Public Comment Letters

CALIFORNIA ASSOCIATION OF 4 WHEEL DRIVE CLUBS, INC.

NATURAL RESOURCES CONSULTANT

DON KLUSMAN
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February 6, 2009

Kathleen Borovac, Interdisciplinary Team Leader
Modoc National Forest
800 W 12th Street Alturas, CA, 96101

Travel Management Team:

My name is Don Klusman, Natural Resource Consultant for the California Association of 4 Wheel Drive Clubs Inc. (CA4WDC). The following comments are made on behalf of the 10,000 plus members of CA4WDC.

We want to thank you for the opportunity to comment on the Modoc National Forest Public Wheeled Motorized Travel Management Draft Environmental Impact Statement (DEIS).

I believe that the Modoc National Forest has done a good job of addressing many of the issues on the Modoc National Forest. We find it refreshing that your team has worked with the public to produce this draft document.

We fully agree that there has been and will continue to be increasing use of our public lands. We also understand that there are and will be impacts to these lands. Whether it is motorized or non-motorized, impacts will happen but the degree of these impacts is the issue. Closing or severely limiting use of motorized trails is not the answer. Managing motorized trails is the root of the issue. We would encourage you to use the very people who use these trails and roads to help managing these trails and roads. We also understand the funds coming from the federal government have not kept pace with the increased use of our public lands. Closing or severely limiting the use is not going to help in making the funds that you do receive work more efficiently.

Under the alternatives presented in the DEIS, we would agree that Alternative #5 would best serve the public. We would like to make some suggestions to help improve this alternative.

There are numerous issues with the DEIS:

DISPERSED CAMPING

We would like to thank the Modoc National Forest for looking at the issue of dispersed camping. Dispersed camping is an integral part of motorized recreation on our public lands.

In the *U.S. Forest Service-Pacific Southwest Region Route Designation dated May 3, 2007 Dispersed Camping & Game Retrieval Guidance,* IN FMS 7715.64 (proposed) Big Game Retrieval and Dispersed Camping,

#1 The responsible official may include in a designation the limited use of motor vehicles within a specified distance of a certain forest road and trails, and if appropriate. Within specified time periods, solely for the purposes of dispersed camping or retrieval of a downed big game animal by an individual who has legally taken that animal (big game retrieval).

#4 Responsible officials should consider proving designated route to dispersed camping site as an alternative to authorizing off-rout use under FSM 7715.64 paragraph 1.

Page 5, Paragraph 2 *The Travel Management Analysis and decision making process provides the opportunity for the responsible official to designate limited motor vehicle use within a specified distance of a designated route, and if appropriate within a specified time periods for the purpose of dispersed camping.*

The Modoc National Forest has encouraged dispersed camping for over 50 years. We feel it is only right that these dispersed camping sites and areas be in the Travel Management Plan. We contend that it needs to be a part of this process and some other process that may take years to complete. In the mean time, the public will not have the opportunity to enjoy dispersed recreation.

Limiting the parking of a motorized vehicle to one vehicle length from the edge of the route surface for parking and dispersed camping. This is unrealistic, not to mention a public safety issue. You are expecting a person to park their vehicle alongside a traveled road or trail and leave that vehicle to be vandalized, broken into, or worse. This is also very discriminating against people who are unable to walk and carry their camping

equipment a safe distance off a traveled route. What is vehicle length? A Jeep, a long bed pickup, or an ATV? It would be far safer to designate spurs to these camp sites, fishing spots, or parking areas.

You, as the deciding official, has the flexibility as stated many times in other guidelines to change this to be more reasonable, not only for the public, but to enforcement by the Forest Service.

IMPLEMENTATION

The DEIS does not address how the Forest Service is going to implement this proposed action. This is a major flaw in the DEIS. Without a plan on how to implement the decision, it is like making a cake and not having a place to bake it. Implementation must be addressed in any plan, yet it is not part of this DEIS.

LAW ENFORCEMENT

The DEIS does not address the need for much more law enforcement once the process is finished. Some of the public will have a difficult time with route designation and the need for more enforcement should be anticipated and included. Where will the funding come from for this enforcement? It was stated at the public meetings that the forest is planning on applying for OHV funds from the State of California for enforcement dollars. This is not a given. It is unclear at this time how much money, if any money, will be available from the OHV Fund. The forest cannot rely on OHV Funds to fund this important aspect of the plan.

MAPPING

This is another item in the DEIS that is incomplete. It was stated at the public meetings that the forest plans on producing a Travel Management map each year. This is not realistic. Here again, where is the money going to come from to produce a map each year? You are talking a great amount of expense to produce a map each and every year. Another item that we are concerned about is these maps will show open routes for the public to use; thus, these are the only legal routes to use. A huge problem is it is very easy to have routes drop off a map and thus become closed. We have seen this happen many times with this forest as well as other forests that a route just seems to disappear off of a map.

You can't expect the public to get a new map each year, not only to use on the trail but also to have to review these maps and make sure each route is still on the map. A map should be good until items on that map are changed for one reason or another.

IN CLOSING

We are encouraged by your efforts in working with the public by holding public meetings and keeping the public informed as to the process and the end result.

Thank you again and please feel free to contact me if you have questions or would like more information.

Respectively Submitted,

Don Klusman

cc: CA4WDC Board of Directors
Daphne Greene, Deputy Director California Off Highway Motor Vehicle Recreation Division California State Parks.
Kathy Mick, OHV Manger USFS Region 5

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Pacific Southwest Region
1111 Jackson Street, Suite 520
Oakland, California 94607

IN REPLY REFER TO:
ER09/32

Hardcopy Filed

11 February 2009

Ms. Kathleen Borovac,
United States Forest Service
800 W. 12th Street
Alturas, CA 96101

Subject: Review of the Draft Environmental Impact Statement (EIS) for Motorized Travel Management on the Modoc National Forest, Modoc, Lassen and Siskiyou Counties, California

Dear Ms. Borovac:

The Department of the Interior has received and reviewed the subject document and has no comments to offer.

Thank you for the opportunity to review this project.

Sincerely,

Patricia Sanderson Port
Regional Environmental Officer

cc:
Director, OEPC

Jan. 21, 2009

To Whom it May Concern:

As a veteran, I am very concerned about the possibility of the closing of National Forests to the public!
Many other veterans like myself cannot hike or walk well, but enjoy driving through our public lands. We like to hunt and fish too.
Others use it to get firewood when they cannot afford the skyrocketing price of gas or electricity.

As a previous USFS employee I understand the use and protection of these wonderful public lands.
When it is not routinely cleared of dead or dying trees, as witnessed numerous times recently around the country, there are terrible forest fires as a result.
It is good for the forest as well as the loggers or private wood getters.
I thought this was finally understood by the policymakers?
Private landowning companies are vigorously trying to keep the economy going with timber sales and fire prevention by fuel removal in these lands.

The same goes for the grange land used by the ranchers and farmers.
We all share.

Why did I risk my life serving my country to be denied access to our American public land?

If the national public lands are not open to the American people then it becomes a private club for the forest service only. This contradicts all that we stand for! "Of the people, by the people, for the people."

Sincerely,

Dearld Ellenberger
P O Box 196
Adin, CA 96006

PS We mostly use Modoc, Lassen and Shasta Forests but this applies to all.

Michael Damaso
1119 East Linwood Ave.
Turlock, CA 95380

February 11, 2009

Modoc National Forest
800 West 12th Street
Alturas, CA 96101
Kathleen Borovac
modoc.route.designation@fs.fed.us

RE: Comments on Travel Management Draft EIS

Dear Planning Team:

I am submitting these comments on the Modoc National Forest (MDF) Motorized Travel Management Draft EIS, on behalf of my family and myself.

My family and I help promote responsible off-highway vehicle (OHV) recreation. We respect the environment, and "Tread Lightly" ethics. We are members of the Merced Dirt Riders Inc., CORVA, AMA, AMA District 36, Blue Ribbon Coalition and 4X4 Inmotion.

A tremendous increase in popularity of OHV recreation since the 1980's is well documented in a number of studies such as the National Survey on Recreation and the Environment (NSRE) by Cordell et al. This trend of increasing popularity of OHV recreation has led to the Forest Service's Travel Management Rule (TMR). The 2008 NSRE study reveals that new vehicle sales have now declined below 2003 levels. With the recent economic downturn OHV sales will decline still further. This indicates a need to revisit the concept of the rapid growth in OHV use on National Forests. It was the growth trend that led to TMR and the perceived urgency of limiting OHV use on public lands. The TMR only specifies that OHV use, be managed not eliminated.

I am supportive of route designation because it will help preserve OHV multiple use of our public lands. We believe a well designed and managed system is the only way of having a sustainable OHV program. It is necessary to provide enough quantity and quality riding experiences (loops and destinations), on the Modoc National Forest (MDF). We support a modified Alternative 5 as representing the best balance between access and environmental stewardship.

Access Over Private Lands:

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

Mixed Use:

A key objective of travel management planning is:

To coordinate travel planning and analysis on NFS lands with other federal, state, county and other local governmental entities and tribal governments and to allow the public to participate in the designation of NFS roads, NFS trails, and areas on NFS lands for motor vehicle use.
Alternative 5 is the one alternative that address's this the best. It allows the most miles of mixed use for both summer and winter use. When motorized mixed use is designated on a road in California, State OHV Trust Funds may be used to maintain the road. They will help reduce the MDF's backlog of road maintenance if the MDF chooses to apply for those grants. This is another reason for lowering your maintenance levels and allowing mixed use.

Other use and issues:

1: Big game retrieval, is not addressed in the DEIS. I recommend the MDF, to allow seasonally cross-country travel with all-terrain vehicles for the specific purpose of big game retrieval only, (barring any wet weather, fire-related or other off-road closures already in place). See FSM 7715.74 and FSM 7716.13 for designations for big game retrieval. This is a reasonable accommodation for hunters. Vehicle operators causing damage to national forest resources can be cited on an individual basis.

