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Agriculture

Forest  
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**File Code:** 1570-1  
**Appeal No.:** 10-05-00-0051-A215  
**Date:** April 29, 2010

Mr. Bill Connelly  
Chair  
Butte County Board of Supervisors  
25 County Center Drive  
Oroville, CA 95965

**CERTIFIED - RETURN  
RECEIPT REQUESTED**

Dear Mr. Connelly:

On March 22, 2010, you electronically filed a Notice of Appeal (NOA) pursuant to 36 CFR 215. Kathleen S. Morse, Forest Supervisor on the Lassen National Forest signed the Record of Decision (ROD) approving the Lassen Motorized Travel Management Project Environmental Impact Statement (FEIS) on January 28, 2010.

I have reviewed the entire appeal record, including your written Notice of Appeal (NOA), the ROD, FEIS, and supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

**FOREST ACTION BEING APPEALED**

Over the past few decades, the availability and capability of motor vehicles, particularly off-highway vehicles (OHVs) and sport utility vehicles (SUVs) has increased tremendously. Across the nation, unmanaged motor vehicle use—particularly OHV use—has resulted in unplanned roads and trails, erosion, watershed and habitat degradation, and impacts to cultural resource sites. Compaction and erosion are the primary effects of motor vehicle use on soils. Riparian areas and aquatic-dependent species are particularly vulnerable to damage from motor vehicle use.

**The Selected Alternative, Modified Alternative 5 will specifically—**

- Prohibit cross-country travel on approximately 1,072,364 acres, except as allowed by permit or other authorization.
- Add 56 modified miles of unauthorized routes to the National Forest Transportation System (NFTS). Adopt seasonal restrictions on 14.8 miles of these roads.
- Adopt seasonal restrictions on 646 miles of NFTS roads.
- Lower vehicle class on 79.6 miles of maintenance level (ML) 3 roads to increase the amount of NFTS miles available for use by non-highway legal motor vehicles and provide additional connectivity between riding loops for longer riding opportunities.



- 9.3 miles of ML 3 roads are proposed (contingent on the concurrence of the California Highway Patrol) for motorized mixed use by both highway and non-highway legal vehicles for the same purpose.

Alternative 5 was modified to enhance recreation opportunities while ensuring that safety and natural resource values remained intact.

### **APPEAL REVIEWING OFFICER'S FINDINGS and RECOMMENDATION**

Documentation demonstrated compliance with applicable laws, regulations, and policies in light of the appeal issues raised by appellants.

The Appeal Reviewing Officer (ARO), Tyrone Kelley, found that the project is an appropriate and reasonable response to direction in the Lassen National Forest Land and Resource Management Plan and is in compliance with the travel management regulations.

The purpose and need for the project were clear.

The Forest Supervisor's decision logic and rationale were clear and well documented.

The Forest Supervisor was responsive to public concerns.

ARO Tyrone Kelley recommended affirmation of the Forest Supervisor's decision on all issues.

### **DECISION**

I agree with the ARO's analysis as presented in the recommendation letter. The issues were similar to the comments made during the comment period. All appeal issues raised have been considered. I affirm the Forest Supervisor's decision to implement the selected alternative (Modified 5).

The project may be implemented on, but not before, the 15<sup>th</sup> business day following the date of this letter (36 CFR 215.9(b)). My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/S/ ROBERT G. MACWHORTER  
ROBERT G. MACWHORTER  
Appeal Deciding Officer  
Deputy Regional Forester

Enclosure



**File Code:** 1570-1

**Date:** April 26, 2010

**Subject:** Motorized Travel Management  
Appeal No. #10-05-00-0051-A215  
Lassen National Forest

**To:** Deputy Regional Forester

I am the designated Appeal Reviewing Officer for this appeal. This is my recommendation on disposition of the appeal filed by Bill Connelly on behalf of Butte County Board of Supervisors, appealing the Lassen National Forest Supervisor Kathleen S. Morse's Record of Decision (ROD) for the Lassen National Forest Motorized Travel Management Final Environmental Impact Statement (FEIS). The decision was signed on January 28, 2010 and the legal notice of the decision was published on February 9, 2010.

