

3 The TAP identifies the designated road system as the required minimum road system.
4 Roads slated for decommissioning are listed in TAP Appendix O. Neither the TAP nor
5 the FEIS provide any estimate of the monetary value destroyed when roads are lost,
6 either through active destruction or intentional neglect which renders them unusable.

7 The TAP and FEIS provide no site-specific analysis with any discussion of the benefits
8 of roads, their uses or values. The FEIS provides no disclose, estimate or even the
9 vaguest mention that roads really do have a monetary value, based on replacement
10 cost.

11 A road destroyed, neglected, or allowed to revert to overgrown, narrow or unusable
12 conditions results in loss of valuable infrastructure that is difficult and expensive to
13 replace. Besides the raw construction costs, total costs for road replacement would
14 include the NEPA work, archaeological clearances (and the inevitable environmentalist
15 lawsuits).

16 The FEIS provides no analysis of the benefits of roads or the monetary value of roads.
17 Without this analysis, there is no way for the decision-maker to compare the choices;
18 motorized designation that has an objective to keep roads passable and preserve the
19 infrastructure value, or changing the designations to nonmotorized. Conversion of roads
20 to nonmotorized allows them to drop below usable motorized width and condition, and
21 reduces the monetary value of the road system.

22

23

1 **APPENDIX A – NMOHVA’s Original Submitted Comments**

2 **Comment 03032011-17-22 and 03032011-17-2a thru 2o (Spivack Comment – Water**
3 **and Soils Report)**

4
5 March 3, 2011
6 Forest Supervisor
7 Attn: Travel Management
8 3005 E. Camino del Bosque
9 Silver City, NM 88061
10 r3_gila_travel@fs.fed.us

11
12 **Dear Responsible Official,**

13 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
14 am representing that organization and the undersigned organizations in providing these comments on the
15 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
16 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
17 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
18 recreational resources to the members of the public we represent.

19 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
20 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
21 Management Rule (TMR) with the utmost seriousness.

22 This comment has three parts that address three distinct issues of the Water and Soils Report

23 **I. Riparian Buffer Zone Methodology**

24 **II. Water and Soils Report Does Not Analyze Motorized Use**

25 **III. Water and Soils Report Misrepresents State of New Mexico Water Quality Information**

26
27 This comment specifically criticizes the methodology for the riparian buffer zones. It criticizes the analysis
28 methodology for the entire Report which never addresses the issue of motorized use. It criticizes the
29 Report’s misrepresentation of State water quality information attempts to exaggerated and invent
30 negative effects from OHV use when those are not the facts presented by the State.

31 From CEQ’s Forty Questions:

32 *Question 29a. Responses to Comments. What response must an agency provide to a comment*
33 *on a draft EIS which states that the EIS’s methodology is inadequate or inadequately explained*
34 *...agencies must respond to comments, however brief, which are specific in their criticism of*
35 *agency methodology.agency would have to respond in a substantive and meaningful way to*
36 *such a comment.*

37 **We request a substantive and meaningful response from the agency, as per CEQ.**

38
39
40
41 **I. RIPARIAN BUFFER ZONE METHODOLOGY**

42 The Water and Soils report applies a blanket 600 foot protective buffer zone on EVERY stream channel.
43 Any road that falls within that buffer zone is assumed to pose a risk and is closed under one or more
44 alternatives. This is flawed methodology for the following reasons:

45 **ISSUE 1. Failure to Use the Site Specific Data They Have**

46 The report says they have a detailed database called RASES that identifies each of the 326 riparian
47 areas. They know exactly how wide each one is, why do they apply a ‘one size fits all’ factor instead of
48 using the accurate data they admit they have? The blanket application of a 600 ft. width results in
49 enormous errors which were totally avoidable, and fails to provide much protection for the widest areas.

50
51 **ISSUE 2. No ‘Task’ to Create Buffer Zones**

52 There is nothing in their statement of the ‘task’ that tells them to create buffer zones, they invented this
53 idea for themselves but it has nothing to do with the stated mission of identifying riparian areas that are at

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 risk from roads. There is a fundamental logical flaw in the analysis. The analysis is supposed to assess
2 the real physical size of the existing riparian areas. The acreage of the riparian areas is data from the
3 real world. **Buffer zone acreage is NOT the existing condition.** Buffer zone acreage must not be
4 added to riparian acreage BEFORE the analysis, as if buffer zones were physically part of the riparian
5 area. Buffer zones are not a Natural Resource. **Buffer zones are a management strategy. They are a**
6 **policy; they should not be confused with the initial measurement of impacts to the riparian**
7 **zones.** Buffer zones could be used as a corrective or preventative policy measure AFTER the riparian
8 areas are analyzed, and AFTER the analysis proves that corrective measures are needed.
9

10 **ISSUE 3. Riparian Areas in Wilderness Not Identified**

11 The analysis says the RASES database is 'forest wide', and then it does not identify which reaches are in
12 wilderness areas.
13

14 **ISSUE 4. Zones Unnecessarily Wide for Many Riparian Areas**

15 The selection of a 600 ft. wide zone is based on the data from RASES. Out of all the 326 channels, there
16 are four with riparian areas that are 500 ft. wide. All the rest are smaller, and most are much smaller. The
17 median width is 90 feet; the average width is 155 feet. **Therefore for over half the channels, the zone**
18 **is more than five times wider than the actual riparian area. This overstates the riparian acreage by**
19 **a factor of about 500%. This error was totally avoidable.** The analysis does NOT disclose how much
20 extra land was unnecessarily caught in that zone, and how many 'innocent' roads are being unnecessarily
21 targeted for closure because of it.

22 The maximum width is true for only 4 out of 326 riparian areas (1.2%). Then they applied it to the other
23 98.8% of the areas. The magnitude of this error is undeniable and unacceptable. Even if all the other 322
24 areas were the average width of 155 ft., the overstatement of riparian acreage would at least 300%.

25 Since the median width is 90 ft. and the average width is 155 ft., we know that many of the 326 riparian
26 areas are less than 90 ft. wide. This means the error is even greater than 300%.

27 Page 14 describes the Intent to 'capture' all the roads by applying the maximum width

28 *Note: A GIS review of the four wide-bottomed drainages with riparian widths exceeding 600 feet*
29 *indicated **very limited miles of roads were not captured within the riparian risk zone.** All*
30 *roads adjacent to Gallinas Creek were **captured by the buffer.** No roads were present adjacent*
31 *to or within South Diamond Creek. Less than 0.10 mile was **outside of the riparian risk zone***
32 *adjacent to Mogollon Creek (at the confluence of Mogollon Creek and Gila River). Approximately*
33 *1.5 miles of motorized routes were **not captured** in the Gila River mainstem by **the riparian risk***
34 *zone (at Gila River Bird Area; confluence of Mogollon Creek and Gila River; confluence of Turkey*
35 *Creek and Gila River). All alternatives are compared equally in this analysis, thus the level of*
36 *change will be relative, regardless of these missing road miles.*
37

38 There is a better way to describe and 'capture' the riparian area. The following statement is at page E-13
39 of the Chiricahua Leopard Frog Recovery Plan. This provides a sensible way to measure riparian zones:

40 **RIPARIAN Circle the category that includes the maximum width of the riparian area in meters.*

41 *WIDTH: Riparian width should be measured from the boundary of riparian vegetation and*
42 *upland vegetation. For a lentic system, include the area of riparian vegetation along*
43 *the shore of the body of water and any vegetated waters. For a small lotic system in*
44 *which both banks can be surveyed simultaneously, include the zone of riparian*
45 *vegetation on both banks of the body of water surveyed and any vegetated waters.*

46 *For large or swiftly flowing lotic systems, include only bank that was surveyed or the*
47 *maximum width of riparian vegetation on both banks. Riparian width is measured for*
48 *the area surveyed.*

49 **ISSUE 5. Inherent Weakness of Buffer Zone, Better Options to Protect Riparian Areas:**

50 The 'protective buffer zone' is so ill-conceived that it doesn't even accomplish logical protection of the
51 riparian areas. Under the 600 ft. buffer zone, the largest riparian areas (the four largest that are 500 ft.
52 wide) get only 50 feet of additional protection on each side. Now consider a riparian area of median
53 width, 90 feet. It also gets a 600 ft. buffer zone. So it gets an additional 250 feet of protection on each
54 side. Now consider a narrow riparian area of 20 ft. That gets an additional 290 feet of protection on each
55 side. We have prepared a graphic to demonstrate this. The irrational consequence of the buffer zone

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1 scheme is that the largest riparian areas get the least extra protection, and the smallest ones get the most
2 extra protection. This is highly illogical, since the largest riparian areas are arguably the most important.
3 They provide the largest contiguous wet habitat areas; provide the largest habitat areas resistant to
4 drought (critical to species like frogs that must remain moist to survive). We see no discussion of the
5 habitat needs of different aquatic species in the riparian zone analysis. Is the CLF present in any of the
6 larger riparian areas that are getting the least protection? There is no integration of analysis.
7 Here are statements from the Chiricahua Leopard Frog Recovery Plan about sources of impact to riparian
8 areas. Roads are not mentioned as a significant source of impact and closure of roads is never
9 suggested in the Recovery Plan. Use of roads is not mentioned at all, except to keep people from driving
10 in the water and on stream banks. From Recovery Plan for CLF:

11 page 34

12
13 *Livestock are adapted to mesic habitats and select riparian habitats for water, shade, and cooler*
14 *temperatures. They spend a disproportionate amount of their time in riparian zones and can*
15 *adversely affect these systems in a number of important ways (see Fleischner 1994, Belsky et al.*
16 *1999, Jones 2000, and references therein).*

17 page 35

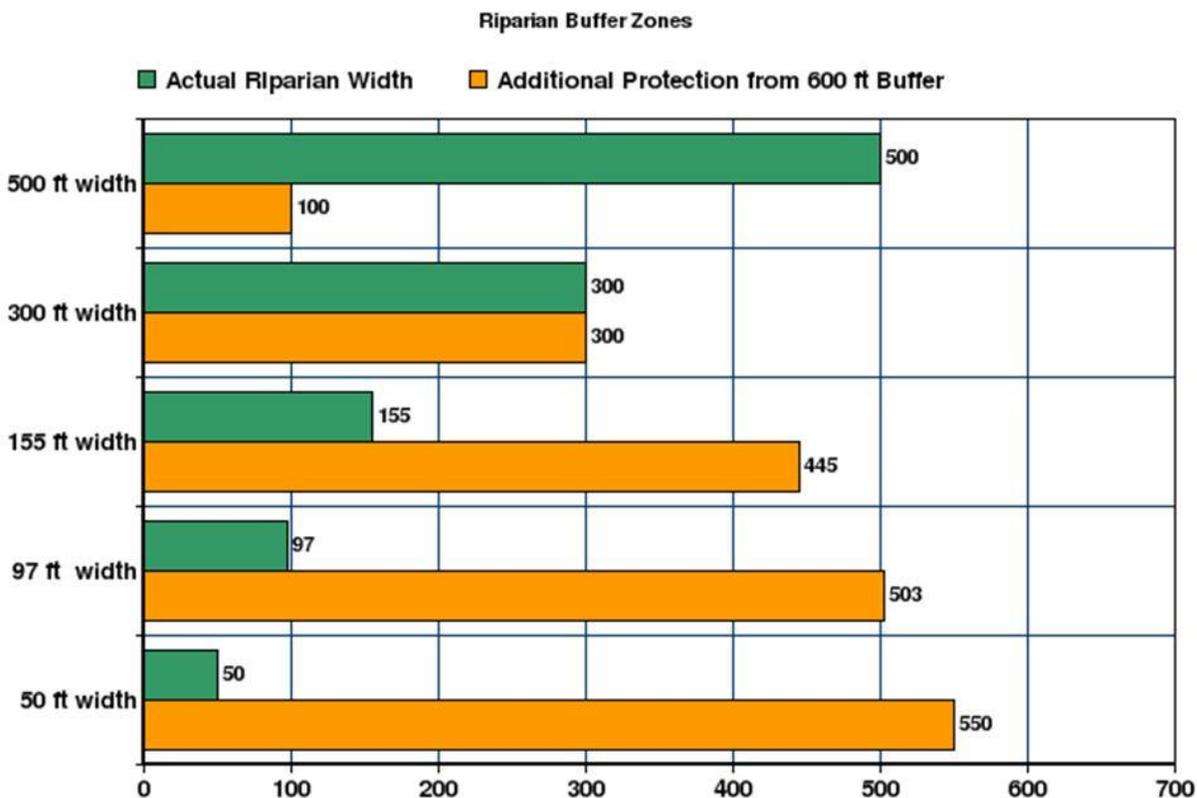
18
19 *Increased watershed erosion caused by grazing can accelerate sedimentation of deep pools*
20 *used by frogs (Gunderson 1968).*

21
22 page 38

23
24 *Beginning about 1870-1900, these frequent ground fires ceased to occur due to intensive*
25 *livestock grazing that removed fine fuels coupled with effective fire suppression in the mid to late*
26 *20th century that prevented frequent, widespread ground fires (Swetnam and Baisan 1996).*
27 *Absence of ground fires allowed a buildup of woody fuels that precipitated infrequent but intense*
28 *crown fires (Swetnam and Baisan 1996, Danzer et al. 1997). Absence of vegetation and forest*
29 *litter following intense crown fires exposed soils to surface erosion during storms, often causing*
30 *high peak flows, sedimentation, and erosion in downstream drainages (DeBano and Neary 1996).*

31
32
33 Page 36

34
35 *In some locations, elk populations along the Mogollon Rim of Arizona and into New Mexico are*
36 *causing riparian habitat degradation similar to that of livestock. **Both cattle and elk can damage***
37 *riparian habitats and both tend to gather near water during dry periods, at which time*
38 *riparian damage is most apparent. Due to the cumulative effects of continued grazing by cattle*
39 *and elk in central Arizona and west central New Mexico and other anthropomorphic stresses,*
40 *riparian areas have been deemed the most damaged and threatened ecosystem in the*
41 *Southwest (Fleischner 1994, Catron et al. 2000). State Game and Fish agencies have taken*
42 *steps to increase elk harvests where resource damage is occurring.*



A Logical Method to Set Buffer Zones

The task of the analysis is to determine IF buffer zones are needed, and what benefit they would provide.

If the analysis proved buffer zones are needed there are logical ways to describe them. They could be defined as an extra percentage of the width of the riparian area, or as a set number of feet added to each side of the width. Either one would have made more sense than the scheme the agency used.

The only thing the Buffer Zone scheme accomplishes is to grossly overstate the amount of riparian area, and by extension, grossly overstate the mileage of roads that present a risk to riparian areas.

Which Reaches Need Attention and Improvement?

At page 11 the report says that 64% of the stream reaches are functioning properly according to forest plan standards. How many of those reaches are in study area versus in wilderness area? We can't tell. Where is the rationale for applying a blanket 600 ft. 'protective' zone to all the stream reaches? The data in the report proves the report's own assumption is wrong. If 64% of the reaches are functioning properly WITHOUT a 600 foot buffer zone, there must be some other factors involved. Instead of doing some GIS work and trying to correlate factors, the agency applies a buffer zone everywhere. Does that make sense? No. A solution should have a rational connection to empirical data. This one doesn't. It's a basic rule in science that if the data doesn't fit your theory, you change your theory. You don't ignore the data.

1 **II. Water and Soils Report Does Not Analyze Motorized Use**
2 **Fails to Analyze Motorized Use of Roads, Fail to Weigh Other Factors. Fails to Discriminate**
3 **Between Wilderness and Non-wilderness areas.**
4

5 **1. Wilderness Areas included in Data.** At page 19 we see this statement:

6 ***Summary of Existing Condition***

7 The following tables provide a synopsis of watershed characteristics Forestwide, as well as a
8 summary of attributes at the fifth code watershed level.
9

10 The analysis goes on with pages of tables and data, which are all 'whole forest'. It never does separate
11 wilderness from non-wilderness. The analysis fails to address itself solely to the study area.
12

13 **2. The analysis never addresses the real issue: the motorized USE of roads.** The entire analysis is
14 about the roads themselves. There is no assessment of whether the motorized USE roads are a
15 significant source of negative impact compared with other identified problems.

16 The critical initial step in an analysis process is framing the question. This DEIS neither asks nor answers
17 the most critical questions: How much improvement is gained for riparian areas by restricting motorized
18 use of existing routes? Of all the sources of impact, does the use of routes account for much? This would
19 provide what the decision maker needs; the information to decide if closing the roads is worth the cost to
20 the human environment. If the use of roads contributes 1 percent of problem, is it worth closing the
21 roads? Will a 1 percent improvement make any substantial difference to the functioning of the riparian
22 area? The analysis provides a lot of pages of answers, but they are not the relevant questions. Acres of
23 road don't tell you anything about use.

24 **3. All of the Criteria Are Measured in 'Acres', 'Miles' and 'Stream Crossings'**

25 ***None are them are about the USE of Roads***

26 The list of Criteria proves that the only thing analyzed in the entire report are the roads themselves,
27 despite the attempt at page 32 to claim that effects to soils by motorized use has been addressed. Take a
28 close look at what this says: 'motorized uses are directly related to the road footprint'. Related in what
29 way? What units of measurement would represent motorized use?
30

31 ***Effects to Soils***

32 *The effects to soils by motorized uses on native surface routes are directly related to the*
33 *impact the road footprint has on the landscape, as well as the impact the vehicle has both*
34 *directly, and indirectly, on the ground itself. This project will result in a change in the levels of use*
35 *of a particular road, however no alternative poses decommissioning or obliteration of any roads to*
36 *return them to a more natural state. **Tables 11-20 provide a summary of acres of motorized***
37 *routes that pose a relative risk of adverse impacts to soils, by alternative, as well as potential*
38 *acres that may be impacted by motorized dispersed recreation, motorized areas, and motorized*
39 *big game retrieval.*

40 The words 'motorized uses' are included, as if motorize use had actually been addressed. A quick look
41 through the Key Indicators and Criteria show that every one of them is defined in acres. Acres mean
42 'land'. 'Use' is a transient event, a human activity that occurs in time. It is not a physical attribute of the
43 land that can be measured in acres. Use is measured in numbers of users.
44

45 It's easy to toss a sentence like that into the analysis, but it doesn't pass the test of logic. The agency
46 claims that use (a transient event done by people) is 'related to' the road footprint (a physical object that
47 is part of the landscape). What could that possibly mean? Is there something called a 'user acre'? Is
48 there a traffic count of acres? This doesn't make any sense.
49

50 Here are the Key Indicators and Criteria for the Water and Soils Report, for each subject. (bold added)

51 ***Key Indicators***

52 Key indicators for water and soil resources were selected that affect aspects of watershed
53 condition, including soil condition, riparian and wetland vegetation, water quality, and road and
54 trail conditions.
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Soils

Indicator Measure:

- Relative risk of motorized disturbance in soils identified as having moderate and severe GES erosion potential.

Criteria for measure:

- **Acres of disturbance** from motorized routes in areas with moderate and severe GES erosion classes
- **Acres of potential disturbance** from motorized big game retrieval, motorized dispersed camping, and motorized areas in areas with moderate and severe GES erosion classes

Indicator Measure:

- Relative risk of motorized disturbance in soils identified as having unsatisfactory and unsuited GES soil conditions.

Criteria for measure:

- **Acres of disturbance** from motorized routes in areas having unsatisfactory and unsuited GES soil condition classes
- **Acres of potential disturbance** from motorized big game retrieval, motorized dispersed camping and motorized areas in areas having unsatisfactory and unsuited GES soil condition classes

Riparian and Wetland Vegetation

Indicator measure:

- Relative risk of motorized disturbance in wetlands, wet meadows, and riparian areas

Criteria for measure:

- **Acres of disturbance** from motorized routes within identified wetland, wet meadows and riparian risk zones.
- **Acres of potential disturbance** from motorized big game retrieval, motorized dispersed camping, and motorized areas within identified wetland, wet meadows and riparian risk zones.

Water Quality

Indicator measure:

- Relative risk of motorized disturbance impacting perennial streams, intermittent streams, and 303(d) streams,

Criteria for measure:

- **Number of stream crossings** on perennial, intermittent, 303d streams
- **Miles of perennial, intermittent, and 303(d) streams** potentially impacted by motorized routes, motorized big game retrieval, motorized dispersed recreation, and motorized areas.

Road and Trail Condition (hydrologic connectivity)

Indicator measure:

- Relative risk of motorized disturbance to disrupt watershed function

Criteria for measure:

- **Acres of disturbance** from routes Forestwide (including all routes still connected to stream system)
- **Acres of potential disturbance** from motorized big game retrieval, motorized dispersed camping, and motorized areas Forestwide.
- **Route density** by 5th code watershed (including all routes still connected to stream system).

4. Report Makes Untrue Statements Linking Motorized Use to Effects of Roads

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1 At page 85 we find an excellent example of how the analysis attempts to ascribe the effects of 'roads' to
2 'motorized use'.
3 We have coded the text: Blue is for 'motorized use' and Yellow is for 'roads'. Watch how the statement
4 wanders from use to roads, back to use, and then back to roads. Notice the two places where 'motorized
5 use' is combined with 'road' in one sentence. Read those sentences carefully; ask yourself if that makes
6 sense.

7 The **primary effect to water quality related to motorized uses is sedimentation originating**
8 **from road erosion.** Numerous researchers have established that **roads are a major source of**
9 **sediment** delivered to streams in otherwise relatively undisturbed watersheds, such as forests
10 and rangelands. In addition, research has concluded that **sediment from roads** can result in
11 adverse effects to streams and aquatic habitat (MacDonald and Stednick 2003; Gucinski and
12 others 2001; Dissmeyer 2000; Meehan 1991). **Motorized uses can affect water quality both**
13 **directly through the physical crossing of a route on a stream, and indirectly through the**
14 **connectivity of the road system to the drainage network.** The further away a **road is from a**
15 **stream channel**, the less risk there is of direct deposits of sediment into the drainage. **Roads**
16 **constructed near a stream** pose a higher relative risk to water quality and to modifying hydrologic
17 response of streamflow from runoff events. **When located close to a stream channel**, there is less
18 available vegetation and land surface to buffer or capture the **transport of eroded material and**
19 **other pollutants that may become mobilized during runoff events.**

20 Both sentences are proved false by statements in the SAME REPORT at page 97, the section titled
21 **General Direct and Indirect Effects Common to All Alternatives:**

22 **primary effect to water quality related to motorized uses is sedimentation originating from road**
23 **erosion.**

24
25 Page 97: **'Road closures do not immediately eliminate hydrologic impacts. Rather, the disturbed**
26 **surface takes years to stabilize, which depends on the level of success in the closure, underlying soils,**
27 **vegetative regrowth, and other such factors. Roads, including those behind gates and dropped from**
28 **inventories, continue to produce sediment until they are totally revegetated.'**

29
30 The second sentence attempts to link two unrelated things to each other. Crossing a stream is a
31 motorized use event. Connectivity of the road system to the drainage network is a physical aspect of the
32 roads themselves and has nothing to do with the use of roads.

33
34 **Motorized uses can affect water quality both directly through the physical crossing of a route on a**
35 **stream, and indirectly through the connectivity of the road system to the drainage network.**

36 Page 97 of the Report defines connectivity: **'Any road segment that, during high runoff event has a**
37 **continuous surface flow path between the road prism and a natural stream channel is a**
38 **hydrologically connected road segment.'**

III. Water and Soils Report Misrepresents State of New Mexico Water Quality Information

The Water and Soils Report misrepresents the New Mexico State water quality information to invent and exaggerate negative impact attributed to OHV use. The Report ignores the preponderance of information from the State that the two largest causes of water quality problems are the agency’s own activities of silviculture and fire suppression. The information presented is for the entire forest. The Report never discloses if any of the impaired reaches are in wilderness areas. From Page 15 Table 6

Table 6 lists the water bodies that have been currently listed as in non-attainment of state water quality standards, and the probable causes of impairment. Currently there are 29 waterbodies (streams & lakes) within or adjacent to Forest system land that are not meeting State water quality standards. Of these 29 waterbodies, **twelve reaches have listed a probable source of impairment as either off-road vehicles, highway/road/bridge runoff, or surface/parking lot runoff.** Five of the 29 waterbodies document a **probable cause of impairment as turbidity,** which may be directly or indirectly linked to roads. Twenty of 29 waterbodies list a **probable cause of impairment as water temperature, which may also be indirectly linked to roads if stream channel geometry has been altered due to road-modified runoff.**

Let’s look at what Table 6 really says, and compare it to the bold text in the quote above. We’ll identify where the report says something that is not in the state’s table.

1: under the column for Probable Sources, the words ‘either’ and ‘or’ NEVER appear. Table 6 provides only LISTS of probable sources and does not ever identify any source is being an only source or a more likely source. The sources are merely listed. They are not ranked or weighted in any way.

2: The factors of highway/road/bridge runoff and surface/parking lot runoff are irrelevant. The Travel Management decision will not physically eliminate ANY highway, road, bridge, surface or parking lot. The DEIS does not address any paved road, paved surface or bridge. Table 6 identifies 6 reaches which include off highway vehicles as a probable source, not twelve.

3: For those twelve reaches the report targets, there is NO reach for which ‘off-road vehicles, highway/road/bridge runoff, or surface/parking lot runoff’ are the only Probable Sources. Those three factors are ALWAYS just part of a longer list. Here are the twelve reaches which include those factors:

Summary of NM Draft 2010-2012 Impaired Waters on Gila NF					
Basin	Reach	Designated Use (not supporting)	Probable Causes of Impairment	Probable Sources of Impairment	IR Category*
UPPER GILA	Black Canyon Creek (East Fork Gila River to headwaters)	High Quality Coldwater Aquatic Life	Temperature, water	Habitat Modification - other than Hydromodification; loss of riparian habitat; off-road vehicles; rangeland grazing; silviculture, Fire suppression	4A
	East Fork Gila River (Gila River to headwaters)	High Quality Coldwater Aquatic Life	Aluminum; Benthic-Macroinvertebrate Bioassessments (streams)	Off-road vehicles; other recreational pollution sources; silviculture, Fire suppression; source unknown	5/5C
	Gilita Creek (Middle Fork Gila R to Willow Creek)	High Quality Coldwater Aquatic Life	Aluminum; Temperature, water	Natural Sources; Off-road vehicles; other recreational pollution sources; rangeland grazing; silviculture, Fire suppression	5/5A
	Lake Roberts	Coldwater Aquatic Life	Nutrient/Eutrophication Biological Indicators; pH; Temperature, water	Agriculture; impervious surface/parking lot runoff; other recreational pollution sources	5/5A

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1	Mogollon Creek (perennial reaches abv USGS gage)	High Quality Coldwater Aquatic Life	Aluminum	Mill tailings; off-road vehicles; silviculture, fire suppression; streambank modifications/destabilization	4A	
	Taylor Creek (Beaver Creek to Wall Lake)	High Quality Coldwater Aquatic Life	Aluminum; Temperature, water; turbidity	Natural sources; off-road vehicles; other recreational pollution sources; rangeland grazing; silviculture, Fire suppression; upstream impoundments (e.g. PI-566 NRCS structures)	5/5A	
	West Fork Gila River (East Fork to Middle Fork)	High Quality Coldwater Aquatic Life	Temperature, water	Natural sources; off-road vehicles; other recreational pollution sources; silviculture, fire suppression	5/5B	
2	<hr/>					
	3	SAN FRANCISCO	Centerfire Creek (San Francisco River to headwaters)	High Quality Coldwater Aquatic Life	Nutrient/Eutrophication Biological Indicators; pH; Specific Conductance; Temperature, water	Natural Sources; off-road vehicles; other recreational pollution sources; rangeland grazing; silviculture, fire suppression
Negrito Creek (Tularosa River to confluence of North and South Forks)			High Quality Coldwater Aquatic Life	Temperature, water	Highway/road/bridge runoff (non-construction related); other recreational pollution sources; rangeland grazing; silviculture, fire suppression	5/5A

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South Fork Negrito Creek (Negrito Creek to headwaters)	High Quality Coldwater Aquatic Life	Temperature, water	Highway/road/bridge runoff (non-construction related); Loss of riparian habitat; other recreational pollution sources; rangeland grazing; silviculture, fire suppression	4A
Tularosa River (San Francisco River to Apache Creek)	High Quality Coldwater Aquatic Life	Specific Conductance	Highway/road/bridge runoff (non-construction related); natural sources; rangeland grazing; silviculture, fire suppression	
Whitewater Creek (San Francisco River to Whitewater Campground)	High Quality Coldwater Aquatic Life	Turbidity	Channelization; highway/road/bridge runoff (non-construction related); loss of riparian habitat; natural sources; streambank modifications/destabilization	4A

4: 'Five of the 29 waterbodies document a probable cause of impairment as turbidity, which may be directly or indirectly linked to roads'

There are multiple misrepresentations here, including both commission and omission.

1. Only two reaches include road related issues
2. Failure to disclose the relative infrequent mentions of OHV and road (one each), compared to the nine mentions of grazing, silviculture and fire suppression.
3. Failure to disclose that the ONLY mention of OHV occurs with the most frequently named probable sources; grazing, silviculture and fire suppression.
4. Failure to present the logical conclusion that OHV use is likely only coincidental to the major contributors (grazing, silviculture and fire suppression) and is not in itself a significant source of turbidity.

Here are the five reaches listed with turbidity impairment, and the probable sources for each. We note that natural sources would include background counts of sediment moving off the hillsides that define every watershed.

Canyon Creek (Middle Fork Gila River to Headwaters)

Loss of riparian habitat; rangeland grazing; streambank modifications/destabilization

Middle Fork Gila River (Gila River to headwaters)

Natural Sources; other recreational pollution sources; silviculture, Fire suppression;

Taylor Creek (Beaver Creek to Wall Lake)

Natural sources; **off-road vehicles**; other recreational pollution sources; rangeland grazing; silviculture, Fire suppression; upstream impoundments (e.g. PI-566 NRCS structures)

Taylor Creek (perennial reaches above Wall Lake)

Natural sources; rangeland grazing; silviculture, fire suppression

Whitewater Creek (San Francisco River to Whitewater Campground)

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1 Channelization; **highway/road/bridge runoff** (non-construction related); loss of riparian habitat; natural
 2 sources; streambank modifications/destabilization

3
 4 **5: Fails to provide an accurate assessment of OHV impacts from Table 9. The report fails to admit**
 5 **the state data does not show OHV as a major source of temperature impairment.** If anything, the
 6 state data show that other factors have more influence. The report is inexcusably 'silent' in this regard,
 7 reflecting the agency's intent to ascribe blame to motorized use.

8 **Table 9 shows twenty reaches with temperature impairment, FIFTEEN DO NOT have OHV as a**
 9 **Probable Source:**

10 REACH	PROBABLE SOURCES
11 Mimbres (2 reaches)	other, incl. grazing
12 Gila (Mog. Ck to Gila Hot Springs)	source unknown
13 Lake Roberts	other, incl. parking lot runoff, agriculture
14 Middle Fork	other, incl. unknown, silviculture, fire suppression
15 Taylor Creek, perennial	other, incl. natural, grazing, silviculture, fire suppression
16 Turkey Creek	other, incl. natural, silviculture, fire suppression
17 West Fork Gila	source unknown
18 (Cliff dwellings to canyon)	
19 Bill Evans Lake	source unknown
20 Gila River (Mangas to Mogollon Ck)	source unknown
21 Gila River (Red Rock to Mangas Ck)	source unknown
22 Mangas Creek	source unknown
23 Negrito Creek	other, incl. grazing, silviculture, fire suppression
24 San Francisco River	other, incl. grazing, silviculture, fire suppression
25 (Centerfire Ck to AZ border)	
26	
27 South Fork Negrito Ck	other sources, incl. highway/bridge runoff, grazing, silviculture, 28 fire suppression
29	
30	

31 **Table 9 shows that for the FIVE reaches that DO include OHV, the probable sources for**
 32 **temperature impairment in those reaches always include the agency's OWN activities of**
 33 **silviculture and fire suppression.** Four of the five also include rangeland grazing.

34 **Black Canyon Creek** (East Fork Gila River to headwaters):

35 Habitat Modification - other than Hydromodification; loss of riparian habitat; **off-road**
 36 **vehicles; rangeland grazing; silviculture, Fire suppression**

37
 38 **Gilita Creek** (Middle Fork Gila R to Willow Creek)

39 Natural Sources; **Off-road vehicles;** other recreational pollution sources; **rangeland**
 40 **grazing; silviculture, Fire suppression**

41
 42 **Mogollon Creek** (perennial reaches abv USGS gage)

43 Mill tailings; **off-road vehicles; silviculture, fire suppression;** streambank
 44 modifications/destabilization

45
 46 **Taylor Creek** (Beaver Creek to Wall Lake)

47 Natural sources; **off-road vehicles;** other recreational pollution sources; **rangeland**
 48 **grazing; silviculture, Fire suppression;** upstream impoundments (e.g. PI-566 NRCS
 49 structures)

50
 51 **West Fork Gila River** (East Fork to Middle Fork)

52 Natural sources; **off-road vehicles;** other recreational pollution sources; **silviculture,**
 53 **fire suppression**

54
 55 **Centerfire Creek** (San Francisco River to headwaters)

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1 Natural Sources; **off-road vehicles**; other recreational pollution sources; **rangeland**
2 **grazing; silviculture, fire suppression**
3
4

5 **6: Invents causes and relationships not included in the state's table.**

6 The report says

7 Twenty of 29 waterbodies list a **probable cause of impairment as water temperature, which**
8 **may also be indirectly linked to roads if stream channel geometry has been altered due to**
9 **road-modified runoff.'**

10 The state data shows only FOUR reaches which include road runoff among the Probable Sources for
11 ANY type of impairment: South Fork Negrito Creek, Negrito Creek, one reach of the San Francisco River,
12 Tularosa River and one reach of Whitewater Creek. Of those only TWO of those are temperature
13 impaired: South Fork Negrito Creek and Negrito Creek.

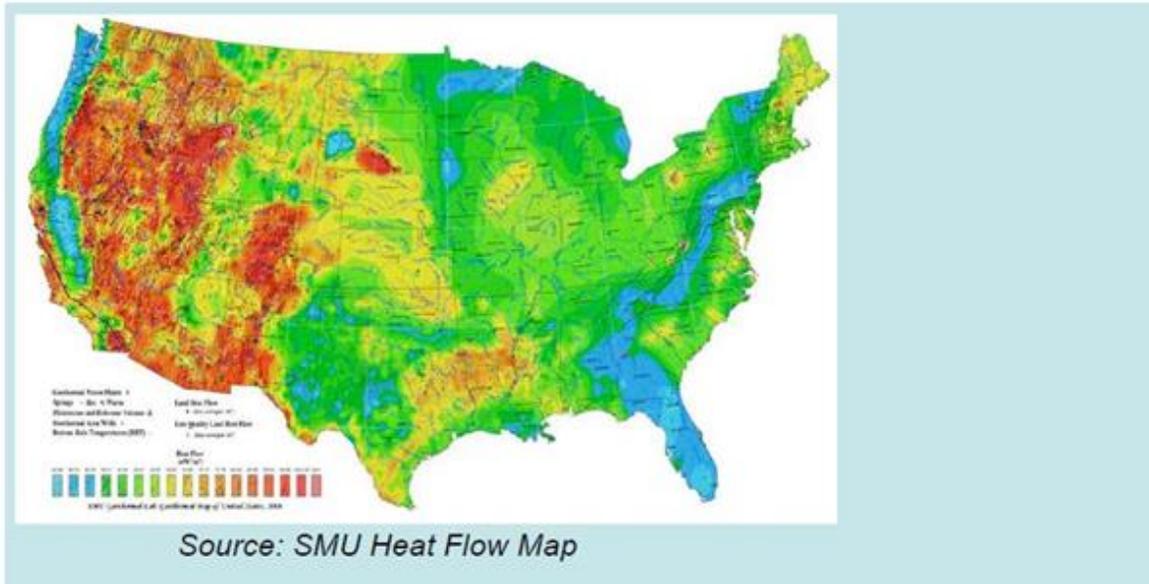
14 **Yet the report inserts the conjecture that roads may be the source of temperature impairment for**
15 **20 reaches! The report blames road runoff for temperature impairment of an additional 18**
16 **reaches, but it is simply making this up.** Alteration of channel geometry due runoff from roads IS NOT
17 mentioned in Table 6 AT ALL. It is not identified as a Probable Source for any reach. This idea is purely
18 an invention of the report. It is unacceptable for the report to invent causes and relationships which are
19 not included in the cited material from the state.

20 **7: Ignores the importance of 'Natural Sources' as a contributing factor.** Table 9 lists TEN reaches with
21 'Natural Source' temperature impairment. This is obviously significant. The report does not disclose what
22 this is about, so we went searching for it ourselves.

23 Gilita Creek
24 Middle Fork Gila
25 Taylor Creek (both reaches)
26 Turkey Creek
27 West Fork Gila
28 Centerfire Creek
29 Tularosa River
30 Whitewater Creek (both reaches)

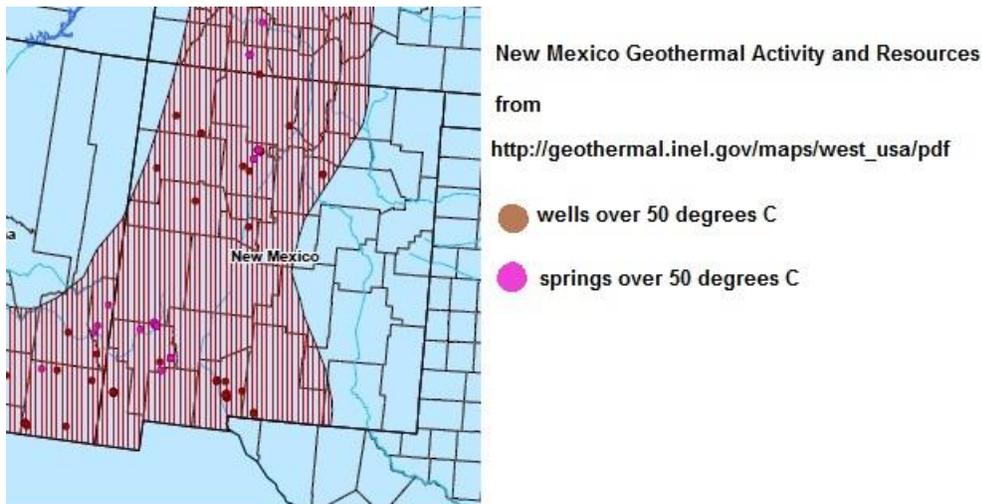
31
32 We found it is well known that the state of New Mexico has a lot of geothermal energy. This is the logical
33 origin of the 'natural sources' temperature impairment; naturally hot water!