2: Wheeled over snow use is also not addressed in the DEIS.
The NOI states:
SUMMARY: The Modoc National Forest (Modoc NF) will prepare an Environmental Impact Statement to disclose the impacts associated with the following proposed actions:
1. The prohibition of cross-country motorized vehicle travel (with the exception of snowmobiles) off designated NFS roads, NFS trails and areas by the public except as allowed by permit or other authorization.
The DEIS states:
There are vehicles and uses that are exempt from the Travel Management Process, such as over snow vehicles, emergency purposes and vehicles, law enforcement responses, and other use that is specifically authorized. Refer to 3 CFR 212.51.
There is no definition of over snow vehicles in the DEIS. I have ridden my motorcycle and ATV over sno I have driven my SUV and pickup over snow. My brother in law has a UTV (side by side) with tracks he uses to hunt over snow. This issue must to be addressed in the FEIS.

3: Open areas: The TMR allows for open areas of use. For such things as 4x4 rock crawling, trials riding a family use areas. Old rock quarries, mine tailings etc., close to local communities would work well. These areas would help keep people from going off a designated route by allowing some unlimited use to smalle restricted areas. This issue must to be addressed in the FEIS.

Alternative 5 is the first proposal I have seen in Region 5 that accommodates existing motorized uses on NFS roads and includes many of the existing routes. It provides a well-connected transportation system for non-highway legal vehicles and reflects what the local community governments and the majority of public wants for an OHV program. We greatly appreciate your efforts and hope you are able to implement Alternative 5.

In conclusion, I support Alternative 5 with modifications as best addressing the significant issues in this DEIS. We appreciate the addition of this alternative in response to requests from County governments and public input. The insignificant additional impacts that come from mixed use on Forest roads are more than offset by the benefits of increased access for both motorized and non-motorized recreation.

Thank you for the opportunity to comment on MDF - DEIS.

Sincerely

Michael Damaso

PS: I have been doing trail maintenance on public lands (Forest Service & BLM) since 1968. My family has been helping since the mid 1980's. We have logged thousands of hours of removing downed trees, cleaning culverts, repairing and building waterbars on many miles of trails and roads. What I observe, as the major problem is the closure of good quality trails causing the concentration of use onto reduced number and miles of routes. OHV use needs to be dispersed as much as possible to help mitigate the effects of increased use.

February 11, 2009

Stanley G. Silva
Modoc National Forest
800 W. 12th Street
Alturas, CA 96101

Dear Mr. Silva,

I appreciate this opportunity to comment on the Draft Environmental Impact Statement (DEIS) for Motorized Travel Management on the Modoc National Forest.

As a member of the Modoc County Land Use Committee, I have been involved in formulating the recommendations for Modoc County's comments with regard to the DEIS. Rather than reiterate many of those comments, I should say that I concur with them as they have been presented.

I would like to take this opportunity, however, to make some comments as a permittee and private land owner in the Modoc Forest. Our family owns the Avanzino Ranch on Devil's Garden, including parts of Hager Basin. We also own 240 acres at the base of the dam in Boles Meadow. It is as the Avanzino Ranch landowner that I would like to offer some suggestions as the planning/implementation process moves forward.

As I understand it, new forest road maps will not show roads that cross private property. I think that is excellent! One of the biggest problems we have is folks unfamiliar with the area (even some who should know better) seeing a road on the map they think can get them to the other side of our ranch "quicker," even though it crosses what is clearly (on the map) private property. Many of these "roads" cross our waterways and meadows that are boggy in the best of weather ... and folks are often getting stuck, doing damage to their vehicles, and tearing up meadows and grassland just because it looked like a shortcut.

Some, but not all, of our fences are on the property line --- we have tried posting *No Trespassing* signs and even locking those gates into our private property, but because the existing map shows a way through the ranch, our gates or fences are cut and left down, cattle get out, and travelers get stuck, as I noted above. I could go on and on ....

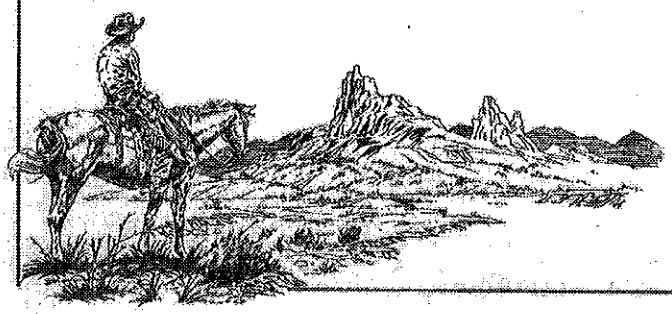
In addition to not mapping any of the roads on private property, perhaps some signage would help, too. A *Not a Through Road* sign or one saying *Dead Ends at Private Property* would also help alleviate the trespassing situation for all private landowners in all the forests.

Thank you for your attention to these ideas. I would also like to say, again as a Land Use member, what a pleasure it has been to work with MNF staff in this coordination process for the benefit of our community who uses the Modoc Forest and the forest itself.

Sincerely,

Carolyn

Pete and Carolyn Carey
Carey Ranches
P.O. Box 1892
Alturas, CA 96101



Jan. 25, 2009

Stanley Silva, Forest Supervisor
Modoc National Forest
800 W. 12th St.
Alturas, CA 96101

Supervisor Sylva:

I wish to go on record as supporting the USFS in it's attempts at limiting OHV traffic to certain specified areas within the forest.

I am a hiker and a fisherman and nothing spoils an outing more than noise from a nearby OHV. As I am sure you are aware it only takes a very small percentage of OHV riders to do a great deal of damage to sensitive areas of the forest. As I am also sure you are aware, the OHV community has been very vocal in its attempts to stop proposed regulations from impacting them.

Rest assured there are many millions of people who quietly expect that you will do your job and limit these despoilers of nature to well regulated areas and to enforce whatever policy you ultimately adopt for them.

Sincerely yours,

Robert D. Cameron
10908 Apache Rd.
Montague, CA 96064

"Kurt Schwarz"
<krschwa1@verizon.net>
02/06/2009 01:22 PM

To <modoc.route.designation@fs.fed.us>
cc
bcc
Subject Draft Travel Management Plan and EIS for Modoc National Forest

HOWARD COUNTY BIRD CLUB

9045 Dunloggin Court
Ellicott City, Maryland 21042
krschwa1@verizon.net

February 6, 2009

Travel Management Team
Modoc National Forest
800 W. 12th Street
Alturas, CA 96101
modoc.route.designation@fs.fed.us

Subject: Travel Management DEIS

To the Forest Service:

The Howard County Bird Club appreciates the opportunity to submit the following comments on the draft travel management plan and environmental impact statement. We submitted comments in the scoping phase of this project dated June 7, 2008. Members of the club have visited Modoc National Forest, as it contains important habitat for birds and other forms of wildlife. One of our members also worked near the Modoc.

The Howard County Bird Club is an organization with 250 members in Howard County, Maryland. We are a chapter of the Maryland Ornithological Society, a nonprofit, statewide organization of people who are interested in birds and nature. Our purposes include promoting the study and enjoyment of birds, promoting knowledge about our natural resources, and fostering their appreciation and conservation. We offer field trips, bird counts, and conservation projects. The club has raised and donated more than $61,000 for wildlife habitat preservation during the past 29 years. Our members travel all over the United States to visit national forests and other federal lands on birding and nature-watching vacations. We spend dollars on food, lodging, guide services, books and souvenirs to support the local economy wherever we go. Birding is one of the fastest-growing outdoor sports.

Wildlife Values
Modoc NF contains a diversity of wildlife habitats, a result of its diversity in climate, elevation, soil and water. This diversity is evidenced by the over 290 species of birds recorded in the MNF boundaries.

We compliment the authors of the wildlife section of the draft EIS, entitled "Terrestrial Wildlife," on pages 195-313. It is helpfully organized by habitat type, such as Riparian Group, Wetland Group, and Sage-Steppe Group. The fundamental conclusion, shown in the Relative Ranking Comparison in Table 3-159, is that Alternative 3 is better than other alternatives for wildlife. That table gives Alternative 3 the top ranking for (1) number of sensitive sites for TES species within ¼ mile of an added route or area, (2) the proportion of a species habitat that is affected by motorized routes, and (3) average for terrestrial biota.

The DEIS indicates that MNF staff made site-specific inspections to very few of the 336 miles of routes proposed to be opened, instead relying on data available in the office. (One of our members confirmed this by telephone with your staff.) In Appendix A-2 ("Field Visit Rationale") the column headed "wildlife" shows the code "N" for almost every route, indicating that no field visit was made by wildlife staff. We question whether the Forest Service can justify opening 336 miles of ORV routes without field-checking to determine whether they would damage wildlife habitat.

The proposed action would repeal the Modoc Forest Plan's closure of ORV routes through the Bald Eagle winter roosting area near Tionesta, on grounds that (1) eagles have become accustomed to vehicles and (2) private property owners need access. Here we recommend taking the path of caution on behalf of our national bird by retaining the closure and adding a narrowly written exception for such private property access as is legally required.

Off-road Vehicles

We do not categorically object to ORVs. Many members of the Howard County Bird Club own ORVs, and we use them to visit birding areas, which often are accessible only by rough roads. We rely on land-managing agencies like the Forest Service to advise us, through regulations and closures, which routes are not suitable for ORVs because of potential damage to the land and to wildlife habitat. We want the agencies to place protection of the habitat as the highest priority.

The route designation project for the Modoc is long overdue to end the unregulated cross-country traffic of ORVs. Hence, we find it surprising that no alternative addresses the highest need, which is to close many of the redundant and unnecessary routes that now fragment the wildlife habitat. Very few places in the MNF are as much as 1 mile from the nearest road or ORV route. The final decision should close and decommission routes that are no longer essential for public purposes – both segments of the existing route system and unauthorized routes.

The proposed action would approve 336 miles of unauthorized user-created ORV routes as part of the national forest route system. That is ill-advised and not supported by the DEIS. With some 3,500 miles open to ORVs throughout the forest, there is no public need for those additional 336. In addition, such unauthorized use should not be rewarded by legitimizing then as part of the forest route system. More than 80 percent are spur routes shorter than one-half mile. Appendix A-1 lists the justification for each; most are "to provide motorized access to dispersed camping," or "provide a diversity of motorized recreation opportunities." We urge the Forest Service to close all unauthorized routes in the interest of reducing impacts on wildlife

habitat. Many other national forests restrict dispersed camping to one vehicle-length or a 300-foot corridor from the side of the road. That should be considered here instead of approving a long list of spur routes.