## **DECISION BEING APPEALED**

Over the past few decades, the availability and capability of motor vehicles, particularly off-highway vehicles (OHVs) and sport utility vehicles (SUVs) has increased tremendously. Nationally, the number of OHV users has climbed seven-fold in the past 30 years, from approximately 5 million in 1972 to 36 million in 2000. California is experiencing the highest level of OHV use of any state in the nation. There were 786,914 ATVs and off-road motorcycles registered in 2004, up 330% since 1980. Annual sales of ATVs and off-road motorcycles in California were the highest in the U.S. for the last five years. Four-wheel-drive vehicle sales in California increased to 3,046,866 (1500%) from 1989 to 2002.

Across the nation, unmanaged motor vehicle use—particularly OHV use—has resulted in unplanned roads and trails, erosion, watershed and habitat degradation, and impacts to cultural resource sites. Compaction and erosion are the primary effects of motor vehicle use on soils. Riparian areas and aquatic-dependent species are particularly vulnerable to damage from motor vehicle use.

### **The Selected Alternative, Modified Alternative 5 will specifically—**

- Prohibit cross-country travel on approximately 1,072,364 acres, except as allowed by permit or other authorization.
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- 9.3 miles of ML 3 roads are proposed (contingent on the concurrence of the California Highway Patrol) for motorized mixed use by both highway and non-highway legal vehicles for the same purpose.

Alternative 5 was modified to enhance recreation opportunities while ensuring that safety and natural resource values remained intact.

## **APPEAL SUMMARY**

The Off-Highway Vehicle Route Designation process has been posted on the Schedule of Proposed Actions for the Lassen National Forest since April 1st, 2005. The Responsible Official and Interdisciplinary Team (IDT) relied on public involvement to ensure that a full range of alternatives, representing a broad array of perspectives, would be analyzed. Public involvement occurred during three key periods: first during the public collaboration process that began in 2004; second during the 36-day public scoping period for the NOI; and third during meetings with public groups to explore issues they raised during scoping.

The public involvement process began in 2004 and 2005 with public meetings in several key locations around the Forest. Initial meetings held at Susanville, Chico, Fall River Mills and Chester in 2004 were designed to provide the public with key information on the travel management process. Discussion topics at these meetings included an overview of the Travel Management Rule, the proposed Roadless Rule, the route designation process and ways in which the public could be involved. Additional public meetings in Chico and Susanville were provided to update the public on the travel management process and to provide the public with information on the application process and timelines for OHV grants. During 2004 and the first half of 2005 presentations were also made twice to the Lassen County Board of Supervisors, and once to the Tehama, Plumas and Modoc County Boards of Supervisors to inform them of the travel management process. During this time Forest staff also consulted with area tribes, including the Susanville Indian Rancheria, Pit River Tribe and Greenville Rancheria on the travel management process. During this period, consultation with the tribes occurred on seven separate occasions.

In mid 2005, public meetings were held again at Chico, Chester, Susanville, Fall River Mills, Shingletown and Redding. The purpose of these meetings was to present route maps; provide instruction to the public on how to read route inventory maps and provide the public with an opportunity to comment on any routes that were missed. This on-the-ground training provided the public with the knowledge and tools necessary to locate and map their favorite riding areas and routes so that they could effectively provide that information to the Forest Service. As a result of this public involvement, an additional 320 miles of routes were added to the Forest inventory. During this period, similar consultations were made with the Pit River Tribe, Susanville and Greenville Rancherias on four separate occasions.

In April of 2006, the Forest once again held public meetings to continue updating the public on the travel management process and to provide training and instruction on developing input to the Forest. Meetings held in Chico, Fall River Mills, Redding, Susanville and Chester were designed to (1) present the Forest Service's new national rule requiring designation of roads, trails and open areas for all types of motorized vehicle travel; (2) discuss the specific criteria for

road and trail designation in the rule; and (3) explain the Temporary Forest Order (effective July, 2006) that restricted motorized vehicle use to mapped roads and trails and (4) provide a 60-day public notification period. The Greenville Rancheria, Susanville Indian Rancheria and Pit River Tribe were also consulted on continued developments in the travel management process in mid-2005.