34 We note the failure of the agency to disclose scientifically proven and accepted facts about geothermal
35 energy and the extent to which it is present in the Gila National Forest. The maps below show that all of
36 southwestern New Mexico has high level geothermal activity. The map below is from New Mexico Tech
37 in Socorro, http://www.ees.nmt.edu/person/Projects/NMT_Geothermal_Jun20_sm.pdf
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Another map, showing geothermal wells and springs in New Mexico: The shaded area shows known or potential geothermal resources.



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8: The report fails to disclose that there are 2,243 miles of non-forest jurisdiction roads which contribute effects to the existing condition of water quality. The road mileage chart in the Roads Analysis Report, page 8, shows 2,243 miles of road over which the forest does not have jurisdiction. These include over 1,000 miles of paved US and State highways, and graded roads controlled by counties and private owners.

These are significant sources of runoff and sediment. The forest does not do the grading, or maintain the culverts and other drainage features on these roads. The report however lists only forest system roads ('over 5,200' miles of road, from the Table at page 20). This figure does not include the non-forest jurisdiction roads. The true figure for routes affecting the environment includes the 2,243 miles of non-forest roads, for a total of at least 7,400 miles. The non-forest roads represent 30% of the total. It is

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1 reasonable to make an assumption that at least 30% of the impacts come from non-forest roads, since
2 these include the dirt roads that get grading maintenance. A 30% over-statement of impact cannot be
3 ignored; it must be corrected in some way. Closing forest roads will not reduce impacts that from non-
4 forest roads.

5
6 **The analysis cannot simply ascribe all impairment issues to the forest's own transportation**
7 **system, and then claim reduction in impacts proportional to the mileage of roads. The**
8 **methodology is wrong when it claims a direct and linear relationship between effects of all roads**
9 **and miles of only forest road.**
10

Table 2. Roads under other jurisdiction within or access Gila National Forest

Road Jurisdiction ^a	Miles
Bureau of Land Management	1.8
County	802.6
Other Forest Service	23.8
Private	391.4
State Highway	686.5
US Highway	337.5
Total Miles	2243.6

11
12
13
14 **9: All the data comes from measurements taken on an environment affected by cross country**
15 **travel and by roads.** But the methodology fails to disclose that, or account for it. Instead, the
16 methodology operates under the false assumption of direct linear relationship between the amount of
17 impact and mileage of roads. **If the agency maintains there is impairment from cross country travel,**
18 **it must separate out that amount from the impacts, and ascribe only the remaining amount to the**
19 **routes.**

20
21 If the agency believes that cross country travel is a significant source of water quality impairment, it needs
22 to identify that and not blame that impairment on roads and trails. If the agency does not believe that
23 cross country travel is a significant source of water quality impairment, it needs to disclose that. But the
24 agency can't have it both ways.

25
26 **10:** Missing analysis. The watershed data reveals that the watersheds with unsatisfactory conditions are
27 primarily the ones with a large percentage of area outside the forest. The analysis fails to investigate the
28 obvious question of whether there is any connection between watershed condition and water quality
29 impairment.

30 **TO SUMMARIZE; HERE IS WHAT TABLE 9 REALLY SAYS ABOUT TEMPERATURE IMPAIRMENT:**

31 29 reaches with impairment of some kind

32 20 reaches with temperature impairment

33
34
35 75% of the temperature impaired reaches do NOT include OHV as a Probable Source:

36 15 temperature impaired reaches listing grazing, silviculture and fire suppression

37 10 reaches with impairment from natural sources (hot springs)

38 6 temperature impaired reaches with probable source listed as Unknown

39
40 **Logical conclusion:** major sources of temperature impairment are grazing, silviculture, fire suppression
41 and natural sources. There are more reaches listing 'unknown' source than with OHV as a source.
42

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1 For reaches that DO include OHV as a Probable Source, OHV appears only in combination with the
 2 multiple major factors.

3 5 temperature impaired reaches list grazing, silviculture and fire suppression **and OHV** as
 4 probable sources

5 4 temperature impaired reaches list grazing, silviculture and fire suppression, natural sources **and**
 6 **OHV** as probable sources

7
 8 **Logical Conclusion:** OHV is a very minor Probable Source of temperature impairment

9
 10 **Inaccurate conclusions in the ‘Summary Forestwide Watershed Characteristics’ at page 20.**

11 The following errors and misrepresentations appear in the Summary Table at page 20:

12 -12 of 29 list probable source of impairment as off-road vehicles, highway/road/bridge runoff, or
 13 surface/parking lot runoff.

14 -5 of 29 listed for turbidity which may be linked indirectly to roads

15 -20 of 29 listed for temperature which may be linked indirectly to roads

16 -More than 5,200 miles of roads and trails, a large portion of which are not paved.
 17

Summary of Forestwide Watershed Characteristics	
Feature	Characteristics
	Colorado River via tributaries <ul style="list-style-type: none"> • Eastern portion of Forest flows east, southeast into Rio Grande via tributaries
Watersheds	<ul style="list-style-type: none"> • 41 fifth code watersheds that intersect the Forest with average size of 210,000 acres • 190 sixth code watersheds that intersect the Forest with average size of 25,000 acres
Designated uses of water	<ul style="list-style-type: none"> • Domestic water supply, coldwater aquatic life, fish culture, high quality coldwater aquatic life, irrigation, livestock watering, marginal coldwater aquatic life, marginal warmwater aquatic life, primary contact, secondary contact, warmwater aquatic life, wildlife habitat
Water Quality	<ul style="list-style-type: none"> • 29 waterbodies within or adjacent to Forest not meeting State water quality standards • 12 of 29 list probable source of impairment as off-road vehicles, highway/road/bridge runoff, or surface/parking lot runoff. • 5 of 29 listed for turbidity which may be linked indirectly to roads • 20 of 29 listed for temperature which may be linked indirectly to roads
Riparian Condition	<ul style="list-style-type: none"> • 132 reaches assessed using PFC assessment • 54% of these in Proper Functioning Condition • 36% of these Functional at Risk • 10% of these Non-Functional • 64% currently meeting Forest Plan Standards of PFC or FAR- Upward Trend • 326 reaches inventoried using RASES • Average riparian width across Forest is 155 feet • Median riparian width across Forest is 90 feet
Soil Conditions	<ul style="list-style-type: none"> • satisfactory soil condition = 53% • unsatisfactory soil condition = 25% • unsuited soil condition = 21% • slight erosion hazard = 45% • Moderate erosion hazard = 12% • Severe erosion hazard = 43%
Roads	<ul style="list-style-type: none"> • More than 5,200 miles of roads and trails, a large portion of which are not paved.

18
 19

1
2 **The report fails to present these facts.**

3 **Fact 1: The water quality information from the state shows the relative importance of the various**
4 **factors causing temperature impairment according to the frequency of listing.**

5 **Fact 2: Silviculture, fire suppression and grazing are by far the most frequently listed sources of**
6 **temperature impairment of reaches (20).**

7 **Fact 3: OHV is listed infrequently (5) and never appears as a Probable Source without the**
8 **agency's own actions of silviculture and fire suppression.**

9 **Fact 4: Natural sources and 'unknown' are each listed as Probable Sources more often than OHV.**
10 **The Gila National Forest is in a region with high levels of geothermal activity.**

11
12 **Fact 5: The agency's own actions of silviculture and fire suppression, plus grazing appear 15**
13 **times as Probable Sources, with no inclusion of OHV.**

14 **Fact 6: There are 2,243 miles of roads in the forest which are not under the forest's jurisdiction.**
15 **These include over 1,000 miles of paved US and State highways. These roads are contributing**
16 **negative impacts to water quality.**

17 **LOGICAL CONCLUSION: OHV is a very minor contributing source of temperature impairment, and**
18 **could be primarily just coincidental with the major sources; silviculture, fire suppression and**
19 **grazing.**

20 **The report fails to admit its own activities (silviculture and fire suppression) are the major**
21 **contributors to temperature impaired water quality. The second ranked factor is grazing. The third**
22 **ranked factors are natural sources (geothermal activity) and 'unknown'. OHV is the least**
23 **frequently mentioned. But the report ignores the facts, and falsely blames water quality**
24 **impairment on OHV use.**

25 **At page 90 of the DEIS is this statement (bold added)**

26 ***Effects to Water Quality***

27 ***Each alternative was analyzed to determine if there is potential for motor vehicle travel on***
28 ***the Gila National Forest to impact water quality. Water quality was evaluated on all perennial,***
29 ***intermittent, and impaired (303d) waters. Analysis of effects to these waters was based on***
30 ***motorized uses and their proximity to drainages, concentration of flows into streams, and stream***
31 ***crossings that disturb stream bottom sediments. Impaired waters were analyzed separately to***
32 ***see how the action alternatives compared to the no action alternative regarding impacts to***
33 ***streams currently not meeting State water quality standards.***

34 To put it bluntly, this is not true. **The analysis is NOT based on 'motorized travel' or 'motorized**
35 **uses'. The report does not analyze the issue which is the only subject of the Travel Management**
36 **decision: motorized use. The report is based solely on mileage of existing roads.** The report
37 presents 133 pages of discussion, and deeply flawed conclusions based on its illogical methodology. The
38 report makes no mention AT ALL of the USE of roads. The decision will not affect the existence of the
39 roads at all. It will only regulate the motorized use. The report analyzes roads, and not motorized use.

40
41 The report cannot possibly claim to analyze motorized use. It provides no numbers for any users of roads,
42 let alone motorized users. The DEIS has admitted in various places that it has no user data. It does not
43 present any information that there are significant impacts from the motorized use of roads, or that
44 reducing motorized use will improve water quality to any degree at all. Contrary to CEQ, it does not
45 identify the lack of user data as missing information, and does not disclose the relevance of the missing
46 information. The utter lack of user data completely precludes any meaningful analysis.

47
48 Nonetheless, the report's conclusions are dutifully moved forward into the DEIS. Those conclusions are
49 completely illogical: reduce the mileage of routes open to motorized use in order to reduce impacts
50 caused only by the roads themselves. And then the DEIS has the audacity to claim it has analyzed
51 'motorized travel' and 'motorized use'. This claim is a falsehood.

52
53 **RESOLUTION:** Withdraw the Water and Soils Report. Prepare an accurate and complete Water and
54 Soils analysis that discloses the relative importance of the factors, accurately and fully analyzes the

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1 impacts, and determines whether the closures of roads to motorized use will contribute any significant
2 improvements. It must properly compare the alternatives and draw logical conclusions.
3 Then revise the DEIS to include the new accurate information, and revise the affected environment and
4 cumulative impacts to appropriately reflect the new information.
5 Thank you for the opportunity to comment.

6
7 Sincerely,

8
9 Joanne Spivack
10 1700 Willow Road NE
11 Rio Rancho, NM 87144
12 505-238-5493
13 Email: ravens-nest@comcast.net
14

15 Temporary Address through 3/23/11:
16 Apt. 1704, Shama Luxe, 128 Jinma Rd.
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18 Email: ravens-nest@comcast.net
19 Telephone: 138 4260 2510
20

21 On behalf of:

22
23 Mogollon Apache Gila (MAG) Riders
24 Jo Anne Blount
25 POB 165
26 Glenwood, NM 88039
27

28 Gila Roads and Trails Alliance (GRATA)
29 James T. Baruch
30 POB 17
31 Mimbres, NM 88049
32

33 Gila Trail Riders Association (GTRA)
34 Grant Gose
35 2205 Johnson Rd.
36 Silver City, NM 88061
37
38
39
40
41

1 **Comment 03032011-17-3 (Spivack Comment – User Conflict)**

2
3 March 3, 2011

4 Forest Supervisor
5 Attn: Travel Management
6 3005 E. Camino del Bosque
7 Silver City, NM 88061

8 r3_gila_travel@fs.fed.us

9 **Dear Responsible Official,**

10 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
11 am representing that organization and the undersigned organizations in providing these comments on the
12 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
13 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
14 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
15 recreational resources to the members of the public we represent.

16 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
17 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
18 Management Rule (TMR) with the utmost seriousness.

19 **This comment is a detailed criticism of agency methodology used to assess the impact of user**
20 **conflict. We request a substantive and meaningful response to this comment, as per CEQ.**

21 CEQ's Forty Questions:

22 *Question 29a. from Responses to Comments. **What response must an agency provide to a comment***
23 ***on a draft EIS which states that the EIS's methodology is inadequate or inadequately explained***

24 *from the Answer: ...**agencies must respond to comments, however brief, which are specific in their***
25 ***criticism of agency methodology.the agency would have to respond in a substantive and***
26 ***meaningful way to such a comment.***

27 **USER CONFLICT**

28 We have previously argued in comments on other travel management processes that the agency cannot
29 regulate user conflict. The organic acts restricting the agency's authority are clear. Nonetheless, the
30 agency has given itself the authority to make decisions based on user conflict, an aspect of human
31 behavior based in psychology and sociology. We still contend this is not permissible. **However since the**
32 **agency insists on including user conflict in its travel management analysis, it should treat user**
33 **conflict like every other issue and provide a proper analysis. We examine the methodology the**
34 **agency uses.**

35 Here are statements in the DEIS which describe the methodology used for assessing user conflict. **In**
36 **Table 16, page 34, we see the agency specifically applies the criteria of 'number of miles'.** The
37 agency contends that more miles results in more user conflict, less miles results in less user conflict.

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Table 16. Summary of the effects described in detail in chapter 3

Resource	Alternative B	Alternative C	Alternative D	Alternative E	Alternative F	Alternative G
Noise and User Conflict	All action alternatives eliminate cross-country motorized travel, except as described for the purposes of MDC and MBGR. Conflicts due to cross-country motorized travel will be eliminated or significantly reduced.					
	No change in short term – user conflicts and noise impacts will continue, with potential to increase in the long term.	Least reduction of noise and user conflict with the least reduction of miles.	Moderate reduction of noise and user conflict.	Most potential for reduction of noise and user conflict corresponding with the most reduction of miles.	Moderate reduction of noise and user conflict.	Moderate reduction of noise and user conflict.

1
2 The analysis methodology is based on the assumption that reducing miles open to motorized use results
3 in less user conflict. In other words, the mere presence of motorized use equates to user conflict, or at
4 least the 'potential' user conflict. The agency has created a new mission, it has decided it must now
5 reduce some undefined thing it calls 'the potential for' user conflict:

6
7 **ISSUE 1:** The DEIS does not comply with Gila National Forest's Forest Plan requirements for
8 designating motorized use. At page 18 the DEIS reproduces a page from the Forest Plan showing the
9 criteria. That page says:

10
11 Criteria to be used in designating open, closed or restricted roads, trails and areas are:

- 12 Management emphasis of a specified area;
- 13 Level of conflict between existing types of use;
- 14 Required resource protection;
- 15 Seasonal constraints;
- 16 Special needs of users and management.

17
18
19 The DEIS is not complying with the forest plan. It uses criteria for user conflict to designate use.
20 The discussion in the DEIS is about USER conflict, not USE conflict.
21 'User conflict' appears in the DEIS in 31 places. It appears in the reports in 11 places.
22 'Use conflict' or 'conflict among (or between) uses' appears twice in the DEIS, and 4 places in reports.
23 The discussions of effects and of reducing effects are all framed in terms of user conflict.

24
25 **ISSUE 2: No Legitimate Methodology for Analysis**

26 An analysis requires certain elements. The following elements are entirely missing from the discussion:

- 27 Definition of user conflict by type and some measure for level of conflict
- 28 Data on user conflicts
- 29 Definition of 'potential for' user conflict. (Does it mean 'possibility of two users meeting'?)
- 30 Monitoring for User Conflict
- 31 Evidence of any attempt to educate or sign for multiple use on trails (maps, information kiosks, etc.)
- 32 Locations of verified user conflicts
- 33 A description of existing condition of user conflict, either quantitative or anecdotal
- 34 Threshold for user numbers at which user conflict increases or declines (see page 59, re: 'remote and
35 lightly used')

36
37
38 The DEIS presents exactly zero information on the issue. An analysis cannot be done in the total absence
39 data, definitions and criteria. Nonetheless, the DEIS has constructed an indicator for evaluating
40 alternatives; 'more mileage with 'more conflict'. The DEIS proceeds under the assumption that user
41 conflicts are proportional to the mileage open to motorized uses.

1 **ISSUE 3: Methodology Contrary to MUSYA**

2
3 Think about what the Gila National Forest is REALLY saying with this indicator:
4 It is saying that where ever motorized use is allowed there is conflict (more miles = more conflict) and the
5 way to reduce it is to reduce the miles where it is allowed. (less miles = less conflict).

6
7 **The agency is saying that it is impossible to have multiple use without user conflict.**
8 **It has created an objective of reducing user conflict. Therefore the only to do that is reduce the**
9 **routes where multiple use (motorized and nonmotorized) is allowed. What does this say about the**
10 **agency's commitment to obeying the Multiple Use Sustained Yield Act? It says the agency is not**
11 **upholding it, and attempting to evade its basic principles.**

12
13 In Table 16 motorized opportunity is clearly described as inversely proportional to 'noise and user
14 conflict'. These statements and many others reveal the attitude of the agency; motorized use is
15 inherently bad and incompatible with other users. This contradicts what the USFS has said about the
16 legitimacy of motorized recreation. This DEIS starts with the assumption that designating ANY motorized
17 use has a negative impact on other users. Statements from Table 16:

18
19 Alternative C; Least reduction of noise and user conflict with the least reduction of miles.
20 Retains most miles of roads and trails open to motorized use

21
22 Alternative E: Most potential for reduction of noise and user conflict corresponding
23 with the most reduction of miles.
24 Retains least level of miles of roads and no motorized trails open
25 to motorized use compared to other action alternatives.

26
27 Alternative G: Moderate reduction of noise and user conflict.
28 Retains moderate level of miles of roads and trails open to motorized use,

29
30
31 **Statements in the DEIS About User Conflict That The Presence of Motorized Use is Equivalent to**
32 **User Conflict.**

33 At DEIS page 53, we find this statement, saying that lack of planning is an issue with user conflict. This
34 statement is irrational, and contradicts the available science (psychological and sociological studies) on
35 user conflict. The agency is also claiming potential of user conflicts on its planned routes, so what is the
36 difference between conflict on planned routes and unplanned routes?

37 The unplanned nature of many of these unauthorized routes makes it difficult to manage the
38 transportation system and sometimes leads to resource damage and user conflicts.

39
40 At DEIS page 56, we're told that conflict is related to education and managing expectations. The
41 alternatives offer no 'solution' other than making closures to 'reduce user conflict' and THEN printing a
42 map telling people what to expect. What is the difference between more or less routes if it is the map that
43 is reducing the conflicts? The agency refers to 'frequency of user conflicts' but fails to disclose. It either
44 has information it's not giving us, or it has no information and is just making up this idea of 'frequency'.
45

46 Overall, user conflict on motorized routes is expected to be minimized by implementing the travel
47 management rule under all action alternatives. **Roads and motorized trails would be**
48 **administratively defined and published on the motor vehicle use map.** This would offer the
49 public a means to better plan recreational pursuits based on the individual's unique expectations.
50 **As a result, frequency of conflicts between nonmotorized and motorized recreation users**
51 **should decrease in the short and long terms.**

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1

2 At page 56 is also this statement: We ask the agency to disclose a) what it means by 'perceived effects'
3 (who is the perceiver?) and b) how the buffer was applied.

4 **The perceived effects of motorized** use such as noise, emissions, user conflicts, and impacts
5 to wilderness, roadless areas, and private lands, will remain in predictable locations (within ½
6 mile of open roads), and will be **minimized in areas beyond this ½-mile buffer.**

8 At DEIS page 57, we find this statement, which presumes to predict people's psychological responses
9 and motivations. Some people live near forest lands precisely so they can have motorized access.

10 The effects of motorized routes in terms of noise, emissions, and user **conflicts that could be**
11 **experienced by people** located within ½ mile from populated areas, neighboring private land,
12 roadless areas, wilderness boundaries, developed recreation sites, and nonmotorized trails will
13 remain unchanged in the short term.

14 Also at DEIS page 57, we find this statement, which says user conflict is 'correlated' with noise and
15 emissions which in turn is caused by 'proliferation'.

16 With no prohibition on cross-country travel, people around these boundaries **can expect to**
17 **experience an increase in motor vehicle related noise and emissions, along with a**
18 **correlated increase in user conflict** as the **proliferation of unauthorized routes continues**
19 **on its current, unpredictable, upward trend** in the long term.

20 **Proliferation** The word 'proliferation' occurs 11 times in the DEIS and also 11 times in the specialist
21 reports. Every mention is a vague, generalized hypothesis or prediction. **At page 57 the DEIS claims**
22 **there is an 'upward trend'. Where's the data?** There is not one shred of evidence offered in the DEIS
23 about any proliferation anywhere. If the GNF is so sure there is proliferation, surely it could point to a few
24 examples, or at least estimate mileage. It tells us absolutely nothing. Proliferation is one of the 'mantras',
25 endlessly repeated with no explanation, under the theory that if you say it often enough it is true. This is
26 the very essence of propaganda, and is essentially Orwellian. 'Proliferation' is an empty accusation, like
27 user conflict, not supported by even the thinnest piece of evidence. These are conclusory assertions
28 made with no justification.

29 This claim of 'upward trend' of proliferation of unauthorized routes is contradicted by other statements in
30 the DEIS, including this at page 94:

31 Currently, the Gila National Forest has seen minimal adverse impacts related to cross-country
32 travel for dispersed camping and big game retrieval. **Cross-country use on this forest is**
33 **infrequent and dispersed enough that few permanent tracks are created, based on forest**
34 **staff observations.** Some situations do exist, however, where local residents have created an
35 "undesigned" route based on a favorite destination off of a designated route.

36 And page 89:

37 Personal observations (Koury and Natharius 2010) on the Gila National Forest indicate that
38 adverse effects to riparian areas and wetlands from travel off of designated routes are minimal.
39 **Travel off of designated routes is mostly infrequent and/or a one-time occurrence, with**
40 **little compaction occurring or permanent tracks created.** In a few locations, motorized users

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1 have created visible routes that are repeatedly used for big game hunting, antler hunting, and
2 unrestricted cross-country motorized travel.

3 And page 103 tells us that much of land is impossible to traverse off the established routes, so
4 proliferation wouldn't even be possible:

5 Under the no action alternative, the forest (2,441,804 acres) is open to motorized cross-country
6 travel and motorized dispersed camping, although many areas are not actually available due to
7 steep slopes, rocky conditions, and/or dense timber.

8 **ISSUE 4: The Battle of Words:**

9 **The Escalation of 'User Conflict' to 'Potential for Coming into Contact' and 'Perceived Effects'**

10 Since the beginning of the Travel Management Rule, we have watched the evolution of 'user conflict'.

11 2005: Originally user conflict meant actual behavior; rudeness, threats, interfering with someone else's
12 safe passage, and physical conflicts between people (yelling, shoving, throwing something). Grumbling,
13 scowling and muttering under the breath didn't count.

14 2007: The next stage was 'unilateral' user conflict. In this stage there were no long two active participants
15 in the 'conflict'. The agency claimed user conflict had occurred even if the hated user was harmless and
16 passive, and causing no interference. The mere act of disliking the other user became sufficient for it to
17 be called 'user conflict'. Grumbling, scowling and muttering under the breath did count.

18 2011: In this DEIS we see the next step. User conflict has suddenly 'morphed' into 'user contact'. And it is
19 not just contact, it is 'potential' for contact. This is no small thing and the difference is not subtle. At this
20 stage there is no way the inherently evil motorized user can even be present in the forest, anyplace at
21 any time, at any distance, without being the 'cause' of user conflict. His mere existence is sufficient. If
22 some innocent nonmotorized soul has (heaven forbid) the misfortune to suffer any contact with the
23 motorized user, user conflict has inevitably occurred. Contact can be auditory or visual, with no
24 requirement for proximity. It could include observing a parked vehicle at a distance. In addition, the
25 agency has added the idea of 'perceived effects' (DEIS, page 56) of motor vehicles. Now the 'perceiver'
26 and not the agency is defining user conflict. By the criteria of 'perception', any and every claim of conflict
27 is deemed legitimate. Under 'potential for conflict' the Forest Service counts the potential that one might
28 grumble, scowl and mutter under the breath.

29 We predict that the ultimate escalation of user conflict will cross the final frontier. It will remove the last
30 two restrictions limiting the claim of user conflict;

31 1. the person suffering the conflict is in the national forest, and

32 2. the hated motorized user is in the forest.

33 Under this enhanced definition, the Forest Service will dutifully agree it is 'user conflict' when someone
34 sits at her desk in Tucson, thinks about an ATV , and it causes her to grumble, scowl and mutter under
35 her breath.

36 **ISSUE 5: Invention of an Imaginary Problem called 'Coming Into Contact'**

37 Also at DEIS page 57, the simple encountering of another user ('coming into contact') is characterized as
38 a source of conflict. Encountering other users is inherent on public lands. Some hikers consider their
39 recreation experience to be ruined if they even see another hiker from a distance in a wilderness area.
40 Does this mean the Forest Service agrees they've been harmed? Does the Forest Service call it 'user

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1 conflict' if someone declares that any contact is an 'important issue' to him? At what level is a claim of
2 user conflict below some threshold of reasonableness? **The agency provides no lower limit for claims**
3 **of user conflict. Rather, it embraces even the most trivial encounter as 'important'.** We note the
4 agency is well aware of different sorts of conflicts claimed by different users. The agency expects
5 nonmotorized users to tolerate each other, but they are not expected to tolerate the motorized users. We
6 don't see the agency planning to separate nonmotorized users because some user is claiming user
7 conflict. Statements like the following encourage intolerance. Even worse this reveals the agency itself to
8 be intolerant. We note that this statement implies that the agency must satisfy the expectations of
9 someone seek solitude in the multiple use area of the forest, which is characterized as 'roaded natural' in
10 the forest plan, under the R.O.S. definitions.

11 **Users who practice nonmotorized activities will continue to come into contact with those**
12 **who are using motorized vehicles for recreation.** To some nonmotorized users, such contact
13 is not an issue. But for those seeking solitude for a variety of reasons (i.e., hunting, wildlife
14 viewing, etc.), it can be an important issue. As a result, such user conflict is expected to increase
15 over time under alternative B.

16 Also at DEIS page 57, we find this statement, identifying that user conflict has been applied as an
17 indicator. User conflict apparently has some unit of measure which directly corresponds to miles. 19.3%
18 fewer miles of road equals 19.3% fewer 'what' of user conflict. We would like the agency to tell us what
19 units of measurement are being used. The methodology is not disclosed.

20 **Alternative C**
21 **The effects of motorized routes in terms of noise, emissions, and user conflicts** that could
22 be experienced by people located within ½ mile from populated areas, neighboring private land,
23 roadless areas, wilderness boundaries, developed recreation sites, and nonmotorized trails **will**
24 **be reduced by 19.3 percent when compared to the no action alternative.** Alternative C ranks
25 last in this regard among the five action alternatives proposed, offering the lowest reduction in
26 miles for the elements **for which this indicator measures.**

27 And on page 58, this assessment of Alternative C in regards to user conflict. What constitutes,' remote
28 and lightly used 'enough'? What criterion was applied, under which only certain trails were remote and
29 lightly used 'enough; to allow designation. This suggests some threshold was applied: under some
30 number of users, there are little or no conflicts. What is that threshold? What trails qualified and what trails
31 did not? This is not disclosed.

32 Motorized users who will benefit most under alternative C are single-track motorcycle riders since
33 it is the only alternative that considers this use, exclusive of other motorized vehicles. However, of
34 the 63.5 miles of single-track trail proposed, 50.6 miles are located on an existing nonmotorized
35 trail, shared by both hikers and equestrian riders. **User conflicts are not anticipated in the**
36 **short run, because the 50.6-mile trail section in question is considered remote, lightly**
37 **used, and deemed suitable for motorcycles and nonmotorized uses.**

38
39
40 **Page 58-59** This makes the improbable statement that there is a motorized trail someplace that is not
41 shared with nonmotorized users.

42
43 Motorcycles and ATVs would share the same designated motorized trail segments. None of the
44 proposed segments are on nonmotorized shared-use segments either, so potential user conflicts
45 among these groups are avoided in most cases.
46
47

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1 **Page 62** Conflict is assumed to increase when opportunity is reduced and use is concentrated in the
2 fewer allowed places. This contradicts the indicator that less allowed use = less conflict.

3
4 *it is possible that some traditional motorized dispersed camping areas will no longer be available*
5 *for public use. This could result in a **concentration of use at desired camping areas within***
6 ***designated corridors, which could lead to user conflicts.***

7
8 **Page 64 Conflict** is implicitly defined as including any encounter of a disliked user, when the unhappy
9 user is seeking solitude. The unavailability of solitude produces the conflict. This is contradictory to
10 current management practices under the LRMP and Recreation Opportunity Spectrum. Solitude in the
11 sense of isolation from other people is not a management goal. The agency manages for solitude only as
12 a wilderness characteristic. The agency here is improperly seeking to manage general use areas for
13 wilderness characteristic.

14
15 ***Non-hunters who practice nonmotorized activities will continue to come into contact with***
16 ***those who are using motorized vehicles to retrieve game. To some nonmotorized users, such***
17 *contact is not an issue, but for those seeking solitude for a variety of reasons (i.e., hunting,*
18 *wildlife viewing, etc.), it can be an important issue. As a result, such **user conflict is expected to***
19 ***increase over time under alternative B.***

20
21 **Page 65** Here we see the statement that user conflict is reduced by an increase in mileage. This is
22 exactly the opposite of the earlier statements that user conflict is reduced by a decrease in mileage.

23
24 ***User conflict in general is expected to be minimal as the public will still have the ability to***
25 ***disperse along the 2,331.8 miles of roads open to the public under alternative E.***

26
27 **Page 66** This is a description of Alternative B, the existing condition. **Note the pejorative reference to**
28 **'overlap' of motorized and nonmotorized 'places'**. The agency is saying that multiple use inherently
29 and inevitably produces conflict. The agency makes the extraordinary statement here that multiple use
30 on multiple use land designated as 'roaded natural (forest plan) produces conflict because it does not
31 provide the solitude (a wilderness characteristic) desired by some citizens. It also states that user conflict
32 is 'expected to increase over time', but gives no reason for making that prediction.

33
34 ***Under this alternative, nonmotorized and motorized places of opportunity overlap (outside***
35 ***of designated wilderness and study areas) so users who prefer quieter nonmotorized***
36 ***activities will continue to come into contact, with those who are using motorized vehicles.***
37 *To some nonmotorized users, such contact is not an issue, but **for those seeking solitude** for a*
38 *variety of reasons (i.e., hunting, wildlife viewing, etc.) it can be. As a result, such **user conflict is***
39 ***expected to increase over time under alternative B.***

40
41 **Page 67** The DEIS describes an area as having substantial motorized use, but having 'few' user conflicts.
42 There is no definition of what 'few' means. 'Few' implies there are less than in other areas which may
43 have 'more', which implies the agency has data it's not disclosing.

44
45 *The 7.8-acre area proposed for ATV and motorcycle use under this alternative is located in a*
46 *previously disturbed area that currently receives substantial motorized use. **User conflicts***
47 ***associated with this area are currently few, and are not expected to rise as a result of***
48 *designation as a motorized area.*

49
50 **Page 56** mentions 'low volume' on ML-2 roads, although the term is not defined or quantified.

51 *Approximately 22 percent of the forest's land mass is located within inventoried roadless areas.*
52 *Of the 4,619.5 miles of motorized routes (roads and trails) open to the public, 375.5 miles lie*
53 *within these roadless areas. A few segments of county roads and State highways are also*

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 *located within roadless areas*; however, they are not included in this analysis. Of the 375.5 miles
2 of roads and motorized trails currently open within roadless areas, **93 percent are low volume,**
3 **maintenance level 2 roads.**

4
5 **Page 68** identifies the objective: reduce motorized use for the benefit of nonmotorized users. **It also**
6 **clearly equates user conflicts with the presence of motorized users.** In Alternative E we see the final
7 solution. To completely achieve the elimination of user conflict, the alternative completely removes
8 motorized users.... from the area defined in the Forest Plan as land where motorized use is accepted and
9 to be expected.

10
11 **Alternative D and E** No areas are proposed. Nonmotorized users benefit the most, and the least
12 amount of user conflict is expected.

13 14 **ISSUE 7: The Forest Plan Describes the R.O.S. 'Roaded Natural' area as having 'Opportunities for** 15 **Social Interaction'.**

16
17
18 At page 53, the DEIS describes the ROS, but then does not take it into consideration. The DEIS tells us
19 that 16% of the forest is Primitive and 24% is Semi-primitive. 7% of the forest is Semi primitive Motorized
20 and 53% Roaded Natural, which is described as this:

21
22 Roaded natural describes areas characterized by a predominantly natural environment with
23 evidence of moderate permanent alternate resources and resource utilization. **Evidence of the**
24 **sights and sound of man is moderate, but in harmony with the general environment.**
25 **Opportunities exist for both social interaction and moderate isolation from the sights and**
26 **sounds of man.** Roaded natural classification includes 1,768,071 acres, or 53 percent of the
27 forest.

28
29 The Forest Plan, page 66, gives acreages for each spectrum:

30

31 Primitive	526,611
32 Semi Primitive	787,063
33 Semi Primitive Motorized	240,940
34 Roaded Natural	1,768,071
35 Total	3,327,768

36

37 The study area for the DEIS is comprised primarily of Roaded Natural area where sights and sounds of
38 human activity is accepted. In a Roaded Natural area the expected activities include use of vehicles. The
39 opportunity for isolation from those sights and sounds is 'moderate'. Solitude is NOT mentioned, and
40 moderate isolation not guaranteed anyplace. The DEIS portrays 'potential for User Contact' as a bad
41 thing that must be reduced.

42 **The possibility of encountering another person is called 'opportunity for social interaction' in the**
43 **forest plan. The DEIS transforms into 'potential for user contact'. It happens precisely at page 57.**
44 **Up to that point, the discussion used the term 'user conflict'. At page 57 the term 'user contact'**
45 **appears, and is equated with user conflict : 'user conflict expected to increase.. AS A RESULT...**
46 **of nonmotorized users CONTINUING TO COME INTO CONTACT with nonmotorized users.**

47 **Users who practice nonmotorized activities will continue to come into contact with those**
48 **who are using motorized vehicles for recreation.** To some nonmotorized users, such contact
49 is not an issue. But for those seeking solitude for a variety of reasons (i.e., hunting, wildlife
50 viewing, etc.), it can be an important issue. **As a result, such user conflict** is expected to
51 increase over time under alternative B.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 In areas managed for motorized use, the forest plan accepts that motor vehicles will be heard and seen.
2 The DEIS repeats this at page 53:

3 *The ROS provides a framework for defining the **types of outdoor recreation experience the***
4 ***public can expect in a certain area.***

5 The DEIS has said that the MVUM will help people plan their recreation because they'll know what to
6 expect, page 56:

7
8 *Roads and motorized trails would be administratively defined and published on the motor vehicle*
9 *use map. This would **offer the public a means to better plan recreational pursuits based on***
10 ***the individual's unique expectations.** As a result, frequency of conflicts between nonmotorized*
11 *and motorized recreation users should decrease in the short and long terms.*

12
13 **The DEIS contradicts itself.** The forest plan's R.O.S. says people should EXPECT to encounter vehicles
14 in the roaded natural area. The DEIS repeats that. But it has turned that expectation into a negative
15 impact called 'potential for user contact', and has is explicitly trying to reduce it.

16
17 **The agency is broadening its concept of user conflict to include the encounters between people**
18 **that the forest plan expects to occur in the area. The DEIS itself has a conflict, with the forest plan.**

19
20
21
22 **Summary: The DEIS has escalated the term 'user conflict'. It has been inflated into the concept**
23 **that the mere presence of motorized users in places where they are allowed and expected causes**
24 **unacceptable negative impacts on other users.**

25
26 In every single instance, the DEIS's discussion of user conflict assumes the motorized user is the 'cause',
27 and the nonmotorized user is the party suffering some negative impact. It always assumes the resolution
28 requires removal of the motorized user. The DEIS NEVER STATES that use conflict can ever be
29 allowed, anywhere, in any degree, for any reason. We request that agency consider the implications of
30 their assumption. Both parties have equal rights to be present on multiple use routes. There is no
31 legitimate reason to assume that one user group is always at fault simply because they are exercising
32 their right to BE in the forest.

33
34 **The DEIS has claimed that:**

35 less mileage equals less conflict (p. 34 and many others)
36 more mileage equals less conflict (p. 65)
37 the map will reduce user conflict, because it manages expectations (p. 56)
38 a heavily used motorized area has few conflicts. (p. 67)
39 reducing camping will increase conflicts (p 62)

40
41 Page 66 say user conflict is expect to increase, but at page 67 it is not expected to increase

42
43 Page 57 say proliferation of routes is on a current upward trend

44 Pages 89 and 94 report staff observations of very little cross country travel

45
46 **These statements are contradictory to an extraordinary degree.**

47
48 **RESOLUTION:** The DEIS has no plausible analysis of user conflict. There is no coherent presentation of
49 the existing condition or future cumulative effects. It has made an assumption that miles = user conflict
50 with no justification. It then proceeds to contradict itself. **The indicator produces results that are**
51 **contradictory to the Forest Plan and to the Multiple Use Sustained Yield Act, and the USFS's**
52 **statement of the legitimacy of motorized use.**

53

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 If the agency insists on managing user conflict, it must identify its source of authority for managing user
2 conflict. Next it must present a legitimate methodology for analyzing user conflict, comparing alternative
3 and assessing effects. **The methodology must include the standard elements required under**
4 **scientific integrity, and at the very least include data and definitions.** The DEIS has presented no
5 evidence at all that the hazy and ever-shifting thing it calls 'user conflict' is a legitimate concern or even
6 exists. If the agency cannot do this, the topic of user conflict must be eradicated from the DEIS. All route
7 closures based on user conflict must be identified. Those routes must be reinstated in the DEIS so their
8 suitability for designation can be determined.
9

10 Sincerely,

11
12 Joanne Spivack
13 1700 Willow Road NE
14 Rio Rancho, NM 87144
15 505-238-5493
16 Email: ravens-nest@comcast.net

17
18 Temporary Address through 3/23/11:
19 Apt. 1704, Shama Luxe, 128 Jinma Rd.
20 Dalian Development Zone, People's Republic of China
21 Email: ravens-nest@comcast.net telephone
22 Telephone: 138 4260 2510
23

24 On behalf of:

25
26 Mogollon Apache Gila (MAG) Riders
27 Jo Anne Blount
28 POB 165
29 Glenwood, NM 88039

30
31 Gila Roads and Trails Alliance (GRATA)
32 James T. Baruch
33 POB 17
34 Mimbres, NM 88049

35
36 Gila Trail Riders Association (GTRA)
37 Grant Gose
38 2205 Johnson Rd.
39 Silver City, NM 88061
40

1 **Comment 03032011-17-4 (Spivack Comment – Analysis Ignores Time)**

2
3 March 3, 2011

4 Forest Supervisor
5 Attn: Travel Management
6 3005 E. Camino del Bosque
7 Silver City, NM 88061

8 r3_gila_travel@fs.fed.us

9 **Dear Responsible Official,**

10 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
11 am representing that organization and the undersigned organizations in providing these comments on the
12 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
13 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
14 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
15 recreational resources to the members of the public we represent.