We compliment the Forest Service for proposing a winter seasonal closure to prevent erosion by ORVs when saturated soils are most vulnerable to damage. We favor a winter-long closure of all native-surface routes throughout the MNF.

Roadless Areas

The "potential wilderness" areas documented by the California Wilderness Coalition are listed in Table 3-163 with the corresponding inventoried roadless areas. We do not find them shown on the maps, as we urged in our scoping comments. Areas of great interest for wildlife and wilderness values are among them, such as Captain Jack, Lost River, Medicine Lake Highlands, and Signal Rattlesnake. The Final EIS should identify them on maps.

In our scoping comments we said, "One of the issues for the final decision should be whether the ORV routes would have an impact against wilderness values in those areas." Table 3-163 indicates that 208 miles of existing system routes are within the potential wilderness areas. Yet no alternative in the DEIS closes existing system routes within those areas. We found nothing in the DEIS analyzing the impacts of the existing system routes on wilderness or wildlife values. This should be corrected in the final decision by including the necessary analysis and by closing the routes most harmful to wildlife habitat and wilderness character.

Conclusions

We question whether the proposed action complies with Forest Service regulations at 36 CFR 212.5(b), which require identification of the "minimum road system needed," reflecting a "science-based road analysis," and identification of roads that are no longer needed. The proposed action appears to give blanket approval to hundreds of road segments that are not needed and that have not been subjected to a science-based road analysis.

The Howard County Bird Club urges the Forest Service to adopt Alternative 3 with changes to provide better protection for wildlife habitat and wilderness character. The DEIS shows Alternative 3 to be superior to the other alternatives for conservation of wildlife habitat. It opens no unauthorized ORV routes. Vehicles for camping should be restricted to one vehicle-length from the edge of the existing system route.

Alternative 3 should be strengthened by closing unnecessary existing system routes within the "potential wilderness" units listed in Table 3-163, with emphasis on restoring roadless blocks of uninterrupted wildlife habitat.

Thank you for this opportunity to comment.

Sincerely,

Kurt Schwarz

Howard County Bird Club

Conservation Director HCBCModocFeb2009.doc

Mick Baldwin
M – C Blading
Lic #738992

P. O. Box 721
Alturas, CA 96101
530-233-4088
530-640-0689

January 24, 2009

Stan Sylva, Supervisor
Modoc National Forest
800 West 12th Street
Alturas, CA 96101

Regarding the Draft Environmental Impact Statement of Motorized Travel Management on the Modoc National Forest I would prefer number 5 for the best management of the National Forest Roads. The roads of the forest are closing themselves because of the lack of use. Hunters used to keep them passable. These are roads that the Forest does not maintain.

Proposal #5: Wet weather seasonal closures of approximately 312 to 425 miles of native surface (dirt) roads would be imposed. These additional wet weather seasonal restrictions are needed to minimize erosion and protect water quality.

How will this be managed? Will this be enforced with an air plane; is this cost effective?

Sincerely,

Mick Baldwin

Mick Baldwin
MB/cgb

George & Frances Alderson
112 Hilton Avenue
Baltimore, Maryland 21228

February 3, 2009

Travel Management Team
Modoc National Forest
800 W. 12th St.
Alturas CA 96101

Dear Forest Service:

Please include this letter as our comment on the draft travel management plan and EIS. Thank you for sending us the CD version. We submitted comments in June 2008 for the scoping phase. We have visited the Modoc several times, most recently in 2002. I (George) once worked in the area.

Compliance with Regulations. The draft plan fails to take the action necessary to comply with the FS regulations at 36 CFR 212.5(b), which require identification of the *minimum road system needed* reflecting a *science-based analysis* and identification of roads that are *no longer needed.* We believe the final plan should:

- Close all unauthorized user-created routes. The DEIS contains only a flimsy justification for 336 miles of routes, mostly spur routes leading to campsites or serving only ORV riders. The routes do not meet the test of the *minimum road system needed.* Many national forests have closed such spur routes and restricted camping to a narrow corridor along the road.
- Close and decommission unneeded "existing system routes." The Modoc has a system of routes far in excess of any public need. In our scoping letter we pointed out that roads have proliferated during the past 50 years in the section between Tule Lake and Medicine Lake – the 1952 USGS topographic sheets we have at hand show far few roads than your DEIS maps. The *minimum route system needed* should be more like the 1952 map than like your proposed action map.

Proposed Wilderness. Routes in the citizens' proposed wilderness areas should be closed. If not all can be closed at this time, at least some progress should be made in reducing the fragmentation of the roadless wildlife habitat. Table 3-163 lists the proposed wilderness areas and says there are 208 miles of existing system routes within them. We particularly urge closure of NFS routes 46N17 and spurs east of Lava Beds and 46A21 MB and MA west of Lava Beds. If there is any need for official FS travel on those routes, they should be closed to public travel with impassable barriers.

There is no map in the DEIS showing the citizens' wilderness proposals, although Table 3-163 lists them. A map should be included in the final EIS, as we urged in our scoping letter.

Impacts on Wilderness Areas. A few NFS routes allow vehicles to approach the boundaries of South Warner Wilderness and Lava Beds National Monument. These

2/8/09

Larry D Ellenbergen
Box 178
Adin, Calif 96006

Larry has concern w/ restrictions for ATVs & closed dispersed campgrounds, ie / Ash Creek → Upper & Lower Dry Ryan.

Sign on Ash Creek - don't go past this point. "No vehicles past this point".

Blocking off rds to ATV - not 1 person crowded

John Looper
1204 W. 11th Street
Alturas, CA 96101
530-233-2871/530-640-0491

02-06-2009

U.S. Forest Service
ATT: Stan Silva, Forest Supervisor
800 W. 12th Street
Alturas, CA 96101

Dear Stan;

I am writing this letter in regards to the current road system being proposed. Please accept this letter as my request for consideration of plan #5. I feel this plan is the only one that fits the needs of this county and the people who use these roads.

I also would like to see more road maintenance on the forest roads. I know of the money that was budgeted in years past to build them and I personally helped maintain them for many years before leaving the local forest service. When I see them in such poor repair with the lack of maintenance on them, it is very frustrating.

Thank you for your attention to this matter.

Sincerely,

John Looper

John Looper

United States Department of the Interior
NATIONAL PARK SERVICE
Lava Beds National Monument
1 Indian Well Headquarters
Tulelake, California 96134

IN REPLY REFER TO:
L7617

February 2, 2009

Ms. Kathleen Borovac
Modoc National Forest
800West 12th Street
Alturas, CA 96101

Re: Comments on Modoc NF, Travel Management Draft Environmental Impact Statement (DEIS)

Dear Ms. Borovac:

Thank you for the opportunity to comment on the proposed Travel Management Plan for the Modoc National Forest. We concur with the primary proposed action to close the Forest to cross-county motor vehicle travel and feel the preferred alternative is a reasonable action that will reduce incidents of motor vehicle trespass into Lava Beds National Monument. However we do feel that there are additional routes that should be considered for closure either as part of this proposed action or future actions. All of these routes are dead end spur roads that previously continued into the Lava Beds as primitive roads, but have been closed for 20 or more years with gates, rocks or other barriers at the Monument boundary. While the volume of traffic on these spur roads is very low, we do feel that closing the roads farther from the Monument boundary would reduce incidents of vehicles continuing into the Monument. As you know the open nature of the terrain, makes controlling vehicle trespass very difficult along an arbitrary line such as the boundary between the National Forest and the National Monument.

Another issue that you may want to consider adding to the proposed action concerns Forest Route 10, the 9.9 mile "paved" road connecting the southeast entrance of Lava Beds with Forest Route 97 near Tionesta. As you know this road is in extremely poor condition with thin pavement (1- to 2-inch thick) placed directly on subgrade without any supporting aggregate base course. Due to the paving of the northern entrances to Lava Beds (in the late 1980's and mid 1990's), changing visitor use patterns, and the poor condition of the road, this road has very low traffic volumes that likely cannot justify retention as a paved route. This is especially true when one considers the huge backlog of National Forest road work both on the Modoc and nationwide. Thus converting the road to a good quality unpaved road with a proper foundation and surfacing aggregate materials may be a topic that you want to include in this action. Such a conversion would cost approximately one third the price of reconstructing as a paved road. The National Park Service would support such a conversion as a reasonable way to deal with this lightly used infrastructure.

The table below lists the routes that we would propose for closure to motor vehicle use. Another Route (#46A21MB) in addition to allowing motor vehicles to access the Monument boundary also passes through a very sensitive resource area approximately three miles west of the Monument boundary.

West of Lava Beds National Monument (NM):

MNF Road Number	Proposed closure point	Approx. Distance (miles)	Purpose/Notes
47A14B	At 47N14 intersection	1.0	Reduce vehicle trespass
47A14BA	At 47A14B intersection	0.2	Reduce vehicle trespass
47A14A	At 47N14 intersection	0.5	Reduce vehicle trespass
46A21AA	At 46N21 intersection	0.2	Reduce vehicle trespass
46A21R	At existing closure gate approx. 200 ft. south of 46N21 intersection	0.1	This road is already gated & closed to public use approximately 200 ft. south of 46N21 intersection. The road no longer exists within National Monument
46A21MB	At 46A2MA intersection	2.0	Reduce vehicle trespass & Road passes thru sensitive resource site
46A21MA	At 46A21M intersection	0.5	Reduce vehicle trespass & Road passes thru sensitive resource site

South of Lava Beds NM:

MNF Road Number	Proposed closure point	Approx. Distance (miles)	Purpose/Notes
44A36YA	At 44N36Y intersection	0.1	Reduce vehicle trespass & convert former road to foot trail
44N22D (north of Tichnor Road only.)	At 44A22D intersection	0.2	Reduce vehicle trespass & convert former road to foot trail
44A22D (north of Tichnor Road only.)	At 44A22D intersection	0.1	Reduce vehicle trespass

East of Lava Beds NM:

MNF Road Number	Proposed closure point	Approx. Distance (miles)	Purpose/Notes
46N17A	At 46N17 intersection	1.0	Reduce vehicle trespass
46A17B	At 46N17 intersection	1.2	Reduce vehicle trespass

If these proposed closures are incorporated into the proposed action or a future road management action, the National Park Service would be available to assist in implementing the closure work as we would be the beneficiary of the closures. If you have further questions on our comments, please contact me at (530) 667-8101.