In September 2006, public workshops were held to provide the public with an opportunity to help the Forest develop a transportation plan that accommodated OHV recreation while minimizing resource and social impacts. These were held at Fall River Mills, Susanville, Chico, Chester and Redding. The workshops offered individuals or groups a format to identify the opportunities and benefits of their favorite routes as well as provide a forum for discussion of potential risks and concerns. Maps and tools needed to provide feedback were made available via the web or by CD for those individuals who could not make one of the workshops.

From October to November 2006, Lassen NF asked for the public's help, through release of a route designation feedback form made available via the Forest website, to identify which unauthorized routes should be added to the FTS for motor vehicle travel. The public was asked to provide the following specific information on the forms: which non-system routes should be added, what type of vehicles should be allowed to use that route and why that particular route should be added. Forms were originally due to the Forest by November 3, 2006, however, in late October, the Forest extended the feedback comment period another 35 days to better accommodate public involvement. Approximately 3,700 feedback forms were received, which provided comments on unauthorized routes and identified resource concerns. The Forest used this information to assist in development of the original Proposed Action for the NOI. During this time, tribal consultations with the Susanville Indian Rancheria and the Pit River Tribe on travel management also occurred.

Additional public open house meetings were held in Chester and Burney in July of 2007. The purpose of these meetings was to provide an opportunity for the public to comment on the Forest's proposed transportation system. The draft identified proposed routes, loop opportunities and access to recreation locations and also included route evaluation criteria.

The legal notice of decision was published February 9, 2010; the deadline for filing appeals was March 26, 2010. The current appeal, which raises 2 individual issues, was filed on March 22, 2010 and is timely.

On April 1, 2010 a conference call was held at the Forest Supervisor's Office of the Lassen National Forest with Bill Connelly. No appeal issues were resolved.

## **ISSUES AND RESPONSES**

**Issue 1: The selected alternative, Modified Alternative 5 fails to designate many of the National Forest Service level 3 and 4 roads for mixed use. This reduction in mixed used roads will have a negative economic impact to Butte County and the surrounding areas, because this will reduce the areas attraction for recreation which in turn will be detrimental to rural communities that depend on seasonal recreation activities for their income. (Appeal, pg. 1)**

**Response:** According to Council on Environmental Quality (CEQ) regulations for implementing the National Environmental Policy Act (NEPA), the Forest Service, as the lead agency, shall determine the scope and significant issues to be analyzed (40 CFR 1501.7). Forest Service Manual 1970.6 states, "The responsible line officer determines scope, appropriate level, and complexity of economic and social analysis needed." The Forest Supervisor did use economic concerns in development of Alternatives 4, 5, and Modified 5 (FEIS, pp. 15-40).

The Forest Supervisor determined that the economic analysis needed was one that would display the effects of the proposal and alternatives on jobs and personal income (FEIS, pg. 179). The Minnesota IMPLAN data was used to develop the input-output model used for this analysis (FEIS, pg. 186). Input-output analysis is a standard method in econometrics to explore a regional economy. The larger the area included, the better the method works. Most applications in the United States use, at the smallest area, multiple counties because of the market and labor connections between counties. In this case the region or study area is described (FEIS, pg. 187) as Butte, Lassen, Plumas, Shasta, and Tehama counties. Pages 176 through 196 discuss the current situation in the five county areas in several different ways, including breakdowns of recreation activity types with participation, expenditures and employment and income by activity types.

As stated in the FEIS (pg. 201), "Insufficient information exists to accurately estimate changes in recreation use that would occur under implementation of the action alternatives analyzed in this report. Although certain trends in visitor use may be predicted from the guidelines set forth under each alternative, there is no method and/or data available to estimate actual changes in motorized and non-motorized recreation. The lack of this information prohibits the ability to conduct an economic impact analysis to estimate differences in economic conditions across alternatives. Current visitation data represents use under the no action and is 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 response coefficients by activity and visit type and includes a qualitative assessment of potential economic implications. As more data becomes available regarding recreation use in the future, the response coefficients may be used to estimate specific economic impacts at that time."