16 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
17 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
18 Management Rule (TMR) with the utmost seriousness.

19 Analysis fails to address the motorized use of roads, fails to understand that ‘use’ is an event that exists
20 in time. Fails to think about when the existing condition came into being, and if it is changing much.

21 The constant confusion in the document between ‘roads’ and the ‘use of roads’ shows the agency’s
22 failure to understand what ‘use’ means. Page 32 of the Water and Soils Report is just one of many
23 examples:

24 ***Effects to Soils***

25
26 ***The effects to soils by motorized uses on native surface routes are directly related to the***
27 ***impact the road footprint has on the landscape, as well as the impact the vehicle has both***
28 ***directly, and indirectly, on the ground itself. This project will result in a change in the levels of use***
29 ***of a particular road, however no alternative poses decommissioning or obliteration of any roads to***
30 ***return them to a more natural state. Tables 11-20 provide a summary of acres of motorized***
31 ***routes that pose a relative risk of adverse impacts to soils, by alternative, as well as potential***
32 ***acres that may be impacted by motorized dispersed recreation, motorized areas, and motorized***
33 ***big game retrieval.***

34
35 From CEQ’s Forty Questions:

36 *Question 29a. Responses to Comments. What response must an agency provide to a comment*
37 *on a draft EIS which states that the EIS’s methodology is inadequate or inadequately explained*

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 ...agencies must respond to comments, however brief, which are specific in their criticism of
2 agency methodology. agency would have to respond in a substantive and meaningful way to
3 such a comment.

4
5
6 **We request a substantive and meaningful response from the agency, as per CEQ.**

7 **1. There is no place anywhere in the DEIS or reports that considers the factor of time.**

8 The analysis never thinks about what 'use' means. Use is a transient event. Part of the description of a
9 transient event is that it is of limited duration. We illustrate with a simple example: 10 vehicles a day cross
10 a stream, each one takes 5 seconds to cross. The vehicles are gone in a few minutes, the turbidity and
11 sediment disturbance is resolved in an hour. The presence of the motorized use effect lasts for 1 hour out
12 of 24 hours. Whatever the effects are of the road itself, the effects of use are unlikely to be more than a
13 few percent of it. There must be some way to account for the reality that of all the time the road is
14 present and contributing 'effects', the use of roads happens in a very brief period of time.

15 The amount of time a road is in USE depends directly and entirely on the number of users. The DEIS
16 repeatedly states it does not have user or traffic data. What it fails to acknowledge is that it doesn't have
17 data on ANY users. It has no way to even make the roughest attempt to separate effects of motorized use
18 from effects of non- motorized use.

19 **2. Analysis Ignores Historical Uses and the Historic Existing Condition**

20 The DEIS never mentions or addresses the fact that certain conditions develop on the forest, and then
21 the effects and evidence of them persist for years. Fire is the most obvious example. The DEIS has
22 NOTHING that shows us what the rate of change is, because it has no monitoring data.

23 It is important to know the existing condition. But it is also important to know how it came to be, and how
24 long it has been like that, and if it's changed very much. Instead of acknowledging this missing
25 information, the analysis proceeds as if the existing condition is something that happened just recently,
26 caused by motorized use on the one-quarter of one percent of the forest land occupied by ML-2 roads.

27 The historical background on the forest includes over-grazing on a massive scale, and well-intentioned
28 but ill-fated mismanagement (fire suppression). These are the landscape scale factors that created the
29 landscape we have now. Low level motorized use on the one-quarter of one percent of the forest land
30 occupied by ML-2 roads is NOT a landscape scale factor.

31 The Recovery Plan for the Chiricahua Leopard Frog provides an excellent overview of the historic
32 activities that created what we see today. This is at page 34: (spacing added for ease of reading)

33 Oñate's colonization of New Mexico in 1598 was accompanied by the first livestock introductions
34 in that state. Completion of the railroads in the 1880s coupled with suppression of Apache raids
35 on ranchers allowed large-scale interstate commerce in livestock and a much greater demand for
36 cattle from Arizona and New Mexico.

37
38 By 1888 there were approximately 8.9 million cattle in New Mexico (Wilderman and Brock 2000).
39 In 1610, 100,000 cattle ranged the grasslands of the San Pedro and Bavispe rivers in Arizona-
40 Sonora; and by 1891 an estimated 1.5 million cattle were present in Arizona (Hastings and

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Turner 1965). With the increased demand for beef, ranchers moved large numbers of cattle onto
2 open rangeland with minimal regard for grazing management.
3

4 **The decline of the industry was a result of heavy overgrazing coupled with a severe**
5 **drought in the early 1890's followed by heavy rains, erosion, and arroyo cutting**
6 **(Hendrickson and Minckley 1984, Kruse and Jemison 2000).**
7

8 **The early cattle industry was both a cause and a result of severe ecosystem degradation,**
9 **resulting from several interacting factors, including overstocking of rangelands, decrease**
10 **in plant vigor and cover, drought, suppression of natural fires, and removal of beaver**
11 **along streams (Tellman *et al.* 1997).**
12

13 **Intense livestock grazing during the late 1800's and early 1900's was likely a key cause of**
14 **change in the structure and composition of montane forests, arroyo cutting and loss of**
15 **ciénegas and riparian systems, replacement of grasslands by shrublands, and altered fire**
16 **regimes (Hendrickson and Minckley 1984, Swetnam and Baisan 1996), although other factors**
17 **such as logging, mining, loss of beaver populations, and climate change also likely**
18 **contributed (Hereford 1993, Bahre 1995a and b, Geraghty and Miller, Inc. 1995).**
19

20 History confirms that major damage occurred a long time ago. The DEIS ignores this. The agency has not
21 searched its own archives to determine what conditions were like even 20 or 30 years ago. The human
22 activities and natural forces described in the Recovery Plan have the ability to cause changes on a very
23 large scale. The analysis of the effects of motorized use on routes must be set in the proper context, of
24 both scale and time.

25 **RESOLUTION:** The DEIS must be corrected to include an analysis of existing conditions in the context of
26 the history of the forest. The analysis must disclose what conditions have been in the past, and make
27 some assessment of what has changed, where and by how much. There must be some effort to disclose
28 what portion of the existing condition has historic causes and was not caused by any human use
29 (motorized or non-motorized) in the modern era.

30
31 Sincerely,

32 Joanne Spivack
33 Special Projects Coordinator, New Mexico Off Highway Vehicle Alliance
34 1700 Willow Rd., NE, Rio Rancho, NM 87144
35 ravens-nest@comcast.net
36 505-238-5493
37

38 Temporary Address through March 2011
39

40 Apt. #1704 Shama Luxe
41 128 Jinma Rd.
42 Dalian Development Zone
43 Liaoning Province
44 People's Republic of China
45 138-4260-2510
46

47 On behalf of:

July 24, 2014

New Mexico Off Highway Vehicle Alliance

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1
2 Mogollon Apache Gila (MAG) Riders
3 Jo Anne Blount
4 POB 165
5 Glenwood, NM 88039
6
7
8 Gila Roads and Trails Alliance (GRATA)
9 James T. Baruch
10 POB 17
11 Mimbres, NM 88049
12
13 Gila Trail Riders Association (GTRA)
14 Grant Gose
15 2205 Johnson Rd.
16 Silver City, NM 88061
17

1 **Comment 03032011-17-5 (Spivack Comment - Wilderness Area Not Identified)**

2
3 March 3, 2011

4
5 Forest Supervisor
6 Attn: Travel Management
7 3005 E. Camino del Bosque
8 Silver City, NM 88061
9

10 **Dear Responsible Official,**

11
12 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
13 am representing that organization and the undersigned organizations in providing these comments on the
14 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
15 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
16 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
17 recreational resources to the members of the public we represent.
18

19 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
20 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
21 Management Rule (TMR) with the utmost seriousness.
22

23 **ERROR: Watershed analysis shows no logical connection between the analysis and the closures**
24 **proposed in the alternatives.**

25
26 **ISSUE 1: WATER & SOILS ANALYSIS INCLUDES WILDERNESS. IT DOES NOT DISCRIMINATE**
27 **BETWEEN CONDITIONS INSIDE AND OUTSIDE WILDERNESS.**

28
29 The following statement is at page 28: (bold added)

30
31 ***Methodology and Analysis Process***

32 ***The analysis area under consideration for direct and indirect impacts is all forest lands***
33 ***interior to the Forest boundary. Cumulative impacts will be considered for all fifth code***
34 ***watersheds intersecting the Gila National Forest that have more than 10% of lands managed by***
35 ***the Forest.***
36

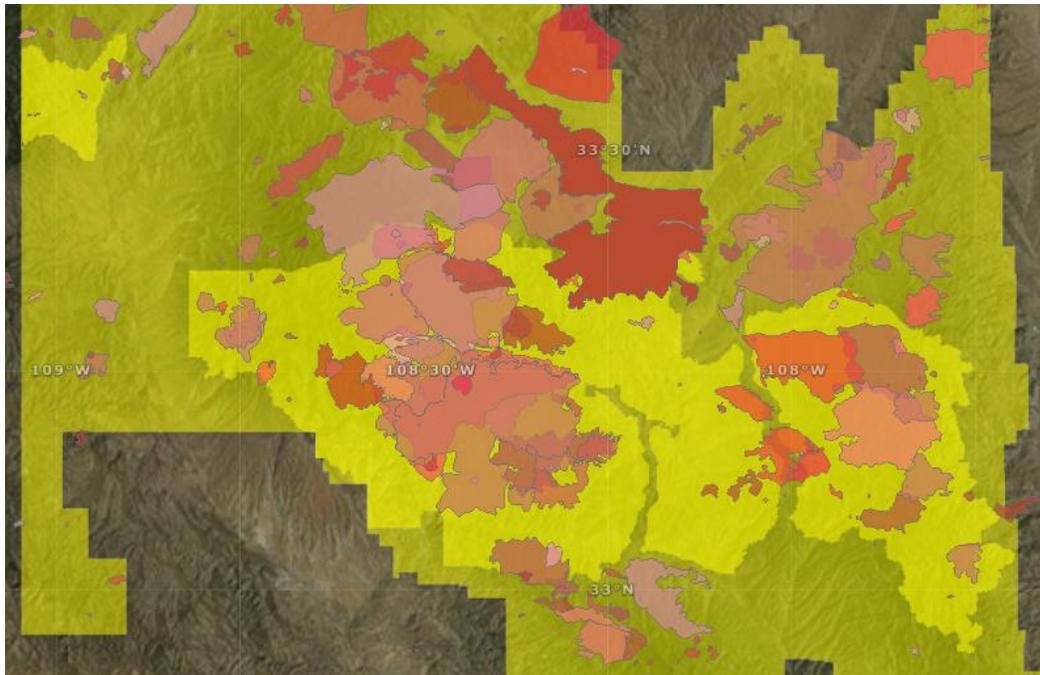
37 Table 1 pages 4-5 lists the watersheds, by acreage and conditions. It does NOT present the total
38 acreage. But we calculated the amount of Forest acres in the watershed from the information in the table.
39 **The total number of acres in watersheds is 3,301,060 acres, which is of course, the whole forest.**
40 The analysis does not disclose what percentage of the acres of unsatisfactory watershed acres are in
41 wilderness. Considering the fire history, it is highly likely there are unsatisfactory watershed conditions in
42 wilderness areas:
43

44 Below is a map of part of the Gila National Forest, from the Region 3 GIS website. It shows fire history,
45 with the range of red tones indicating different years. There is clearly significant fire history in the
46 wilderness area which very likely shares some watersheds with non-wilderness lands. We know lands
47 denuded by fires can be of higher erosion risk, depending on slope and soil type. This combined with flow
48 events can move sediment downhill. The amount of land affected by fire is vastly more than the amount
49 occupied by roads.
50

51 Both the watershed and the water quality analysis fail to even disclose that there can be interactions
52 between wilderness and non-wilderness lands: the two management areas can both occupy a watershed,
53 and streams can flow from one to the other. Events in one can affect the other.
54

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1 The agency has a wealth of site specific information at its fingertips and its powerful GIS tool can quickly
2 compare layers to search for the relationships. It could have easily analyzed fire history, wilderness and
3 non-wilderness. It could have looked at possible correlation between fires on the non-forest lands outside
4 the unsatisfactory watershed. It didn't even make any attempt to see if there was correlation between the
5 unsatisfactory watersheds and the water quality impaired streams. In short, the agency has data and
6 tools that it just didn't bother to use for the analysis. The agency could have shown useful information
7 derived from real site-specific facts. Instead of investigating whether proximity has a correlation to risk,
8 the DEIS proceeds on assumption. It produces a steady barrage of 'may', 'might', 'could' generalities, and
9 citations to justify its assumptions that proximity is equivalent to risk.
10
11



12
13
14 **This table is at Page 9. The soils and erosion hazard area adds up to 3,389,197 acres, the entire**
15 **forest including the wilderness areas.** Do the percentages for severe erosion hazard apply equally to
16 wilderness and non wilderness area? Wilderness is often steeper. Is more of the erosion hazard located
17 within the wilderness boundaries where removal of motorized use will have no impact?
18

Table 3. Summary of Soils Conditions on Gila National Forest

Soil Condition	Satisfactory	Unsatisfactory	Unsuited
Acres	1,812,649	861,620	714,928
Percent	53%	25%	21%

Table 4. Summary of Erosion Hazard on Gila National Forest

Erosion Hazard	Slight	Moderate	Severe
Acres	1,517,271	411,958	1,459,967
Percent	45%	12%	43%

19
20 More questions arise: Does 'uphill' wilderness soil condition contribute to 'downhill' non-wilderness
21 conditions? Does sediment from burned wilderness acreage get washed down into a non-wilderness
22 stream? The public cannot tell what analysis the agency is doing and how the analysis was done.
23

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1 This dilemma is also in Table 6 at page 11 which shows vegetation for the entire forest, including
 2 Wilderness areas, and **does not discriminate between wilderness and non-wilderness.**

3
 4 *Table 6 displays the Mid-Scale Existing Vegetation map units and associated acres and*
 5 *percentages of each map unit **Forest wide.***
 6

Table 6. Mid-Scale Existing Vegetation Map Units on Gila National Forest

Mid-Scale Existing Vegetation Map Units on Gila NF		
Mid-Scale Existing Vegetation Map Unit Descriptions	Acres	Percent
Sparsely Vegetated (less than 10% canopy cover of any one life form)	6,932	.20
Grasslands	275,388	8.12
Deciduous Shrub mix	19,625	.58
Evergreen Shrub mix	43,949	1.29
Alligator juniper	99,573	2.94
One seed juniper and Pinyon pine	327,368	9.66
Woodlands mixed (combinations of mixes of Pinyon/Juniper/Gray oak)	1,001,191	29.53
Evergreen oak (pure and mixed stands of Gray oak, Silverleaf oak, and Netleaf oak)	245,027	7.23
Gambel oak	31,568	.93
Ponderosa pine (pure Ponderosa pine and Pine stands with Alligator juniper or Gambel oak)	1,105,016	32.59
Ponderosa pine and Gray oak	14,614	.43
Aspen	8,738	.26
Douglas fir mixed (Douglas fir and combinations of Douglas fir and Ponderosa pine, White pine, Gambel oak)	103,844	3.06
White fir or White fir and Douglas fir mixed.	33,521	.99
Mixed conifer and Gambel oak (mixed combinations of Douglas fir, White fir, Ponderosa pine, White pine with Gambel oak)	51,475	1.52
Mixed conifer and Aspen (mixed combinations of Douglas fir, White fir, White pine, Engelmann spruce, Corkbark fir with Aspen)	8,200	.24
Mixed conifer (mixed combinations of Engelmann spruce, Corkbark fir, White fir, Blue Spruce, Douglas fir)	11,764	.35
Engelmann spruce and Corkbark fir	2,540	.07
Water	309	.01
Total	3,390,642	

7
 8
 9
 10 **The riparian and water quality analyses also fail to distinguish between wilderness and non-**
 11 **wilderness lands. The public cannot tell what conditions are occurring on the 2.4 million acres**
 12 **subject to the Travel Management decision.**

13
 14 It's impossible for the public to tell what the agency is proposing or how the agency is analyzing the
 15 alternatives. From this point forward in the DEIS, the analysis is in percentages and acreages. It is
 16 impossible to tell if the calculations were based on the entire forest, or just the 2.4 million acres outside
 17 Wilderness areas, and what conditions are ascribed to which areas.

18
 19
 20 **ISSUE 2: FAILS TO ESTABLISH THAT MOTORIZED USE OF ROADS HAS SIGNIFICANT**
 21 **NEGATIVE IMPACTS ON WATERSHED QUALITY**

22
 23 Criteria for determining watershed quality is at page 4: (bold added)

24
 25 *A general assessment of watershed condition of the Forest was completed as part of the Gila*
 26 *National Forest Plan (1986). This **assessment was based on whether the existing effective***

1 **ground cover** was adequate to ensure long term soil productivity (existing ground cover greater
2 than tolerance ground cover), and whether ground cover was enough to provide for satisfactory
3 hydrologic function.

4 (and)

5 **Watersheds are rated in unsatisfactory condition when optimum and satisfactory**
6 **condition acres within the watershed are less than the number of acres classified as**
7 **unsatisfactory.**

8
9 **Watershed condition depends on effective existing ground cover.** The dividing line between
10 satisfactory and unsatisfactory is 50% of the acreage. If over 50% of acres are satisfactory the watershed
11 is counted as satisfactory. The ML-2 roads occupy one-quarter of one percent of the forest acreage. (see
12 calculation below) This trivial amount of acreage will not tip a watershed over the 50% line into
13 'unsatisfactory'. Past page 4, there is no further discussion of ground cover even though it is the sole
14 criteria. The only roads under analysis in the DEIS (which could be closed) are the 4,196 ML-2 roads.
15 Table 17, p 43 of the DEIS says that ML 2 roads are 12 feet wide. 4,196 miles of ML-2 roads. The area
16 occupied by the ML-2 roads is found with this formula:

17
18 4,196 miles x 12 ft. wide x 5280 ft., divide that number by 43,560 to get the number of acres.

19
20 The answer is 6,105 acres. Divide 6,105 acres by 2,441,804.3 forest acres = .0025.

21 **4,196 miles of ML-2 roads occupy one-quarter of one percent of the forest.**

22 It is inconceivable that the use of these roads would affect ground cover to any measurable degree.

23
24
25 **ISSUE 3: ANALYSIS EXAGGERATES THE IMPORTANCE OF INSIGNICANT NUMBERS, AND FAILS**
26 **TO DISCLOSE THE SIGNIFICANT NUMBERS**

27 The analysis presents statements and calculations that do not disclose the magnitude of the effects. We
28 give only two examples of the many available to us. The section of Effects to Soils offers an excellent
29 example of how the Report invents importance for small numbers, and does not disclose the big numbers
30 that really matter.

31
32
33 **Effects to Soils**

34 The effects to soils by motorized uses on native surface routes are directly related to **the impact**
35 **the road footprint has on the landscape,**

36
37 (and)

38
39 **Tables 11-20 provide a summary of acres of motorized routes that pose a relative risk of**
40 **adverse impacts** to soils, by alternative, as well as potential acres that may be impacted by
41 motorized dispersed recreation, motorized areas, and motorized big game retrieval.

42
43 The table dutifully calculated and reported the acres of roads, and differences between the alternatives.
44 But now we know that ALL the ML-2 roads cover only 6,105 acres, which is just one-quarter of one
45 percent of the 'landscape'.

46
47 Has the table disclosed the effect of the road footprint on the landscape? NO. It says things like
48 Alternative E makes a 41% decrease in acres. 41% sounds like a BIG number, but it's really only 41% of
49 0.0025 of the Forest. None of the increases or decreases shown in Table 11 amount to a hill of beans,
50 since the road acreage has such a small footprint on the landscape. The analysis never admits to the size
51 of the overall footprint. The analysis NEVER makes that calculation of the roads occupying only 0.0025 of
52 the forest acreage.

Table 11. Acres of Motorized Routes Located on Soils with Moderate or Severe Erosion Hazard Ratings

Forestwide Acres of motorized routes located on soils with moderate or severe erosion hazard ratings with potential to cause further erosion or negative impacts (% increase or decrease from No Action)	Acres	Change in Acres from No Action	% Increase or decrease from No Action
Alternative B – No Action	2,454		
Alternative C	2,493	+39	+1%
Alternative D	1,778	-676	-28%
Alternative E	1,438	-1016	-41%
Alternative F	2,002	-452	-18%
Alternative G	2,064	-390	-16%

*Erosion Hazard refers to the relative susceptibility of an area to sheet and rill erosion upon removal of ground cover and is influenced by slope.

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Our second example is this misleading statement, under ‘General Direct and Indirect Effects of Motorized Routes Common to all Alternatives including the No Action’ at page 43:

*Effects that will carry out throughout all alternatives are related to soil compaction, loss of soil productivity, concentrated runoff resulting in erosion and sediment production, and loss of vegetative ground cover of existing routes. **The presence of roads across the Gila National Forest has already resulted in negative impacts to the soil resource. With the implementation of any of the action alternatives, there will be a continued commitment of the soil resource and associated negative impacts, with effects remaining the same, increasing, or decreasing.***

Yes, those things are true. But with roads occupying one-quarter of one percent of the forest area, do roads have a significant impact on watershed quality? Remember, this is 2.4 million acres being assessed for ground cover. A rational reader would say the roads couldn’t possibly have a significant effect.

ISSUE 4: ANALYSIS FAILS TO DISCLOSE CIRCUMSTANCES UNDERLYING WATERSHED QUALITY

We find this statement at page 4:

The percentage of Forest lands that are within these basins range from less than 1% up to 100%.

We looked for correlation between watershed condition and percentage of forest land. Maybe the impaired watersheds have a lot of land outside the forest. Those lands could affect watershed quality within the forest boundaries. Our investigation revealed within a few minutes that there is a very strong correlation. **For unsatisfactory watersheds, 81.58% of the acreage is outside forest boundaries.**

Using Table 1, pages 4-5 'Fifth code watershed condition on Gila National Forest' we assembled a table containing only the watersheds listed as unsatisfactory. Once these watersheds are arrayed together, a pattern becomes visible. The watersheds have (for the most part) a large percentage of area outside the national forest boundaries. There's a figure of 18.42% at the bottom of the table. This is not an average, its actual acres. We added all the acres of the watersheds and all the acres within the forest. For all the unsatisfactory watersheds, only 18.42% of the total acreage is within forest boundaries. The 23.71% is the percentage of forest acreages in unsatisfactory watersheds. This is 23.71% of the entire forest, 3.3 million acres including the wilderness areas. Some watersheds cross wilderness boundaries.

Table of the 16 Fifth Code Watershed of Unsatisfactory Condition						
Watershed Name	Watershed Number	Total Acres	Forest Acres	% Forest	Condi on Class	Condition
Animas Creek	13030101030	218,408	52,716	24	3	Unsatisfactory
Sapillo Creek	15040001070	113,982	112,252	98	3	Unsatisfactory
Bear Creek	15040002050	134,791	67,321	50	3	Unsatisfactory
Berenda Creek	13030103010	227,230	37,655	17	3	Unsatisfactory
Blue Creek	15040004030	299,562	28,253	9	3	Unsatisfactory
Cuchillo - Negro Creek	13030101010	252,329	76,201	30	3	Unsatisfactory
Engineer Canyon	15040003020	240,492	6,836	3	3	Unsatisfactory
Mangas Valley	15040002040	220,601	50,696	23	3	Unsatisfactory
Palomas Creek	13030101020	238,213	57,633	24	3	Unsatisfactory
Percha Creek	13030101040	77,125	24,829	32	3	Unsatisfactory
Sacaton Canyon	15040002010	144,711	16,807	12	3	Unsatisfactory
Taylor Creek	13030202070	133,293	3,590	3	3	Unsatisfactory
Thompson Canyon	15040003060	296,970	38,772	13	3	Unsatisfactory
Wahoo Canyon	13020211020	257,127	40,715	16	3	Unsatisfactory
Walking X Canyon	15040003010	244,807	13,945	6	3	Unsatisfactory
White Signal	13030202120	334,403	4,402	1	3	Unsatisfactory

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Unsatisfactory Totals	3,434,044	632,623	18.42%
------------------------------	------------------	----------------	---------------

Percentage of Forest Acres in Unsatisfactory Watersheds					23.71%
--	--	--	--	--	---------------

1
2 The number 3,434,044 is all the acreage of unsatisfactory watershed, including acreage outside forest
3 boundaries.
4
5 Then we built a table of the optimum and satisfactory functioning watersheds.
6 Looking down the column for % Forest, one sees that the better functioning watersheds have a higher
7 percentage of national forest lands. The Gila National Forest is apparently doing a better job managing
8 the watersheds then they would have us think, or perhaps even better than they themselves realize. Their
9 'problem' watersheds are substantially beyond their control.
10
11

Table of the 26 Fifth Code Watershed of Optimum/Satisfactory Condition						
Watershed Name	Watershed Number	Total Acres	Forest Acres	% Forest	Condition Class	Condition
Agua Fria Creek	15020003050	194,457	77,084	40	2	Satisfactory
Alamocito Canyon	13020208040	210,758	76,577	36	2	Optimum
Corduroy Canyon	15040001020	202,019	158,504	78	2	Satisfactory
Corral Canyon	15040002030	279,338	50,175	18	3	Satisfactory
Coyote Creek	15020001030	171,035	19,150	11	3	Satisfactory
Ft. Bayard	13030202030	158,542	3,200	2	2	Satisfactory
Hells Hole	15040002020	291,594	12,277	4	2	Satisfactory
Hot/Cold Springs	13030202020	124,880	20,610	17	2	Satisfactory
Largo Creek	15020003060	118,463	75,074	63	2	Satisfactory
Lower San Francisco River	15040004080	241,016	140,747	58	2	Satisfactory
Mangas Creek	15020003070	257,974	37,231	14	2	Satisfactory
Mangitas Creek	15020003010	186,016	7,963	4	2	Satisfactory
Middle Fork Gila River	15040001030	218,548	217,831	100	2	Optimum
Middle San Francisco River	15040004050	154,971	150,460	97	2	Satisfactory
Mogollon Creek	15040001060	160,442	151,318	94	2	Satisfactory
Negrato Creek	15040004060	215,491	210,664	98	2	Satisfactory
O Bar O Canyon	15040001010	238,952	93,843	39	2	Satisfactory

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Plains of San Agustin	13020208050	259,021	54,097	21	2	Optimum
Puerto Viejo	13020208010	173,672	5,272	3	2	Satisfactory
Silver City Watershed	13030202040	238,245	26,920	11	2	Satisfactory
Tularosa River	15040004020	194,226	181,860	94	2	Satisfactory
Upper Mimbres River	13030202010	205,915	150,687	73	2	Satisfactory
Upper San Francisco River	15040004010	266,944	206,998	78	2	Satisfactory
Wall Lake	15040001040	206,332	205,298	99	2	Satisfactory
West Fork Gila River	15040001050	130,566	128,967	99	2	Optimum
Whitewater - San Francisco	15040004040	228,309	205,630	90	3	Satisfactory
Total		5,327,726	2,668,437			50.09%

The number of 5,327,726 is the total acres of all optimum/satisfactory watersheds, including the acreage outside forest boundaries. For these watersheds, 50.09% of the acreage is within forest boundaries.

MISREPRESENTATION OF FACTS ABOUT THE WATERSHEDS

At page 4 is this statement

Forestwide, four fifth code watersheds (10%) are classified in optimum condition, twenty-two fifth code watersheds (52%) are classified in satisfactory condition, and sixteen fifth code watersheds (38%) are classified in unsatisfactory condition.

The report seriously misrepresents the condition and statistics for the watersheds. It states 38% of the watersheds are unsatisfactory. It fails to disclose that unsatisfactory watersheds represent far less than 38% of the land area.

16/42 = 32% The 16 unsatisfactory watersheds do represent 38% of the total number of watersheds: 42. But they don't represent 38% of the total acreage.

We totaled up the acreage for the 'Unsatisfactory' watersheds and for the 'Satisfactory and Optimum' watersheds. Here are the results.

Total of watershed acreage within forest borders = 3,301,060 acres

The unsatisfactory watershed acreage of 632,623 acres which is only 19.2% of that total acreage.

This gives a very different picture of watershed conditions than the statement that '38% of watersheds are unsatisfactory'.

ISSUE 5: FAILS TO DISCLOSE HOW THE ASSUMPTIONS WERE APPLIED TO THE ANALYSIS

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1 At page 29, under General Assumptions we find these three statements. The assumptions say the
2 benefit of closing roads happens when they recover with vegetation, but it also acknowledges that the
3 decision doesn't close the roads to all uses.
4

5 ***The action alternatives involve the closure of routes to vehicle use by the public and not***
6 ***the physical removal (decommissioning) or roads. The removal of roads typically involves the***
7 ***extraction of culverts, the ripping of the road surface, and in some cases the re-contouring of the***
8 ***ground surface to blend in with the natural topography. It typically can take more than 20 years***
9 ***for closed roads to revegetate to background conditions, if traffic is successfully***
10 ***eliminated.***

11
12 ***Closed routes without fixed barriers are expected to revegetate minimally. These routes***
13 ***will not disappear from the landscape until decommissioned, and will continue to be a***
14 ***source of sediment and erosion to some degree.***

15
16 *The reduction or elimination of vehicle traffic on a road or trail near a stream will result in less*
17 *sediment delivered from the road to the stream over time. This relates to the reduction of the*
18 *amount of loose material on the road surface and also the increase in the amount of vegetative*
19 *litter and other cover on the road surface. **Erosion rates from a closed road may decrease to***
20 ***near background levels as the density of vegetation on the surface of the road increase***
21 ***(Dissmeyer, 2000).***

22
23 How did the agency use these assumptions to evaluate the alternatives? Did they think roads closed only
24 to public motorized use would re-vegetate? This is certainly contradicted by reality; consider hiking trails
25 in the Wilderness. They get no mechanical traffic and are still bare surfaces. Some of the roads closed
26 under the decisions will continue to get vehicles use from the agency and permittees. This raises the
27 issue of whether the analysis over-rated the benefit of closures.
28
29

30 **ISSUE 6: INACCURATE STATEMENTS ABOUT THE TRANSPORTATION SYSTEM**

31 The report makes this unjustified statement about roads and trails at page 5: (bold added)
32

33 Anthropogenic disturbances are another key contributor of impacts to watershed conditions. **The**
34 **current transportation system across the Forest is one of the more prominent, land**
35 **disturbing activities occurring. This system is comprised of open routes (road, trails),**
36 **motorized cross country travel, and motorized dispersed camping use.** The transportation
37 system currently impacts both upland and valley bottom resources. **The primary impacts to**
38 **watershed condition include soil compaction, soil erosion, sedimentation, stream channel**
39 **degradation, riparian degradation, and vegetation disturbance.** High road densities can
40 additionally contribute to unsatisfactory watershed conditions by increasing the connected
41 disturbed areas associated with roads to the drainage network, or increasing the number of
42 stream crossings within a watershed.
43

44 Part of this statement is disingenuous. First, the DEIS and other reports have stated there is not much
45 cross country travel. Staff observations note that cross country travel related to game retrieval and
46 camping is not a significant impact. Cross country travel is physically impossible in many areas because
47 of steepness, rockiness and dense timber. Second, there will be no cross country travel after the decision
48 is implemented. This same standard list of negative impacts appears throughout the DEIS, it's a 'mantra'.
49 The watershed analysis merely recites the mantra. It provides nothing about where these impacts are
50 located, any measurement of impacts, and no discussion of the sources of these impacts.
51

52 Other parts of the DEIS tell us more. One part of the DEIS discusses how the current vegetation, fire and
53 erosion patterns developed from the overgrazing a century ago. Yet other parts identify grazing as a
54 major source of degradation. Wildlife use, specifically elk contribute to that too. Catastrophic wildlife is

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1 one of the greatest land disturbing events. Compared to all that, what is one quarter of one percent of the
2 forest occupied by ML-2 roads? Where is the sense of scale and proportion? There isn't any.

3
4 The accurate question would have been this: 'Is the current system of routes (roads and trails) a
5 'prominent land disturbing feature'?

6
7 **The ML-2 roads occupy .0025 of the area of forest. This is one-quarter of one percent.**
8 **Now consider that the report isn't even supposed to be analyzing roads. It is supposed to (but**
9 **does not) analyze the motorized USE of roads.**

10 11 12 **ISSUE 7: METHODOLOGY DOES NOT IDENTIFY MOTORIZED USE AS A WATERSHED THREAT**

13
14 Pages 28-30 of the Watershed report contains the Methodology and Analysis Process.

15
16 **The statements in the Methodology say that the roads themselves and flow events are the sources**
17 **of sediment.** The following three points tell us the decision does not remove the roads, the most
18 important factor in adverse effects is the road itself, and that roads can contribute sediment. The amount
19 of sediment depends on the flow events. NONE of this has ANYTHING to do with motorized use.

20
21 *- The action alternatives involve the closure of routes to vehicle use by the public and not the*
22 *physical removal (decommissioning) or roads.*

23
24 *-The most important factors that influence the risk of adverse effects to water quality from*
25 *unpaved roads are related to the length (and associated acres) of unpaved roads near a stream,*
26 *the distance of the unpaved roads from a stream, and the number of times that unpaved roads*
27 *cross the stream.*

28
29 *-Routes that are connected to the drainage network provide some level of sediment transport,*
30 *regardless of whether drainage is perennial, intermittent, or ephemeral. These sediment inputs*
31 *vary based on duration and frequency of flow events. During short duration, high intensity storm*
32 *events, ephemeral drainages can carry a considerable amount of sediment, some of it generated*
33 *by roads. Traffic*

34
35 We find two statements with mention of vehicle use. The first one say reduction of vehicle use results in
36 less sediment in a stream. First, this is a water quality statement. It is not a watershed quality issue based
37 on the criteria of ground cover.

38
39 *The reduction or elimination of vehicle traffic on a road or trail near a stream will result in less*
40 *sediment delivered from the road to the stream over time. This relates to the reduction of the*
41 *amount of loose material on the road surface and also the increase in the amount of vegetative*
42 *litter and other cover on the road surface. Erosion rates from a closed road may decrease to near*
43 *background levels as the density of vegetation on the surface of the road increase (Dissmeyer,*
44 *2000).*

45
46 The second one says they don't have traffic data, but traffic use on ML-2 routes is generally low. How
47 does it know that? Is this from staff observation? What does 'low' mean? This is not disclosed.

48
49 *-Miles by traffic use are unknown. Traffic use on maintenance level 2 routes and user-created*
50 *routes is generally low, and traffic use on maintenance levels 3, 4, and 5 routes is generally*
51 *moderate.*

52
53 The watershed analysis shows there is no reason to close routes to motorized use because of damage to
54 watersheds. The ML-2 roads which are the target of the DEIS occupy only one-quarter of one percent of
55 the forest area. The analysis has no traffic data, and makes no attempt to analyze motorized use at all. It

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1 identifies factors other than motorized use as the sources of problems (the characteristics of the routes
2 themselves).

3
4 Here are the facts found in the analysis (although the analysis does not present them):
5

6 The unsatisfactory watershed area is just 19.2% of the acreage within the forest boundaries. It is NOT
7 38%.
8

9 There are major forest activities and events affecting watershed quality over hundreds of thousands of
10 acres. These are the catastrophic wildfires, silviculture and grazing, which are identified as the major
11 'probable sources' of water quality impairment, by the State of New Mexico. That information is in the
12 SAME report as this watershed analysis, starting at page 14. These effects are enormous compared to
13 the one-quarter of one percent of the forest occupied by ML-2 roads. The analysis presents no 'scale' or
14 order of magnitude on this. Instead it takes the roads out of the larger context and compares them only to
15 each other, in order to exaggerate what are truly trivial impacts.
16

17 **RESOLUTION:** Withdraw the watershed and soils report. Prepare a new watershed and soils report with
18 an accurate analysis disclosing the conditions for non-wilderness lands within the forest boundaries and
19 show the causes of those conditions. Present an accurate description of the footprint that roads make on
20 the landscape. Present a full disclosure of the other major events and activities impacting the conditions
21 and an assessment of how much of current negative conditions are caused by events and activities such
22 as fire, silviculture and grazing.
23

24 Disclose whether or not significant impacts are actually being caused by motorized use of forest roads,
25 and where these impacts are occurring. Revise the DEIS to incorporate this corrected information.
26

27 Thank you for the opportunity to comment.
28

29 Sincerely,
30

31 Joanne Spivack
32 1700 Willow Road NE
33 Rio Rancho, NM 87144
34 505-238-5493
35 Email: ravens-nest@comcast.net
36

37 Temporary Address through 3/23/11:
38 Apt. 1704, Shama Luxe, 128 Jinma Rd.
39 Dalian Development Zone, People's Republic of China
40 Email: ravens-nest@comcast.net
41 Telephone: 138 4260 2510
42

43 On behalf of:
44

45 Mogollon Apache Gila (MAG) Riders
46 Jo Anne Blount
47 POB 165
48 Glenwood, NM 88039
49

50
51 Gila Roads and Trails Alliance (GRATA)
52 James T. Baruch
53 POB 17
54 Mimbres, NM 88049
55
56

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1 Gila Trail Riders Association (GTRA)
2 Grant Gose
3 2205 Johnson Rd.
4 Silver City, NM 88061
5

1 **Comment 03032011-17-6 (Spivack Comment – Whack-a-Mole)**

2
3 March 3, 2011

4
5 Forest Supervisor
6 Attn: Travel Management
7 3005 E. Camino del Bosque
8 Silver City, NM 88061
9 r3_gila_travel@fs.fed.us

10
11
12 Dear Responsible Official,

13
14 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
15 am representing that organization and the undersigned organizations in providing these comments on the
16 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
17 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
18 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
19 recreational resources to the members of the public we represent.