Sincerely,

David F. Kruse
Superintendent

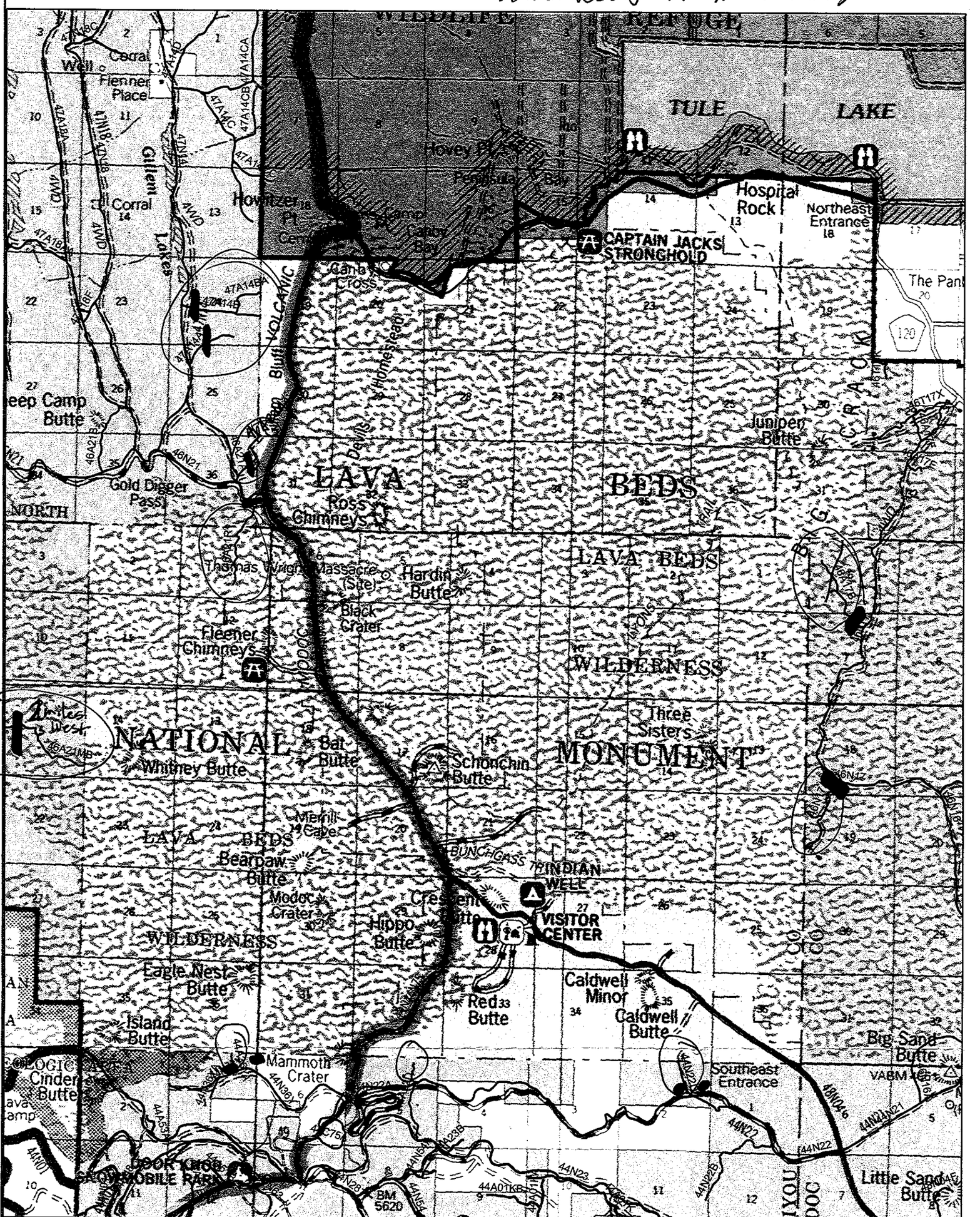
Enclosure

cc: Laurence Crabtree, Doublehead District Ranger
David Larson, Chief Resources Management, LABE

Modoc National Forest
PROPOSED ACTION ROUTES
NEAR LAVA BEDS NM

United States Department of Agriculture
Forest Service
Pacific Southwest Region
Modoc National Forest

Lava Beds N.M. comments:



1:67,293

0 0.5 1 2 Miles

DISCLAIMER:
The USDA Forest Service uses the most current and complete data available. GIS data and product accuracy may vary. Using GIS products for purposes other than those for which they were intended may yield inaccurate or misleading results. The USDA Forest Service reserves the right to correct, update, modify, or replace GIS products without notification.

- Proposed Action Roads - Seasonal Closure
- FS System Roads - Proposed Action Seasonal Closure
- Proposed Action - Inventoried Roads
- TRAVEL_ROUTE_RATROAD

DRAFT

Prepared - 04/04/08 - E.Aran
task-so116_ohv_analysis
Aran_040208_LavaBedsNM_ProposedAction_forDistRang.mxd
printed - 04/04/08

1307 Madison Drive
Fort Washington, MD 20744

February 6, 2009

Stanley G. Sylva, Forest Supervisor
Modoc National Forest
800 W. 12th St.
Alturas, CA 96101

Dear Mr. Sylva:

These comments concern the draft travel plan for the Modoc National Forest. I grew up in California, and I am retired from a career in the United States Air Force, during which I visited my home state many times on official duty. One of my co-workers from the Air Force has worked in the Modoc and mentioned that you requested public comments.

Please reject the idea of opening 336 miles of unauthorized ORV routes and instead close and rehabilitate them to nature as in Alternative 3. Most of those are spur routes less than a half-mile in length that serve no essential public purpose. The Draft EIS shows that wildlife habitat values would be improved by closing them. ORV riders already have 3,500 miles of other roads that lace the Modoc. No more are needed.

The final decision should do more to reduce the excessive road system. Too many roads have fragmented wildlife habitat, leaving few areas that are farther than a half-mile from the nearest road. Unnecessary primitive roads have dissected the wilderness areas proposed by California conservationists, such as Medicine Lake Highlands, Captain Jack, and Lost River. Your Table 3-163 lists a total of 208 miles of primitive roads within those areas. More should be closed and rehabilitated. The Forest Service should protect and restore the values of the roadless areas that will become our future wilderness areas.

I favor the winter seasonal closure you proposed to keep ORVs from stirring up saturated soils. It should apply to all native surface routes throughout the forest.

Thank you for the opportunity to comment.

Sincerely,

R Larry Laffoon, SMSgt, USAF RET

R. Larry Laffoon

Jan and Gayla Kobialka
11598 Overleigh Drive
Woodbridge, VA 22192

February 2, 2009

Stanley G. Sylva, Forest Supervisor
Attn: Travel Management Team
800 W. 12th Street
Alturas, CA 96101

Dear Forest Supervisor Sylva:

Please consider our comments on the draft Travel Management Plan concerning off-road vehicle routes. My brother has lived in California for 40 years, and one of our friends has visited the Modoc National Forest several times.

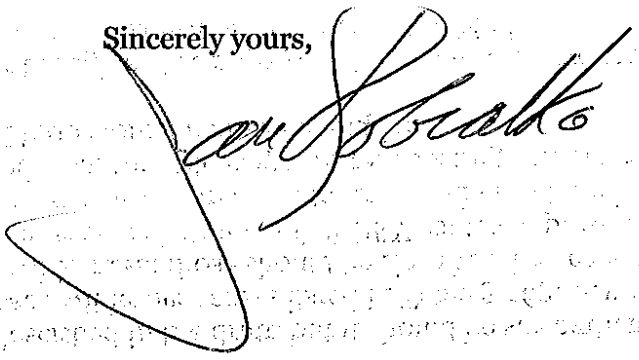
The maps in the draft plan show a spiderweb pattern of ORV routes, with few places farther than a mile from a road. Such a densely spaced route system is harmful to wildlife, which need larger blocks of uninterrupted habitat. It means more erosion than necessary. And it means degradation of the wild character of roadless areas. This should be corrected in the final plan.

Your draft plan starts off on the wrong foot by proposing that 336 miles of unauthorized routes created by ORVs be sanctioned as official forest roads and trails. Instead, we urge you to close all unauthorized routes and rehabilitate them to a natural condition. They will serve the public better in the future if restored to nature. ORV riders already have 3,500 miles of routes open in the Modoc.

We support Alternative 3 as described in the draft, but it should be strengthened by closing all routes in the proposed wilderness areas listed in Table 3-163. A number of roads dissect the proposed wilderness; those should be closed and revegetated. We also urge you to add a winter seasonal closure of all ORV routes to prevent erosion of wet soils, like the winter closure already adopted in other national forests. ORVs should be barred from the bald eagle winter roosting area near Tionesta, as mandated in the Modoc forest management plan.

Thank you for considering our thoughts. We hope your final plan will give more protection to the wildlife habitat and wilderness qualities of the Modoc.

Sincerely yours,



85 River Bend Drive
Chesterfield, MO 63017

February 3, 2009

Modoc National Forest
Attn: Travel Management Plan
800 West 12th St.
Alturas, CA 96101

Dear Planning Team:

I write to submit comments on the draft travel management plan for the Modoc National Forest. A friend of mine worked there and has been back several times.

If this plan were about the Mark Twain National Forest, the proposal to approve 336 more miles for off-road vehicles would be unthinkable. Please abandon that idea and work toward a more constructive plan to reduce the impacts of ORVs.