The Lassen National Forest acknowledges the economic concerns expressed by the public (FEIS, Appendix J, pg. 500), particularly by individuals and businesses in the Butte Meadows area. The decision was constrained by the requirement to implement a cross-country travel ban, as well as road and route considerations such as safety, resource impacts, legal and regulatory restrictions, and anticipated administrative use. The Forest pointed out that there will be future opportunities to collaborate with user groups to enhance riding opportunities in the area, such as the on-going High Lake Management Plan. Changes in use for one activity type may be offset by changes in use in other activity types, but there is no means of predicting the levels of change (FEIS, Appendix J, pg. 500).

I find that the FEIS includes economic analysis commensurate with the purpose and complexity of the project and that the Forest Supervisor appropriately considered economic effects.

**Issue 2: The County of Butte has submitted letters and comments to the Lassen National Forest during the comment periods that the Forest Supervisor has failed to consider. (Appeal, pg. 1)**

**Response:** The Forest Service followed a systematic process of carefully numbering, reading, coding and logging all comments. When an individual raised multiple concerns within the same letter, each unique comment was numbered and tracked separately. Each comment was assigned a unique tracking number and coded by subject or topic (FEIS, Appendix J, pp. 469-470).

The appellant's comment letter was assigned number 7. The appellant's assigned number is associated with comments 7.1, 7. 2, and 7.3 respectively and responded to in the FEIS, Appendix J on pages 517, and 521-523.

The Lassen National Forest also accepted comments on the FEIS before releasing the Record of Decision (ROD) and responded to several letters submitted by Mr. Crump on behalf of Butte County (ROD, Appendix C, pp. 114, 118, 120, and 123).

I find that the Forest Supervisor adequately responded to issues raised by the appellant in his comment letters on the Lassen Motorized Travel Management Plan.

## **FINDINGS**

### **Clarity of the Decision and Rationale**

The Forest Supervisor's decision for Motorized Travel Management and supporting rationale are clearly presented in the Record of Decision (ROD) signed on January 28, 2010. Her reasons for selecting Modified Alternative 5, are logical and responsive and largely consistent with the direction contained in the Lassen National Forest Land and Resource Management Plan(LRMP) as amended by the Sierra Nevada Forest Plan Amendment (SNFPA) ROD (February, 2004).

I have determined that the project record contains the necessary information to ascertain that the Responsible Official has met the requirements of applicable laws, regulations, policy, and plans.

### **Public participation was adequate and well documented**

The Lassen National Forest met with local elected officials (including, Indian tribes, Federal advisory groups, individuals, community groups (including service and professional organizations), and environmental groups to discuss the Travel Management Rule and travel management on the Forest. Several news releases were also published in area newspapers, along with public notices. Public meetings were held in Chico, Chester, Susanville, Fall River Mills, Shingletown, and Redding, California to gather information about which routes the public uses and to identify routes missed in the inventory of unauthorized routes. Additionally, maps of inventoried routes were available on the Forest's website and Forest Service offices. The public and the tribes used these maps to provide input into the process, and their suggestions were incorporated into the Proposed Action.

All of the comments were responded to in the FEIS, Response to Comments section (Appendix J). I considered the total combination of comments from scoping and throughout the entire process as a comprehensive set of public concerns and desires.

## **RECOMMENDATION**

My review was conducted pursuant to and in accordance with 36 CFR 215.19 to ensure the analysis and decision is in compliance with applicable laws, regulations, policy, and orders. I reviewed the appeal record, including the comments received during the comment period and how the Lassen Forest Supervisor used this information, the appellant's objections and recommended changes.

Based on my review, I recommend the Forest Supervisor's decision be affirmed.

*/s/ Tyrone Kelley*

TYRONE KELLEY  
Appeal Reviewing Officer  
Forest Supervisor, Six Rivers National Forest