20
21 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
22 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
23 Management Rule (TMR) with the utmost seriousness.

24
25 The agency makes sure that every route proposed for closure is under such a vaguely stated mix of
26 'impacts', that they always have an 'out'. The public can't ever figure out what is really going on.

27
28 **We challenge this based on CEQ requirements to disclose methodology.** We assert that the current
29 methodology fails to disclose the actual reasons that routes are closed in various alternatives.

30 **We request a substantive response, as per CEQ 'Forty Question', Question 29a.**

31
32 The DEIS is playing what we call the Whack-a-Mole game. It is like the carnival game where you hit
33 mechanical moles with a hammer and they pop up again through different holes. It is used throughout the
34 DEIS. Whack-a-Mole is a 'now you see it, now you don't' game. If the public can show that one reason for
35 closure is false, the same closure pops up from another hole with another reason because the agency
36 never commits to its reasons. Here is what DEIS 'whack-a-mole' looks like:
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We contend this is an evasion of full disclosure. We offer an alternate methodology for developing the DEIS. We assert the proper methodology should be developed from these three questions:

- 1. What level of intensity of a single impact is sufficient to justify closure?**
- 2. What level of impacts from motorized use are acceptable and would allow a route to remain open? The agency must determine thresholds.**
- 3. What combination of impacts are acceptable and would allow a route to remain open?**

These are the questions that should be driving the DEIS, but they are never even discussed. Here is why these are the correct questions. The agency provides no discussion of what are acceptable impacts. So there is no reason to conclude any route should be either open or closed.

DISCUSSION: DEIS Fails to Identify WHY Routes Are Closed.

There is no place in the DEIS to look if you want to know why a particular road or trail is being closed under any alternative. The reasons for closure in the text show only totals for acres and miles. The maps do not show routes that are closed, but only routes that are open. We have obtained the forest's GIS maps so at least we can see all the routes. But maps have ZERO correlation to the reasons. The two critical pieces of information; the maps and the reasons have NO correlation or connection at all.

Fails To Provide MEANING to the Numbers

Ironically, the DEIS as it stands can be used to argue for both more closure and less closure. It supports either argument just as well. That is because it completely fails to tell us what the numbers mean. We don't need a million dollar 3 year project to know that one number is larger than another. We DO need to know what the numbers mean.

What Impacts Are Acceptable and What Are Not?

The agency accepts impacts from all other users and uses of the forest. The impacts (effects) of accepted uses must be compared to impacts from motorized uses. Is motorized use causing the same,

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1 more, less, or different effects? What is acceptable and what is not? This is the 'elephant in the living
2 room' that the agency is working very hard to ignore.

3

4

5 If the agency will accept some level of effects from the nonmotorized user, it must accept those effects
6 from the motorized user. There is nothing in the DEIS that any particular factor in itself, of any identified
7 severity, justifies closure. Instead the DEIS presents an ever-shifting soup of factors, none of which can
8 be pinned down. Using 'whack-a-mole' the agency always has some other 'reason' for a closure.

9

10 This is not adequate and this is not science. The DEIS must disclose what the agency is proposing and
11 for what reasons. There needs to be a clear link between specific reasons and proposed closures. If
12 some roads were closed in one alternative because of the buffer zone, but not in another alternative, then
13 clearly the buffer zone was the criterion driving the closure. If not, then other 'resource damage'
14 allegations must be sufficient in themselves to justify the closures.

15

16

1 **Example of Whack-A-Mole in Action:**

2 The following statement shows that every action alternative included closures based on a half mile buffer
3 zone. DEIS, page 57:

4
5 **Alternative C**

6 *The effects of motorized routes in terms of noise, emissions, and user conflicts that could be*
7 *experienced by people located within ½ mile from populated areas, neighboring private land,*
8 *roadless areas, wilderness boundaries, developed recreation sites, and nonmotorized*
9 *trails will be reduced by 19.3 percent when compared to the no action alternative. Alternative C*
10 *ranks last in this regard among the five action alternatives proposed, offering the lowest reduction*
11 *in miles for the elements for which this indicator measures.*

12
13 This statement shows the two elements of the analysis being packaged as 'bundles'.

14 **There are THREE very different criteria being applied to SIX very different types of land.**

15
16 Some of the criteria do not legally apply to some of the lands. Some of the criteria are quantifiable (noise
17 and emissions). The third (user conflict) is a sociological issue that has no set location or measurement

18
19 The land types all have different status under the DEIS. Some of the lands aren't even forest lands. One
20 land issue is false (no such thing as nonmotorized trails). Two of the land types have two different legal
21 aspects (roadless and wilderness areas) How do we know what criteria are being applied to what areas?
22 We don't. All we are shown is a pile of undifferentiated closures.

23
24 The DEIS provides similar descriptions for each action alternative. **Chapter 2 shows gross mileage of**
25 **routes closed under this criterion for each alternative.** The analysis does not disclose which routes in
26 each alternative were closed for which reasons. This matters because some of the 'reasons' are wrong.
27 The DEIS should not be applying a buffer zone to roadless and wilderness areas because it's illegal.
28 Applying a buffer zone to 'nonmotorized trails' is illogical, since there is no such thing as a nonmotorized
29 trail outside the wilderness areas. Additionally, the analysis offers no explanation of where this idea came
30 from or how it was applied.

31
32 We set aside, for now, the illegality of roadless or wilderness buffer zones. We are addressing the
33 concept which would logically be applied consistently to the whole forest. There are several problems to
34 address.

35
36 First, we have the problem that part of the criterion is illegal. How have those aspects of the criterion
37 affected the alternatives and how can that be identified and corrected? It can't, not the way it's presented.

38
39 **Whack-a-Mole 1:** the 1/2 mile criterion appears out of nowhere on page 56 (underline added)

40
41 **Motorized Routes**

42 **Effects Common to All Action Alternatives Regarding Motorized Routes**

- 43 • The prohibition on cross-country travel will be in place for all action alternatives. The effects of
44 the prohibition on cross-country travel in the short and long term are expected to be the same for
45 each action alternative. The perceived effects of motorized use such as noise, emissions, user
46 conflicts, and impacts to wilderness, roadless areas, and private lands, will remain in predictable
47 locations (within ½ mile of open roads), and will be minimized in areas beyond this ½-mile buffer.

48
49 Distances are used as criteria in other parts of the DEIS, (i.e. for riparian, elk etc.) but those are justified
50 with citations from science. We find nothing to support this ½ mile buffer zone. It does not appear in the
51 TAP. There is no disclosure of the methodology. The DEIS does not describe how the criterion was
52 formulated or how it was applied.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 In Chapter 2, at page 34 Table 16 we see 'noise and user conflict' shown as effects that will be reduced in
 2 various ways under different alternatives.
 3

4 Table 16. Summary of the effects described in detail in chapter 3

Resource	Alternative B	Alternative C	Alternative D	Alternative E	Alternative F	Alternative G
Noise and User Conflict	All action alternatives eliminate cross-country motorized travel, except as described for the purposes of MDC and MBGR. Conflicts due to cross-country motorized travel will be eliminated or significantly reduced.					
	No change in short term – user conflicts and noise impacts will continue, with potential to increase in the long term.	Least reduction of noise and user conflict with the least reduction of miles.	Moderate reduction of noise and user conflict.	Most potential for reduction of noise and user conflict corresponding with the most reduction of miles.	Moderate reduction of noise and user conflict.	Moderate reduction of noise and user conflict.

Chapter 2. Alternatives, Including 1

4
5
6
7 However, the information in the table is entirely anecdotal. This is very different from what is presented in
8 Chapter 3. We note the Chapter 2 Table 16 does not mention anything about the ½ mile buffer zone
9 described in Chapter 3. Chapter 3 presents these numbers on the results of the applying the ½ mile
10 buffer zone: (pages

- 11 Alternative C: 19.3% reduction compared to the No Action
- 12 Alternative D: 48.2% reduction “
- 13 Alternative E: 59.2% reduction “
- 14 Alternative F: 43% reduction “
- 15 Alternative G: 42.9% reduction “

16
17
18 These are very interesting numbers. They are big numbers, far larger than the road mileage numbers the
19 DEIS claims are the percentages of closure. At page v of the initial Summary, Table 1 shows the
20 percentage of routes closed under each alternative:
21

22 Table 1. Comparison of motorized system resulting from changes to alternative B, no action (asterisk means item will not be shown on the motor vehicle use map)

	Alternative B (No Action)	Alternative C	Alternative D	Alternative E	Alternative F (Modified Proposed Action)	Alternative G
Miles of roads designated open to the public for motor vehicle use	4,604	4,266	2,977	2,332	3,343	3,323
Miles of motorized trails (less than 50 inches in width)	16	204	125	0	182	182
Miles of single-track motorcycle trails	0	64	0	0	0	0
Miles of routes for administrative use or by written authorization only *	0	183	354	439	298	299
Total percent change in motorized roads and trails	0%	-2%	-33%	-50%	-24%	-24%

23
24
25
26
27 We notice a pattern here:

Alternative	% Reduction of Miles by Buffer Criteria	% Reduction of mileage overall
Alternative C:	19.3%	2%
Alternative D:	48.2%	33%

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Alternative E: 59.2% 50%
2 Alternative F: 43% 24%
3 Alternative G: 42.9% 24%

4
5 It looks like all the alternatives result in disproportionately large reductions in mileage for the buffer zone
6 issues (noise, user conflict, wilderness and roadless, etc.). Those are the issues which are the least
7 defensible for various reasons. Noise and user conflict contradict the Recreation Opportunity Spectrum
8 categories in the Forest Plan. At page 53, the DEIS tells us that 7% of the forest is Semiprimitive
9 Motorized and 53% Roaded Natural, described as this:

10
11 Roaded natural describes areas characterized by a predominantly natural environment with
12 evidence of moderate permanent alternate resources and resource utilization. Evidence of the
13 sights and sound of man is moderate, but in harmony with the general environment. Opportunities
14 exist for both social interaction and moderate isolation from the sights and sounds of man.
15 Roaded natural classification includes 1,768,071 acres, or 53 percent of the forest.

16
17 So somehow, we have a large amount of closure being recommended for roads which are in areas where
18 roads are supposed to be and where the sights and sound of man (including motorized man) are to be
19 expected.

20
21
22 **Whack-a-mole 2: what factors of the 1/2 buffer are being applied to which roads in which**
23 **alternatives?** Was Road A closed in Alternative C because it is within a half mile from a wilderness
24 boundary (which is illegal), or because it is within a half mile of a residential area? Or is it closed for one
25 reason in one alternative, but for a different reason in another alternative? We have no idea if buffer zone
26 closure was applied first (as a coarse filter), or only as an additional factor to routes which would have
27 been closed anyways for other reasons. In other words, was this buffer zone a key deciding factor for the
28 recommended closure or not? There is no way to tell. It leaves us to guess what roads are being closed
29 for what reasons.

30
31 The agency is not disclosing (contrary to CEQ). If a criterion is valid, it must be applied with consistency.
32 If a criterion is invalid, it must not be applied at all. The DEIS has violated possibly both of these by
33 inconsistently applying an invalid criterion. However, there is no way to discern what effects it had on the
34 alternatives. This is an example of what we call the 'whack-a-mole' game

35 36 37 **RESOLUTION:**

38
39 For each alternative the DEIS must identify what routes are being proposed for closure because of which
40 buffer zone criteria. All those routes improperly slated for closure because of proximity to wilderness,
41 roadless area or trail must be reinstated as designated routes in all alternatives.

42
43 Thank you for the opportunity to comment.

44
45 Sincerely,

46
47 Joanne Spivack
48 1700 Willow Road NE
49 Rio Rancho, NM 87144
50 505-238-5493
51 Email: ravens-nest@comcast.net

52
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54 Apt. 1704, Shama Luxe, 128 Jinma Rd.
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Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Email: ravens-nest@comcast.net
2 Telephone: 138 4260 2510
3

4
5 On behalf of:

6
7 Mogollon Apache Gila (MAG) Riders
8 Jo Anne Blount
9 POB 165
10 Glenwood, NM 88039
11

12
13 Gila Roads and Trails Alliance (GRATA)
14 James T. Baruch
15 POB 17
16 Mimbres, NM 88049
17

18 Gila Trail Riders Association (GTRA)
19 Grant Gose
20 2205 Johnson Rd.
21 Silver City, NM 88061
22

1 **Comment 03032011-17-7 (Spivack Comment – TMR Illegal Cat Ex)**

2
3 March 3, 2011

4 Forest Supervisor
5 Attn: Travel Management
6 3005 E. Camino del Bosque
7 Silver City, NM 88061

8 r3_gila_travel@fs.fed.us

9
10 **Dear Responsible Official,**

11 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
12 am representing that organization and the undersigned organizations in providing these comments on the
13 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
14 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
15 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
16 recreational resources to the members of the public we represent.

17 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
18 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
19 Management Rule (TMR) with the utmost seriousness.

20 **Illegality of Using Categorical Exclusion for the Travel Management Rule**

21
22 **Error:** The Travel Management Rule (TMR) is in violation of CEQ because it does not qualify to be a
23 Categorical Exclusion. By calling the TMR a Categorical Exclusion, the U.S. Forest Service allowed itself
24 to avoid a nation-wide Environmental Impact Statement for the Rule. This allowed them to impose a Rule
25 which imposes major changes and reversals in long established planning procedures, and do to so
26 without the participation of the public and local governments.

27 **Discussion:**

28 The Travel Management Rule, as published on November 9, 2005 in the Federal Register, asserts that it
29 is a Categorical Exclusion. The document as published includes 25 pages of Responses to Comments.
30 The following Response is at page 23 (p 68286 of Vol. 70, No. 216). Underline added.

31 *Response. The Department has determined that this final rule falls within the category of actions*
32 *excluded from documentation in an environmental assessment or environmental impact*
33 *statement under FSH 1909.15, section 31.1b. This provision excludes from documentation in an*
34 *environmental assessment or environmental impact statement rules, regulations, or policies to*
35 *establish Service-wide administrative procedures, program processes, or instructions. No*
36 *extraordinary circumstances enumerated in the Forest Service NEPA procedures exist that would*
37 *preclude reliance on this categorical exclusion. The final rule would have no effect on users or on*
38 *the environment until designation of roads, trails, and areas is complete for a particular*
39 *administrative unit or Ranger District, with opportunity for public involvement. Specific decisions*

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 *associated with designation of routes and areas at the local level may trigger the need for*
2 *documentation of environmental analysis on a case-by case basis under NEPA.*

3

4 First we located the description for a Categorical Exclusion, at FSH 1909.15, section 31.1b.

5 31.1 - General

6 *A proposed action may be categorically excluded from further analysis and*
7 *documentation in an EIS or EA only if there are no extraordinary circumstances*
8 *related to the proposed action and if:*

- 9 (1) *The proposed action is within one of the categories established by the*
10 *Secretary at [7 CFR part 1b.3](#); or*
11 (2) *The proposed action is within a category listed in sections 220.6 (d)*
12 *and (e). (36 CFR 220.6(a))*

13 The next part of FSH 1908.15, section 31.2, presents criteria only for 'Resource Conditions', such
14 as flood plains, wilderness, designated habitat, endangered species, etc. These are all physical
15 aspects of the environment. In its citation of FSH 1908.15 to defend its Categorical Exclusion,
16 the agency avoids the intent of a categorical exclusion. Instead, it points only to a very particular
17 and limited section which is applicable to limited local situations, not national level policy.

18 In asserting the claim of Categorical Exclusion, the agency relies on its own internal regulations,
19 rather than a higher authority. There is a higher authority to be consulted, the CEQ. We find a
20 more comprehensive answer from the CEQ, in the well-known 'Forty Questions'.

21 At Question 37b, the CEQ discusses whether or not a Proposed Action should be an EA or an
22 EIS, either of which require a much higher standard of analysis than a Categorical Exclusion.
23 (underline added)

24 37b. What are the criteria for deciding whether a FONSI should be made available for public
25 review for 30 days before the agency's final determination whether to prepare an EIS?

- 26
27 A. Public review is necessary, for example, (a) if the proposal is a borderline case, i.e., when
28 there is a reasonable argument for preparation of an EIS; (b) if it is an unusual case, a new
29 kind of action, or a precedent setting case such as a first intrusion of even a minor
30 development into a pristine area; (c) when there is either scientific or public controversy over
31 the proposal; or (d) when it involves a proposal which is or is closely similar to one which
32 normally requires preparation of an EIS. Sections 1501 .4(e) (2), 1508.27.

33
34 **The CEQ wording is 'scientific or public controversy'. The presence of public controversy alone is**
35 **sufficient to require the higher standard of analysis, even if there is no scientific controversy. The**
36 **CEQ also uses the word 'or' to indicate that only one of the factors need be present to require the**
37 **higher standard of analysis. The Travel Management Rule triggers three of the four factors**
38 **identified by CEQ. Under these criteria, an EIS would be required.**

- 39 **-borderline case, reasonable argument for preparation of an EIS**
40 **-unusual case, new kind of action (which also sets a precedent)**

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 -public controversy over the proposal

2
3 We ask 'If the TMR wouldn't even qualify to be an EA instead of an EIS, how can the USFS justify making
4 the TMR a Categorical Exclusion?' We contend it cannot be justified.

5 The agency is using the lowest level of NEPA document, on a national scale, to force a flood of changes
6 requiring full EIS's, the highest level planning processes. Those changes include amendments in forest
7 plans and EIS's for travel management implementation.

8
9 The Final Rule as published in the Federal Register included the comment that an EIS should have been
10 prepared. This shows the high level of controversy of the TMR. Additional comments covered in the 25
11 pages preceding the TMR itself demonstrate a high level of public controversy over many other aspects
12 of the TMR. Even if the agency claims there is 'no effect' until implemented, it has not answered to the
13 charge that there is a high level of public controversy over the TMR.

14
15 There is an additional flaw in the agency's reliance on FSH 1909.15 Chapter 30. FSH 1909.15 Chapter
16 30 falls far short of how CEQ discusses Categorical Exclusions. Here is what CEQ says about
17 Categorical Exclusions: (bold and underline added)

18 **Sec. 1508.4 Categorical exclusion.**

19 "Categorical exclusion" means a category of actions which **do not individually or cumulatively**
20 **have a significant effect on the human environment and which have been found to have no**
21 **such effect in procedures adopted by a Federal agency in implementation of these**
22 **regulations** (Sec. 1507.3) **and** for which, therefore, neither an environmental assessment nor an
23 environmental impact statement is required. An agency may decide in its procedures or
24 otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even
25 though it is not required to do so. **Any procedures under this section shall provide for**
26 **extraordinary circumstances in which a normally excluded action may have a significant**
27 **environmental effect.**

28
29 **We note that in order to qualify as a Categorical Exclusion an action must meet both CEQ tests.**
30 **It must not have significant effects on human environment AND must pass the requirements of**
31 **the agency implementing the action. The TMR fails the first test.**

32
33 The USFS says the TMR qualifies to be a Categorical Exclusion because it does not create 'extraordinary
34 circumstances' which create a 'significant environmental effect'. The agency reaches this conclusion by
35 relying on FSH 1909.15 Chapter 30. This may be accurate, but that is only half of the CEQ requirement.
36 FSH 1909.15 Chapter 30 ignores the issue raised by CEQ, of whether the action may have a significant
37 effect on the human environment.

38
39 **The agency has avoided the larger issues covered in the CEQ's Forty Questions; unusualness,**
40 **precedent-setting, and public controversy. It also avoided the issue of individual and cumulative**
41 **effects on the human environment, as per Section 1508.4**

42 **Pre-implementation Effects of the Travel Management Rule**

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Despite the agency's claims to the contrary, the TMR itself DOES cause significant environmental effects
2 before it is implemented. The USFS claims the TMR has no effect in itself, because it is all done through
3 'local decisions'.

4 **The agency claims that there are no significant environmental effects from the TMR until**
5 **designation projects are completed. There significant effects, because of how environmental**
6 **decisions are being forced and limited to predetermined options. Even before implementation at**
7 **the local level, the TMR has the significant effect of restricting the possible outcomes of the NEPA**
8 **process. This has the effect of FORCING certain environmental effects.** NEPA forbids pre-
9 determined outcomes; that violates CEQ regulations against pre-decision. This in itself is a major
10 inconsistency and conflict that the agency has not addressed or resolved.

11 **The TMR created a nationwide order that puts four pre-determined decisions into effect**
12 **everywhere.** These decisions DO affect the users and the environment before local decisions are
13 complete, because the USFS is saying these all must be implemented. Forests are not allowed to make
14 local planning decisions which do not include these mandates. These decisions are NOT presented as
15 open for discussion or analysis in any local travel management EA or EIS and they have not been
16 examined for legality under a national level EIS. These mandates are 'pre-decisional', and as such, are
17 arguably in violation of CEQ.

18 These are the four predetermined outcomes that the TMR says must be part of every decision in every
19 national forest:

20 1. The TMR must be implemented everywhere and in the same way (regardless of local conditions,
21 local decisions, local need for change, and public opposition)
22 *Comment: The TMR is attempting to trump CEQ, and limit what can be decided in the local EIS*
23 *or EA by imposing a predetermined decision over the entire process.*
24

25 2. The TMR says all forests must close cross country travel
26 *Comment: This is contradictory to many existing Forest Plans. Implementing the TMR has forced*
27 *the Forests to amend their Forest Plans. This is certainly a significant impact.*

28 3. The TMR says all routes that are not designated are closed and are illegal to use once the
29 designation process is complete EVEN THOUGH the routes may not have been analyzed or
30 even inventoried and mapped.

31 *Comment: The TMR is turning normal planning and decision-making procedures upside down.*
32 *First it tells the forests they are not required to inventory and analyze all the routes in order to*
33 *make its designation decisions. Then it says that non-designated routes are automatically closed.*
34 *Taken together, this means forests can close routes without analyzing them, and this is contrary*
35 *to NEPA. NEPA says all decisions with significant effects on the ground and on the human*
36 *environment must be analyzed. **The USFS has written the TMR to give itself permission to***
37 ***close routes without inventory or analysis. This is contrary to NEPA and the agency's own***
38 ***regulations.***
39

40
41 4. The TMR is imposing a nation-wide policy of 'Closed unless Designated Open' on all routes,
42 without having analyzed the impacts or considering that the closure may not be needed or
43 justified everywhere.
44

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 *Comment: This new policy contradicts many existing forest plans. This in itself shows the TMR*
2 *has a significant impact. We find it implausible for the agency to insist there is no significant*
3 *impact when it has forced forests to make forest plan amendments in order to implement the*
4 *TMR. The needs for forest plan amendments plans to close cross country travel were known as*
5 *soon as the TMR was published, before any local NEPA decisions were made or implemented.*

6 TMR is discarding established planning procedures and planning results which have gone through full
7 NEPA compliance. The USFS is using a Categorical Exclusion to force forests to force change Forest
8 Plans done under a full EIS with 90 comment periods mandated under NFMA. In other words, the USFS
9 is using its least stringent document with the least requirements force revisions in its most stringent
10 documents done with the most analysis and the most demanding requirements. We find nothing in
11 definitions or descriptions of the Categorical Exclusion that permit it to be used this way.

12 **DEIS does not comply with The 1982 Planning Regulations** The following quotes are from the 1982
13 Planning Rule) We assert that the GNF's travel management DEIS does not comply with these directives,
14 just to name a few: (bold added)

15 ***Planning criteria:*** *Criteria designed to achieve the objective of maximizing net public benefits*
16 *shall be included.*

17 ***(d) Inventory data and information collection.*** *Each Forest Supervisor shall obtain and keep*
18 *current inventory data appropriate for planning and managing the resources under his or her*
19 *administrative jurisdiction.*

20 (d) makes it clear that the USFS is expected to use inventory data for making planning decisions. The
21 TMR contradicts this; it allows and even specifically directs the forests to make decisions with no data
22 because it tells forests to close routes that it does not have to inventory, field check or analyze.

23 ***(e) Analysis of the management situation.*** *The analysis of the management situation is a*
24 *determination of the ability of the planning area covered by the forest plan to supply goods and*
25 *services in response to society's demands. The primary purpose of this analysis is to provide a*
26 *basis for formulating a broad range of reasonable alternatives.*

27 (e) The TMR limits the range of alternatives by forcing certain closures. Closure of cross-country travel is
28 being imposed nationwide, even as the USFS contends that the TMR will be implemented by making
29 local decisions and has no effect until implemented

30
31 (1) ***Alternatives shall be distributed between the minimum resource potential and the***
32 ***maximum resource potential*** *to reflect to the extent practicable the full range of major*
33 *commodity and environmental resource uses and values that could be produced from the*
34 *forest. Alternatives shall reflect a range of resource outputs and expenditure levels.*

35
36
37 (1) Under the TMR, the alternatives are constricted to a narrow range and none of them address the
38 concept of maximizing resource potential for the benefit of the human environment. All reasonable
39 alternatives, as required under CEQ, are not possible under the TMR.

40 **Under CEQ, the controversial, unusual and precedent-setting Travel Management Rule does not**
41 **qualify to be a Categorical Exclusion. The Travel Management Rule has not been analyzed under**
42 **NEPA and the public has not been allowed to participate in an open process of disclosure. The**

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1 **Travel Management Rule is illegal, and decisions made for the purpose of implementing it are also**
2 **illegal.**

3 **TMR has economic impact exceeding the \$100 million limit for being ‘ insignificant’.**

4 Back in 2005, the Office of Management and Budget determined that the rule had significant economic
5 impact. The agency disagreed and claimed the TMR decisions would preserve access and even increase
6 opportunities for motorized use. Since then, the results of TMR planning processes have become visible.
7 Nationwide, the roads and trails open to the public for motorized use have been severely reduced. Rural
8 towns that are dependent on forest-based activities will be hard hit by the closures. The rosy picture of
9 designated roads and trails painted by the agency back in 2005 has never materialized. What HAS
10 materialized ARE major losses of access. Contrary to the hopeful verbiage in the TMR, virtually no
11 unauthorized routes get designated anywhere. There is also a disturbingly predictable pattern of
12 decisions across the country; closures amount to approximately 50 %. No matter where, why or what,
13 the closures are 50 % and more. California is the worst case, with Region 5 defending DEISs that violate
14 the commitments the Regional office itself made to the State of California. The agency's claim of
15 insignificant economic impact was clearly false, and OMB was right the first time.

16 The GNF's travel management decision will not be NEPA compliant because it will have been made
17 under a rule which is not a legitimate categorical exclusion, which forces predetermined outcomes, limits
18 the range of alternative, does not comply with the 1982 Planning Rule, and allows decisions without
19 proper analysis and documentation.

20 Sincerely,

21 Joanne Spivack
22 Special Projects Coordinator, New Mexico Off Highway Vehicle Alliance
23 1700 Willow Rd., NE, Rio Rancho, NM 87144
24 ravens-nest@comcast.net
25 505-238-5493

26
27 Temporary Address through March 2011

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29 Apt. #1704 Shama Luxe
30 128 Jinma Rd.
31 Dalian Development Zone
32 Liaoning Province
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34 138-4260-2510

35
36 On behalf of:

37
38 Mogollon Apache Gila (MAG) Riders
39 Jo Anne Blount
40 POB 165
41 Glenwood, NM 88039

42
43 Gila Roads and Trails Alliance (GRATA)
44 James T. Baruch
45 POB 17

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Mimbres, NM 88049
2
3 Gila Trail Riders Association (GTRA)
4 Grant Gose
5 2205 Johnson Rd.
6 Silver City, NM 88061
7
8

1 **Comment 03032011-17-8 (Spivack Comment – No Action Alternative 1982**
2 **Planning Rule)**

3
4 March 3, 2011

5
6 Forest Supervisor
7 Attn: Travel Management
8 3005 E. Camino del Bosque
9 Silver City, NM 88061
10 r3_gila_travel@fs.fed.us
11

12
13 **Dear Responsible Official,**
14

15 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
16 am representing that organization and the undersigned organizations in providing these comments on the
17 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
18 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
19 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
20 recreational resources to the members of the public we represent.
21

22 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
23 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
24 Management Rule (TMR) with the utmost seriousness.
25

26 **The No Action Alternative B fails to satisfy the DEIS’s own description of the No Action**
27 **Alternative and violates the 1982 Planning Rule.**
28

29 **ISSUE 1. DEIS’s Definition of the No Action Alternative Does Not Match the No Action Alternative.**
30 **The No Action Alternative Omits 1,799 Miles of NFS Routes.**
31

32 The DEIS, Page ii, defines the No Action Alternative as (bold added):
33

34 **Alternative B** is the no action alternative. It represents the existing condition, which **is our best**
35 **estimate of where people are driving now**
36

37 Page 2 defines the existing transportation system (bold added):
38

39 *In general terms, the existing direction includes the **National Forest System roads, trails and***
40 ***areas currently managed for motor vehicle use, plus the restrictions, prohibitions and***
41 ***closures on motor vehicle use existing on a unit (Southwestern Region Travel Management***
42 ***Rule Guidelines, June 2008). This direction describes the existing system as that shown in the***
43 ***INFRA databases.***
44

45 **At page 4, the DEIS reduces the No Action Alternative from ‘where people drive now’ to ‘the**
46 **existing condition’.**

47 At page ii the No Action Alternative is ‘where people drive now’. At page 4 this has been reduced to
48 ‘existing direction’ (bold added):
49

50 *Since 2006, the database for roads and motorized trails (**INFRA**) **has been updated using***
51 ***information received from the public, field verification, and database corrections. Several***
52 ***iterations of existing direction maps have been produced since 2006. These are all in the***
53 ***project record. The most recent is included in the map packet. **This is the map depicting*****
54 ***alternative B (no action) and summarized in table 1.***

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The DEIS reduces scope of the No Action Alternative again, at Page 13.

The DEIS describes the details of the No Action Alternative at page 13. It repeats that the No Action Alternative means 'no changes to the motorized system'. But the list DOES change the motorized system because it excludes thousands of miles of routes that are on INFRA or under other jurisdictions.

We will point out one example of how the DEIS does not follow the rules it makes for itself. This is in regards to the legal use of NFS trails by motor vehicles. (bold added):

Page 2 defines the existing direction is what is allowed, subject to the prohibitions

*..the existing direction includes the **National Forest System roads, trails and areas currently managed for motor vehicle use, plus the restrictions, prohibitions and closures on motor vehicle use...***

Page 51 tells us there are 646 miles of NFS trail open to motorized use, there are few prohibitions.

*There are **1,577 miles of trail opportunities on the Forest, with 59% of these trails located within wilderness areas. There are currently few prohibitions on motorized use of the single-track system in the general forest area.***

Page 13 says there are only 16 miles of trail currently open to motorized use. What happened to the 646 miles of NFS trail open to motorized use? (bold added):

Alternative B – No Action

In this alternative the Gila National Forest would:

- *continue to keep **4,604 miles of roads and 16 miles of motorized trails** (less than 50 inches wide) open to motorized vehicles and uses;...*

Page 19, the description of Alternative C claims that only 16 miles of trail are currently legal for motorized use. It falsely states the other NFS trails are previously nonmotorized (bold added):

- *Allow single-track vehicles (motorcycles) on 51 miles of **previously nonmotorized NFS trails. Both motorized and nonmotorized uses would be allowed on the trails** (table 8, p. 26).*

Routes Missing From the No Action Alternative.

In just a few pages, the No Action Alternative shrinks from 'current use' to 'existing direction', and then shrinks again to less than the 'existing direction'.

The No Action Alternative does not include the 1,169 miles of ML-1 and decommissioned roads, 656 miles of forest system non-wilderness trail and unknown mileage of unauthorized routes. In addition it excludes 337.5 miles of U.S. highway and 686.6 miles of state highway from consideration for dispersed camping and game retrieval. Some county roads are also excluded from consideration for dispersed camping and game retrieval. (The exact figure for county roads cannot be determined because of conflicting numbers).

The Importance of Non-forest Jurisdiction Roads. These are county, state and U.S. roads. They are essential to forest activities. They used to access forest lands for dispersed camping and game retrieval. The agency cannot stop the use of those roads. But the agency can stop the access to the forest from those roads. By excluding them from the No Action Alternative the use of those roads for game retrieval and dispersed camping is banned with no disclosure. **Three of the five alternatives ban dispersed camping and game retrieval from all non-forest jurisdiction roads.**

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1
2

Appeal of the Record of Decision for Travel Management on the Gila National Forest

The following calculation of the routes excluded from the No Action Alternative uses the numbers taken from the DEIS and the underlying reports.

NFS Routes: 1,169 miles ML-1 and decommissioned roads not included in Alt. B (source: DEIS, page 46)
 630 miles of NFS trail outside of wilderness not included in Alt. B (source: DEIS, page 50)
 ??? miles of unauthorized routes not disclosed

NFS Routes Not Included in Alternative B: 1,799 miles
NFS Routes Included in Alternative B: 4,604 miles
Total for NFS Routes: miles
Percentage Excluded from Alt B:

Table 1 at DEIS page v shows 5,197 miles open for dispersed camping under Alternative B. (4,604 miles of NFS ML-2-5 plus 593 miles of county road). It shows 16 miles of trail. The DEIS fails to disclose and analyze the No Action Alternative as it has defined it. The total for routes of 'where people drive now' is 8,271.2. That is what the No Action Alternative should be, acknowledging the issue of access from non-forest jurisdiction roads.

Table 1. Comparison of motorized system resulting from changes to alternative B, no action (asterisk means item will not be shown on the motor vehicle use map)

	Alternative B (No Action)	Alternative C	Alternative D	Alternative E	Alternative F (Modified Proposed Action)	Alternative G
Miles of roads designated open to the public for motor vehicle use	4,604	4,266	2,977	2,332	3,343	3,323
Miles of motorized trails (less than 50 inches in width)	16	204	125	0	182	182
Miles of single-track motorcycle trails	0	64	0	0	0	0
Miles of routes for administrative use or by written authorization only *	0	183	354	439	298	299
Total percent change in motorized roads and trails	0%	-2%	-33%	-50%	-24%	-24%
Miles open for motorized dispersed camping (300 feet on each side of the road)	5,197 (no distance limit, forest is open)	1,538	1,183	0	1,447	1,327
Motorized big game retrieval	No limit on distance or species. Forest is open.	1 mile from each side of designated open roads, county roads, and state and federal highways for retrieving elk, deer, bear, mountain lion, javelina, pronghorn	300 feet using same motorized dispersed camping corridors for retrieving elk and deer	No motorized big game retrieval allowed	1/2 mile from each side of designated open roads, county roads, and state and federal highways for retrieving elk only	300 feet using same motorized dispersed camping corridors for retrieving elk and deer
Number of areas (acres) open to all vehicles	No limit, forest is open	38 (29)	0 (0)	0 (0)	38 (29)	38 (29)
Number of areas (acres) restricted to ATV and motorcycles only	No limit, forest is open	1 (8)	0 (0)	0 (0)	1 (8)	1 (8)

The following excerpts show where the DEIS admits these routes are 'where the public drives now'. The use of county, state and U.S. roads is assumed.

ML-1 and decommissioned roads: page 51 of the DEIS (bold added):

*The Gila National Forest's road system inventory includes an additional 1,194 miles of roads that are classified as either closed or decommissioned. **Hunters are user groups that specifically benefit from closed and decommissioned roads** since they allow for easier cross-country*

1
2 **Statements in the DEIS Confirming the Value of Routes (routes provide a service to the public)**
3

4 DEIS, page 52, emphasizes the importance of access for all forest users. Routes are identified as
5 important and the agency states that changing the existing routes can change the diversity of recreational
6 opportunities. Reducing recreational opportunities reduces the current level of services. (bold added):
7

8 *Nearly all forest visitors, regardless of the purpose for their visit, use the motorized transportation*
9 *system to reach their destination. Recreation activities many times involve a combination of*
10 *motorized and non-motorized activities; therefore, **making changes to the existing motorized***
11 ***transportation system by adding and/or removing roads and motorized trails, has the***
12 ***potential to affect the diversity of recreation opportunities for both motorized and non-***
13 ***motorized uses of the forest.***
14

15
16 **Cross Country Travel Does Not Provide the ‘Services’ of the System of Existing Routes**
17

18 It is likely that the agency will argue that the missing routes are not really missing from the No Action
19 Alternative because they are ‘part of’ cross country travel. We contend this argument is false for the
20 following reasons:
21

22 1. The agency’s description of the No Action Alternative says it is their best estimate of where people are
23 driving now. The DEIS and Recreation Report clearly and specifically describe the public’s motorized use
24 of ML-1 roads, unauthorized routes and forest system trails. Routes equals access, not cross country
25 travel.
26

27 2. Cross-country travel does not provide the same ‘service’ as a functional network of roads and trails
28 which are mapped. Attempting to find ways across unknown land is not equivalent to the ‘service
29 provided’ by a road or trail. As the DEIS itself notes, cross country travel is often prevented by terrain.
30 (bold added)
31

32 Page 103:

33 *Under the no action alternative, the forest (2,441,804 acres) is open to motorized cross-country*
34 *travel and motorized dispersed camping, **although many areas are not actually available due***
35 ***to steep slopes, rocky conditions, and/or dense timber.***
36

37 Here are additional quotes from the DEIS about cross-country travel. The DEIS makes it clear that cross
38 country travel does not equate to the services provided from roads and trails. These statements show that
39 cross-country travel is difficult, infrequent, limited, and primarily related to camping and game retrieval.
40 Cross-country travel is not a viable way to ‘get around’ in the forest. Cross-country travel is not used the
41 way the roads and trails are used.
42

43 Cross country travel does not provide the navigable system of access which can only be provided by
44 routes. Routes are mapped, cross country travel is not mapped. The DEIS points to the MVUM as a tool
45 that will help people know where to go. The quote from page 61 shows that the agency knows the map is
46 an essential tool for the public, for planning recreation activities. The entire premise of Travel
47 Management revolves around the MVUM. There would be no point in having a map that didn’t show
48 roads or trails. The value of a map is the routes it shows. (bold added)
49

50 Page 61:

51 ***Roads and motorized dispersed camping corridors would be defined and published on the***
52 ***motor vehicle use map. This would offer the public a means to better plan recreational***
53 ***pursuits based on the individual’s unique expectations.***
54

55 Page 4:

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1 *Approximately 2.4 million acres are available for motorized cross-country travel. Even though*
2 *these acres permit motorized cross-country travel, **it may not be possible to drive on all of***
3 *them due to slope, terrain, or thick vegetation.*

4
5 P 89

6 ***Travel off of designated routes is mostly infrequent and/or a one-time occurrence***, with little
7 *compaction occurring or permanent tracks created. In a few locations, motorized users have*
8 *created visible routes that are repeatedly used for big game hunting, antler hunting, and*
9 *unrestricted cross-country motorized travel.*

10 P 94

11 *Currently, the Gila National Forest has seen minimal adverse impacts related to cross-country*
12 *travel for dispersed camping and big game retrieval. **Cross-country use on this forest is***
13 ***infrequent*** and dispersed enough that few permanent tracks are created, based on forest staff
14 *observations.*

15
16
17 2. The DEIS discusses the effects of closing cross country travel, but never mentions the effects of
18 closing these other categories of routes. The DEIS has no analysis of the loss of 'services' that would
19 result from closing the ML-1 and decommissioned roads, unauthorized routes and forest system trails,
20 even though those are part of the currently provided 'goods and services'. The DEIS has no analysis of
21 the loss of 'services' that would result from closing access to dispersed camping and game retrieval from
22 non-forest jurisdiction roads.
23

24 **ISSUE 3: Different Baselines Used For Different Alternatives**

25 The ML-1, decommission roads, unauthorized routes and forest system trails have been excluded from
26 the No Action Alternative. But varying amounts of these routes are included in many alternatives.
27

28 Here are items from description of Alternative C, at page 19. These are specific routes to be kept open
29 under Alternative C. We have put in bold every place where Alternative C has routes from categories
30 excluded from Alternative B. **It is not rational to propose a route in an action alternative, and at the**
31 **same time claim it doesn't exist as part of the No Action Alternative.**
32

33 There is an additional NEPA compliance problem with this. The DEIS analysis includes the effects of
34 keeping these routes open. But it has never addressed the effects of closing the routes. (bold added):
35

- 36
- 37 • **Add 8 miles of unauthorized routes and designate these routes as National Forest**
 - 38 **System (NFS) roads** open to all vehicle types (table 5, p. 24).
 - 39 • **Reopen 4 miles of NFS maintenance level 1 roads** and change to maintenance level 2 roads
 - 40 open to all vehicle types (table 5, p. 24).
 - 41 • The following changes apply to motorized routes that will be open for the purpose of periodic
 - 42 administrative use or specific permitted uses only (table 7, p. 25):
 - 43 ○ Change the use on 170 miles of existing NFS roads currently open to all motorized
 - 44 uses.
 - 45 ○ **Add 4 miles of unauthorized routes as roads.**
 - 46 ○ **Reopen 5 miles of maintenance level 1 roads** and change to maintenance level 2.
 - 47 ○ Change 2 miles of NFS roads to NFS trails.
 - 48 ○ **Add 2 miles of unauthorized ATV routes to the National Forest System.**
 - 49 • **Add 61 miles of unauthorized routes and designate as NFS trails** for motorized vehicles
 - 50 less than 50 inches in width (table 8, p. 26).
 - 51 • **Open and convert 30 miles of NFS maintenance level 1 roads** as NFS trails and designate
 - 52 for motorized vehicles less than 50 inches in width (table 8, p. 26).
 - 53 • **Add 13 miles of unauthorized routes and designate as NFS trails** for single-track vehicles
 - 54 only (table 8, p. 26).