Your environmental impact statement (Table 3-163) lists citizens' proposed wilderness areas totaling 274,000 acres and says there are 208 miles of existing routes that pass through them. Yet instead of closing these, your draft opens 16 miles more. Please reverse this and start closing those roads. The goal should be a more reasonable route system that can be enforced and maintained within your budget.

Please adopt Alternative 3, plus a winter season closure of all ORV routes to prevent erosion of wet soils. The winter roosting area of bald eagles near Tionesta should remain closed to ORVs, as required in your Modoc Forest Plan.

Please remember there is a national interest in the roadless areas of the Modoc National Forest. The top priority should be to protect them from impacts of ORVs. Thank you for the opportunity to submit these comments.

Sincerely yours,

Lynn Hague

Rick Ferdon
<rferdon@valin.com>
02/04/2009 02:05 PM

To "ssylva@fs.fed.us" <ssylva@fs.fed.us>,
"kborovac@fs.fed.us" <kborovac@fs.fed.us>
cc "dlass@tu.org" <dlass@tu.org>
bcc
Subject Modoc DEIS comment

Forest Supervisor Sylva,
I am writing to comment on the Modoc National Forest DEIS and in particular the Adding 1158 existing unauthorized routes (336 miles) to its National Forest road system,
as a fisherman, hunter and as a stakeholder in all of our national forest I participate in all forms of recreation, both motorized and non motorized. No matter what our end destination is,
having vehicle access to these places is of great importance.

I request that all existing routes that are classified as un-authorized be added to the Forest System road system. If any of these routes have significant erosion control issues,
these routes are added as a ML1 route until such time as the problems can be mitigated and then the route returned to a usable ML2 or higher status.

Rick Ferdon
Pollock Pines CA

DIANNE FEINSTEIN
CALIFORNIA

COMMITTEE ON APPROPRIATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND
ADMINISTRATION · CHAIRMAN
SELECT COMMITTEE ON INTELLIGENCE

United States Senate
WASHINGTON, DC 20510-0504
http://feinstein.senate.gov

December 18, 2008

Randy Moore, Regional Forester
Pacific Southwest Region
USDA Forest Service
1323 Club Drive
Vallejo, CA 94592

Dear Regional Forester Moore:

I am writing regarding the Forest Service's current efforts to implement the Travel Management Rule and designate routes in California's National Forests that are accessible to motorized traffic, including off-highway vehicles.

It is my understanding that the Tahoe National Forest plans to add roads to the existing motorized route system and publish a route system map cataloguing the roads open for public motor vehicle use.

I am concerned, however, that as part of the effort for designating the route system the Forest Service did not consider a process for removing existing system roads that may be unneeded or damaging to the environment. I believe that adding routes to the system without a science-based analysis of existing roads or plan to de-designate unneeded roads is misguided, particularly given the $169 million road maintenance backlog in the Tahoe National Forest.

I am also concerned that the Tahoe National Forest plans to publish a route system map, which may leave the public with the impression that all roads present on the map will be permanently open to motorized vehicle access -- unless the public is simultaneously notified of a process to identify and remove unneeded roads. Without a caution that system maps may be subject to further review, it could be difficult for the Forest Service to remove roads that are found to threaten public safety, cause environmental damage or conflict with other forest uses in the future.

As the Forest Service continues with travel management plans in California, I request that the Agency to complete comprehensive analyses of existing system roads in each National Forest and develop a process for identifying and removing unneeded

roads prior to publishing route system maps. This level of analysis will help ensure that the Forest Service can afford to maintain a National Forest system that provides public access for motorized recreation while minimizing environmental impacts.

I look forward to being updated on your progress toward designating motorized travel systems in California's National Forests. Best regards.

Sincerely,

Dianne Feinstein
United States Senator

DF:jw:db

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

February 11, 2009

Stanley G. Sylva
Forest Supervisor
Modoc National Forest
Attn: Travel Management Team
800 West 12th Street
Alturas, CA 96101

Subject: Draft Environmental Impact Statement for Modoc National Forest Motorized Travel Management Plan, Modoc, Lassen, and Siskyou Counties, CA (CEQ# 20080527)

Dear Mr. Sylva:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA commends the Forest Service for their efforts to address the many challenges inherent in developing a balanced Motorized Travel Management Plan that responds to recreational and resource management demands. We acknowledge that the Travel Management Plan process is a positive step in addressing resource impacts from motorized uses. The permanent prohibition of cross country travel off designated routes, the switch from unmanaged to managed motorized recreational use, and implementation of seasonal and wet weather closures will result in significant environmental benefits.

While we acknowledge the benefits of the Proposed Alternative (Alternative 2), we have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "*Summary of Rating Definitions*") due to our concerns regarding the scope of the travel management planning process and the continued use of roads and trails near fens, wet meadows, riparian habitat, and vernal pools. Additional information is also necessary to fully describe monitoring, and enforcement commitments, the affected environment and proposed increase in mixed use.

EPA is aware of the decision by the Pacific Southwest Region of the Forest Service to limit the scope of the travel management planning process to prohibition of motorized vehicle travel off designated routes, addition of unauthorized roads and trails to the National Forest Transportation System (NFTS) so they may be designated for

motor vehicle use, and changes in vehicle class and season of use. The rationale for the limited scope of this process is schedule constraints and limited funding and resources.

We acknowledge the constraints of funding and resources; nevertheless, we had hoped the Forest Service would take this opportunity to review and rationalize the NFTS, pursuant to Travel Management Rule direction to identify the minimum road system needed (36 CFR Part 212 Subpart A); to address known road-related resource impairments and use conflicts of both the existing NFTS and unauthorized user-created system; and to align the transportation system with maintenance and enforcement capabilities. We note a similar request has been made by Senator Feinstein (see attached letter).

Route designations are only part of what is needed to reduce the ongoing adverse impacts to water quality and other resources from the NFTS. We continue to believe a more holistic approach to travel management planning, whereby route designations are guided by travel analysis, known locations of resource impairment, and prior determination of the minimum road system needed, would better serve the long-term interests of the public, Forest Service, and National Forest resources.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send two (2) hard copies to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact Laura Fujii, the lead reviewer for this project. Laura can be reached at (415) 972-3852 or fujii.laura@epa.gov.

Sincerely,

Connell Dunning

FOR

Kathleen M. Goforth, Manager
Environmental Review Office
Communities and Ecosystems Division

Enclosures:
Detailed Comments
Summary of Rating Definitions
Letter from Senator Dianne Feinstein to Regional Forester, December 18, 2008

cc: Steve Thompson, California Operations, US Fish and Wildlife Service

EPA DETAILED DEIS COMMENTS RE: MODOC NATIONAL FOREST MOTORIZED TRAVEL MANAGEMENT PLAN, MODOC, LASSEN, SISKYOU COUNTIES, CA., FEBRUARY 11, 2009

Alternatives Analysis

Provide information on the minimum Forest road system needed and how this information was used to formulate the alternatives. The scope of this action includes prohibition of motorized vehicle travel off designated routes, the addition of unauthorized user-created roads and trails to the National Forest Transportation System (NFTS) so they may be designated for motor vehicle use, and changes to vehicle class and season of use. The draft environmental impact statement (DEIS) also states that unauthorized routes not included in this proposal are not precluded from future consideration for addition to the NFTS and inclusion on the Motor Vehicle Use Map (MVUM)(p. 2). We believe a holistic approach to travel management planning, whereby route designations are guided by travel analysis, known locations of resource impairment, and prior determination of the minimum road system needed, would best serve the long-term interests of the public, Forest Service, and National Forest resources.

> ***Recommendations:***
> The final environmental impact statement (FEIS) should describe the information that was used to formulate the motorized travel management alternatives, and their relationship to the requirement to identify the minimum road system needed for safe and efficient travel and administration of National Forest System lands (36 CFR Part 212 Subpart A, Section 212.5(b)). The FEIS should describe how the minimum road system needed will be identified pursuant to the requirements of the Travel Management Rule (36 CFR Part 212 Subpart A).
>
> The FEIS should describe the factors that would be used in the consideration of future additions of unauthorized routes. We recommend that such factors include travel analysis and identification of the minimum road system needed.

Expand the scope of the action to include current roads and trails with known impacts. The current estimate of deferred road maintenance is $10,961,034.00 for the Modoc National Forest (p. 33). EPA is concerned with the Forest Service's ability to adequately address known road-related resource impairments, given the acknowledged lack of maintenance funds and this proposal to add additional miles of roads and trails to the NFTS.

> ***Recommendation:***
> We recommend the Forest expand the scope of this action to consider, for seasonal or permanent closure to public motorized use, current NFTS roads and trails with known resource impacts or conflicts with other recreational users and experiences.

Sensitive Habitats

Include the rationale for each specific road or trail within 100 feet of sensitive habitats. Modify Proposed Action to reduce proximity to, and adverse effects on, these resources. The Proposed Alternative would allow motorized travel to continue within or adjacent to sensitive habitats and resources such as fens, wet meadows, riparian habitat, and vernal pools (pps. 141 to 154).

> ***Recommendations:***
> For each road or trail remaining in, or added to, the NFTS which may have adverse effects on sensitive habitats, the FEIS should provide the specific rationale that supports the decision that continued motorized use outweighs the negative effects of continuing this use. We recommend the rationale be included in an expanded Appendix A which provides site-specific mitigation and monitoring requirements for each proposed route designation.
>
> We recommend modification of the Proposed Alternative to further reduce effects on fens, wet meadows, riparian habitat, vernal pools, and other sensitive resources by eliminating or reducing route designations to the NFTS that are located in these areas.

Evaluate the effects of alternatives on route proliferation at dispersed campsites near streams, lakes, springs and meadows. Route proliferation from public wheeled motor vehicle use often occurs around dispersed campsites that are along sensitive riparian areas. Although the evaluation of effects on water and riparian resources considers many other indicator measurements, it does not appear to evaluate the effect of alternatives on route proliferation in sensitive resource areas. While the Preferred Alternative would eliminate unauthorized use on 78 wet meadows, it would continue to allow motorized use through 5 wet meadows and a high density of routes within Riparian Conservation Areas in 16% of watersheds (p. 293 and p. 109, Volume III: Chapter 3).

> ***Recommendation:***
> We recommend the FEIS evaluate the effect of the alternatives on route proliferation at dispersed campsites near streams, lakes, springs, and meadows, and the related impacts to water and riparian resources.

Monitoring and Enforcement

Develop, describe, and implement a Travel Management Plan Monitoring and Enforcement Strategy. It is important that wildlife protection, vegetation management, and erosion control goals be achieved to minimize the potential adverse effects of the Motorized Travel Management Plan. We believe the public and decision makers would benefit if a strategy is developed that includes specific information on funding, monitoring and enforcement criteria, thresholds, and priorities.

> ***Recommendations:***
> We recommend development of a detailed Travel Management Plan Monitoring and Enforcement Strategy, beyond the proposed botanical and heritage resource

monitoring plans provided in Appendix B. Such a Strategy should include specific information on the monitoring and enforcement program priorities, focus areas (e.g., issues, specific locations), personnel needs, costs, and funding sources. We recommend the FEIS demonstrate that the proposed monitoring and enforcement strategy is adequate to assure that motorized vehicle use will not violate access restrictions or exacerbate already identified road-related resource problems. We recommend the Monitoring and Enforcement Strategy be periodically updated (e.g., annually or biennially).

Identify mitigation measures required prior to use. Exclude routes on the Motor Vehicle Use Map not yet open for use due to mitigation measure implementation delays. The DEIS does not appear to describe mitigation measures that may be required prior to approved public motorized use. Such measures may include drainage improvements, barriers, and fencing to address the increased risk to sensitive resources such as fens, wet meadows, and increased erosion and sedimentation. Given the substantial level of deferred road maintenance, EPA is concerned with the Forest Service's ability to quickly implement identified mitigation measures and the potential for continued un-authorized motorized use of these designated routes.

Recommendation:

We recommend the FEIS include a list of mitigation measures required for implementation prior to opening the specific route to public motorized use. The FEIS should state whether the Motor Vehicle Use Map (MVUM) would include the designated routes that are not yet available for use due to required mitigation measures. If these routes will be included on the MVUM, describe how use would be restricted until identified mitigation measures are implemented. If these routes are not included on the MVUM, described how and when the Forest would open and designate these routes for use. We recommend routes not yet open due to required mitigation measure be excluded from the MVUM in order to reduce the unintentional un-authorized use of these routes.

Climate Change

A number of studies specific to California have indicated the potential for significant environmental impacts as a result of changing temperatures and precipitation.[1] Climate change effects and the need to adapt to climate change are emerging issues which should be considered in this action. According to the Government Accountability Office (GAO) report entitled, "Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources" (August 2007), federal land and water resources are vulnerable to a wide range of effects from climate change, some of which are already occurring. Roads and their use contribute to species stress through habitat fragmentation, increased disturbance, introduction of competing invasive species, and increased fire risk; which may further exacerbate species' ability to adapt to the changing climate.

[1] For example: Our Changing Climate: Assessing the Risks to California, A Summary Report from the California Climate Change Center, July 2006; Climate Change and California Water Resources, Brandt, Alf W.; Committee on Water, Parks & Wildlife, California State Assembly, March 2007.

Recommendations:
The FEIS should include a discussion of climate change and its potential effects on the Forest as they relate to the route designation decision and final National Forest transportation system. Of specific interest are potential cumulative effects of climate change and the NFTS on the connectivity of wildlife and threatened and endangered species habitat, air quality, water quality, fire management, invasive species management, and road maintenance.

We recommend the discussion include a short summary of applicable climate change studies, including their findings on potential environmental effects and their recommendations for climate change adaptation and mitigation measures.

Full Disclosure and Procedural Comments

Provide information on wet weather conditions and related environmental impacts. The proposed action alternatives would implement seasonal restrictions for 312 to 425 miles of roads (p. xii) out of a total of 4,996 miles of existing authorized roads (p. 7) and 491 miles of inventoried unauthorized roads and trails (p.9). The DEIS does not appear to describe winter or wet weather conditions or whether wet weather use of existing NFTS and unauthorized roads and trails result in significant environmental impacts.

Recommendation:
The FEIS should provide information on winter and wet weather conditions and, if present, any significant environmental impacts caused by wet weather road and trail use. We recommend expanding the implementation of seasonal closures and restrictions, if wet weather use results in significant environmental impacts.

Commit to route-specific environmental analysis for user-created route additions. On some National Forest System lands, repeated use by motor vehicle travel has resulted in unplanned motorized trails un-authorized for motorized use. These trails were generally developed without environmental analysis or public involvement and may be poorly located and cause unacceptable impacts (p. 2). EPA is concerned with the addition of un-authorized user-created trails to the NFTS which may not have undergone site-specific environmental analysis or public involvement.

Recommendation:
The FEIS should state how the Forest will ensure specific user-created routes are adequately evaluated pursuant to NEPA requirements. Where prior site-specific environmental analysis has not occurred, we recommend the FEIS specify the manner and criteria by which specific user-created routes would be analyzed prior to the route's addition to the NFTS or its designation for public motorized use.

Conduct field surveys of Sensitive and Watch List plant species on proposed routes with a high likelihood of their presence. DEIS states that many of the Sensitive and Watch List plant species on the Forest were not mapped accurately and have not been re-visited since their initial discovery, some as long as 20 years ago. Thus, the current status of these populations is unknown. Nevertheless, the analysis for this action is based on

available records with no field surveys for rare plants conducted along proposed route additions (p. 149).

Recommendations:
We recommend field surveys of proposed routes where there is a high likelihood of rare species. For example, consider re-visiting the historically mapped species sites within 100 feet of proposed routes of threatened vernal pool species. Information obtained from these field surveys should be included in the FEIS.

Describe existing wildlife corridors, habitat integrity, and potential effects on wildlife movement and habitat fragmentation. The DEIS does not appear to describe or address the presence or absence of wildlife corridors, habitat integrity, nor the effect of the proposed action on habitat fragmentation or wildlife movement. Roads are known to lead to habitat fragmentation and the disruption of migratory corridors, resulting in significant adverse wildlife effects.

Recommendations:
The FEIS should include a discussion and analysis of wildlife corridors and the effect of the proposed action on habitat connectivity, habitat integrity, and migration corridors. Include a description of current conditions in regard to habitat fragmentation, existing wildlife corridors, and the relationship to wildlife habitat located on adjoining properties.

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements Definitions and Follow-Up Action*

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

Feb-10-2009

Dear STAN

The issue with ATV-4wheellers ~~act~~ ON County or USFS Roads has nothing To do with SAfety. To my kowledge NOT ONE Accident with Log Trucks, pickups or any other vehicle has Ever happened. This is JUST aNOther way of Taking our freedom away on OUR NATional Forest.

A few yeAS ago some people recieved A form IN the mail asking how much would you pay To view the National forest? This is NOT good.

This is Our National forest. And IT is The Modoc.

STAN! ALTernaTive #1 No Action Alternative is The only one. (Nat people control)

Larry D Ellenberger

Mead

February 9, 2009

Stanley G. Sylva, Forest Supervisor
ssylva@fs.fed.us
Modoc National Forest
800 West 12th Street
Alturas, California 96101
Phone: (530) 233-5811
FAX: (530) 233-8709

RE: Protect important native trout habitat on the Modoc from off-highway vehicles

Dear Forest Supervisor Sylva:

The Draft Environmental Impact Statement (EIS) for Motorized Travel on the Modoc National Forest (MNF) is proposing to add 1,168 additional routes equaling 336 miles of unauthorized roads, many of which impinge on good fish and game habitat, specifically Warner Lake and Goose Lake native redband trout. Adding 336 miles out of a total of 491 miles that currently exist is shocking to me as a Sportsman that values solitude, wild places and intact habitat for fish and game species. If the Modoc cannot properly maintain the 5,000 miles of roads that currently exist, I cannot endorse any of the alternatives that propose to add more routes to the NFTS.

Despite the rapid rate of growth in the sport, OHV users still represent only a small percentage (3 to 7 percent) of national forest visitors. The documented 897 OHV users on the Modoc in 2004 represents an even smaller percentage. Yet this relatively small number of users requires a disproportionate amount of management and tolerance from non-motorized visitors, as OHV use can degrade scenic, ecological, and social values far faster and more extensively than any other form of recreation. I urge you to protect the forest and it's incredible resources for the rest of us to enjoy.

I find that the proposed action in the Draft EIS is insufficient in following the directives established by a handful of different laws and frameworks, most blatantly the Sierra Nevada Forest Plan Amendment (SNFPA) and Northwest Forest Plan (NWFP), which require, among other things:

1) A watershed analysis be completed that determines the influence of each road on Aquatic Conservation Strategy objectives, and that roads be designed to minimize impacts on riparian and aquatic resources, and that reconstructing unauthorized routes to bring them to NFTS standards in meadows or wetlands should therefore be avoided.
2) These standards and guidelines require the Forest Service to avoid road construction, reconstruction, and relocation in meadows and wetlands
3) Construction of new roads in wetlands is prohibited. Adding unauthorized routes to the NFTS in meadows or wetlands constitutes road construction, and should be avoided. Stream crossings are required to be designed to pass a 100-year flood and allow for passage of aquatic fauna.

Nineteen roadless areas representing nearly 202,000 acres exist on the forest. These large pieces

of intact habitat are the last remaining vestiges of the Modoc, and their roadless character has to be preserved. Warner Lake and Goose Lake redband trout depend on the cold clean water that flows in and from these places. Under no conditions should new routes be added that penetrate Agency Inventoried Roadless, Citizens' Proposed Wilderness or Semi-Primitive Non-motorized areas.

There are a total of 6.74 miles of unauthorized routes within Riparian Conservation Areas (RCAs) for perennial streams and lakes, and 37.84 miles of unauthorized routes within RCAs for seasonally flowing streams and lakes. As an avid angler who values healthy rivers, streams and lakes, I find this completely unacceptable.

After reviewing the Draft Environmental Impact Statement (EIS) for Motorized Travel on the Modoc National Forest, I can only support Alternative 3, which adds no new routes to the existing system.