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- Allow single-track vehicles (motorcycles) on 51 miles of previously nonmotorized NFS trails. Both motorized and nonmotorized uses would be allowed on the trails (table 8, p. 26).
 - **0.2 mile of reopened maintenance level 1 roads,**
 - **1 mile of unauthorized roads proposed to be added to the system,** and
 - 71 miles of county roads.

Another inconsistency concerns non-forest jurisdiction roads and the dispersed camping and game retrieval. Alternatives C and F show game retrieval allowed on all existing routes and specifically identifies county roads, state roads and U.S. highways. Game retrieval from those roads is not allowed in Alternatives D,E and G. Those alternatives do not discuss the effects caused by banning access from non-forest jurisdiction roads. Dispersed camping and game retrieval access from non-forest jurisdiction roads is not included in the No Action Alternative. From Table 1, page v, the allowed roads for game retrieval vary under the alternatives in regards to non-forest jurisdiction roads. This no discussion of why the alternatives vary in which animals are allowed for retrieval. The DEIS is totally silent on this.

	Alternative B	Alternative C	Alternative D	Alternative E	Alternative F	Alternative G
Motorized big game retrieval	No limit on distance or species. Forest is open.	1 mile from each side of designated open roads, county roads, and state and federal highways for retrieving elk, deer, bear, mountain lion, javelina, pronghorn	300 feet using same motorized dispersed camping corridors for retrieving elk and deer	No motorized big game retrieval allowed	1/2 mile from each side of designated open roads, county roads, and state and federal highways for retrieving elk only	300 feet using same motorized dispersed camping corridors for retrieving elk and deer

ISSUE 4: Unauthorized Routes Not Added to INFRA as per Region 3 Guidelines

DEIS cites Region 3 guidelines at page 2 (bold added):

*In general terms, the existing direction includes the **National Forest System roads, trails and areas currently managed for motor vehicle use, plus the restrictions, prohibitions and closures on motor vehicle use** existing on a unit (Southwestern Region Travel Management Rule Guidelines, June 2008). This direction describes the existing system as that shown in the INFRA databases.*

We contend that Region 3 did not produce the guidelines merely as suggestions that the forests can ignore. We also contend the forest cannot 'cherry-pick' the guidelines; obeying some instructions and discarding others to suit itself. The Southwestern Region Travel Management Rule Guidelines, June 2008 describe unauthorized trails to the INFRA database, at page 4 (bold added). These guideline have specific instruction about adding existing trails to the INFRA database. We cite the trails guideline in its entirety to show the instructions are not just a vague or generalized statement of suggestion. The guideline is very specific and detailed about exactly what trails to include in INFRA, what the qualifications are, and how to do it. It is quite obvious that the Region 3 office expected compliance. Our comment is inserted between sections of the trail guidance.

C. Trails

*There are far fewer trails than roads currently managed for motorized use. Most trails have core data entered into Infra (i.e., trail name, number and mileage). However, many trails are missing required linear events. Approximately 40 percent of the trail miles in the Southwestern Region are missing one or more of the "big three" required linear events (i.e., Trail System, Jurisdiction, and Trail Status). **These three linear events should be populated to identify the existing system of motorized trails in the Region.***

In addition, "allowed use" data should be populated in the access and travel management module (ATM) where no data exists and should be supplemented where allowed motorized

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1 **uses are missing. In these situations, add or modify the “allowed use” data where either of**
2 **the following criteria is met:**

- 3 • **There is a relevant management decision, such as Forest Plan direction or a NEPA**
4 **decision.**

5
6 The Region 3 guidance is to add ‘allowed use’ trails to the INFRA database. This has not been done.
7 The current Forest Plan permits cross-country travel, and the use of all trails is allowed, as stated at page
8 200, ‘Because the Gila National Forest allows motorized cross-country travel, most proposed routes,
9 **even though unauthorized, are currently being used.**

- 10
11 • **Unless a subsequent management decision has been made to the contrary, the intent to**
12 **accommodate and/or encourage motorized trail use is demonstrated by existing signing,**
13 **visitor maps, website information, a Recreation Opportunity Guide, or other Forest Service**
14 **information that indicates a trail is suitable for motorized use.**

15 In 2004 the agency distributed on CD their ‘Travelways’ map. This shows all routes as open. The map
16 accommodates and encourages motorized use. Under the past and current management (the forest plan)
17 motorized use of unauthorized trails is accepted.

18 **Once the required linear events and allowed use data cleanup is done, the existing direction for**
19 **trails is the forest system of trails populated in Infra as follows:**

- 20 • **Trail System = National Forest System Trail**
21 • **Jurisdiction = Forest Service**
22 • **Trail Status = Existing**
23 • **Allowed Use (from ATM) = Any motorized vehicle with a management strategy**
24 **of “manage” or “accept.”**

25 The instruction above CLEARLY tells the forest to add the unauthorized trail to the INFRA database.
26 Region 3 tells the forests to add allowed use unauthorized trails to the National Forest Trail System.

27 *In some cases, trails that meet the preceding criteria should **not** be included in the*
28 *existing direction. **Exclude trails where any of the following can be credibly***
29 ***documented:***

- 30 • **Technical Corrections –Incorrect coding in Infra such as:**
31 1. **Trail record in Infra but no corresponding trail exists on the ground.**
32 2. **Jurisdiction incorrectly coded as Forest Service.**
33 3. **Unauthorized trails incorrectly coded as system trails as a result of any inventory**
34 **or data editing process after January 12, 2001 (See FSM 7711.03).**
35 • **Changes on the Ground – The trail is in Infra but no longer exists on the ground or**
36 **the trail has been converted to another use.**
37 • **Decision Not Recorded in Infra – A NEPA decision to close a trail exists but has not**
38 **been recorded in Infra.**

39
40 The exclusions listed above do not generally apply to the majority of unauthorized routes.

41 **ISSUE 5: Failure to Use the Public Input Data, Failure to Admit it has Public Input Data**

42
43
44 In 2005-2007, the agency sought the help of the motorized community in identifying the unauthorized
45 routes in use. The motorized community submitted detailed information in the form of GPS data. This
46 data was added to the GIS system, and the resulting maps called Public Input were posted on the

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 agency's website. These maps, for each ranger district, showed the Public Input routes overlaid on a
 2 standard GNF background.
 3

4 These maps remained posted on the agency's website until shortly before the Proposed Action was
 5 released. Below are 'screenshots' taken from the GNF's webpage, showing the Public Input maps posted
 6 for public use. These were taken on 9-11-08.
 7
 8

9 The GNF has had over three years to work with this Public Input GPS information; to ground truth, verify
 10 field conditions etc. If it has done any of that, it has not disclosed it. It has not even disclosed a mileage
 11 number for routes submitted by the public. The mileage could be calculated with a few clicks on the
 12 computer, since the data is already in the system. The agency could easily have determined where the
 13 submitted trails overlaid system routes, but it didn't do that either. The DEIS never even mentions that this
 14 data was solicited and received from the public. The agency does not disclose the data is already in their
 15 computer system, the tedious work of data entry was done years ago. It does not disclose the data had
 16 been posted on the agency's website. There is no excuse for the agency's failure to acknowledge that it
 17 has the data and no excuse or its failure to work with it. To our knowledge the agency has not followed
 18 any of the Region 3 guidelines for trails.
 19
 20
 21

22 Evidence on the Gila National Forest website of the Public Input Maps

23 The first image shows the listing for the public input maps, the bottom line in the table.
 24
 25
 26
 27
 28

• Solicit additional input to the draft proposal
 • Reconnect with those who provided input
 • Identify if some important points or coordination was missed
 • Improve our proposal
 • Resolve as many conflicts as possible in order to have the best proposed action to move into NEPA

If you are unable to attend one of the workshops or would like more time review the presentation materials and draft proposal and provide input; the presentations and maps that will be presented at the Workshops are available for review:

Slide presentations:

1. [Overview of the Travel Management Rule](#) (Powerpoint 126Kb)
2. [Gila NF's process to implement the Rule](#) (Powerpoint 86Kb)
3. [Draft Proposal](#) (Powerpoint 3.29Mb)

Maps:

Maps	Black Range RD	Glenwood RD	Quemado RD	Reserve RD	Silver City RD	Wilderness RD	Burro Mtn. Area
Existing Direction Map	View Map (PDF 9.9Mb)	View Map (PDF 8.0Mb)	View Map (PDF 7.1Mb)	View Map (PDF 8.4Mb)	View Map (PDF 5.4Mb)	View Map (PDF 7.9Mb)	View Map (PDF 3.1Mb)
Draft Proposal Map (all roads)	View Map (PDF 12Mb)	View Map (PDF 4.1Mb)	View Map (PDF 9.3Mb)	View Map (PDF 11.5Mb)	View Map (PDF 7.1Mb)	View Map (PDF 12.1Mb)	View Map (PDF 4.0Mb)
Motorized Transportation Map and Dispersed Camping	View Map (PDF 9.7Mb)	View Map (PDF 7.6Mb)	View Map (PDF 6.5Mb)	View Map (PDF 7.9Mb)	View Map (PDF 5.7Mb)	View Map (PDF 7.6Mb)	View Map (PDF 3.1Mb)
Public Input Map	View Map (PDF 3.8Mb)	View Map (PDF 9.8Mb)	View Map (PDF 4.3Mb)	View Map (PDF 4.6Mb)	View Map (PDF 3.3Mb)	View Map (PDF 4.2Mb)	View Map (PDF 1.1Mb)

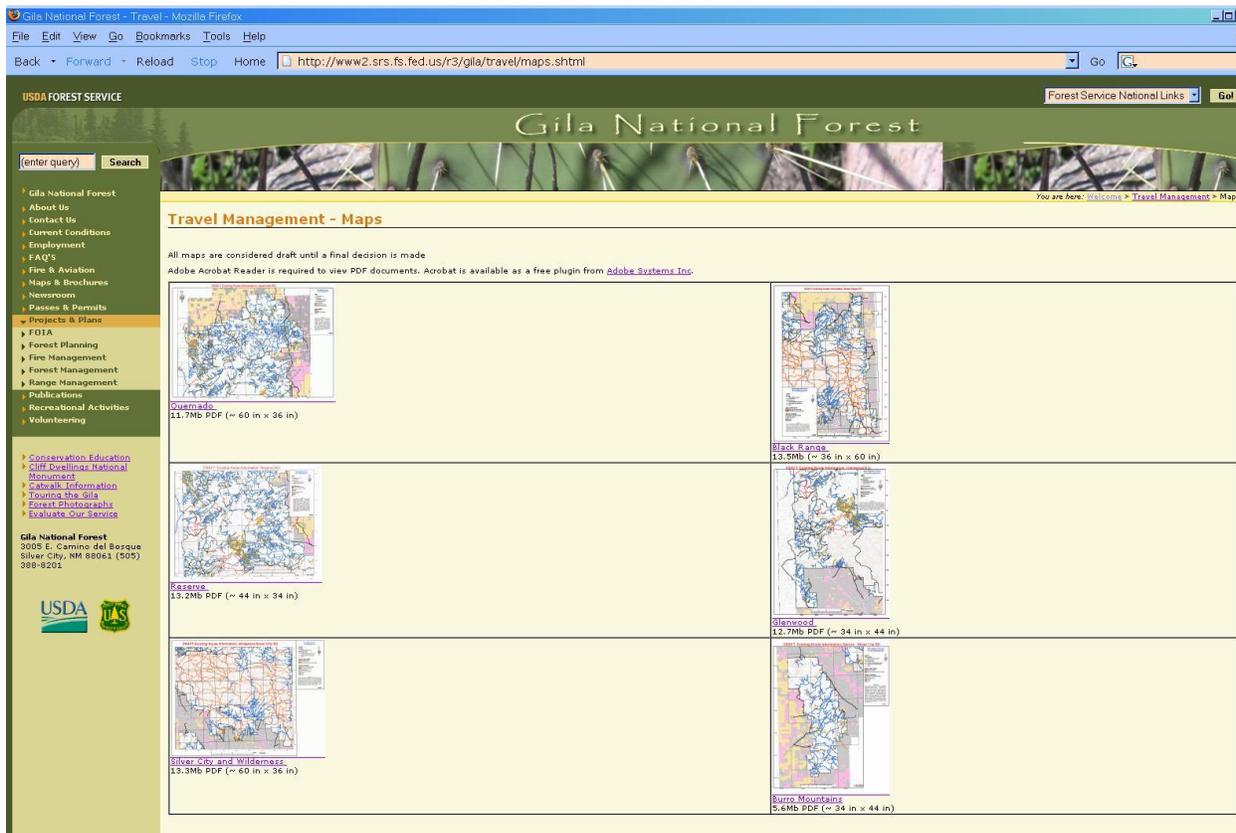
Adobe Acrobat Reader is required to view PDF documents. Acrobat is available as a free plugin from [Adobe Systems Inc.](#)

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The second image shows the clickable PDF maps for Public Input for each ranger district.



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ISSUE 6: Undisclosed Methodology and Criteria for Inclusion of Unauthorized Routes in Alternatives

The agency included a few scraps of unauthorized route mileage in the alternatives.

- They do not disclose what pool of routes they picked through, or criteria for the selections.
 - They do not disclose the effects of the unauthorized trails on the environment.
 - They can't have analyzed any effects because there is nothing to compare to: the unauthorized trails are not part of the No Action Alternative.
- And, they don't disclose the effects of closing all the rest of the unauthorized trails.

(Exactly the same issues apply to the ML-1 and decommissioned roads: they been excluded from the No Action Alternative, not analyzed but varying mileages are reopened and added to the action alternatives)

Every action alternative includes mileage of unauthorized trail, as summarized in Table 8 at page 26:

We see no 'rhyme or reason' for how this was done, or how it turned out. Why are so few included? It's hard to believe that only 34, 51, 53 or 61 miles of trail were suitable for designation. If these few miles met some (undisclosed) criteria, what was wrong with the rest of them? They are not identified as having any resource issues. Unlike the roads, the DEIS doesn't say they are in a habitat or crossing a stream. The agency provides exactly zero information for these routes in any alternatives, they just appear and disappear for no reason.

Table 8. Changes to motorized trails in miles

Features of the Alternatives	Alt. B*	Alt. C	Alt. D	Alt. E	Alt. F*	Alt. G
Add unauthorized routes as NFS trails and designate for motorized vehicles less than 50 inches in width	0	61	34	0	53	51
Convert NFS closed or decommissioned roads to NFS trails for motorized vehicles less than 50 inches in width	0	30	15	0	23	23
Convert open NFS roads to NFS trails for motorized vehicles less than 50 inches in width	0	35	67	0	90	92
Shared use of NFS horse and foot trail by motorcycles (single track)	0	51	0	0	0	0
Add unauthorized routes as NFS trails and designate for motorcycles (single track)	0	13	0	0	0	0
Close open NFS motorized trails to motorized use	0	1	7	15	1	1

* Alternative B = no action, Alternative F = modified proposed action

Table 8 fails to show the bottom line: how many miles of trails total for each alternative. This is critical missing information, so we shall calculate it. We also show the percentage of closure JUST by comparison to the current NFS trail mileage of 656 miles.

	<u>Alternative C</u>	<u>Alternative D</u>	<u>Alternative E</u>	<u>Alternative F</u>	<u>Alternative G</u>
Miles	189 miles	109 miles	0 miles	165 miles	165 miles
% Closure	72% loss	83% loss	100% loss	75% loss	75% loss

Compared to
NFS 656 miles

Closure of unauthorized trails : UNKNOWN, agency has not disclosed data that we know it has.
Total for Closure of Trails: UNKNOWN

Here is how the DEIS describes the effects of the alternatives on trails, pages 58-60.
Decreases of mileage by 75%+ are described in the DEIS as ‘Increases’ of 692% to 1,190%

Alternative C: “NFS motorized trail mileage will experience an increase of 1,190.51 percent, up from its current level of 15.8 miles to 203.9 miles.”

Alternative D: “NFS motorized trail mileage will experience an increase of 692.41percent, up from its current level of 15.8 miles to 125.2 miles.”

Alternative F: “NFS motorized trail mileage will experience an increase of 1,048.73 percent, up from its current level of 15.8 miles to 181.5 miles.

Alternative G: “NFS motorized trail mileage will experience an increase of 1,047.73 percent, up from its current level of 15.8 miles to 181.3 miles.

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1
2 **RESOLUTION:** The No Action Alternative is the core of the analysis, everything else in the DEIS
3 depends on it. CEQ has this to say about a draft EIS which is so inadequate that it precludes meaningful
4 analysis.
5

6 ***§1502.9 Draft, final, and supplemental statements.***

7 *If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare*
8 *and circulate a revised draft of the appropriate portion. The agency shall make every effort to*
9 *disclose and discuss at appropriate points in the draft statement all major points of view on the*
10 *environmental impacts of the alternatives including the proposed action.*

11
12 The No Action Alternative for this DEIS is inaccurate by a very large factor. The analysis has major gaps
13 where effects and cumulative effects have not been assessed. The DEIS must be withdrawn and
14 redrafted.

15
16 Thank you for the opportunity to comment.

17
18 Sincerely,

19
20 Joanne Spivack
21 1700 Willow Road NE
22 Rio Rancho, NM 87144
23 505-238-5493
24 Email: ravens-nest@comcast.net
25

26 Temporary Address through 3/23/11:
27 Apt. 1704, Shama Luxe, 128 Jinma Rd.
28 Dalian Development Zone, People's Republic of China
29 Email: ravens-nest@comcast.net
30 Telephone: 138 4260 2510
31

32 On behalf of:

33
34 Mogollon Apache Gila (MAG) Riders
35 Jo Anne Blount
36 POB 165
37 Glenwood, NM 88039
38

39 Gila Roads and Trails Alliance (GRATA)
40 James T. Baruch
41 POB 17
42 Mimbres, NM 88049
43

44 Gila Trail Riders Association (GTRA)
45 Grant Gose
46 2205 Johnson Rd.
47 Silver City, NM 88061
48

1 **Comment 03032011-17-9 (Spivack Comment – Methodology Tools Data)**

2
3 March 3, 2011

4
5 Forest Supervisor
6 Attn: Travel Management
7 3005 E. Camino del Bosque
8 Silver City, NM 88061
9 r3_gila_travel@fs.fed.us

10
11
12 **Dear Responsible Official,**

13
14 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
15 am representing that organization and the undersigned organizations in providing these comments on the
16 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
17 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
18 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
19 recreational resources to the members of the public we represent.

20
21 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
22 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
23 Management Rule (TMR) with the utmost seriousness.

24
25 **This comment is a detailed criticism of agency methodology used to assess the impact of**
26 **motorized use of roads. We request a substantive and meaningful response to this comment.**

27
28 From CEQ's Forty Questions:

29
30 *Question 29a. Responses to Comments. **What response must an agency provide to a***
31 ***comment on a draft EIS which states that the EIS's methodology is inadequate or***
32 ***inadequately explained***

33
34 *From the Answer: ...**agencies must respond to comments, however brief, which are***
35 ***specific in their criticism of agency methodology.the agency would have to respond in***
36 ***a substantive and meaningful way to such a comment.***

37
38 **FLAWED METHODOLOGY: AGENCY'S INEXPLICABLE FAILURE TO USE**
39 **ITS OWN TOOLS AND DATA.**

40
41 We point to the fire history map we provided in our comment on watershed quality. This is the agency's
42 own GIS data we took from the agency's own GIS website. Fire is mentioned repeatedly, it is the largest
43 single 'event' factor in watershed health¹:

44
45 *"Wildland fire is probably the most significant natural disturbance that impacts watersheds. Where high*
46 *intensity wildland fires have occurred over large acreages, watershed conditions can rapidly deteriorate*
47 *due to sudden lack of vegetative ground cover, lack of rainfall interception, and resultant poor hydrologic*
48 *conditions."*

49

¹ DEIS, p. 78

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1 It is the single factor that affects the most acres in the forest. Yet fire was totally disregarded in the
2 watershed analysis. Consider what that omission says about the depth and scope of the analysis: The
3 public had to provide the agency's own map in a comment because it wasn't in the DEIS.
4

5 There is a major issue underlying this example. The issue has to do with what is NOT in the DEIS, and
6 the analysis that was NOT done.
7

8 The agency has a wealth of site specific information at its fingertips and its powerful GIS tool can quickly
9 compare layers to search for the relationships. Fire is mentioned over and over as the largest land-
10 changing factor. The agency could have easily taken a look at how fire history affects borders between
11 wilderness and non-wilderness. We have GIS capability and we know how powerful it is. The agency
12 could have created maps to compare all sorts of data and look for correlations. One obvious example
13 would be to look at streams in unsatisfactory watersheds that have recent fire history. Are those the
14 quality impaired streams? They could have looked at roads near water quality impaired streams and
15 streams that aren't impaired, to see if there is any difference. Maybe the roads correlate strongly, maybe
16 they don't. Maybe there is a relationship between fire history, sediment and slope. Maybe sediment
17 correlates more strongly with roads and fires than slope and fires.
18

19 The agency also totally failed to use the most obvious tool at their disposal: A comparison of what is
20 happening inside and outside wilderness areas to see if roads make any difference. The agency has an
21 ideal 'control group', lands which have non-motorized use for decades; the wilderness areas. Are there
22 more or less impaired lands and waters in non-wilderness areas than inside wilderness? Is the wildlife
23 any different?
24

25 The agency seems numbly 'incurious' about this. It didn't even attempt to see if there was correlation
26 between the unsatisfactory watersheds and the water quality impaired streams. In short, the agency has
27 data and tools that it just didn't bother to use for the analysis. This is NOT just a criticism based on
28 wanting to keep roads open. The methodology causes the DEIS to be flawed in both directions, it could
29 just as likely have failed to identify roads that should be closed. The methodology does not rationally
30 evaluate the conditions and then apply filters to determine what factors are causing the conditions.
31

32 **FAILURE TO SET UP THE ANALYSIS TO PROVIDE THE NEEDED ANSWERS**

33
34 A major failure of the analysis is that it doesn't ask the right questions. It should have asked: "When
35 looking at the existing conditions in the forest, what is the scale of effects contributed from different
36 sources? Are the effects from use of roads significant?" The agency has not even made a presentation
37 of how it will answer the primary issue in travel management decisions: "Does this route need to be
38 closed?"
39

40 Here are the steps in a rational methodology:
41

- 42 1. Collect the data the agency possess for the GNF. Identify major data gaps. Determine if the
43 missing data can be readily collected. As per CEQ, evaluate the relevance of missing information.
44
- 45 2. Inventory the existing resource problems in the forest. The inventory should focus on real
46 problems, not potential or hypothetical problems. The routes have been on the ground and in use
47 for decades. If there are going to be problems, they'd have shown up by now.
48
- 49 3. Analyze how much of each resource problem is attributable to routes. Do the critical thinking, look
50 at the data, and look for relationships and correlations. Consider scale of effects from other
51 sources (fire, etc.). Use research citations sparingly, and only as a last resort in the absence of
52 local data. Create a list of routes that reasonably appear to be the source of resource impacts.
53
- 54 4. Separate the effects of the routes themselves from the effects of the use of routes.
55

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- 1 5. Apply the final filter: how much of road use impact is caused by motorized vehicles versus other
2 users?
3
- 4 6. In a parallel process, analyze the importance of the routes. Analyze the individual route
5 segments, both to the coherence of the route system and to the human environment. Consider
6 how the network of routes serves the human need.
7
- 8 7. Compare the results. Weigh the resource impacts from the motorized use of routes against the
9 human environment factors. Identify problem routes of high importance that need special
10 attention. Consider mitigation by means other than closure.
11
- 12 8. Once the agency knows which routes should be open or closed, it can construct its range
13 alternatives from that pool of routes. This will be an iterative process. At that point the agency
14 and the public would have confidence that the range of alternatives is as broad as it could be, and
15 provides the widest range of options for the decision maker.
16

17 **RESOLUTION:** Withdraw the DEIS. Prepare a new DEIS with an accurate analysis based as much as
18 possible on the GNF data the agency possesses or could readily obtain. Properly apply a complete
19 methodology that will separate the effects from the motorized use of routes from the effects caused by
20 other factors. Present a full disclosure of the other major events and activities impacting the current
21 resource conditions. Provide an assessment of how much of current negative conditions are caused by
22 events and activities such as fire, silviculture and permitted activities.
23

24 Disclose whether or not significant impacts are actually being caused by motorized use of forest roads,
25 what these impacts are, and where they are occurring.
26

27 Thank you for the opportunity to comment.
28

29 Sincerely,
30

31 Joanne Spivack
32 1700 Willow Road NE
33 Rio Rancho, NM 87144
34 505-238-5493
35 Email: ravens-nest@comcast.net
36

37 Temporary Address through 3/23/11:
38 Apt. 1704, Shama Luxe, 128 Jinma Rd.
39 Dalian Development Zone, People's Republic of China
40 Email: ravens-nest@comcast.net
41 Telephone: 138 4260 2510
42

43 On behalf of:
44

45 Mogollon Apache Gila (MAG) Riders
46 Jo Anne Blount
47 POB 165
48 Glenwood, NM 88039
49

50 Gila Roads and Trails Alliance (GRATA)
51 James T. Baruch
52 POB 17
53 Mimbres, NM 88049
54

55 Gila Trail Riders Association (GRTA)

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Grant Gose
2 2205 Johnson Rd.
3 Silver City, NM 88061
4

1 **Comment 03032011-17-10 (Spivack Comment – CLF)**

2
3 March 3, 2011

4 Forest Supervisor
5 Attn: Travel Management
6 3005 E. Camino del Bosque
7 Silver City, NM 88061

8 r3_gila_travel@fs.fed.us

9 **Dear Responsible Official,**

10 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
11 am representing that organization and the undersigned organizations in providing these comments on the
12 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
13 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
14 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
15 recreational resources to the members of the public we represent.

16 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
17 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
18 Management Rule (TMR) with the utmost seriousness.

19 **This comment is a detailed criticism of agency methodology used to assess the impact of**
20 **motorized use of roads on the Chiricahua Leopard Frog.**

21 From CEQ's Forty Questions:

22
23 *Question 29a. Responses to Comments. **What response must an agency provide to a***
24 ***comment on a draft EIS which states that the EIS's methodology is inadequate or***
25 ***inadequately explained***

26
27 *From the Answer: **But agencies must respond to comments, however brief, which are***
28 ***specific in their criticism of agency methodology.** However, if the commentor said that the*
29 *dispersion analysis was inadequate because of its use of a certain computational technique, or*
30 *that a dispersion analysis was inadequately explained because computational techniques were*
31 *not included or referenced, then the **agency would have to respond in a substantive and***
32 ***meaningful way to such a comment.***

33
34
35 **PART I:** DEIS methodology does not analyze the 'effects from the proposed action' (regulating motorized
36 use). The analysis is on the roads themselves and never addresses use.

37 **PART II: Recovery Plan Does Not Use Dispersal Area To Identify Roads As Threats to CLF**
38 DEIS Methodology mis-applies the dispersal area. It uses distances identified in the Recovery Plan, but
39 for the wrong purpose. The Recovery Plan did not design the dispersal area as a 'road exclusion zone'. It
40 was designed to identify suitable habitats close enough to each other. The Recovery Plan never advises
41 closing roads, or using the dispersion area to identify roads for closure.

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1 **PART III: Methodology Improperly Used** The methodology omits critical factors identified in the
2 Recovery Plan and cited research. The most important omitted fact is that frogs disperse only on rainy
3 nights. The risk of collision is virtually nil. The DEIS omits traffic count data which the GNF has on ML-2
4 and ML-3 roads.
5

6 **PART IV: Presence Of Roads Themselves Not A Significant Issue in the Habitat**
7 71 miles of 12 foot wide ML-2 road occupies 103 acres out of the 71,624 acre dispersal zone. This is
8 0.0014, or 0.14 of one percent of the dispersal area
9

10 **PART V: The DEIS does disclose the cumulative effects which have caused the existing condition**
11 **of the species.**
12

13 **PART VI: The DEIS Cites Inappropriate Research To Support Its Statements** The research cited
14 comes from studies on high traffic paved two lane roads. Additionally, best available science (including
15 the cited research) clearly states that frogs are active at night, and disperse only at night in wet
16 conditions.

17 **PART VII: Failure to Discriminate Between Reasons for Closures**
18
19

20 **PART I: Methodology Does Not Analyze the Proposed Action**

21 This paragraph from the Wildlife Report (WR) p 58, summarizes the methodology used to analyze the
22 effects to the Chiricahua Leopard Frog (CLF). The wording also appears in the DEIS.

23 ***Chiricahua leopard frog Summary - For Chiricahua leopard frogs, defining the action area of a***
24 ***proposed project must consider the reasonable dispersal capabilities of the species, and the***
25 ***likelihood/extent of any downstream or upstream effects that might arise from the***
26 ***proposed action. For this species miles of road within the reasonable dispersal distances***
27 ***from occupied sites will be the indicator that is used to analyze the potential for harvest***
28 ***and disturbance under the different alternatives. Reasonable dispersal distances for the frog***
29 ***from occupied habitats to sites being evaluated for occupancy include: a) within 1 mile overland,***
30 ***b) within 3 miles along an ephemeral or intermittent drainage, or c) within 5 miles along a***
31 ***perennial stream, or some combination thereof. The Gila has completed an extensive amount of***
32 ***survey work for this species over the 9 years; over this period of time the number of populations***
33 ***on the Gila have continued to decline as a result of Chytridiomycosis. Analyzing the change in***
34 ***miles of roads within a reasonable dispersal distance from occupied sites between the***
35 ***different alternative, along with the analysis of other focal amphibian species that are dependent***
36 ***on perennial riparian areas will provide the bases need to determine the potential affects to this***
37 ***species from the different alternative.***

38
39 The 'disconnect' between the proposed action and the analysis are exposed in the first few sentences:
40

41 ***effects that might arise from the proposed action. For this species miles of road within the***
42 ***reasonable dispersal distances from occupied sites will be the indicator***
43

44 The Proposed Action is about regulating motorized use, but the indicator addresses only miles of road,
45 and never addresses motorized use.
46

47 The DEIS confirms the mileage methodology at page 159:

1
2 **Chiricahua Leopard Frog Summary** – For this species, miles of roads within the reasonable
3 dispersal distances from occupied sites was the indicator used to analyze the potential for harvest
4 and disturbance under the different alternatives. Reasonable dispersal distances for the frog from
5 occupied habitats are described above. We also analyzed the change in the number of road-
6 stream crossings within this area.
7

8 NOTE: There are two indicators used, miles of road in the dispersal area and number of stream
9 crossings. The issue raised in this comment concerns the methodology of how the dispersal area was
10 used and the conclusions drawn from that.
11

12 **PART II: THE RECOVERY PLAN DOES NOT USE ‘DISPERSAL’ AREA TO IDENTIFY ROADS AS**
13 **THREATS TO CLF**
14

15 The DEIS uses the dispersal area from the 2007 Recovery Plan as a road exclusion zone. Is this
16 justified? Is this what the Recovery Plan intends? In the Recovery Plan at page D-1 we find the purpose
17 of the dispersal areas. (bold added)
18

19 Potential recovery and population establishment sites within a metapopulation **should be within**
20 **dispersal distance of other recovery sites or extant populations.** Reasonable dispersal
21 distance is generally one mile overland, three miles along intermittent drainages, or five miles
22 along permanent water courses, or some combination thereof (see review in “Dispersal and
23 Metapopulation Ecology” in Part 1). Consideration should be given to barriers (cliff faces, urban
24 areas, etc.) in determining the potential for movement of frogs. Some types of barriers can be
25 mitigated, such as providing fencing and culverts under highways (see Appendix I). **Within the**
26 **reasonable dispersal distances, the closer a site is to an extant population or populations,**
27 **the more desirable it is as a recovery project site within a metapopulation. However, sites**
28 **in adjacent drainages should be given high priority** as well because populations distributed
29 among drainages may buffer the metapopulation against environmental disasters. Isolated, but
30 large, stable habitats that can support robust populations of frogs should also be considered
31 outside of metapopulations or with minimal connections to other populations, as a refuge in case
32 of disease.
33

34 **The purpose of the Dispersal Area is to identify habitats that should have connectivity. If one**
35 **habitat is within five miles of another habitat, the agency should try to remove barriers that would**
36 **keep the frogs from getting from one habitat to another. Dispersal means ‘dispersal to another**
37 **suitable habitat’. The Dispersal distances were not designed as a ‘road exclusion’ area. There is**
38 **NOTHING in the Recovery Plan telling the GNF to define areas which exclude roads.**
39

40 The CLF Recovery Plan identifies the dispersal distances, for the purpose of defining an area within
41 which corridors need to be maintained and restored for frog movement p. 80
42

43 *1.2.17. Maintain and restore as needed corridors for frog movement among*
44 *populations*

45 *1.2.17.1. Within metapopulations identify dispersal corridors based on*
46 *reasonable dispersal distances and geography within each RU*

47 *Chiricahua leopard frogs are reasonably likely to disperse about one*
48 *mile overland, three miles along intermittent drainages, and five*
49 *miles along permanent drainages. Additional information about*
50 *dispersal and barriers to dispersal can be found in Part 1 in*
51 *“Dispersal and Metapopulation Ecology” and “Disruption of*
52 *Metapopulation Dynamics”.*

53 We turn to Part 1 Dispersal and Metapopulation Ecology to learn what the Recovery Plan has to say
54 about dispersal and barriers. This section is at page 14. There is no discussion of barriers to dispersal.

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1 We looked for discussion of barriers in the Recovery Plan and find these mentions, all of which are about
2 highways and urbanization, not 12 foot wide forest roads used by five vehicles a day. The descriptions
3 are about agricultural and semi-rural and urbanizing locations.

4
5 Page C-3:

6 *habitat fragmentation due to **roads, subdivisions, and mining** are additional challenges.*

7
8 Page 40:

9 *Alterations of the habitat, such as **highways and urban or agricultural development** reduce the*
10 *ability of frogs to travel among local populations, and thus are capable of disrupting*
11 *metapopulation dynamics.*

12
13 National Forest ML-2 roads that are 12 feet wide and carry fewer than 10 vehicles per day are not
14 'highways'.

15 Page D-3:

16 *Consideration should be given to barriers (cliff faces, **urban areas**, etc.) in determining the*
17 *potential for movement of frogs. Some types of barriers can be mitigated, such as providing*
18 *fencing and culverts under **highways** (see Appendix I).*

19
20 **Page 55 gives the requirements for de-listing, including this:**

21 *The additional habitat needed for population connectivity, recolonization, and dispersal is*
22 *protected and managed for Chiricahua leopard frogs, in accordance with the recommendations in*
23 *this plan.*

24
25
26 There is nothing in the plan about closing forest roads. The discussion provided by the DEIS does not
27 disclose what the Recovery Plan says about the existing condition, the threats, and the measures for
28 habitat restoration and to restore connectivity. Restoring connectivity is about removing predators,
29 addressing stream banks degraded by grazing, etc.

30
31 The DEIS omits information from the Recovery Plan which is critical to the travel management
32 considerations. Such as, how many sites are in the study area? At page 57 the Wildlife Report says only;

33
34 *On the Gila National Forest, 15 occupied sites in 2009.*

35
36 But the Recovery Plan mentions 4 occupied sites in the Gila Wilderness, this raises questions.
37 The DEIS should have disclosed which of the 15 occupied sites are in Wilderness areas.
38 The DEIS does not tell us how many non-wilderness sites are within five miles of each other and meet the
39 requirements for connectivity.