I look forward to working closely with the Forest on implementation and enforcement of its provisions and infrastructure once Travel Management has concluded. Having attended several of the public meetings hosted by the MNF over the past few years, I am aware that the issue of off-highway vehicle use is divisive and emotional, and commend the Forest and its personnel for their professional conduct during these meetings. OHV enthusiasts may be justified in saying they need more areas and routes for their activity, but that does not mean that a majority of the MNF is suitable for such activity, and some resources are so sensitive, rare or ecologically important that they trump any proposed addition or existing OHV route in their proximity.

On behalf of the fish and game resources of the Modoc, and of hunters and anglers who believe that hunting and fishing opportunities in the Forest are threatened by OHV use, I thank you for the opportunity to comment on the Motorized Travel DEIS. I look forward to working closely with you to develop ecologically sustainable, manageable, and enforceable management plans in the future. Thank you.

Sincerely

Kevin Mather
3947 Milmar Way
Sacramento, CA 95821-3030
United States

Modoc National Forest
800 W. 12th St.
Alturas Co. 96101

Alturas Co.
Feb. 11, 2009

ATTN: Kathleen Borovac

Ref: Motorized Travel Management.

Please consider the following points in your final determinations on the Forest Travel Management Plan.

There must be some accomidation for Hunters, such as me, to retrieve big game that have been Taken on the Forest.

Hunting is allowed and regulated by the State, and, allowed by the National Forest. Therefore it seems to follow that the Forest should make reasonable allowance for retrieval of any big game Taken.

Many of us are not in the best of shape due to age or phisical conditions and therefore cannot retrieve large animals except by motorized means.

One of the suggestions given is to use horses or other pack animals. That is fine for people who have horses and the equipment necessary to transport them. Another point in that regard, is the cost. Hunters who are on a limited income can't afford to hire outfitters or rent horses, etc.

Therefore, I suggest that a permit system be employed to allow hunters to retrieve their game from off road by use of an ATV or other motor vehicle. The use of such vehicles should be controlled so that no harm to the lands or the environment would result. The use of such vehicles would be permitted only for game retrieval and not for hunting or reconnoissance.

Earl S. Roberts

Earl S. Roberts
500 N. East A St.
Altus, Co. 96101

MODOC COUNTY SHERIFF'S POSSE

P. O. Box 1408
Alturas, Ca. 96101

February 10, 2009

Forest Service, U.S. Department of Agriculture
800 W. 12 Th. Street
Alturas, Ca. 96101

Stanley G. Sylva, Forest Supervisor

Kathleen Borovac Teem Leader
Motorized travel Management ESI
Draft Environmental Impact Statement

Kathleen,

First off, let me thank you for your time and trouble. I realize it takes a lot of work to deal with the public while working on a motorized travel management plan. You and the rest of the people on the Modoc Forest have worked so hard to keep the residents of Modoc informed. Your presentation to the Modoc County Sheriff's Posse was very informative. After your panel left our meeting, the Alternatives were discussed. It was the majorities decision that I write this letter to you and the Modoc National Forest.

The Alternative 5 . Was voted by the majority as what we believe to be the best plan for the Motorized Travel Management, And the people of Modoc County.

The Modoc County Sheriff's Posse has 97 members, all residents of Modoc County and most of which have been involved in search and rescues in the Modoc National Forest, some of us many times. The Posse is an extension of the Sheriff's Office and a portion of our training is in the National Forest.

Sincerely,
Modoc County Sheriff's Posse
Past Captain
Phil Vermillion

Modoc County Sheriff's Posse is a non-profit organizing.

Kathleen Borovac/R5/USDAFS
02/03/2009 11:00 AM

To "Elizabeth Norton" <bobliz@frontiernet.net>
cc sslyva@fs.fed.us
bcc
Subject Re: Mixed use question

Dear Elizabeth,
I am responding to the email below as best I can at this time. I spoke with the regional engineer on this issue and I can answer at least part of your question. If a decision is made that includes allowing mixed use on level 3 roads, ATVs and dirt bikes will be allowed to operate on those roads if they have a valid drivers license. As far as the rest of your questions, we are still continuing to receive comments and will not be making any decisions or changes to the DEIS until all comments are in. At that time we will be able to respond more completely on this matter. Thank you for your continued interest and support. Please feel free to give me a call if you have additional questions.

Kathleen Borovac
Environmental Coordinator
Modoc National Forest
kborovac@fs.fed.us
530-233-8754

Out of chaos comes the dance of balance

"Elizabeth Norton" <bobliz@frontiernet.net>

"Elizabeth Norton " <bobliz@frontiernet.net>
01/27/2009 03:02 PM

To <sslyva@fs.fed.us>
cc <kborovac@fs.fed.us>
Subject Mixed use question

Hello - In light of the Regional Forester's Jan. 13, 2009 letter of direction to the Forest Supervisors re: motorized mixed use, how does this affect the Modoc's proposal in your DEIS for travel management to allow mixed use on most of your ML 3 roads under Alternative 5? Does this invalidate that alternative and any others that allow mixed use on ML 3 road segments that are greater than 3 miles? Will you be reclassifying those roads as ML 2 now? Or what is your position re: the letter?

If a person has a State license as mentioned in paragraph 2 of the Jan. 13 letter, can they still operate their ATV or dirt bike (Green Sticker vehicle) on ML 3 roads?

The Regional Forester's letters appears to have significant impacts on the use of non-highway legal vehicles on ML 3+ roads. Your response to these questions will help me prepare my response to the DEIS by Feb. 11.

Thank you for your assistance, Elizabeth Norton

P. O. Box 114
Adin, CA. 96006
January 29, 2009

Travel Management
C/O Modoc National Forest
800 W. 12th. Street
Alturas, CA. 96101

Dear Sirs:

I am a resident of Adin, CA. I use Modoc National Forest roads reaching out in all directions from Adin in my search for firewood. Therefore, I would not be in favor of any changes in road use. I would be in favor of alternative 1.

Thank you,

Robert G. Nelson

Robert G. Nelson

Modoc National Forest Travel Management
01/08/2009

Name: John Morrow

Address: P.O. Box 867 Tulelake, Ca. 96134

Comments:

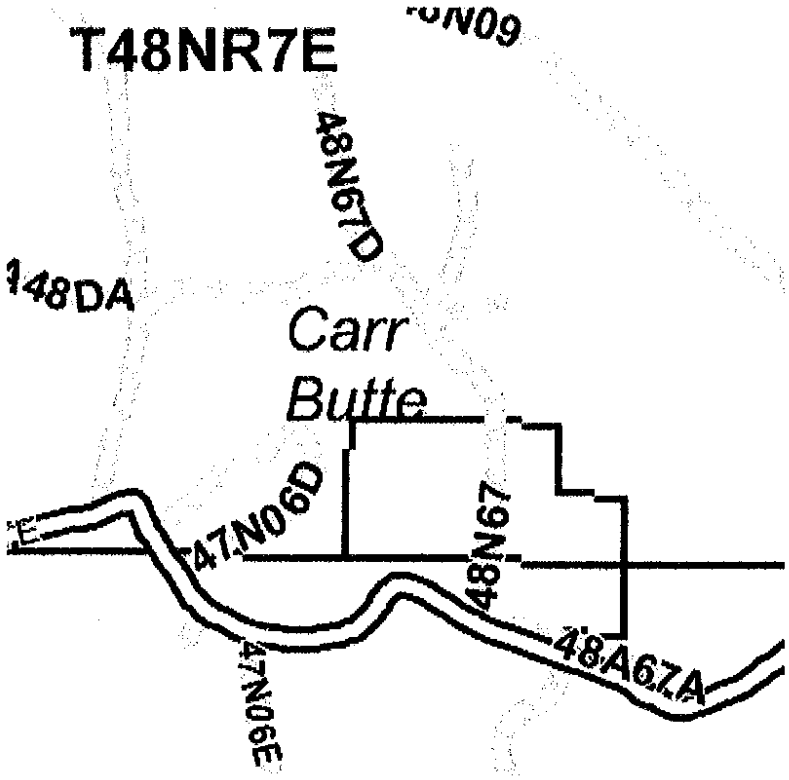
After reviewing the different alternatives for travel management in the Modoc National Forest, I believe alternative 4 is the best choice, with the exception listed below.

The section of road marked as 48N67, located on the East side of Carr Butte, going through my property is not a Forest Service road. Since there are no easements through my property, I would like the road (just the section on private property) removed from the map, or marked as a private road. At the present time I have no intentions of preventing anyone from using the road, I just want to leave my options open.

If you have any questions or wish to contact me, I can be contacted through the address and/or phone number below:

John Morrow
P.O. Box 867
Tulelake, Ca. 96134

541-850-8385


T48NR7E
48N67D
148DA
Carr
Butte
47N06D
48N67
48A67A
47N06E

January 30, 2009

Stan Sylva

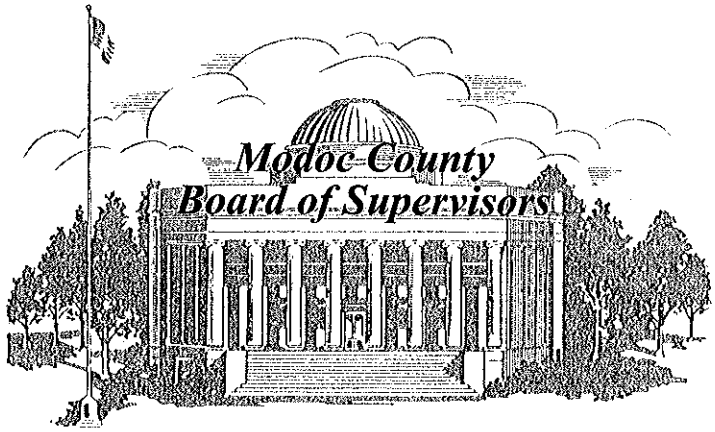
In the Draft Environmental Impact Statement (EIS) for Motorized Travel on the Modoc National Forest, you propose adding 336 miles of unauthorized roads to your current transportation system. This action seems surprising to me considering that the Forest is unable to properly maintain the nearly 5,000 miles of roads currently existing on the forest.