40 The DEIS never even mentions the GNF Recovery Units, or say if any overlap with occupied non-
41 wilderness sites?

42 The DEIS omits criteria which would leave a road open. The Recovery Plan (p. 80) says (bold added)

43
44 *identify dispersal corridors based on reasonable dispersal distances **and geography***

45
46 The DEIS 'cherry-picks' the Recovery Plan. The DEIS employed dispersal distances without considering
47 geography. DEIS has not identified whether these dispersal distances are necessary in all the occupied
48 sites. If a site is contained by canyon walls the frog can't pass, dispersal is limited by geography and it is
49 unnecessary to apply the one mile overland measure. Example: a road could be 500 feet from the edge
50 of a CLF site that is in a 15 ft. deep arroyo. In the DEIS that road would be captured in the dispersal area
51 and at risk of closure for no legitimate reason.

1 **PART III: METHODOLOGY BEING IMPROPERLY USED**

2
3 The methodology depends entirely on measuring mileage in the habitat-dispersal area (the area).
4 The DEIS does not include any criteria for evaluating the effects on the frogs of motorized use on roads.
5 The risk of motorized use to the frog is 'harvest' (collision). Page 58 of the DEIS says:

6
7 *Harvest effects were analyzed by miles of roadway within each habitat type and disturbance*
8 *effects were analyzed by distance from road within the identified associated habitat out to 250 m*
9 *(acres).*

10 Collision can happen only if a frog and a vehicle are on the road at the same time. The methodology fails
11 to address the only relevant question about the risk of collision:

12 **'Will the frog be on the road at the same time as the vehicle?'**

13
14 The methodology should (but does not) address these questions:

15
16 Will the frog be on the road, and if so, when and under what conditions?
17 Will vehicles be on the road, when, how many and under what conditions?
18 Is there an overlap between those two events? And if so, how much?
19 Are the roads themselves a significant issue in the area?

20
21 The DEIS does not answer these questions, so we will.

22
23
24 **Frog Movement and Dispersal**

25 The Fish and Wildlife Service Recovery Plan for the CLF uses the Northern Leopard Frog as a surrogate
26 species for the CLF, because there is little CLF specific data. Recovery Plan page 16:

27
28 *Because our knowledge of the life history and population dynamics of the Chiricahua leopard frog*
29 *is incomplete, data inputs to the model are often based on expert opinion or surrogate species;*
30 *thus although the results must be considered tentative and should be used cautiously, they are*
31 *the best information available regarding factors that affect population viability.*

32
33 The Recovery Plan cites Northern Leopard Frog research by Dole. From page 15:

34
35 *Displaced northern leopard frogs will home, and apparently use olfactory and auditory cues, and*
36 *possibly celestial orientation, as guides (Dole 1968, 1972).*

37
38 We found a study by the same Dole cited in the Recovery Plan: 'Dole, Jim W. 1965.

39 **Summer Movements of Adult Leopard Frogs, *Rana pipiens* Schreber, in Northern Michigan.**
40 *Ecology 46:236-255. [doi:10.2307/1936327]* The Dole quotes below are taken from the abstract for that
41 study.

42
43 **The frog hardly moves around at all during the day** and doesn't leave the moist environment of the
44 'form' for long. During the day the frog moves infrequently and less than 30 feet at a time. From the Dole
45 abstract:

46
47 *In fair weather in summer, leopard frogs on their home ranges in the fields typically spent*
48 *more than 95% of a day's time sitting quietly in "forms," made by clearing the wet soil of*
49 *dead vegetation. Several remained in the same form for more than 24 hr., one for more*
50 *than five days.*

1 **Travel on the home range occurred only infrequently during each day, and usually**
2 **consisted of a shift from one resting spot (form) to another, seldom more than 5 to 10 m**
3 **apart and usually much less.**

4
5 **The frog dispersal in the area happens only on rainy nights.** Even then, maximum distance measured
6 was 240 m (788 ft.) over two consecutive rainy nights. Migration happens ONLY rainy nights. From the
7 Dole abstract:

8
9 *In **nocturnal rains** leopard frogs occasionally made extended excursions off their ranges. Such*
10 *movement differed from home range movement in being direct, more or less continuous through*
11 *the night, and often covering distances of 100 m or more; one trailed frog moved 159 m in a*
12 *single night. These **migratory movements stopped at daybreak**, the frogs commonly remaining*
13 *in the region they had reached for several days, unless forced by unfavorable moisture conditions*
14 *to move to more moist regions. Occasionally the **migration was continued on the night***
15 ***following the initial movement**; one trailed frog traveled 240 m in two consecutive nights.*

16
17 These statements in the Recovery Plan confirm the frogs must stay moist. Note the description 'adult
18 survival' at page 17

19
20 They are excluded from ephemeral habitats by their **requirements for surface moisture for**
21 **adult survival...**

22
23 The Recovery Plan acknowledges that dispersal happens only in wet conditions, at page 50:

24 **Except during overland dispersal during wet periods**, these frogs rarely are found far from
25 these water bodies.

26 The DEIS omits what Dole says, that dispersal happens only at night in rainy conditions. The following
27 statement is in DEIS (page 158) speaks of the 'summer rainy season' but with no reference to night time.

28
29 *In the absence of perennial corridors, movement by frogs is likely facilitated by the presence of*
30 *seasonal surface waters (lotic and lentic) and otherwise wet conditions during the summer rainy*
31 *season that permit overland movement in typically dry environments (Southwest Endangered*
32 *Species Act Team 2008).*

33
34 The DEIS has inexplicably excluded the essential fact of nighttime movement from the methodology. The
35 DEIS also fails to present climate data showing how many rainy nights are likely. See additional
36 information at the end of this comment which supports the contention of night time activity.

37
38 **CONCLUSION: The dispersal area is only relevant on rainy nights. The frog could be present on**
39 **roads only on rainy nights. Motorized vehicles on roads during the day do not present a risk of**
40 **collision. Failure to use the best available science results in a faulty analysis that misinforms the**
41 **decision maker.**

42 43 44 **HOW MANY VEHICLES ARE ON THE ROAD?**

45 At page 157-158 the DEIS cites a study indicating that traffic intensity is a factor.

46 *The literature documents that a large number of amphibians and reptiles are killed on roadways*
47 *(Maxwell and Hokit 1999). Fahrig et al. (1995) documented that the higher the traffic intensity, the*
48 *greater the number of dead frogs and toads.*

49 First, we note the Fahrig study was done on two lane paved roads with traffic counts of 500 to 13,000
50 vehicles per day. The DEIS here tells us traffic intensity is a significant factor, but provides no traffic

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1 intensity information, either anecdotal or quantitative. There is some traffic count data in the mixed use
2 monitoring done by the road engineers, in the document titled Final Engineering Judgments, dated Sept
3 21, 2007, File 7700-1. The survey periods mentioned are 3 and 4 hours. Daily traffic on ML-3 roads were
4 0, 11 and 18 vehicles with the counts of 11 and 18 including vehicles that would not be on an ML-2 road
5 (sedans, sports cars, RVs). Here are those counts:

6
7 **Road 150, ML-3, monitored for 3 hours on a Friday, July 29, 2007: 11 full sized vehicles plus 4**
8 **ATVs**

9
10 **Road 119, ML-2, (no observed traffic reported)** 'Traffic count information from 1986 shows an **average**
11 **daily traffic of 20 vehicles** at the junction of C-010 and US 180. It is estimated that **75% of the traffic**
12 **never reaches the road segment in question**. The following 3 miles of road is a popular OHV
13 destination.

14
15 **Road 111 ML-3**, 'During the motorized mixed use (MMU) study period on Tuesday July 31,2007,
16 **eighteen vehicles were observed**. Vehicle types included ATVs, RVs, motorcycles, jeeps, sedans,
17 sports cars, pickups with trailers, vans, and SUVs.'

18
19 **Road 209, ML-3** The **average daily traffic** at the junction of US-180 is **12 ADT** based on a 1986 traffic
20 count. The MMU team setup a radar gun for approximately **4 hours** on Monday 7/30/2007 and hid behind
21 trees to try and get a representative speed for the road, however there were **no other vehicles** on the
22 road while we were running radar.

23
24 **CONCLUSION:** Motorized use of ML-2 roads is extremely light, less than ten vehicles per day.

25
26
27 **WILL MOTORIZED VEHICLES BE ON THE ROAD ON RAINY NIGHTS?** No data exists to specifically
28 estimate night time use of ML-2 roads. However, it is reasonable to assume night time motorized use in
29 the rain is insignificant. Camping is the only activity which specifically includes night time. The camper is
30 the only users likely to be in the dispersal area on a rainy night. Motorized use without camping is a day
31 time activity, and those users would not be present at night by design. (100% of camping occurs in the
32 non-road area of the dispersal area. People prefer to camp near water, which is exactly where the frogs
33 are.)

34 **PART IV: PRESENCE OF ROADS THEMSELVES NOT A SIGNIFICANT ISSUE IN THE HABITAT**

35 **The DEIS fails to examine a relevant criteria; surface area of roads in the dispersal area.**

36 With cross country travel ended and motorized use restricted to roads, the ONLY location with potential
37 for harvest is the road surface itself. The DEIS fails to ask (or answer) whether the road surface area is a
38 significant factor in the dispersal area.

39 **Road Surface Occupies .0014 of the Frog Dispersal Area**

40 Table 39, page 61 of the Wildlife Report says there are 71,624 acres in the Dispersal Analysis Area.

41 In Alternative B there are 71 miles of routes in the area. Table 17 (DEIS p 73) says a Maintenance Level
42 2 road has an average width of 12 feet. 1 Mile = 5,280 ft., 1 acre 43,560 sf.

43 A mile of ML-2 road covers 63,360 sf., or 1.45 acres. 71 miles of road covers 103 acres. The 103 acres
44 occupied by road are 0.0014 of the 71,624 acres. The road surface of 71 miles of ML-2 road occupies
45 .14 of one percent of the dispersal area.

46
47
48
49 **DEIS avoids disclosing the critical relationships.** We now look again at the percentages claimed on
50 page 62 Wildlife Report:

51 ***Differences among the Action Alternatives (C, D, E, F, and G):***

52 *Miles of motorized routes and trails and acres of potentially affected habitat within the analysis*
53 *area are reduced by approximately*
54
55

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1 48% (-35 miles) under Alternative E;
2 16% (-11 mi.) under Alternative D; 9%
3 (-7 mi.) under Alternative F, 5% (-3 mi.) under Alternative G,
4 and 1% (-1 mi.) under Alternatives C (see Tables 35 for specific numbers).
5

6 **The DEIS doesn't just fail to disclose the order of magnitude, it obscures it.** Is it significant that
7 Alternative E closes 48 times more mileage than Alternative C? No. The important question is how much
8 LESS habitat is affected if you close 48% of the road mileage, or 16% of 5% of 1%. With only .0014
9 occupied by roads now, even the most closure of 48% yields only .0007 less dispersal area occupied by
10 road. The DEIS fails to disclose that closing even 48% of the road mileage makes so little difference as to
11 be virtually meaningless. It is worth noting that the DEIS only provides numbers that look big and
12 impressive, like '48%'. It avoids numbers like '0.14%' that expose the truth about what the agency is
13 doing. **The reality is that the mileage reduction produces an absurdly small amount of 'habitat**
14 **benefit'. Failing to disclose this misinforms the decision maker.**
15

16 **HOW LIKELY IS THE FROG TO BE ON THE ROAD AT THE SAME TIME AS THE VEHICLES?**

17 Of all the land in the area, the roads are where the frog is LEAST likely to be. The frog will not be on the
18 road during daylight, on a dry day, or even on a dry night. At page 40, DEIS Table 16, Table 16.
19 Summary of the effects described in detail in chapter 3 has this statement under effects for Alternative D
20

21 Except for alt. E, this alternative causes the least harvest and disturbance effects to most focal
22 groups. There still remains a fairly high potential to cause harvest effects to the Chiricahua
23 leopard frog.
24

25 Now we can assemble the facts about 'high potential for harvest' under the No Action Alternative B with
26 71 miles of road.
27

28 Roads take .14 of one percent of the dispersal area
29 Roads are exactly where the frog is least likely to be (roads are dry and lack cover)
30 Roads are used by vehicles during the day primarily in dry conditions
31 Frogs move only at night in rain, they are not on roads when vehicles are present
32 Motorized vehicle use occurring during the day when the frogs are inactive and hidden in moist regions
33 off the roads. The likelihood of vehicles on an ML-2 road on rainy nights is negligible
34 Traffic counts on ML-2 roads suggest less than five vehicles per day
35

36 CONCLUSION: the likelihood of a frog being killed by a vehicle on a road is extremely low. There is no
37 high potential for harvest on roads.
38

39 **The DEIS makes highly inaccurate statements of the impact of roads on the CLF:**

40 At Page 141 the DEIS makes this statement
41

42 The **higher road density** and number of stream crossings the greater the exposure rates
43 between vehicles and the Chiricahua leopard frog, which **facilitates the potential for harvest** of
44 this species. **Alternatives C, D, F, and G maintain higher road density levels** and a high
45 number of stream crossings **which continue to facilitate the potential for harvest.**
46

47 **The DEIS claims that higher road density increases the risk of harvest (collision). This statement**
48 **is simply not true. It is not supported by the facts. But this statement forms the foundation of all**
49 **the comparisons of the alternatives.**
50

51
52 **PART V: The DEIS does disclose the cumulative effects which caused the existing condition of the**
53 **species, effects which do not include vehicles or roads, even under the present 'open forest'**
54 **management.**
55

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1 We find no statement in the DEIS that any of the alternatives would affect the viability of CLF. We find no
2 statement that motorized use of roads is a contributing factor to the decline and listing of the species. We
3 find nothing in the FWS Recovery Plan that recovery requires road closures, or would even contribute
4 benefit. Establishment of connectivity and removal of barriers does not mention closing roads at all. The
5 decline of the species has occurred during a period when the forest has been entirely open to cross
6 country travel, yet even this least restrictive management is not identified in the Recovery Plan as a factor
7 for CLF decline. The Recovery Plan makes it absolutely clear that the CLF is endangered because of two
8 specific problems:

- 9
- 10 -predation by invasive predators (primarily bullfrogs, but also crayfish)
- 11 -decimation caused by two water borne diseases
- 12

13 The bulk of the Recovery Plan is devoted to the discussions of these two factors. Sedimentation problems
14 are attributed to catastrophic fire is a factor. Other factors include trampling risk from streamside grazers
15 (both cattle and elk), and toxic chemicals washed into streams from mining. There is not one mention in
16 the Recovery Plan of roads or the use of roads as possible factor in the decline of the species. Stream
17 crossing vehicles do have the potential kill an individual, but are not a factor in viability of the species.

18

19 The DEIS never even mentions the eight Recovery Units (RU's) established in the plan. We do not know
20 if these RU's are inside or outside of the travel management study area, and which RU's include the
21 occupied CLF locations. In the Recovery Plan's descriptions of the RU's, there is not one mention of
22 roads or the use of roads being an issue. RU's 3, 5, 6, 7, and 8 include areas of the GNF (including
23 wilderness). Key threats are listed. The primary ones are disease and predation, followed by habitat loss
24 from drought and aquatic patch loss, degradation of habitat from ungulate grazing, sedimentation (from
25 catastrophic fires). 'Recreation' is mentioned 57 times in the Recovery Plan. But OHV is mentioned only
26 once at page I-8, and in a specific limited context.

27

28 *'Design roads (or fence them) to discourage OHV use, camping near habitats, and other*
29 *recreational activities that may adversely affect the frogs or their habitats.'*

30

31 The only mention of OHV use is to discourage use IN habitats, NOT in a dispersal area around habitats.

32

33

34 **PART VI: The DEIS cites inappropriate research to support its statements**

35 The Wildlife Report quotes two particular studies to support their claim that frogs are at risk of collision
36 with vehicle. Page 62

37 The literature documents that a large number of amphibians and reptiles are killed on roadways
38 (Maxwell and Hokit 1999). Fahrig et al (1995) did document that the higher the traffic intensity the
39 greater the number of dead frogs and toads. ORVs have also been documented to cause direct
40 mortality (Maxwell and Hokit 1999).

41

42 We have located the abstract for the Fahrig study. **EFFECT OF ROAD TRAFFIC ON AMPHIBIAN**
43 **DENSITY Lenore Fahrig, John H. Pedlar, Shealagh E. Pope, Philip D. Taylor & John F. Wegner**
44 *Ottawa-Carleton Institute of Biology, Carleton University, Ottawa, Canada K1S 5B6* (Received 14 January
45 1994; accepted 28 July 1994)

46

47 The study was done under conditions with no similarity to the GNF ML-2 roads. The study was done on
48 two lane paved roads. The GNF traffic (less than 10 vehicles a day) is orders of magnitude less than that
49 in the Fahrig study. Fahrig traffic counts ranged from a low of 500 cars per day to a high of 13,000 cars.

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1 The DEIS ignores the fact that the study was done at night since that is when the frogs are active. The
2 Abstract describes the data collection:

3 We selected road segments in two regions near Ottawa, Canada (Fig. 1) in three categories of
4 traffic intensity -- low, medium, and high. **The traffic volumes, measured in annual average**
5 **daily (24 h) two-way traffic flow were, respectively, 500-3500, 5000-6000, and 8500-13,000**
6 (Regional Municipality of Ottawa Carleton Transportation Department, pers. comm.; Ontario
7 Ministry of Transportation Eastern Region Traffic Section, **All roads were two-lane and paved**,
8 and the segments selected were similar with respect to the surrounding habitat both within and
9 between regions.

10
11 **On six evenings**, between 2030 and 2230 h, during the spring breeding season between 25 April
12 and 24 May 1993, we traversed the road segments and counted all dead and live frogs and toads
13 along contiguous 1 km sections of the roads (Fig. 1).

14 **The Utah Wildlife Dept says the Rio Grande Leopard Frog is nocturnal**

16 [Rio Grande Leopard Frog Rana berlandieri Ecology: The Rio Grande ...](#)

17 File Format: PDF/Adobe Acrobat - [Quick View](#)

18 Ecology: The Rio Grande **leopard frog** (*R. berlandieri*) is **nocturnal** and highly aquatic. Rio
19 Grande **leopard frogs** are typically found on the edges of large ...

20 wildlife.utah.gov/pdf/.../AIS_12sRioGrandeLeopardFrog-Crystal-Final.pdf

21
22

23 **Part VII: Failure to Discriminate Between Reasons for Closures**

24

25 From the Wildlife Report page 60:

26

Table 38 summarizes the harvest indicator, disturbance indicator, and analysis area that
will be used to analyze the effects of the different alternatives to amphibians and reptiles.

Table 38:

Focal Species	Motorized Activity	Harvest Indicator	Disturbance Zone	Analysis Area
Chiricahua leopard frog	Motorized Trail/ORV Use	Route Miles Number of Stream Crossings	Miles of routes within: - 1 mile overland - 3 miles along an ephemeral or intermittent drainage - 5 miles along a perennial stream	Occupied Sites

27
28

29 The DEIS does not disclose how much (or which) of the road closures are for which reason. Because of
30 this the alternatives cannot be fully understood. A full disclosure would identify which roads are in the
31 area but have no stream crossings. The DEIS does not analyze the roads with stream crossings in the
32 context of recreational value. The DEIS does not provide a map of the stream crossings. We cannot tell if
33 some stream crossings are so important to the road system that the mitigation of a bridge should be
34 considered. The DEIS looks at each issue in a vacuum, instead of in an integrated way as CEQ requires.
35 Another problem that arises from the lack of mapping for these issues has to do with the Riparian Areas
36 and the riparian buffer area. The public is given no information about possible connection or overlap
37 between the Riparian Buffer Area areas and the Frog Dispersal Areas. Which roads are being closed for
38 which reasons? There is no way to know.

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We have found one connection, because of the numbers in the species tables. It is evident that dispersed camping is being closed because of CLF habitat. The closure is from 97% to 100%. The DEIS does not disclose impacts from dispersed camping on the CLF and does not disclose that CLF habitat will drive the closure of dispersed camping. We notice something else odd, that the analysis doesn't explain. The top left cell of the table shows miles of routes and trails. The 4th row, under Alt B, has section for 'Routes crossing streams'. Under that it says 'No. of Open existing ML2 - ML5'. This DEIS is supposed limited to ML2 roads. Next, 'number of roads' tells us neither mileage nor number of stream crossings. And finally, the DEIS does not tell us how many of these 65 roads are ML-2 roads. The DEIS does not disclose how many miles of ML-2 road are in the 15 occupied sites, or how many stream crossings, and how these change under the alternatives. From page 163, DEIS:

Table 83. Chiricahua leopard frog reasonable dispersal analysis area - existing condition and proposed change by issue and alternative

Analysis Area (15 occupied sites) on NFS Lands = 71,624 acres	Existing Effects Alt. B (No Action)	Change in Effects by Alternative				
		C	D	E	F	G
Total FS routes and trails in miles	71	70.6	59.7	36.6	64.5	67.7
Percent in miles of alt. B (Existing)		-0.6%	-15.9%	-48.5%	-9.2%	-4.7%
Routes Crossing Streams						
No. of Open existing ML 2-ML 5	65	-21	-38	-57	-34	-23
No. of Administrative routes		20	21	23	21	21
Total FS route and trail crossings	65	64	48	31	52	63
Percent change of alt. B (Existing)		-9.9%	-32.5%	-56.4%	-26.8%	-11.4%
No. of private road-stream crossings	2	NC	NC	NC	NC	NC
Motorized dispersed camping in acres	39,828	-38,529	-38,971	-39,828	-38,643	-38,612
Percent in acres of alt. B (Existing)		-96.7%	-97.9%	-100%	-97%	-96.9%

Page 62 of the Wildlife Report summarizes the changes in mileage and stream crossings. (spacing added for ease of reading) but we don't know how much overlap there is between the two indicators. The dispersal area is (1) one mile overland, (2) three miles along intermittent drainages, and (3) five miles along permanent water courses (USFWS 2007: D-2, 3), or some combination thereof. This means a road can be captured in the dispersal area even if it has no stream crossings at all.

Differences among the Action Alternatives (C, D, E, F, and G):

Miles of motorized routes and trails and acres of potentially affected habitat within the analysis area are reduced by approximately

48% (-35 miles) under Alternative E;
 16% (-11 mi.) under Alternative D; 9%
 (-7 mi.) under Alternative F, 5% (-3 mi.) under Alternative G,
 and 1% (-1 mi.) under Alternatives C (see Tables 35 for specific numbers).

Under the existing condition you have 65 stream crossings within the analysis area. This number is reduced by 56% under Alternative E to 31 crossings; by 32.5% under Alternative D to 48 stream crossings; by 27% under Alternative F to 52 crossings; by 11% under Alternative G to 63 stream crossings; and by 10% under Alternative C to 64 crossings.

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1 *Under Alternative E 23 of the stream crossing go to administrative use only;*
2 *under Alternatives D, F, and G 21 go to administrative use only;*
3 *and under Alternative C 20 go to administrative use.*

4
5 *The greater the reduction in miles of motorized routes and number of motorized stream crossing*
6 *in the analysis areas the less the potential for direct and indirect effects.*

7
8
9 **RESOLUTION:** Withdraw the DEIS and Wildlife Report. Prepare a new Wildlife Report that accurately
10 implements the guidelines of the Recovery Plan, that addresses motorized USE, and discloses the
11 missing information including number of occupied sites and RU area not in wilderness. Clearly identify the
12 corrections; ML-2 roads within dispersal areas should be removed from the closure lists. Properly apply
13 best available science showing that frogs disperse on rainy nights. Use the information to assess the risk
14 that motorized use poses to the CLF.

15
16 Thank you for the opportunity to comment.

17
18 Sincerely,

19
20 Joanne Spivack
21 1700 Willow Road NE
22 Rio Rancho, NM 87144
23 505-238-5493
24 Email: ravens-nest@comcast.net

25
26 Temporary Address through 3/23/11:
27 Apt. 1704, Shama Luxe, 128 Jinma Rd.
28 Dalian Development Zone, People's Republic of China
29 Email: ravens-nest@comcast.net
30 Telephone: 138 4260 2510

31
32 On behalf of:

33
34 Mogollon Apache Gila (MAG) Riders
35 Jo Anne Blount
36 POB 165
37 Glenwood, NM 88039

38
39 Gila Roads and Trails Alliance (GRATA)
40 James T. Baruch
41 POB 17
42 Mimbres, NM 88049

43
44
45 Gila Trail Riders Association (GTRA)
46 Grant Gose
47 2205 Johnson Rd.
48 Silver City, NM 88061
49

1 **Comment 03032011-17-11 (Spivack Comment – Dispersed Camping)**

2
3 March 3, 2011

4
5 Forest Supervisor
6 Attn: Travel Management
7 3005 E. Camino del Bosque
8 Silver City, NM 88061
9 r3_gila_travel@fs.fed.us

10
11
12 **Dear Responsible Official,**

13 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
14 am representing that organization and the undersigned organizations in providing these comments on the
15 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
16 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
17 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
18 recreational resources to the members of the public we represent.

19
20 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
21 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
22 Management Rule (TMR) with the utmost seriousness

23
24
25 **This comment is a detailed criticism of agency methodology used to assess the impact of**
26 **dispersed camping.**

27
28 **We request a substantive and meaningful response to this comment.**

29
30 From CEQ's Forty Questions:

31
32 *Question 29a. Responses to Comments. **What response must an agency provide to a***
33 ***comment on a draft EIS which states that the EIS's methodology is inadequate or***
34 ***inadequately explained***

35
36 *From the Answer: ...**agencies must respond to comments, however brief, which are***
37 ***specific in their criticism of agency methodology.the agency would have to respond in***
38 ***a substantive and meaningful way to such a comment.***

39
40
41 **COMMENT: THE DEIS methodology causes it to severely understates the closure of dispersed**
42 **camping and does not disclose the cumulative effects of the true degree of closure.** Mileage and
43 acreage numbers for dispersed camping were calculated only from ML-2 forest roads and 593 miles of
44 county roads) [There are 591 miles in Alt B so statement isn't true]. The baseline for mileage excluded the
45 agency's ML-1 and decommissioned roads, and roads not under the jurisdiction of the agency. The
46 disclosed camping opportunity, the reduction of camping opportunity and the statements of effects are
47 drastically understated.

48
49 **ISSUE 1: Missing Mileage for Where People Camp Now:** The DEIS says all the acreage of non-
50 Wilderness national forest is open to motorized camping, page 52. No camping along any road is closed.
51 This means people can disperse camp along all roads in the forest. It is essential to have an
52 accurate count for 'all roads' to determine the dispersed camping opportunity. The DEIS fails to
53 do this by excluding a very large percent of the roads from the No Action Alternative.

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Currently on the Gila, 2,441,804.3 acres are open to motorized dispersed camping; however, evidence of motorized dispersed camping, such as fire rings and ground disturbance, is rarely seen beyond 300 feet from the adjacent road.

1 **Here are the miles of road where dispersed camping can be done now.**

2
 3 2,243.6 miles Non-forest jurisdiction roads: (source: Roads Report, page 8)
 4 593 miles of county road included in analysis (source DEIS, page 25)
 5 391.4 miles of Private Road (Roads Report, page 8)
 6 1,259.2 miles of non-forest jurisdiction road not included
 7
 8 1,169 miles ML-1 and decommissioned roads not included (source: DEIS, page 46)
 9

10 **TOTAL MILEAGE OF ROADS NOT INCLUDED: 2,428.2 miles**

11
 12 **Adding the 4,604 of ML2-5 roads (DEIS Table 9), the total is 7,032.2 miles open for dispersed camping.**

13
 14
 15 Table 1 at DEIS page v claims 5,197 miles open for dispersed camping under Alternative B, No Action.
 16 **The DEIS excluded 45% of the miles from the existing condition.** Because of this
 17 error, the DEIS fails to disclose accurate numbers and fails to disclose the true effects and cumulative
 18 impacts of these closures, on both the land and the public. **The DEIS excluded the ML-1 that it**
 19 **identifies as important recreational resources.**
 20

21 **The Preferred Alternative G closes 82.7% of the current camping acreage.**

22 As described above by the agency, dispersed camping is a corridor based activity, dependent on road
 23 mileage. The current existing condition for camping area is 7,634.2 miles by 600 feet. With 72.7 acres of
 24 camping per mile, the camping area is 555,006 acres. The preferred alternative G reduces that to 95,994
 25 acres, which is 17.3% of 555,006. Tables from the DEIS and Roads Report shows the numbers.
 26 Table 11 shows the Alternative B (where people camp now) as the entire open forest, even though we've
 27 just been told that is not what people do. They camp within 300 ft. of the roads, a total of 550,006 acres.
 28

Table 11. Estimated acreage of motorized dispersed camping and motorized big game retrieval

Motorized Activity in Acres	Alt. B*	Alt. C	Alt. D	Alt. E	Alt. F*	Alt. G
Motorized dispersed camping	2,441,804	110,780	85,921	0	104,390	95,994
Motorized big game retrieval	2,441,804	2,076,414	85,921	0	1,501,870	95,994

* Alternative B = no action, Alternative F = modified proposed action

29
 30
 31 The Roads Report, page 8, Table 2 shows 2,243.6 miles of road in the forest under other jurisdictions.
 32 With the exception of a scant handful (593 miles max) of county road designated under Alternative C,
 33 these roads are excluded from the analysis. They are excluded from the calculations of percentages,
 34 miles and acres.
 35

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Table 2. Roads under other jurisdiction within or access Gila National Forest

Road Jurisdiction ^a	Miles
Bureau of Land Management	1.8
County	802.6
Other Forest Service	23.8
Private	391.4
State Highway	686.5
US Highway	337.5
Total Miles	2243.6

1
2
3 Table 19 at Page 46 of the DEIS, shows 1,169 miles of ML-1 and decommissioned road. These roads are
4 also excluded from the analysis, and the calculation percentages, miles and acres.

Table 19. Existing Gila NFS road miles by operational maintenance level (OML) and general description of operational maintenance levels (specific definitions are located in FSH 7709.59, 62.32)

Operational Maintenance Level and General Description	Miles
1 – Roads closed to motor vehicle use	1,169
2 – Roads open for use by high-clearance vehicles	4,196
3 – Roads open and maintained for travel by mindful drivers in standard passenger cars	262
4 – Roads that provide a moderate degree of user comfort and convenience at moderate travel speeds	131
5 – Roads that provide a high degree of user comfort and convenience	24
Total miles	5,782
Miles open to motor vehicle use (OML 2–5)	4,613

5
6 Table 15 Chapter 2 includes written descriptions for the miles for game retrieval. The mileage open for
7 game retrieval is described as 'designated open roads, county roads, state and federal highways'. The
8 mileage for dispersed camping shows only the mileage number. It is silent on what sort of roads those
9 are. The DEIS does not disclose how and why it excluded all of the other roads. Table 9, page 26
10 shows 593 miles of county road under Alternative B.

11 Table 9 lists only ML2-5 roads and a number for county as Alternative B. It omits the rest of the
12 non-forest service jurisdiction roads from the total.

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Table 9. Motorized dispersed camping – 300 feet on both sides of the road

Features of the Alternatives	Alt. B ¹	Alt. C	Alt. D	Alt. E	Alt. F*	Alt. G
Open NFS roads	4,604	1,466	1,148	0	1,383	1,278
Unauthorized routes	0	1	1	0	0.2	1
Closed or decommissioned NFS roads	0	0.2	0.2	0	0.2	0.2
County roads	593	71	35	0	34	48
Total miles motorized dispersed camping (300 feet both sides of road)	5,197	1,538	1,183	0	1,447	1,327

¹ In alternative B, no action, the forest is open to cross-country travel, so no limit on distance except for wilderness and other restricted areas.

* Alternative F = modified proposed action

1
 2 Table 2 in the TAP, page 10, shows 619 miles county roads. The Roads Report shows 802.6 miles
 3 county road. The DEIS says some forest roads have been transferred to counties, and that was one of
 4 the reasons for revising the Proposed Action.
 5 We know the TAP mileages have changed since the document was done in 2003. But there is something
 6 very odd here. One would expect the current mileage of county roads to be more than what is shown in
 7 the 2003 TAP because more roads were transferred to the counties.
 8 But the Roads Report shows a higher number than the TAP. The DEIS Table 9 page 26, shows yet a
 9 third number; 593 miles under Alternative B. We have no idea where that numbers from, the DEIS does
 10 not say.

Table 2. Breakdown of roads within the Gila National Forest based on INFRA February 2009 records.

	Forest
Total Road Miles	7,582
State	816
County	619
Private	251
National Park Service	0.03
Apache-Sitgreaves NFS Roads	68
Gila	5,822

Gila NFS Roads

Decomm	587
ML1	572
ML2	4,204
ML3	282
ML4	152
ML5	25
ML1-5 roads	5,235
ML2-5 (open)	4,663

Source: GNF TAP, Nov. 2009 page 10

11
 12

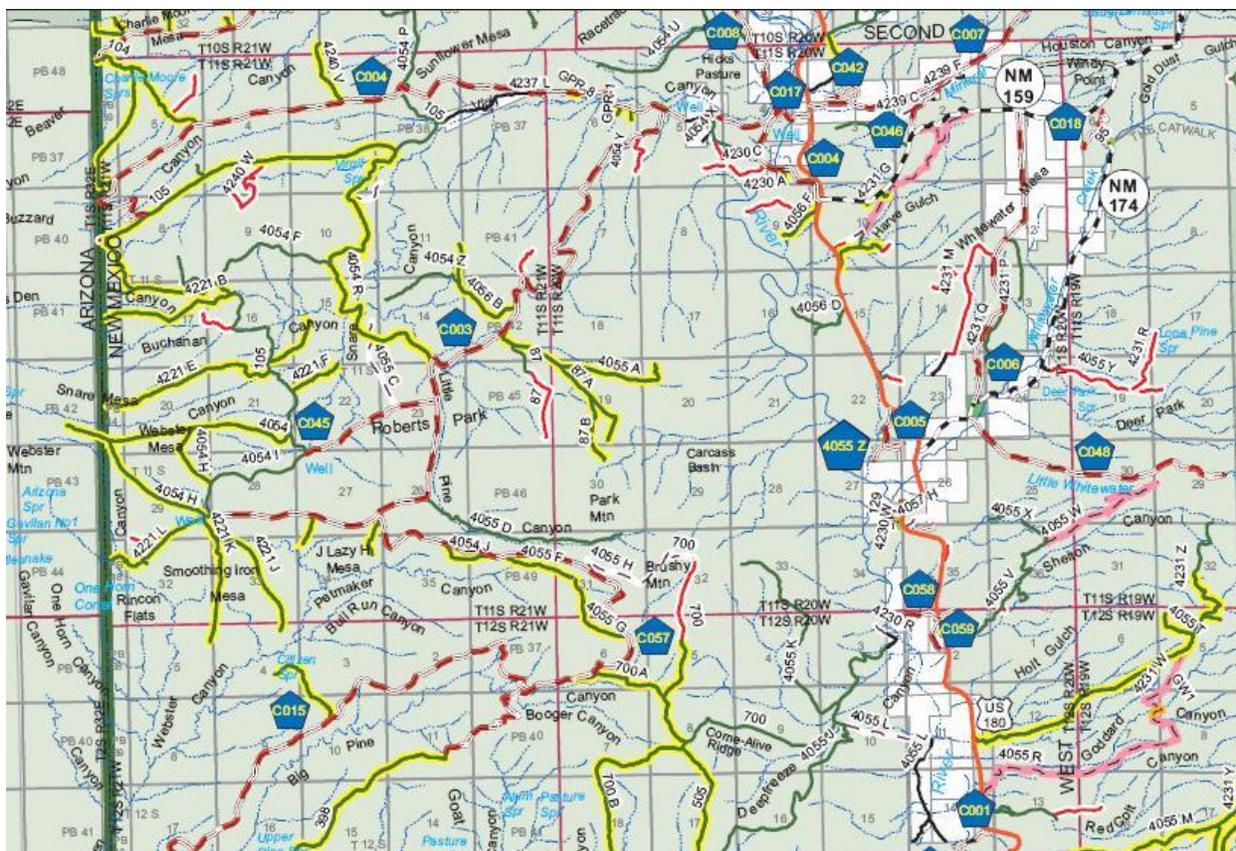
1 **ISSUE 2: SELECTIVE CLOSURE ON NON-FOREST SERVICE ROADS,**
2 **UNDISCLOSED METHODOLOGY**

3
4 This section of the Preferred Alternative G, map G-10 shows county roads and state highways in the
5 Glenwood Ranger District. Yellow highlight shows dispersed camping allowed. Dispersed camping, which
6 is now allowed from every road, has been eliminated from all of the non-forest roads except a few
7 segments of county road. The closure of dispersed camping along non-forest service jurisdiction roads is
8 virtually 100%. At pages 19 to 24, the DEIS shows miles of county road designated for dispersed
9 camping under each Alternative:

10	Alternative C	71 miles of county road designated for dispersed camping		
11	Alternative D	34 miles	“	“
12	Alternative E	0		
13	Alternative F	64 miles	“	“
14	Alternative G	48 miles	“	“

15
16 **Alternative C, with 71, miles has the most miles of county road open for dispersed camping. That**
17 **is a 91% closure, based on the Roads Report total of 802.6 miles.** There is obviously a methodology
18 being applied, but the DEIS does not disclose it. Dispersed camping from **1,024 miles of state and U.S.**
19 **highways are 100% closed, with no disclosure.**

20
21 **The total of non-forest jurisdiction roads (excluding private roads) is 1,852.2 miles. The DEIS**
22 **leaves at most 71 miles open for dispersed camping. This is a 96% closure.** This was done with
23 absolutely NO disclosure, these closed roads never appear in the DEIS
24



1

2 **ISSUE 3: INADEQUATE METHODOLOGY TO DISCLOSE EFFECTS ON DISPERSED CAMPING**
3 **FROM CLOSURE FOR WILDLIFE HABITAT**

4
5 In the Summary at page ii, the DEIS says how it defines the No Action Alternative:

6 *Alternative B is the no action alternative. It represents the existing condition, which is our best*
7 *estimate of where people are driving now.*

8 At page 52 the DEIS identifies that 'where the public drives now' for dispersed camping as a 300 foot
9 corridor.

10 *Currently on the Gila, 2,441,804.3 acres are open to motorized dispersed camping;*
11 *however, evidence of motorized dispersed camping, such as fire rings and ground*
12 *disturbance, is rarely seen beyond 300 feet from the adjacent road.*

13
14 **To assess effects to Dispersed Camping the baseline for Alternative B should have been set at**
15 **550,006 acres. But instead the agency uses the entire 2,441,804.3 acres of open forest. This makes**
16 **it impossible to see the effects on dispersed camping because the percentages get 'swamped' by**
17 **the closure of 2,441,804 acres of open forest.** The best way to explain this is with an example, and we
18 use the Mexican Spotted Owl, the 'MSO'.

19
20 We herein specifically challenge the agency's methodology as being inadequate. As per CEQ, we are
21 offering a different methodology that accurately discloses the effects of the proposed closures.
22

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1 Here's the table for MSO at page 173 in the DEIS. Note that it shows only percent of the entire open
 2 forest. This does not disclose the effects on dispersed camping. It does not disclose the effects of the
 3 alternatives in a way that makes the differences between the alternatives clear to the public and decision
 4 maker.
 5

Table 95. Mexican spotted owl protected activity center analysis area – existing condition and proposed change by issue and alternative

Mexican Spotted Owl Protected Activity Centers (MSO PACs) Analysis Area on NFS Land = 187,083.17 Acres	Existing Effects Alt. B (No Action)	Change in Effects by Alternative				
		C	D	E	F	G
Total FS routes and trails in miles	244	250	128	80	184	183
Percent in miles of alt. B (Existing)		3%	-48%	-67%	-25%	-25%
Motorized dispersed camping in acres	132,119	-128,145	-130,568	-132,119	-128,624	-129,520
Percent in acres of alt. B (Existing)		-97%	-99%	-100%	-97%	-98%
Motorized areas in acres - all vehicles	0	0	0	0	0	0
Motorized big game retrieval acres	132,119	-16,442	-130,568	-132,119	-49,278	-129,520
Percent in acres of alt. B (Existing)		-12%	-99%	-100%	-37%	-98%

6
 7 Table 95 says there is 187,083 acres of MSO habitat on NFS land, and 132,119 acres under Alt B.
 8 Maybe the rest of it is in Wilderness areas. Alternative E shows all 132,119 acres closed.
 9 We expect to 100% closure of habitat under Alternative E since dispersed camping is completely banned.
 10 But the other habitats show closures of 97%, 98% and 99%. The differences between the alternatives are
 11 very small which seems very odd. Every alternative shows almost total closure of MSO habitat.
 12

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1 We know are technically 2.4 million acres of open forest for dispersed camping, but the DEIS has told us
2 that 'where people camp' is in 300 foot corridors along roads.

3 It is not useful to tell us there 132,119 acres of MSO habitat in 2.4 million acres. But that is all Table 95
4 tells us. (excerpted below). The changes in camping show in Table 95 are not useful, they do not make it
5 clear what the effects of the alternatives are on dispersed camping. Providing information that is not
6 relevant to the decision doesn't constitute disclosure.

Motorized dispersed camping in acres	132,119	-128,145	-130,568	-132,119	-128,624	-129,520
Percent in acres of alt. B (Existing)		-97%	-99%	-100%	-97%	-98%

7
8

9 Alternative Method for Calculating and Presenting Effects of MSO on Dispersed Camping

10 The public and decision maker need to know is there is MSO habitat in the areas where the DEIS has
11 identified as 'where people camp' We proposed this alternate methodology. There is a very simple way to
12 show the true effects the alternatives will have on dispersed camping. We illustrate with an example.

13 For the example we need to have some numbers to work with, so we will suppose that of the 132,119
14 acres of MSO habitat there are 80,000 acres in the dispersed camping corridor of 550,006 acres. Now
15 we'll calculate how alternatives affect the camping corridor.
16

17 **Example Purpose ONLY: the table below contains numbers that we calculated**
18 **from USFS data, to demonstrate a methodology.**

19

Mexican Spotted Owl Protected Activity Centers (MSO PACs) Analysis Area on NFS Land = 187,083.17 Acres	Existing Effects Alt. B (No Action)	Change in Effects by Alternative				
		C	D	E	F	G
Total FS routes and trails in miles	244	250	128	80	184	183
Percent in miles of alt. B (Existing)		3%	-48%	-67%	-25%	-25%

550,006 acres of Dispersed Camping in Alternative B

Camping acres open In MSO habitat per alternative	80,000	30,000	10,000	0	15,000	8,000
Camping Acres closed	0	50,000	70,000	80,000	65,000	72,000
Percent of camping closed For MSO Habitat, compared to alt. B (existing)	0	9%	12.7%	14.5%	11.8%	13%

20
21
22
23
24
25

Our methodology is designed to present the information in a way that makes the differences between the alternatives clear to the public and decision maker. Open and closed acreage for each alternative always adds up to 80,000, the number in Alternative B. **The percentages are ONLY for the amount of camping that is open or closed ...NOT for amount of open forest that is open or closed.**

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1 The DEIS's methodology appears to be comparing the habitat closures over the entire 2.4 million acres of
2 open forest, which is not relevant for 'where people camp now.'

3
4
5 **ISSUE 4: DEIS MISREPRESENTS THE EXTENT OF CLOSURES AND CLAIMS 'INSIGNIFICANT**
6 **EFFECTS ON THE HUMAN ENVIRONMENT.**
7 **RECREATION REPORT USES THE WRONG UNITS.**
8

9 The following statements from the Recreation Report, pages 12-14 show how the closure is
10 misrepresented. It starts at page 12 with the deliberate misinformation about the 'miles of NFS road' open
11 to the public for dispersed camping. Note that this was NOT 'forgotten' for game retrieval, where the
12 existing condition is acknowledged to include ALL roads, not just forest system roads. **Our recalculation**
13 **is based on the 7,634.2 miles of road currently open for dispersed camping.** Under each alternative
14 we include the description, which claims the alternative has insignificant impact.
15

16 **The Recreation Report does NOT disclose the true effects because it presents only the percentage**
17 **of road closure and not acreage.** It does not calculate the effects that road closures have on the
18 ACREAGE of camping. **Dispersed camping is a resource measured in acres, as the DEIS does in**
19 **Table 95. We disagree with the figure, but it is shown in the right unit of measure.**
20

21 We note the Recreation Report offers its conclusions of 'no significant impact' based on mileage, not
22 acres, and it is using 45% fewer miles than are in legally in use. We show only the error in mileage, that
23 is, in itself, substantial.
24

25 *Under Alternative B, all 4,603.7 miles of NFS roads are open to the public;*

26 **Alternative C: Reduces 7,634.2 miles to 1,538.1 Claims 67% reduction. True reduction 80%**
27

28 *The effect of this reduction in opportunity is not likely to be significant.*
29

30 *Conflicts between non-motorized and motorized campers are not anticipated to increase under*
31 *this alternative. Roads and motorized dispersed camping corridors would be defined and*
32 *published on the motor vehicle use map (MVUM). This would offer the public a means to better*
33 *plan their recreational pursuits based on the unique expectations of the individual. As a result,*
34 *frequency of conflicts between non motorized and motorized campers should decrease in the*
35 *short and long terms*
36

37 The report claims insignificant change and contends there will be less conflict because there will be a
38 map so people can 'better plan their recreational pursuits based on the unique expectations of the
39 individual'. That statement applies to non-motorized people who will know where to expect vehicles and
40 can plan to go places to avoid them (i.e. wilderness, or less roaded areas). It is NOT applicable to
41 competition between members of the same group (motorized campers), looking for privacy and solitude in
42 a drastically reduced opportunity.
43
44

45 **Alternative D: Reduces 7,634.2 miles to 1,182.8 miles, claims 74% reduction. True reduction 84.5%**
46

47 *The effect of this reduction in opportunity is not likely to be significant.*
48

49 Under this alternative, 1,182.8 miles of NFS roads with corridors are available to the public for motorized
50 dispersed camping - a 84% reduction in opportunity from what currently exists.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1
2
3 **Alternative E:** No motorized dispersed camping corridors are designated in this alternative – a 100%
4 reduction in opportunity from what currently exists. But the DEIS tries to make it look acceptable.

5
6 *The public will be restricted to parking within one vehicle length of either side of the road where it*
7 *is safe and feasible to do so, and then walk in to find a place to camp.*

8
9 **Alternative F Reduces 7,634.2 miles to 1,446.8 miles Claims 69% reduction , True reduction 81.1%**

10 *The effect of this reduction in opportunity is not likely to be significant*

11
12
13 **Alternative G Reduces 7,634.2 miles to 1,326.8 miles Claims 71% reduction True reduction 82.7%**

14 *The effect of this reduction in opportunity is not likely to be significant.*

15
16
17 **ISSUE 5: Undisclosed Cumulative Effect from Hunters and Campers Overlaid into the Same**
18 **Reduced Area**

19
20 The claims of 'insignificant effect' are wrong, especially considering that reductions in game retrieval will
21 force hunters to do game retrieval from the same limited areas with campers. Alternatives D & G cram all
22 the two activities into 80% less space than they have now, and on exactly the same road corridors.

23 The DEIS has told us that hunters do not want to have go very far for retrieving game. They will tend to
24 hunt where the retrieval is allowed. This will be exactly where the camping is allowed. That is case now,
25 but since neither activity is restricted from any road, the two user groups can disperse and everyone has
26 room. That won't be the case when the opportunity is reduced by some 80%.

27 Other cumulative effects that have not been considered involve the concentration of hunters into a
28 smaller area. What is the impact on the hunted animals? What is the impact on safety? These questions
29 have not even been asked.

30 **CEQ and USFS planning regulations require integrated analysis. This has not been done. There is**
31 **NO PLACE in the DEIS where these two activities are evaluated together.** The DEIS does not
32 address the cumulative effects of one activity on the other. We note that in the discussion of camping,
33 game retrieval is not mentioned, and vice versa.

34 On page 13, under Alternative C, the Recreation Report makes the preposterous statement that there
35 would be less conflict because all the designated dispersed camping areas will be on maps:

36 *The effect of this reduction in opportunity is not likely to be significant. Roads and motorized*
37 *dispersed camping corridors would be defined and published on the motor vehicle use map*
38 *(MVUM). This would offer the public a means to better plan their recreational pursuits based on*
39 *the unique expectations of the individual. As a result, frequency of conflicts between non*
40 *motorized and motorized campers should decrease in the short and long terms...*

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 At page 13 of the Recreation Report is another incomprehensible statement under Alternative D. It
2 repeats the mantra of the 'magic map' that will reduce conflict (despite an 80% reduction in the recreation
3 area). And it adds conjecture about motorized and non-motorized camping.

4 *Roads and motorized dispersed camping corridors would be defined and published on the motor*
5 *vehicle use map (MVUM). This would offer the public a means to better plan their recreational*
6 *pursuits based on the unique expectations of the individual. As a result, frequency of conflicts*
7 *between non motorized and motorized campers should decrease in the short and long terms.*

8 The agency is so obsessed with the idea of conflict between motorized and non-motorized users, it is
9 blind. The conflict won't be between motorized and non-motorized. It will be competition between all
10 dispersed campers for a resource that used to be plentiful, but suddenly become scarce because the
11 agency is creating an artificial and unnecessary shortage. The competition will be between motorized
12 campers looking for that suddenly scarce commodity solitude and privacy. Every weekend will be like July
13 4th with people rushing to the mountains as early as possible to claim their spot.
14
15

16 **ISSUE 6: WHERE IS THE JUSTIFICATION FOR THIS REDUCTION IN DISPERSED CAMPING?**

17 **Where is the statement of existing condition showing there is an issue to be resolved?** The only
18 issue that appears in the discussion of the alternatives is the repeated mention of 'user conflict'. We refer
19 you back to pages 5-7 in this comment on the species issues. Habitat is the one factor we've found that
20 seems to be driving the closures.
21

22 **ISSUE 7: Cumulative Effect Not Disclosed: Impact on Natural Resource from** 23 **Over Use by Camping**

24 The DEIS entirely ignores the cumulative effects on the resources of crowding the camping into
25 approximately 80% less area than is currently used. There is an issue of the resiliency of the land, and its
26 ability to recover from use, to regenerate ground cover etc. This is indicated in other place in the DEIS.
27 From page 88, on riparian areas:

28 *Instead, while some closed roads will continue to negatively impact these areas, the level of*
29 *impact is anticipated to be reduced across the forest due to natural recovery of many sites.*

30 At page 89:

31 *Personal observations (Koury and Natharius 2010) indicate that it usually takes several motorized*
32 *passes to remove or destroy vegetation.*

33 The USFS and its research stations have done hundreds of studies on camping and the negative impacts
34 from camping areas that are over used. The DEIS is entirely ignoring the fact that it is creating a problem
35 which doesn't exist now: overcrowding and the result impacts on resources, as well as the negative
36 impact on the recreation experience.
37

38 We know what happens when campsites get overused; the Forest Service closes them. The agency is
39 artificially creating that situation in the Gila by compressing 100% of the use into 20% of the area. The
40 Recreation Report says this at page 3:

41 *Currently on the Gila, 2,441,804.3 acres are open to motorized dispersed camping; however,*
42 *evidence of motorized dispersed camping, such as fire rings and ground disturbance, is rarely*
43 *seen beyond 300 feet from the adjacent road. Use of most motorized dispersed camping areas is*
44 *consistent and predictable. Many areas are used on an annual basis by large family gatherings*
45 *and hunting parties. Rarely are new dispersed camping areas created, and when they are, they*
46 *are likely to only be used once because the "good" spot was already taken.*
47

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1
2 The report is describing the current situation with camping spread out on over 8,000 miles of roads. We
3 suspect the agency doesn't know everything about the degree and extent of dispersed camping because
4 it currently IS so dispersed over such a large area, and from thousands of miles of non-forest road. We
5 note that the agency's awareness of the repeated dispersed camping is based on large groups and on
6 fire rings and ground disturbance. Disturbance recovers when campsites are not overused.
7

8 A new spot might be created because the 'good' one was taken. This is preferable to the 'good' one being
9 overused. When the good one is the only one, that guarantees it will be overused. A well-known problem
10 with overused campsites anywhere is that people exhaust the supply of dead wood for campfires. Some
11 will break limbs off live trees. There are problems with human waste, accumulating faster than it can
12 degrade. The agency KNOWS all this from its experience. When use is dispersed instead of
13 concentrated, the land gets a chance to recover.
14

15 **ISSUE 8: Cumulative Effects on Human Environment Not Disclosed**

16
17 **The tables in the DEIS that show acres of dispersed camping (and motorized big game retrieval)**
18 **are calculated from mileage which excluded 3,438.2 miles of legally open dispersed camping. As a**
19 **result, the acreage numbers are also inaccurate. Cumulative effects presented cannot not**
20 **accurate, because the closure is much greater than the DEIS portrays. If the reduction in camping**
21 **acreage is much larger than what the DEIS shows, impacts to human environment are greater**
22 **than shown.**
23

24 **There are totally foreseeable 'future cumulative effects' which have been ignored: from crowding**
25 **and a degraded recreation experience.** The analysis totally ignores the cumulative effects of 'what
26 happens when the intensity of use is suddenly quadrupled because of a radical change of management.'
27 What is the agency's plan for that? DEIS entirely ignores this. Reducing the mileage for dispersed
28 camping is a lose-lose proposition for the land and the people.
29

30 **Fails to Disclose Impacts on the Social Environment**

31 This is found at page 12 of the Recreation Report. We present it in its entirety. Sections in bold are
32 addressed below, one at a time.
33

34 *Under Alternative B, all 4,603.7 miles of NFS roads are open to the public; people may park*
35 *alongside any system road where it is safe to do so and walk in to a dispersed camp site. In*
36 *addition, because the forest is open to motorized cross-country travel (except for in Wilderness*
37 *and other areas closed by forest order) people may also drive off road for any distance and set up*
38 *a campsite. **This alternative affords the greatest opportunity for motorized dispersed***
39 ***camping and benefits those who use motor vehicles to access a camping spot that***
40 ***provides the desired level of privacy and solitude.** Without restrictions on where and how far*
41 *to travel off the roadway to motorize disperse camp, the range of camp distribution has potential*
42 *to be greatest, and **unintended contact among others is anticipated to be less; however,***
43 ***without the ability to predict where people may be, contact between user groups still has***
44 ***the potential to occur.** Unintended consequences of this alternative include the **proliferation of***
45 ***unauthorized routes** through the establishment of new dispersed camping areas. This is due to*
46 *the unrestricted cross-country travel associated with this alternative.*
47

48 *Though the public has the opportunity to practice motorized dispersed camping anywhere under*
49 *Alternative B, the reality is, they typically do not. Most motorized dispersed camp sites on the*
50 *forest have already been established due to terrain features such as gentle slopes, flat surfaces,*
51 *and sparse vegetation types that provide for cover, all within proximity to places of interest like*
52 *hunting grounds or natural features. Such favorable conditions do not exist along all 4,603.7 miles*
53 *of roads on the Gila National Forest. With these considerations, use levels of motorized dispersed*
54 *camping are expected to remain level in the short term and long term.*
55

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1
2 ***'all 4,603.7 miles of NFS roads are open to the public: '***
3

4 This statement misrepresents available mileage by excluded non-forest jurisdiction roads and the ML-1
5 and decommissioned roads.
6

7 ***'greatest opportunity for motorized dispersed camping and benefits those who use motor vehicles***
8 ***to access a camping spot that provides the desired level of privacy and solitude'***
9

10 the loss of this quality of experience is not acknowledged in the discussions of the alternatives. It is
11 primary reason people disperse camp instead of going to developed campgrounds. We note the improper
12 application of 'solitude'. **The dispersed camping is primarily 'roaded natural' under the forest plan**
13 **R.O.S. Roaded natural provides 'moderate' opportunity for ISOLATION, NOT SOLITUDE. The**
14 **agency must not manage for solitude, a wilderness characteristic.**
15

16 ***'unintended contact among others is anticipated to be less; however, without the ability to predict***
17 ***where people may be, contact between user groups still has the potential to occur: '***
18

19 Preventing or reducing the possibility of contact between user groups is NOT a legitimate management
20 objective. The agency has no authority to manage for conflicts, especially imaginary ('potential') ones.
21 Think about 'unintended' contact. Has agency decided to restrict people because they might (heaven
22 forbid) have 'unintended' contact with other people? The forest plan R.O.S. describes the roaded natural
23 area as providing opportunities for social contact. An 'opportunity' is not an evil thing to be stamped out.
24

25 ***'without the ability to predict where people may be '***
26

27 This is just irrational. Having a map of dispersed camp areas doesn't give you magical powers to predict
28 where people will be. Has the agency failed to predict where people will be if someone playing loud
29 music is camped next to me? Can I complain to the agency the map didn't tell me where the obnoxious
30 campers would be? What if I'm there first, does the map tell other people to leave me alone?
31

32 ***'contact between user groups still has the potential to occur'***
33

34 **So what? What is wrong with 'potential for contact between user groups to occur' ?**

35 This statement violates the most basic concept of public land. When you go out in public, contacts with
36 other people have the potential to occur. That's why it's called PUBLIC land. The agency has no authority
37 to manage user conflict. Now it's creating a new imaginary issue called 'user contact'. The USFS is not in
38 the business of managing public land so users can pretend it is their own private paradise. On private
39 land the owner can control the potential for contact. He gives up that right when he steps off his property
40 onto the public sidewalk. It's the same in the national forest, it is PUBLIC.
41

42 **The agency has NOTHING to say about the social impacts from this massive closure.** Yet every
43 alternative is deemed 'insignificant effect'. The report offers no cited research on the effects of crowding,
44 although it is thoroughly studied.
45

46 The decision will create an artificial shortage overnight, for the road-dependent activities of dispersed
47 camping and hunting access. It's crowding 100% people into 20% of the area and claims the effects will
48 be insignificant because they are publishing a map.
49

50 There is a wealth of social research on crowding. We suggest the agency search online at the Rocky
51 Mountain Research Station of the USFS where they will find dozens of studies on crowding. The agency
52 will be hard pressed to produce research saying that dispersed people have more conflicts than crowded
53 people. There is plenty of research on crowding, and none was cited to support the agency's
54 contentions. Best available science is NOT going to support the agency's claims that the negative
55 impacts of an enormous forest-wide closure can be solved with a map.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1
2 **Fails to Disclose Impacts from Loss of 'Dispersal', the essential characteristic of the activity**
3 Camping won't be dispersed when 80% of it is shut down. The agency doesn't know how many people
4 are doing dispersed camping; they're too hard to count. They're too spread out ('dispersed'). As the
5 agency says, 'evidence of motorized dispersed camping, such as fire rings and ground disturbance'. It
6 knows where campsites are most often located. It doesn't know how OFTEN they are used. The
7 infrequently used ones go unnoticed because they are recovering from use. This is an essential
8 characteristic of 'dispersal'.
9

10 **RESOLUTION:** The analysis of dispersed camping is incomplete, inadequate and flawed. There are
11 conflicting sets of mileage numbers. There is no disclosure of negative impacts to be resolved by the
12 closures in the action alternatives. There are major criteria driving closures that are undisclosed. The
13 extent of the impact is not disclosed. The cumulative effects are not disclosed. The interactions with other
14 parts of the proposal are not disclosed (the combined use of very limited opportunity by hunters and
15 campers). All of this must be corrected, with a supplemental DEIS.

16
17 Thank you for the opportunity to comment.

18
19 Sincerely,

20
21 Joanne Spivack
22 1700 Willow Road NE
23 Rio Rancho, NM 87144
24 505-238-5493
25 Email: ravens-nest@comcast.net

26
27 Temporary Address through 3/23/11:
28 Apt. 1704, Shama Luxe, 128 Jinma Rd.
29 Dalian Development Zone, People's Republic of China
30 Email: ravens-nest@comcast.net
31 Telephone: 138 4260 2510

32
33 On behalf of:

34
35 Mogollon Apache Gila (MAG) Riders
36 Jo Anne Blount
37 POB 165
38 Glenwood, NM 88039

39
40 Gila Roads and Trails Alliance (GRATA)
41 James T. Baruch
42 POB 17
43 Mimbres, NM 88049

44
45 Gila Trail Riders Association (GTRA)
46 Grant Gose
47 2205 Johnson Rd.
48 Silver City, NM 88061
49

1 **Comment 03032011-17-13 (Spivack Comment – Hunting Economics)**

2
3 March 3, 2011

4
5 Forest Supervisor
6 Attn: Travel Management
7 3005 E. Camino del Bosque
8 Silver City, NM 88061
9 r3_gila_travel@fs.fed.us

10
11
12 **Dear Responsible Official,**

13
14 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
15 am representing that organization and the undersigned organizations in providing these comments on the
16 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
17 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
18 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
19 recreational resources to the members of the public we represent. We appreciate the opportunity to
20 comment on the DEIS and take the responsibility of reviewing the DEIS for compliance with the National
21 Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel Management Rule (TMR) with
22 the utmost seriousness

23
24 **COMMENT: DEIS methodology fails to adequately analyze the economic contribution of hunting.**

25
26 **The DEIS economic report says hunting contributes \$198,751 to the local economy.**

27 For 2009-2010 New Mexico Department of Game & Fish issued 5,585 elk permits to 4,954 elk hunters.

28
29 We compare this to the 2005 economic analysis on elk hunting in Jackson. This analysis was prepared by
30 the USGS and Wyoming Game & Fish for Bridger-Teton National Forest, for an EIS on management of
31 the Jackson elk herd. This analysis shows vastly different economic numbers for similar numbers of
32 hunters.

33
34 **In 2005, there were 6,173 elk hunters on the Bridger-Teton National Forest. The Jackson analysis**
35 **estimates the economic contribution to the local economy was \$3,047.363 from elk hunting alone.**

36
37 **The critical factor missing from the economic analysis of hunting on the Gila National Forest is**
38 **trip expenditures.** The economic analysis shows only direct job and income and the multiplier on that. It
39 omits the usual tourism economic analysis which shows trip expenditures (lodging, restaurant, gas,
40 supplies etc.), and the multiplier effect of that money in the local economy. Inclusion of trip expenditures
41 is standard for evaluating tourism economies.

42
43 **In the absence of its own trip expenditure data, the DEIS could have, but did not, apply readily**
44 **available trip expenditure data from this reliable source, or another source. Trip expenditure is**
45 **completely omitted from the analysis.** In addition, we point out that we looked only at elk hunting.
46 NMDGF issued 8,371 deer tag for the Gila game management units in 2009-2010. The DEIS economic
47 report claims to provide the economic contribution for ALL hunting. If we considered all the big game tags,
48 the associated economic contribution would be even higher.

49
50 **We request a substantive and meaningful response from the agency, as per CEQ.**

51
52 From CEQ's Forty Questions:

53
54 *Question 29a. Responses to Comments. What response must an agency provide to a comment*
55 *on a draft EIS which states that the EIS's methodology is inadequate or inadequately explained*

1
2 ...agencies must respond to comments, however brief, which are specific in their criticism of
3 agency methodology. agency would have to respond in a substantive and meaningful way to
4 such a comment.
5
6
7
8

9 **Failure to Properly Assess Economic Contribution of Hunting**

10 At Social Econ Report page 21, we see that the calculation of the economic contribution of hunting has
11 been limited to data on jobs and income generated by hunting.
12

13 The current visitor use data represent the condition under the no action alternative and are used
14 to conduct an economic contribution analysis based on existing conditions. Those contributions
15 serve as a baseline for comparison to the effects of action alternatives. **Discussion of those**
16 **effects is based on the jobs and income by activity and visit type** and includes a qualitative
17 assessment of potential economic implications.
18

19 In the Socio-Economic Report, page 10, we see hunting ranks second only behind picnicking in the
20 NVUM activity rankings.
21

22 **Table 4. Activity Participation on the Gila National Forest.**

Activity Type	Total Activity Participation Adjusted to Equal 100%	Was Main Activity %	Estimated Number of Primary Visits
Picnicking	13.68	16.53	49,163
Hunting	13.03	15.75	46,843
Hiking/Walking	12.02	14.52	43,185

23
24
25 In Table 14, the economic analysis claims the total contribution of hunting to the local economy is 11 jobs
26 and \$198,751. That includes the multiplier effect on the incomes.
27
28

Table 14. Employment and Labor Income Effects by Activity Type, Nature Related, No Action.

Nature Related		Employment Effects (full and part time jobs)					Labor Income (2008 dollars)				
		Direct	Indirect	Induced	Total Secondary	Total	Direct	Indirect	Induced	Total Secondary	Total
Fishing	Local Day	2	0	0	1	3	38,157	10,833	5,829	16,662	54,819
	Local OVN	1	0	0	0	2	21,849	5,411	3,261	8,673	30,521
	Local	4	1	0	1	4	60,006	16,244	9,090	25,334	85,340
	NonLocal Day	1	0	0	0	1	8,257	2,278	1,257	3,535	11,792
	NonLocal OVN	4	1	0	1	5	68,957	17,397	10,300	27,697	96,654
	NonLocal	4	1	0	1	5	77,214	19,675	11,558	31,232	108,446
	NP	0	0	0	0	0	3,053	867	466	1,333	4,386
Hunting	Local Day	2	0	0	1	3	38,387	11,768	5,925	17,693	56,080
	Local OVN	3	0	0	1	3	46,962	11,952	7,030	18,982	65,943
	Local	5	1	1	1	6	85,348	23,719	12,956	36,675	122,023
	NonLocal Day	0	0	0	0	0	4,882	1,497	754	2,250	7,133
	NonLocal OVN	3	0	0	1	4	49,098	13,084	7,413	20,497	69,595
	NonLocal	3	1	0	1	4	53,980	14,581	8,167	22,748	76,728
	NP	0	0	0	0	0	1,958	600	302	902	2,860

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At page 22 the Economic Social Report states the no economic impacts are expected from any of the action alternatives.

No significant economic impacts are expected as a result of the proposed changes under any action alternative. Although very minor differences exist between the RECA estimates for each alternative, the tool is not precise enough to confidently estimate differences of one or two jobs.

Economic Effects of the Alternatives: Hunting

We are presenting an argument that the contribution of hunting to the local economy is far, far higher than the analysis shows. The reduction of hunting access will have a much greater impact on the local economy than shown by the economic analysis. We remind the agency that hunting access is going to be severely impacted. Game retrieval will be severely reduced. Alternative E entirely bans motorized big game retrieval. The other alternatives which allow some retrieval are calculated from a baseline that omits 45% of the roads. The baseline excluded all non-forest jurisdiction roads and the forest’s ML-1 and decommissioned roads which the DEIS says are important for hunting, DEIS page 51:

Hunters are user groups that specifically benefit from closed and decommissioned roads since they allow for easier cross-country access to more remote areas of the forest from the open road system for hunting and big game retrieval.

The economic report failed to apply critical thinking to the facts it presented: It ignores the lack of correlation between these two data points: 46,843 hunting visits and only \$122, 023 of income generated. Revisiting that quote from page 21, note that the visitor use data was used to generate the economic contribution analysis.

The current **visitor use data** represent the condition under the no action alternative and are **used to conduct an economic contribution analysis based on existing conditions.** Those contributions serve as a baseline for comparison to the effects of action alternatives. Discussion of those effects is based on the jobs and income by activity and visit type and includes a qualitative assessment of potential economic implications.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1
2 46,843 hunting visits doesn't tell the whole story. Hunting is not usually a one day activity. Table 14
3 separates visits as either 'day' or 'OVN' (overnight). How many days are 'OVN'? The analysis doesn't
4 say.

5
6 Picnicking is a one day activity. This makes it even more obvious that something is wrong with the figure
7 of \$198,751. **Even if one made the assumption that the 4,954 hunters (NMDGF data) each spent**
8 **only one day, they'd each have spent only \$40 in the local economy.**

9 10 **Fails to Use Readily Available Information from New Mexico Dept. of Game and Fish**

11 The economic report does not use any of the readily available data that New Mexico Game and Fish
12 Department has on hunting. The NMDGF website shows 4,954 elk hunters in the Gila game
13 management units (GMU's) in 2009-2010.

14
15 Even aside from the lack of trip expenditure data, the report's claim of hunting related jobs and economic
16 benefit just does not logically correspond with NMDGF's data. Besides elk, there are other hunting
17 permits issued for pronghorn, bear, cougar, deer, bobcat, and birds. NMDGF issued 8,371 deer tags in
18 the Gila GMU's in 2009-2010. Hunt data was obtained and used for the game retrieval analysis. At page
19 44 of the DEIS:

20
21 *The forest calculated potential acres of disturbance by motor vehicles for each big game species*
22 *by alternative using harvest information, season of hunt, license sales from the Department of*
23 *Game and Fish, and the following assumptions:*

24
25 The agency knows how many hunting licenses of each type were issued. Yet it saw nothing illogical about
26 the large numbers of licenses and the miniscule economic contribution shown in the economic analysis.

27
28 The Socio-Economic Report and the DEIS failed to consider public information which is instantly available
29 to everyone. The NVUM data clearly show an unusual situation with hunting ranking second only to
30 picnicking and higher than hiking. It's clear that hunting is really important and needs attention.

31
32 Here are some totals from tables on the New Mexico Department of Game and Fish website.
33 These show how many permits were issued for the Gila elk herds for the 2009-2010 season: 6,463.

34
35 We added up the elk permits for 2009-2010 from the individual Gila GMU's, listed on the NMDGF
36 website. The total for eight GMU's is 5,509 elk permits for 4,890 hunters. We could not find GMU 22 for
37 2009-2010, so we used the figure from the prior year which is 76 permits for 64 hunters. This gave us a
38 total of 5,585 elk permits for 4,954 elk hunters.

39
40 **The methodology for economics shows no data on trip expenditures by hunters, the second**
41 **largest activity group according to the NVUM statistics. We will show why this was a fatal flaw,**
42 **causing the report to miss over 90% of the economic contribution of hunting. The report has**
43 **failed to accurately assess the contribution of hunting to the local economy.** CEQ requires the
44 agency to make an effort to get information if it is reasonably available. It has not done so. Information is
45 readily available on NMDGF's website:

46
47 We refer you to this report. We found it on the web in just a few minutes, by 'googling' for 'elk hunt
48 economic'. It is at http://www.fort.usgs.gov/products/publications/pub_abstract.asp?PubID=21379

49
50 In Cooperation with Colorado State University
51 **Economic Importance of Elk Hunting in Jackson Hole, Wyoming**
52 By Lynne Koontz and John B. Loomis
53 Open-File Report 2005-1183
54 U.S. Department of the Interior
55 U.S. Geological Survey

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1
2 These excerpts from the page 1 shows precisely what is missing from the economic analysis for the GNF
3 DEIS (spacing and bold added). **The GNF DEIS omits any estimate of what hunters actually spend**
4 **(trip expenditures) and the secondary effects of that money in the local economy**, described below:
5

6 The objective of this survey and analysis was to quantify how much hunters spent in the local and
7 regional economy and the associated economic impacts such as income and employment
8 effects.
9

10 An elk hunter usually buys a wide range of goods and services during a hunting trip. Major
11 expenditure categories include outfitter/guide fees, hunting licenses and supplies, game
12 processing, lodging, food, and gasoline.
13

14 The income and employment resulting from purchases by hunter at local businesses represent
15 the *direct* effects of hunter spending within the economy. The income and employment resulting
16 from these secondary purchases by input suppliers are the *indirect* effects of hunter spending
17 within the local economy.
18

19 The resulting increased economic activity from new employee income is the *induced* effect
20 associated with hunter spending. The indirect and induced effects are known as the secondary
21 effects. Multipliers capture the size of the secondary effects, usually as a ratio of total effects to
22 direct effects (Stynes, 1998). The sums of the direct and secondary effects describe the total
23 economic impact of hunter spending in the local economy.
24

25 At page 1, the Jackson report says it used IMPLAN, the same analysis package that was used to prepare
26 the economic analysis for the Gila National Forest.
27

28 *The survey results were used to estimate trip spending by local residents, non-local*
29 *Wyoming residents and nonresident hunters. Economic impacts are typically measured in terms*
30 *of number of jobs lost or gained, and the associated result for employment income. Economic*
31 *input-output models are commonly used to predict the total level of regional economic activity*
32 *that would result from a change in hunter spending. The IMPLAN modeling software was used*
33 *to analyze the economic impacts associated with current Jackson elk herd hunter spending.*
34

35 At Page 13 we see that IMPLAN was used to calculate the multiplier:
36

37 *The IMPLAN modeling system was used to derive the multipliers that captured the*
38 *secondary (indirect and induced) effects of hunter spending.*
39

40 **The GNF analyst had the same computing power available, but no trip expenditure data.** The
41 Jackson information was gathered with a survey. CEQ requires the agency to acquire information if it is
42 readily available. The GNF has had five years to gather the economic data it needs, and has made no
43 disclosed effort. To save space, we will summarize survey information from the Jackson report, page 3
44 rather than provide quotes. The survey was sent to 25% of the general license holders. In all, 3,747 elk
45 hunter spending surveys were mailed. Of the returned surveys, 2,056 were usable. The overall survey
46 response rate was 55.7%. Table 1, page 3 Jackson report.
47

48
Table 1. Survey sample distributions.

	Total surveys	Local resident		Non-local resident		Nonresident	
	Number	Number	Percent	Number	Percent	Number	Percent
Surveys mailed out	3,747	641	17.1	1,933	51.6	1,173	31.3
Surveys returned	2,056	334	16.2	1,067	51.9	655	31.9

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Here are trip statistics gathered by the Jackson survey. We immediately see important information is
 2 missing from the Gila data: number in the hunting party, number of visits, and number of days spent
 3 hunting. Also, data was gathered in three categories, local, non-local (in state) and nonresident (out of
 4 state). Non-locals and nonresidents account for far more hunting days and have larger groups.
 5

Table 3. Trip characteristics.

	Local residents mean	Non-local residents mean	Nonresidents mean
Number of trips to Jackson Hole hunt areas during the season	7.9	2.4	1.5
Time spent hunting (days)	3.6	6.3	7.5
One-way travel time from home to hunt area	54 minutes	5.7 hours	18.6 hours
One-way travel distance from home to hunt area (miles)	28	284	1,090
Distance to next best hunt area outside of the Jackson area	80	135	888
Number of people in hunting group	2.0	3.3	3.3

6
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9

10 Table 7, page 7, shows the hunter spending in Jackson Hole. This does NOT include money travelling to
 11 and from Jackson Hole. That was a separate category on the survey.

12

Table 7. Average spending by local, non-local and nonresident hunters per trip.

	Local residents	Non-local residents	Nonresidents
Travel expense	Amount spent in Jackson Hole area		
Gasoline/related automobile costs	\$54.16	\$81.79	\$113.90
Restaurants	\$20.94	\$78.18	\$172.37
Grocery stores	\$32.10	\$54.60	\$88.52
Hotel	\$1.99	\$109.94	\$232.19
Outfitter/guide fees	\$49.03	\$11.93	\$576.35
Hunting supplies (e.g. Ammo)	\$42.23	\$24.29	\$49.49
Horse feed (Hay/Pellets)	\$23.68	\$9.33	\$10.56
Horse rental	\$16.74	\$6.57	\$25.37
Game processing	\$70.26	\$15.50	\$61.94
Taxidermy	\$22.85	\$5.03	\$23.97
Access/trespass fee	\$0.69	\$0.08	\$0.49
Camping	\$3.36	\$4.45	\$7.69
Rental car	\$0.00	\$0.00	\$19.67
Local spending total	\$338.03	\$401.69	\$1,382.51

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The second half of Table 7 shows money spent in the state but outside Jackson Hole. The additional economic benefit to the state is considerable, from people travelling to Jackson to hunt.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 This suggests an additional substantial economic contribution generated by Gila hunting. This
 2 contribution is not mentioned in the GNF DEIS. If hunting decreases, these economic contributions from
 3 people travelling through New Mexico to the Gila are also reduced.
 4
 5

	Amount spent elsewhere in Wyoming en route to the Jackson Hole area		
Gasoline/related automobile costs	\$5.00	\$69.73	\$96.75
Restaurants	\$0.47	\$22.41	\$40.61
Grocery stores	\$1.20	\$46.09	\$19.47
Hotel	\$0.00	\$3.75	\$25.74
Outfitter/guide fees	\$0.00	\$0.20	\$8.45
Hunting supplies (e.g. Ammo)	\$5.05	\$46.41	\$19.56
Horse feed (Hay/Pellets)	\$0.62	\$15.77	\$14.13
Horse rental	\$1.25	\$7.28	\$2.73
Game processing	\$2.27	\$31.48	\$10.00
Taxidermy	\$2.02	\$23.79	\$6.60
Access/trespass fee	\$0.00	\$0.02	\$0.35
Camping	\$0.31	\$1.79	\$1.49
Rental car	\$0.00	\$2.23	\$4.65
Spending in rest of Wyoming total	\$18.19	\$270.95	\$250.53
	Local spending plus spending in the rest of Wyoming		
Total spending in Wyoming per trip	\$356.22	\$672.64	\$1,633.04

6
7

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 Now we go to the Jackson survey results, where all the effects are calculate; direct, indirect and
 2 secondary. From Page 13, Table 14 shows the local economic contribution per 100 hunters for the
 3 various areas. (BTNF is Bridger-Teton National Forest, GTNP is Grand Teton National Park, NER is
 4 National Elk Refuge).

5
 6 Page 13 identifies this as the direct effects plus the multiplier effect. But for the Jackson analysis, the
 7 multiplier effect was applied to the trip expenditure data, not just the income from a small number of jobs.
 8

9 *Table 14 presents the economic impacts for the local Jackson area economy associated*
 10 *with 100 hunters for each of the federal land areas. The table shows the direct impact and total*
 11 *impact (e.g., the multiplier effect) on personal income and jobs associated with spending in*
 12 *Teton County Wyoming and Idaho by 100 hunters for each federal land area.*
 13
 14

Table 14. Economic impacts associated with 100 hunters for each federal land area for Teton County WY and ID.

Teton County WY and ID local impact area	100 BTNF hunters	100 GTNP hunters	100 NER hunters
Direct effects			
Income	\$33,746	\$39,067	\$23,650
Jobs	2.42	2.08	1.20
Total effects			
Income	\$49,366	\$61,054	\$37,166
Jobs	2.97	2.83	1.66

15
 16
 17
 18 Table 15, page 14, shows the direct and total effects of the additional money spent in the region (the
 19 travel to and from Jackson by hunters.)
 20
 21

Table 15. Economic impacts associated with 100 hunters for each federal land area for the state of Wyoming.

State of Wyoming regional impact area	100 BTNF hunters	100 GTNP hunters	100 NER hunters
Direct Effects			
Income	\$30,205	\$23,288	\$6,049
Jobs	2.45	1.71	0.41
Total Effects			
Income	\$47,442	\$42,500	\$11,472
Jobs	3.13	2.41	0.62

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 The Jackson analysis found locals made more trips; there were more non-local and nonresident hunters
 2 than the locals. Tables 12 and 13 page 12.

Table 12. Average number of trips per hunter by federal land area.

	Local	Non-local	Nonresident
BTNF	5.8	2.3	1.2
GTNP	10.4	2.6	1.7
NER	9.1	1.9	1.2

3

Table 13. Percentage on hunters by federal land area.

	Local residents	Non-local residents	Nonresidents
BTNF	21%	54%	25%
GTNP	12%	50%	38%
NER	42%	44%	14%

4
 5 Nonresident hunters FAR outspent the locals and non-locals, Table 9 page 9. We note a large
 6 expenditure on guides by nonresidents. It accounts for most of the difference. Which raises the question
 7 of how the job numbers were calculated for the Gila. Maybe a lot more people are guides as seasonal
 8 work, or maybe the methodology failed to capture them. The GNF analysis does not tell us what those
 9 jobs are.

10

Table 9. Average spending by BTNF hunters per trip.

BTNF hunter spending	Local residents	Non-local residents	Nonresidents
Travel expense	Amount spent in Jackson Hole Area		
Gasoline/related automobile costs	\$31.07	\$58.88	\$77.61
Restaurants	\$10.93	\$54.78	\$121.52
Grocery stores	\$28.44	\$40.88	\$78.49
Hotel	\$2.67	\$57.13	\$116.16
Outfitter/guide fees	\$84.00	\$25.41	\$1,497.59
Hunting supplies (e.g., ammo)	\$31.92	\$19.39	\$38.96
Horse feed (hay/pellets)	\$41.67	\$12.62	\$20.64
Horse rental	\$18.00	\$5.16	\$45.57
Game processing	\$66.00	\$15.79	\$125.80
Taxidermy	\$9.50	\$3.13	\$52.73
Access/trespass fee	\$0.07	\$0.16	\$0.28
Camping	\$6.60	\$7.52	\$11.48
Rental car	\$0.00	\$0.00	\$38.07
Local spending total	\$330.87	\$300.85	\$2,224.90
	Amount spent elsewhere in Wyoming en route to the Jackson Hole area		

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Appeal of the Record of Decision for Travel Management on the Gila National Forest

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Then the report calculates the total for local effects, using the number of permits. From page 14:

Between 1997 and 2001, there were on average, 6,173 BTNF, 2,484 GTNP, and 975 NER elk hunters annually. These hunter number estimates were used along with the economic impacts per 100 hunters provided in Tables 14 and 15 to estimate the economic impacts associated with the current level of Jackson elk herd hunters.

Take note: Table 16 is calculated ONLY for the non-local and nonresident hunters.

Table 16. Local economic impacts associated with current hunting levels by federal land area.

Teton County WY and ID local impact area	BTNF hunters	GTNP hunters	NER hunters	Total	% county total
Direct effects					
Income	\$2,083,141	\$970,424	\$230,588	\$3,284,152	0.4%
Jobs	149.5	51.6	11.7	212.8	0.9%
Total effects					
Income	\$3,047,363	\$1,516,581	\$362,369	\$4,926,313	0.6%
Jobs	183.3	70.3	16.2	269.8	1.2%

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*As shown in Table 16, spending by the **non-local resident and nonresident** proportion of the current level of BTNF, GTNP, and NER hunters directly generated over \$3.2 million in personal income and 212 jobs in the local economy. **Accounting for the multiplier effect, the non-local resident and nonresident proportion of the current level of hunters generated an annual total of over \$4.9 million in personal income and 269 jobs locally.***

Appeal of the Record of Decision for Travel Management on the Gila National Forest

Summary

There were on the average 6,173 elk permits annually for Bridger-Teton National Forest. The NMDGF website shows 6,463 elk permits for the Gila e GMUS's in 2009-2010.

In its Conclusion at page 16, the Jackson report says this about elk hunting in the 3 federal units:

The non-local resident and nonresident proportion of the current level of hunters generate an annual total of over \$4.9 million in personal income and 269 jobs, accounting for 0.6% of total personal income and 1.2% of total employment in Teton County Wyoming and Idaho. Spending in the state of Wyoming by the nonresident proportion of the current level of Jackson elk herd hunters directly generates almost \$4.1 million in personal income and 259 jobs in the state of Wyoming annually.

We could make the assumption that Gila elk hunters are less likely to use outfitters and guides. We could pull out the percentage of nonresident hunters and the additional \$1,497.59 they spent on outfitters and guides. But it wouldn't make that much difference. The difference in the bottom-line dollars from the BTNF to the GNF would still be huge.

RESOLUTION: The point of showing these numbers is to demonstrate that the methodology of the GNF economic analysis is very, very flawed. The claimed economic contribution is extremely understated. The analysis has failed to use normal methods for evaluating a tourism economy. It has failed to identify the activity that is arguably the single most significant source of economic contribution. Without some rational figure for hunter trip expenditures in the analysis, the results are essentially useless.

The social and economic analysis, along with the recreation analysis, presents the only defense of human uses of the forest. Every other analysis in the DEIS addresses only natural resources. The agency has a legal and moral obligation to produce a complete and accurate economic analysis. Without it, the comparison between human benefit and resource protection is skewed: resource protection becomes over-valued because human uses are under-valued. Forest management policies can encourage or discourage activities. The current range of alternative imposes restrictions that will discourage hunting by making it more difficult and less enjoyable. As with every recreational activity, people make choices about where to spend their time and money. Policies unfavorable to hunting will discourage it and gravely damage the local economy. Without a proper economic analysis, the cumulative effects of the alternatives are not disclosed. The economic analysis must be withdrawn and revised to properly reflect the economic contribution of hunting to the local economy.

Thank you for the opportunity to comment.

Sincerely,

Joanne Spivack
1700 Willow Road NE
Rio Rancho, NM 87144
505-238-5493
Email: ravens-nest@comcast.net

Temporary Address through 3/23/11:
Apt. 1704, Shama Luxe, 128 Jinma Rd.
Dalian Development Zone, People's Republic of China
Email: ravens-nest@comcast.net
Telephone: 138 4260 2510

On behalf of:

July 24, 2014

New Mexico Off Highway Vehicle Alliance

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1
2 Mogollon Apache Gila (MAG) Riders
3 Jo Anne Blount
4 POB 165
5 Glenwood, NM 88039
6
7 Gila Roads and Trails Alliance (GRATA)
8 James T. Baruch
9 POB 17
10 Mimbres, NM 88049
11
12 Gila Trail Riders Association (GTRA)
13 Grant Gose
14 2205 Johnson Rd.
15 Silver City, NM 88061
16

1 **Comment 03032011-17-14 (Spivack Comment – Mileage Reduction Buffer Zone –**
2 **old WORD)**

3
4 March 3, 2011

5
6 Forest Supervisor
7 Attn: Travel Management
8 3005 E. Camino del Bosque
9 Silver City, NM 88061
10 r3_gila_travel@fs.fed.us
11

12
13 **Dear Responsible Official,**
14

15 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
16 am representing that organization and the undersigned organizations in providing these comments on the
17 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
18 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
19 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
20 recreational resources to the members of the public we represent.
21

22 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
23 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
24 Management Rule (TMR) with the utmost seriousness.
25

26 **COMMENT:** The action alternatives improperly propose to close some undisclosed amount of routes by
27 creating a ½ mile buffer zone border for ‘reasons’ which include wilderness areas, roadless areas and
28 trails that are legally open to motorized use. It also proposes closures for unspecified ‘noise’ and ‘user
29 conflict’ reasons although 60% of the forest is managed for motorized use under the Forest Plan. The
30 errors are multi-faceted;
31

32 No rationale or methodology for the buffer zone
33 Inconsistent and varying definitions of the indicator elements
34 Failure to disclose how percentages of reduction were calculated and what is being reduced
35 Failure to disclose the mileage of routes affected by applying the buffer zone
36 Failure to disclose any definition of the indicators ‘noise’ and ‘user conflict,’ or how those indicators were
37 applied.
38

39 **This comment is a detailed criticism of agency methodology for use of a buffer zone.**
40

41 **We request a substantive and meaningful response to this comment.**
42

43 From CEQ's Forty Questions:
44

45 *Question 29a. Responses to Comments. **What response must an agency provide to a***
46 ***comment on a draft EIS which states that the EIS's methodology is inadequate or***
47 ***inadequately explained***
48

49 *From the Answer: **...agencies must respond to comments, however brief, which are***
50 ***specific in their criticism of agency methodology.the agency would have to respond in***
51 ***a substantive and meaningful way to such a comment.***
52
53
54

1 **DISCUSSION:**

2 The following statement shows that every action alternative includes closures based on a 1/2 mile buffer
3 zone. The buffer zone was used to identify routes that had proximity to certain locations, as stated in
4 DEIS, page 57: (bold added)

5
6 **Alternative C**

7 *The effects of motorized routes in terms of noise, emissions, and user conflicts that could*
8 *be experienced by people located within ½ mile from populated areas, neighboring private land,*
9 *roadless areas, wilderness boundaries, developed recreation sites, and nonmotorized trails will*
10 *be reduced by 19.3 percent when compared to the no action alternative. Alternative C ranks last*
11 *in this regard among the five action alternatives proposed, offering the lowest reduction in*
12 *miles for the elements for which this indicator measures.*

13
14 The analysis does not disclose which routes in each alternative were closed for which reasons.
15 This matters because some of the reasons for closure are legitimate and some are not.

16
17 The DEIS should not be applying a buffer zone to roadless and wilderness areas and a buffer zone to
18 'nonmotorized trails' is illogical, since there is no such thing as a nonmotorized trail outside the wilderness
19 areas. The agency has no mandate to manage for 'protecting' private lands from legal uses, or to impose
20 a blanket closure of legal recreation from around developed recreation sites. The analysis is using a
21 criterion of noise in an area identified by the forest plan as R.O.S. roaded natural, where the sounds of
22 vehicles are to be expected. Additionally, the analysis offers no explanation of where the 1/2 mile buffer
23 came from and provides no scientific rationale for it.

24
25
26
27 **ISSUE 1: The 1/2 mile buffer zone criterion appears suddenly in the DEIS page 56**
28 (underline added)

29
30 **Motorized Routes**

31 **Effects Common to All Action Alternatives Regarding Motorized Routes**

- 32 • The prohibition on cross-country travel will be in place for all action alternatives. The effects of
33 the prohibition on cross-country travel in the short and long term are expected to be the same for
34 each action alternative. The perceived effects of motorized use such as noise, emissions, user
35 conflicts, and impacts to wilderness, roadless areas, and private lands, will remain in predictable
36 locations (within ½ mile of open roads), and will be minimized in areas beyond this ½-mile buffer.

37
38 The exact same wording is found at PDF page 7 in the Recreation Report. This is the only place where
39 the word 'buffer' appears in the report. The report also does not disclose how and why the buffer was
40 created or how it is applied. There is no discussion of anything in the existing condition which needs to be
41 'fixed'. This is a 'solution' in search of a problem.

42
43 **ISSUE 2: No disclosed methodology for the buffer zone**

44 Distances are used as criteria in other parts of the DEIS, (i.e. for riparian, elk etc.) but those are justified
45 with citations from science. We find nothing to support the 1/2 mile buffer zone. It does not appear in the
46 TAP. The DEIS does not describe how the criterion was formulated or how it was applied.

ISSUE 3: Inconsistent Description of the Indicator

The description of the indicator is not consistent between Chapter 2 and Chapter 3.

There are three different descriptions of the ‘elements for which this indicator measures’.

Chapter 2, Page 56, Table 16 describes the elements of the indicator as ‘noise and user conflict’

Chapter 3, Page 56, expands the elements to include ‘noise, emissions, user conflicts, and impacts to wilderness, roadless areas, and private lands’

Chapter 3, page 57, expands it yet again, to include ‘populated areas, neighboring private land, roadless areas, wilderness boundaries, developed recreation sites, and nonmotorized trails’.

There is no way to know what the indicator actually is, or what version was applied where. There is no way to tell what routes were affected for what reasons. Was the buffer zone applied to all alternatives using all the elements of the indicator, or not?

ISSUE 4: The DEIS fails to present a number for mileage reduction is being caused by this indicator under each Alternative.

The DEIS presents qualitative description, and then percentages of an undisclosed number. The absence of numbers is unique. Throughout the DEIS every other analysis of effects by alternative presents numbers of miles closed under each alternative.

In Chapter 2, at page 34 Table 16 we see ‘noise and user conflict’ shown as effects that will be reduced in various ways under different alternatives. But the only descriptors are ‘least’, ‘moderate’ and ‘most’ reduction. There is no other mileage reducing indicator in the DEIS described this vaguely.

Table 16. Summary of the effects described in detail in chapter 3

Resource	Alternative B	Alternative C	Alternative D	Alternative E	Alternative F	Alternative G
Noise and User Conflict	All action alternatives eliminate cross-country motorized travel, except as described for the purposes of MDC and MBGR. Conflicts due to cross-country motorized travel will be eliminated or significantly reduced.					
	No change in short term – user conflicts and noise impacts will continue, with potential to increase in the long term.	Least reduction of noise and user conflict with the least reduction of miles.	Moderate reduction of noise and user conflict.	Most potential for reduction of noise and user conflict corresponding with the most reduction of miles.	Moderate reduction of noise and user conflict.	Moderate reduction of noise and user conflict.

Chapter 2. Alternatives, Including 1

If Table 16 knows there is more or less reduction in mileage, somewhere those numbers must have been calculated.

Chapter 3 presents the following numbers for the results of the applying the ½ mile buffer zone: (pages 57-60). Suddenly we see hard percentages, calculated to a decimal point. This is a far cry from the ‘least’, ‘moderate’, ‘most’ descriptors in Table 16.

- Alternative C: 19.3% reduction compared to the No Action
- Alternative D: 48.2% reduction “
- Alternative E: 59.2% reduction “
- Alternative F: 43% reduction “
- Alternative G: 42.9% reduction “

Page V of the initial Summary, Table 1 shows the percentage of routes closed under each alternative, combining all indicators, which presumably includes reduction in mileage caused by the ½ mile buffer zone indicator.

Appeal of the Record of Decision for Travel Management on the Gila National Forest

DEIS for Travel Management, Gila National Forest

Table 1. Comparison of motorized system resulting from changes to alternative B, no action (asterisk means item will not be shown on the motor vehicle use map)

	Alternative B (No Action)	Alternative C	Alternative D	Alternative E	Alternative F (Modified Proposed Action)	Alternative G
Miles of roads designated open to the public for motor vehicle use	4,604	4,266	2,977	2,332	3,343	3,323
Miles of motorized trails (less than 50 inches in width)	16	204	125	0	182	182
Miles of single-track motorcycle trails	0	64	0	0	0	0
Miles of routes for administrative use or by written authorization only *	0	183	354	439	298	299
Total percent change in motorized roads and trails	0%	-2%	-33%	-50%	-24%	-24%

Here is how the percentages compare. Comparing alternatives, we see no particular correlation between overall percentage of closure and the percentage of closure from the buffer zone. For Alternative E the percentages are very close. For Alternative C, buffer closure is ten times higher than overall closure. What does this variation mean?

Alternative	% Reduction Made by Buffer Criteria	% Reduction of mileage overall
Alternative C:	19.3%	2%
Alternative D:	48.2%	33%
Alternative E:	59.2%	50%
Alternative F:	43%	24%
Alternative G:	42.9%	24%

Under the closures from the 1/2 mile buffer zone, Alternative F has 43% less of something than Alternative B. But 43% of what? How many miles of the overall 24% closure of Alternative F are due to the 1/2 mile buffer? There is no way to tell.

ISSUE 5: The analysis fails to address the issue of the Recreation Opportunity Spectrum

At page 53, the DEIS describes the ROS, but then does not take it into consideration. The DEIS tells us that 16% of the forest is Primitive and 24% is Semi-primitive. 7% of the forest is Semi primitive Motorized and 53% Roaded Natural, which is described as this:

Roaded natural describes areas characterized by a predominantly natural environment with evidence of moderate permanent alternate resources and resource utilization. **Evidence of the sights and sound of man is moderate, but in harmony with the general environment. Opportunities exist for both social interaction and moderate isolation from the sights and sounds of man.** Roaded natural classification includes 1,768,071 acres, or 53 percent of the forest.

The Forest Plan, page 66, gives acreages for each spectrum:

Primitive	526,611
Semi Primitive	787,063
Semi Primitive Motorized	240,940
Roaded Natural	1,768,071
Total	3,327,768

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 789,385 acres are Wilderness and closed to motor vehicles. This is the 24%. The Forest Plan is
2 managing another 60% of the forest for motorized use. It is obvious that most of the routes discussed in
3 the DEIS must be in ROS areas managed for motorized use. The DEIS does not tell us how it defines
4 user conflicts within ROS areas managed for motorized use. How does it apply the buffer zone criteria for
5 noise and conflict in ROS motorized areas?
6

7 In areas managed for motorized use, the agency accepts that motor vehicles will be heard and seen. The
8 Recreation report says this at PDF page 4:
9

10 The ROS provides a framework for defining the types of outdoor recreation experience **the**
11 **public can expect in a certain area.**

12 The logical conclusion is that the agency would also maintain the public should expect the sight and
13 sound of vehicles in motorized areas of the forest. It is irrational to maintain that the sight and sound of
14 vehicles in a motorized area constitutes user conflict. Yet this is exactly what the DEIS does.
15
16

17 **ISSUE 6: Wilderness Area Buffer Zone, managing for wilderness characteristic**

18
19 **At page 57 the DEIS states that someone who can't find 'solitude' in a motorized area is**
20 **experiencing user conflict. There is NO mention in the R.O.S. of providing 'solitude' in a roaded**
21 **natural area. There is only 'moderate opportunity for isolation'. The agency is making decisions**
22 **to provide solitude in a non-wilderness area, it is illegally attempting to manage non-wilderness**
23 **for wilderness characteristics.**
24

25 But for those **seeking solitude** for a variety of reasons (i.e., hunting, wildlife viewing, etc.), it can
26 be an important issue. As a result, such user conflict is expected to increase over time under
27 alternative B.
28

29 Statements about 'solitude' appear twice in Alternative B, in Chapter 3. Lack of solitude is specifically
30 named as a cause of user conflict.
31

32 At Page 63:

33 *....there exists the **potential for conflict** between hunters who **prefer solitude**....*
34

35 At Page 64:

36 *To some nonmotorized users, such contact is not an issue, but for those **seeking solitude** for a*
37 *variety of reasons (i.e., hunting, wildlife viewing, etc.), it can be an important issue.*
38

39 The agency has stated its intention to reduce user conflict. The agency stated that user conflict includes
40 not finding solitude in a motorized area. The reduction of user conflict is defined to include increasing
41 opportunities for solitude in a motorized area. That reduction is accomplished by reducing motorized use.
42 There is no legitimate reason to restrict motorized use in multiple use land bordering wilderness areas, for
43 the purpose of providing or increasing solitude in non-wilderness areas. This is a thinly veiled attempt to
44 manage for wilderness characteristics in areas that are not wilderness.
45

46 **ISSUE: Roadless Area Buffer Zone, managing for wilderness characteristic**

47 The DEIS describes a 1/2 mile buffer criterion which it applied to roadless areas, but the maps provided in
48 the DEIS do not show the roadless areas. We cannot tell what roads in or near roadless areas are in the
49 No Action Alternative B, or proposed for closure under this criterion in any alternative. This is a
50 substantial failure to disclose what the agency is proposing.
51

52 The Recreation report (PDF page 6) describes roadless areas:
53

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1 An inventoried roadless area (IRA) is a large tract of land that has characteristics similar to
2 wilderness, but is usually not as pristine as wilderness, and may include existing roads and
3 motorized trails.
4

5 The DEIS fails to justify a buffer zone which closes existing roads and trails at the boundary of an area
6 where existing roads and trails are permitted. This too is an attempt to manage multiple use land for
7 wilderness characteristics.
8

9 **ISSUE 7: Undefined criterion, fails to define 'noise'**

10 There is no metric for noise at all, not even a qualitative description. Does it mean occurrence? (how
11 often?), does it mean intensity? (loudness, decibel level), does it mean duration? The DEIS is silent (i.e.
12 'noiseless'). It does not say what is being measured, or where and does not describe the point at which a
13 sound level becomes unacceptable noise.
14

15 **ISSUE 8: Restricting motor vehicle use in developed recreation sites**

16 Imposing a ½ mile buffer zone around developed recreation sites would prevent motorized users from
17 accessing and using the campsites. There is no legitimate justification for this.
18

19 **ISSUE 9: Private Land**

20 The agency has no mandate to manage legal uses for their effects on neighboring private land.
21

22 **ISSUE 10: Undefined criterion, fails to define 'user conflict'**

23 The DEIS fails to define or limit what constitutes an authentic claim of user conflict. The DEIS page i
24 confirms that motorized use is a legitimate use in the forest:
25

26 Motor vehicles will continue to be a legitimate and appropriate way for people to enjoy the Gila
27 National Forest, and motor vehicle access opportunities are important.
28

29 This implies that the presence of a motor vehicle is acceptable. As an acceptable use, it must be tolerated
30 by other users on multiple use lands. At what point would the agency respond to a complaint by saying
31 'that is not user conflict'. We searched for even an anecdotal description of user conflict, looking for a
32 lower limit, and found nothing. Instead, we found statements elevating any perception of dislike to the
33 status of 'user conflict'. The DEIS inflates the mere encountering of a vehicle to being an 'important'
34 issue and source of conflict. DEIS page 57: (emphasis added)
35

36 Users who practice nonmotorized activities will continue to come into contact with those who
37 are using motorized vehicles for recreation. To some nonmotorized users, such contact is not
38 an issue. But for those seeking solitude for a variety of reasons (i.e., hunting, wildlife viewing,
39 etc.), it can be an important issue. As a result, such user conflict is expected to increase over
40 time under alternative B.
41

42 The DEIS is here claiming that the mere experience of 'coming into contact with' is 'user conflict'. In other
43 words, there is no lower limit for 'user conflict'. The harmless passing of one user by another, or even just
44 the sight or sound of another user at a distance is included in the DEIS's description of 'user conflict'.
45

46 **ISSUE 11: How did 'noise and user conflict' get turned into numbers?**

47 The DEIS gives zero information on user conflict and noise and no information on how it is being applied.
48 Yet somehow percentages of 'reduction' appear in the analysis. This is no explanation of what
49 methodology took the analysis from undefined criterion to percentages calculated to a decimal point.
50
51

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1 **RESOLUTION:**

2
3 The resolution here must be to answer the questions and criticisms in this comment. The agency must not
4 simply purge the DEIS of the evidence that it was applying improper and undisclosed criteria. The
5 agency must disclose what routes were incorrectly included for closure in the alternatives because of the
6 improper and undisclosed criteria. This must be done so the corrections are made visible to the decision-
7 maker and the public.

8
9 At the very least the agency must:

- 10 Identify the source and methodology of the buffer zone
11 Define the buffer zone elements to resolve the inconsistent statements
12 Identify what elements were used in the criteria when the buffer zone was applied
13 Identify how the criteria were applied in each alternative
14 Identify what routes were closed in each alternative because of buffer zone criteria, particularly for noise,
15 emission and user conflict within the buffer zone applied to wilderness areas, roadless areas and trails.
16 Provide the definitions for 'noise' and for 'user conflict' which it used in applying the buffer zone
17

18
19 All routes which have been improperly removed from alternatives because of these improper criteria must
20 be identified and returned to each alternative as an open route.

21
22 Thank you for the opportunity to comment.

23
24 Sincerely,

25
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27 1700 Willow Road NE
28 Rio Rancho, NM 87144
29 505-238-5493
30 Email: ravens-nest@comcast.net

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32 Temporary Address through 3/23/11:
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37
38 On behalf of:

39
40 Mogollon Apache Gila (MAG) Riders
41 Jo Anne Blount
42 POB 165
43 Glenwood, NM 88039
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45 Gila Roads and Trails Alliance (GRATA)
46 James T. Baruch
47 POB 17
48 Mimbres, NM 88049
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50 Gila Trail Riders Association (GTRA)
51 Grant Gose
52 2205 Johnson Rd.
53 Silver City, NM 88061
54

1 **Comment 03072011-121-1 thru 7 (Spivack Comment – Lower SF River)**
2
3

4 March 3, 2011
5

6 Forest Supervisor
7 Attn: Travel Management
8 3005 E. Camino del Bosque
9 Silver City, NM 88061
10 r3_gila_travel@fs.fed.us
11
12

13 **Dear Responsible Official,**
14

15 I am the Special Projects Coordinator of the New Mexico Off Highway Vehicle Alliance (NMOHVA) and
16 am representing that organization and the undersigned organizations in providing these comments on the
17 Draft Environmental Impact Statement for Travel Management on the Gila National Forest
18 (DEIS). NMOHVA represents motorized recreationists in New Mexico including 4WD enthusiasts, dirt
19 bike riders, and ATV users. The Gila National Forest (GNF) analyzed in this DEIS provides important
20 recreational resources to the members of the public we represent.
21

22 We appreciate the opportunity to comment on the DEIS and take the responsibility of reviewing the DEIS
23 for compliance with the National Environmental Policy Act, CEQ regulations, Forest Plans, and the Travel
24 Management Rule (TMR) with the utmost seriousness.
25

26 **ERROR:** The DEIS and supporting Specialist Reports fail to acknowledge the special status and value of
27 the Lower San Francisco River motorized access. They fail to disclose the existing condition or the
28 cumulative impacts on the social environment from a closure. The methodology of merely counting and
29 comparing miles is completely inadequate. This methodology results in conclusions which fail to inform
30 the public and the decision maker about the values of this unique location and access which is so
31 important to the public. The analysis consists solely of mileage comparisons and provides no qualitative
32 discussion, and fails to provide any presentation of the social and recreational values of this (or indeed of
33 any) location or route.
34

35 **DISCUSSION:** The RS2477 assertion from Catron County shows the importance of the motorized
36 access on FSR 4223L, locally known as the Lower San Francisco River. The scoping comments show
37 that people have a high sense of attachment to the place and to the route itself. They show a high value
38 placed on preserving the access for motorized access on this route. We also acknowledge the high level
39 of controversy around these routes. If the agency was somehow unaware of the intensity of the public's
40 feelings about this location, the scoping comments should have opened their eyes.
41

42 Because the DEIS comparisons are based only on mileage, they fail to show that a mile of THIS route is
43 not of comparable value to a mile of an average route. To the DEIS all miles are of equal value. But this
44 is not true. Losing a mile of THIS route is not compensated for by adding a mile someplace else. The
45 social environment is about values and places that have special meaning. It cannot be reduced to
46 arithmetic. The DEIS has failed to address the specific risks and existing condition for these routes. In
47 short, it does not address the Lower San Francisco River and motorized access to it. Rather, it buries it in
48 the mounds of mileage and watershed data.
49

50 The DEIS totally fails to provide the risk-benefit analysis the decision maker needs. It fails to identify the
51 extremely high value these routes (and this place) have for so many people, for so many different
52 reasons. This is an overarching flaw in the whole DEIS, that it fails to value any place for the recreation
53 and social environment. The results of this error are shown most dramatically in its treatment (or rather,
54 lack of treatment) of the Lower San Francisco River.
55

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1 The treatment of the Lower San Francisco reveals the inherent weakness and inadequacy of the
2 agency's methodology. It wrongly depends entirely and solely on mileage for the social and recreation
3 analysis. Social and recreation human environment is treated like the resource impacts in the DEIS.
4 To the DEIS there is only 'less mileage' or 'more mileage', and every mile is like every other mile (unless
5 it is in a habitat area). By limiting itself to comparing mileage of the alternatives, the methodology
6 excludes the unique characteristics and qualities of the Lower San Francisco. These are non-quantitative
7 factors which are critically important to human society and human activity. The evaluation of the social
8 environment cannot be accomplished merely by counting miles. The agency has an example of how to
9 approach social issues, right in one of their own documents.

10
11 **The 2003 Roads Analysis Report says this at PDF page 62: (bold added)**

12
13 ***SI(10): How does road management affect people's sense of place? People's sense of***
14 ***place is directly tied to the aspects of an area, including the area within a road corridor, that***
15 ***invoke a special feeling or attachment to the area. Factors include the area's vegetation, the***
16 ***amount of sunlight available, the views, the solitude, the opportunities that make it a***
17 ***destination, and the overall familiarity. The road itself facilitates a person's enjoyment of***
18 ***the area by providing for driving comfort, the amount and type of use, and any number of***
19 ***aesthetic attributes visible alongside the road. These attributes are directly related to road***
20 ***management. Any change in road management of the development of a road without taking***
21 ***these things into consideration will create a change in current use.***
22

23 This statement from the Roads Analysis Report is revealing. By comparison, the DEIS is turns a cold
24 back on the social environment. It is ironic that the document intended to be merely an engineering
25 exercise is more sensitive to the human environment than the DEIS, which is specifically charged by CEQ
26 with that obligation.

27 28 **Habitat for Humans**

29 We note that the DEIS is insensitive only when it is addressing the human environment. It doesn't make
30 this mistake for the animals. It is incredibly careful about animals. For animals the DEIS knows that
31 criteria must be selected appropriately. For frogs, it studies where frogs want to be. For owls, it studies
32 where owls want to be. It assigns special areas for frogs and owls, according to what each species
33 needs. The DEIS is very, very careful to look closely at what each animal likes and doesn't like. Not all
34 areas are equal for the frog. Only certain very specific areas have the particular features and qualities that
35 the frog needs. For the frog, a mile of dry channel is not equivalent to mile of wet channel. The DEIS
36 looks at the biology of each animal and selects the appropriate habitat based on its qualities.

37
38 But in its recreation and social 'habitat' of the human environment, the DEIS goes deaf, blind and dumb.
39 The idea of needed qualities somehow gets thrown out. There is no 'hard look' at the human
40 environment. There is no discussion at all of a desired condition for humans. There is no critical habitat,
41 no core habitat; every mile of route is 'all the same'. It fails to consider the 'social biology' of people. In
42 short, all the concepts carefully applied to animals, which address providing for a need, are abandoned
43 when it comes to people.

44
45 As a prime example: people love to be near water, and access to water is rare in the forest. The
46 Recreation Report ignores the quality of 'access to water' provided by the routes for the Lower San
47 Francisco River. Word-searching for water shows only two occurrences. At page 2, water is mentioned,
48 and the report does identify some by name, but not the San Francisco River at all:

49
50 Although the Gila is relatively dry, fishing and water based recreation opportunities can be found
51 on approximately 1,770 miles of perennial creeks and rivers as well as on 3 engineered lakes:
52 Quemado Lake (112 acres), Lake Roberts (68 acres) and Snow Lake (72 acres).

53
54 It's not mentioned at page 3 either:
55

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1 Motorized dispersed camping occurs in undeveloped areas, usually adjacent to roads, trails, and
2 water areas.

3
4 The word river occurs only twice, both generic non-specific mentions; first from the above page 2 quote,
5 and again on page 2:

6
7 None of the streams or rivers on the Gila National Forest is designated as Wild and Scenic.

8
9 Despite the social importance of access to water, it is given no attention in the Recreation Report. In the
10 Socio-Economic Report, the word 'river' does not appear at all. The word water appears several places,
11 but only in the context of natural resources, unrelated to any social issues.

12
13 The DEIS completely ignores the social realities that routes are not all alike. There is NO replacement for
14 these routes on the Lower San Francisco River. Of all the routes in the study area, this particular area is
15 the most deserving of close scrutiny. It is where the agency should make more than the usual effort. It is
16 the most deserving of considering mitigations, monitoring, volunteer coordination, special management, a
17 creative approach. It is an area the public would rally around. It is worthy of expenditures. The 'payback'
18 to the public of maintenance costs for this route cannot be equated to the payback for the maintenance
19 costs of average routes.

20
21 The DEIS however totally fails to acknowledge ANY of this. It just numbly trudges along with its blinders
22 on, treating this extraordinary and unique route as if it is just another few miles of road. The words 'San
23 Francisco' appear 18 times in the DEIS, always in connection with natural resources (watershed and
24 species), and appears not even once in the Recreation or Socio-Economic reports. **Let us repeat; the
25 most valued, most contested, most controversial and highest profile route in the entire forest is
26 not even named in the entire DEIS.** This doesn't make it 'go away'. Trying to close it won't make the
27 locals who love the place 'go away' either.

28
29 Here are the obvious qualitative facts about the Lower San Francisco River that are entirely missing in the
30 DEIS:

- 31
32 -high level of public concern
33 -unique, provides access to an historic area
34 -very popular, higher frequency of use by larger number of people than other routes and places
35 -long tradition of use
36 -access to a river area (rare in the GNF which is primarily dry)
37 -location: ease of access from population center, the destination is not replaceable by places further away
38 -importance to families, used for picnicking etc. by people whose main focus is not OHV recreation.
39 -extremely high value to people of limited mobility; elderly, handicapped and families with very young
40 children.
41 -important social function for families and friends to be together in the forest.
42 -goes through a highly scenic area.
43 -only motorized access to this particular valued area, and the only route at all through a large area
44 -risks of possible impacts of human uses far outweighed by the damage done by flash floods every
45 season

46
47 None of these factors are even acknowledged let alone discussed or given any weight in the DEIS. The
48 failure to give any value to these factors is inexcusable. The writers of the DEIS live in the area, they can't
49 claim to not know these facts. The DEIS has totally failed to evaluate the Lower San Francisco River.
50 The failure is caused in great part by insisting on a methodology that does not include criteria essential for
51 the evaluation of the social and recreation environment.

52
53 Evaluation of the social and recreation environment requires the study of people, and what people are
54 doing. What has been admitted in other parts of the DEIS, is that it has no visitor or user data. DEIS
55 page 74 (in regards to the impossibility of analyzing climate change):

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1
2 Several unknowns further limit the discussion and analysis. These include lack of data regarding
3 traffic numbers and projected increases or decreases in motorized visitors or passersby to the
4 forest, limited data and knowledge of current effects to ecosystem resiliency within the forest as a
5 result of motorized travel,...

6
7 **This raises the additional issue of what the CEQ requires in regards to missing information.** The
8 DEIS does not present the information needed to make a rational analysis of the social and recreation
9 aspects of the human environment. It fails both to admit there is missing information and to disclose the
10 relevance of that information. The Lower San Francisco becomes just another anonymous piece of
11 mileage, averaged into the data. The DEIS is unable to evaluate the social and recreational environment
12 because it has no data. Instead it makes the irrational claim that mileage is somehow an acceptable
13 proxy for that.

14
15 **Beside a real analysis for Social and Economic impacts, CEQ requires that if information is**
16 **reasonably available, it should be acquired.** The agency has done nothing to comply. Information
17 would have been easily available since this is just one specific area with limited access points. **The**
18 **agency has had five years to do something about this.** That's five summer seasons when it could
19 have committed half days over ten weekends a year to monitor the use of this one area and survey the
20 public, to gather the needed information. That would have been 20 half days a year, or the equivalent of
21 50 employee days spread over five years. It could have been done by a summer intern, or by volunteers.
22 We see nothing in the DEIS to indicate it has made any effort at all to gather information.

23
24 **The agency is demonstrating deliberate blindness about a very high profile location which merits**
25 **more effort than it is apparently willing to expend.** When faced with a location of high controversy,
26 valued by different citizens for different (and sometimes conflicting) reasons, the agency's response is
27 apparently to shut it down so it doesn't have to deal with it. Shutting down one of the most treasured
28 locations in the entire forest by IGNORING its special status is not an option.

29
30 **RESOLUTION: No decision must be made about the motorized access to the Lower San**
31 **Francisco River until the agency has gathered the necessary data and performed a full analysis.**
32 The data must be gathered on site. Research and studies from other areas are irrelevant to this issue.
33 The usual scoping process of accepting letters from commenters in other states and even other countries
34 is not acceptable. The motorized access to the Lower San Francisco must be evaluated for its importance
35 to the people who actually use it. The risk factors specific to the area must be assessed. The existing
36 condition, include climate and flooding patterns must be assessed. No decision should be made until the
37 RS2477 assertion by the county is settled. **There is no need to force a decision on the Lower San**
38 **Francisco. It's more important to do this right than to do this fast. The access has been open for**
39 **one hundred years. It can stay open a while longer while the agency prepares a proper and**
40 **complete analysis of it.**

41
42 Thank you for the opportunity to comment.

43
44 Sincerely,

45
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Appeal of the Record of Decision for Travel Management on the Gila National Forest

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2
3

Appeal of the Record of Decision for Travel Management on the Gila National Forest

1 On behalf of:
2
3 Mogollon Apache Gila (MAG) Riders
4 Jo Anne Blount
5 POB 165
6 Glenwood, NM 88039
7
8 Gila Roads and Trails Alliance (GRATA)
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