The current proposal focuses too much on analyzing the potential impacts of designating new user-created roads and not enough on assessing the environmental and social impacts of the existing system of roads. The current transportation system continues to allow motor vehicle use in ecologically and socially important roadless areas, in habitat of sensitive wildlife species, and in rare mountain meadow habitat.

The Draft EIS is wholly inadequate in following the regulations established for travel management and in addressing the environmental impacts associated with the current and proposed road systems. The Modoc National Forest has not: a) identified the minimum road system needed for safe and efficient travel and for protection of National Forest System lands; b) identified the roads under their jurisdiction that are no longer needed to meet Forest Service management objectives, and that, therefore, should be decommissioned or considered for other uses; and c) completed a science-based analysis of the existing road system to inform these decisions.

Because you have not completed a science-based Travel Analysis and included an Alternative that considers road closures on the existing National Forest road system, I encourage you to select Alternative 3, which prohibits cross-country travel but does not add new roads or motorized trails to the current unsustainable National Forest road system.

Darca Morgan
Central Sierra Audubon Society
POB 1123
Sonora, CA
95370



STEPHANIE NORTHRUP
Clerk of the
BOARD OF SUPERVISORS

204 S. Court Street
ALTURAS, CALIFORNIA 96101

(530) 233-6201
Fax (530) 233-2434

February 10, 2009

Travel Management
Modoc National Forest
Attn: Kathleen Borovac
800 W. 12th Street
Alturas, CA 96101

RE: Comments Regarding Motorized Travel Management Draft Environmental Impact Statement

Dear Ms. Borovac:

The Modoc County Board of Supervisors (County) appreciates the opportunity to submit comments on the Modoc National Forest's Motorized Travel Management Draft Environmental Impact Statement.

Modoc County is a "planning county" in that the County adopted the *Comprehensive Land Use and Management Plan for the Federally and State Managed Lands in Modoc County* (Plan) under 16 U.S.C. Section 1604, C.F.R. Sections 1502-1508, 36 C.F.R. Section 219 and other statutes. Utilizing this plan the County has worked for over a decade with the U.S. Forest Service at all levels to jointly address those proposals that might impact the environment and economy of Modoc County. These comments are a follow up to the ongoing coordination that has occurred between the County and the Modoc National Forest (Forest), utilizing the above-mentioned plan, since before scoping of this project began.

GENERAL COMMENTS

The County is in general support of Alternative 5. Your approach to unauthorized routes is appreciated. These non-system routes are on the landscape because forest users have a purpose in being there. There is no valid reason for their closure if there are no resource issues associated with their existence.

Likewise, your approach to mixed vehicle use uses common sense. Where vehicle counts are low and there are no extenuating circumstances, there is no reason to ban

mixed use. Your prohibition of OHV use where safety issues are concerned is supported by the County.

The County understands that this planning effort was generated from the national office in an effort to bring unmanaged OHV use under control. We also understand that, as usual, top down management brings with it both the one-size-fits-all mentality and unintended consequences. The Forest's willingness to stretch the sideboards of the Travel Management directives to accommodate the realities of this community and this landscape is appreciated.

Your outreach to the general public was excellent. The map work was extremely user friendly and helped the public visualize your proposed actions. Your coordination with the County has been everything the County could have expected.

SPECIFIC COMMENTS

Off Road Exemptions

36 C.F.R. 212.51 allows the decision officer to exempt designated vehicle use from the off road ban. The County fully supports the re-writing of Section 3 of the Term Grazing Permits to allow permitted livestock grazers to use OHVs on existing roads and trails. It is now our understanding that off road travel will be added to the permit language as the permits are reissued. It is also our understanding that this language will be a part of the Annual Operating Instructions to cover the time span between when the decision goes into effect and when the individual permits are reissued. The County strongly supports these actions, as the ability to travel off road is crucial for grazers in order to maintain range improvements, salt and perform other tasks necessary to comply with the terms and conditions of their permit.

The above cited regulation also allows the decision officer to exempt firewood harvesters from the off road prohibitions. We understand that firewood permits are currently modified to allow such action with initialed pen changes on the permit itself. While the County supports this action, we believe, given the constant change in Forest staff, that a permanent change to the permit form should be pursued. Firewood harvest is an essential part of the county's economy and off road authorization is necessary for it to continue in its present form.

We are aware that the above stated regulation also gives the responsible officer the latitude to develop some form of policy to allow the motorized retrieval of downed big game. We encourage the Forest to consider working with County and the Modoc County Fish, Game and Recreation Commission to develop such a process.

Road Designation

The County supports both the rationale and the outcome of the Forest's section-by-section analysis of the user created routes on the Forest. The inclusion of the 336 miles of user created roads into the Forest road system is important. These sections are used by our citizens for work and play and cause no resource impacts. It is appropriate that they remain open for use.

We appreciate the extra effort put forth by the Forest to designate additional miles for mixed use. We recognize there was significant pressure to do otherwise. The vehicle usage on the vast majority of the Forest roads is minimal and allowing passenger vehicles and ATVs to share the roads is appropriate. Additionally there is no history of accidents or injuries to warrant restricting use. The County supports all efforts to prohibit mixed use where there are valid safety concerns.

Implementation

The County recognizes that the Forest's appropriated dollars for road issues continue to be limited. Support for bringing these user created routes into the Forest road system should not be interpreted as support for providing maintenance on them.

The County believes that there should not be any on-the-ground action taken for those routes designated as closed. Road money is already too short. Designated closed roads should remain in existence for use for emergencies, fire suppression and hazardous fuel reduction.

Most of the National Forests have already transitioned from an "open unless designated closed" situation to the "closed unless designated open" category. The Forest is being forced to do that as part of this planning effort as well address the user created routes. Consequently, Forest users will have a much steeper learning curve than in other places. We believe it is important that there be an extensive educational component for the general public prior to the phase in of enforcement. The County stands willing to help the Forest with this program.

The County supports your intention to provide this new information primarily through maps. Signage is expensive, for maintenance as well as construction. Money can be better spent in other ways.

CONCLUSION

The County is appreciative of the extraordinary outreach provided by the Forest for the general public. We believe those citizens who have their "personal" roads on the Forest have had many opportunities to provide the Forest with their information.

The County is also pleased that the Forest has more than met the coordination requirement set forth in Section 212.53 of the Travel Management regulations as

well as the Plan. We look forward to continuing this relationship as this planning effort moves into its final form.

Sincerely,

Mrs. Patricia D. Cantrall

Patricia D. Cantrall, Chairman
Modoc County Board of Supervisors

MODOC COUNTY FARM BUREAU

108 EAST 1ST STREET · P.O. BOX 1692, ALTURAS, CA 96101
TELEPHONE (530) 233-FARM (-3276) · FAX (530) 233-4738

11 February 2009

Stan Sylva, Supervisor
Modoc National Forest
800 W. 12th Street
Alturas, CA 96101

RE: Travel Management Policy Comments

Dear Supervisor Sylva:

The Modoc County Farm Bureau (MCFB) represents over 400 members, many who use the Modoc National Forest (Forest) to earn their livelihood, cut firewood or recreate. MCFB offers these comments on the Motorized Travel Management Draft Environmental Impact Statement on their collective behalf.

We concur with your approach to whether roads should remain open. It is our belief all user created routes should be designated open unless there is a rational reason for closure. These routes exist because Forest users had a destination on the Forest and traveled there. Consequently MCFB supports Alternative 5 as displayed in the DEIS.

Many of our members cut firewood on the Forest. Firewood harvest is an important component of the local economy and is a critical source of residential heating in our county's communities. Off road travel is critical for firewood harvest to continue in its current form. We strongly support your decision to utilize the opportunity granted you in the Travel Management rules to exempt certain permitted activities from the off road prohibition. We encourage you to create a new wood permit that institutionalizes this exemption.

Most of the holders of Forest grazing permits are our members. They require off road travel to salt, maintain range improvements and perform other tasks necessary to comply with the terms and conditions of their grazing permit. We are pleased that you have chosen to re-write Part 3 of the Term Grazing Permit to allow grazers to continue to use existing roads and trails, even if these routes are designated closed. MCFB has been informed it is the Forest's intention to also provide grazers with off road travel capability as well; first through language in the Annual Operating Instructions and ultimately additional wording in the Term Grazing Permit. We strongly support this action.

Many of our members own and use All Terrain Vehicles (ATVs). ATVs are an important tool for our grazing members. However, a number of our members use them for recreation. We believe that the Forest can strike a balance between the use of ATVs on Maintenance Level 3 roads and potential safety issues. Until such a time when passenger vehicle traffic increases significantly or there is reported safety concerns, we support the Forest's mixed use proposal.

In conclusion, MCFB strongly supports Alternative 5. We appreciate that the Forest took a top down directive and created a workable solution that fits our members and the community. We know there was significant pressure to do otherwise and you are to be commended for reflecting the needs of the Forest users. We look forward to working with the Forest to finalize this policy.

Sincerely,

Darrell DePaul

Darrell DePaul
President
Modoc County Farm Bureau

Modoc County Cattlemen's Association

P. O. Box E
Cedarville, CA 96104
530-279-2697
530-279-6300 fax

10 February 2009

Travel Management
Modoc National Forest
800 W. 12th Street
Alturas, CA 96101

RE: Motorized Travel Management Draft Environmental Impact Statement Comments

To Whom It May Concern:

The Modoc County Cattlemen's Association (MCCA) is pleased to have the opportunity to submit the following comments on the Motorized Travel Management Draft Environmental Impact Statement. Many of our members graze and recreate on the Modoc National Forest (Forest) and have concerns about the development and implementation of your Travel Management Policy.

We are in support of Alternative 5. It is important to bring these user created roads into the Forest road system. The existence of these routes shows the desire of Forest users to travel to certain destinations on the Forest.

We appreciate the fact that the Forest has re-written Part 3 of the Term Grazing Permit to reflect the need of Forest Service grazing permittees to travel on existing roads and trails to manage their livestock and maintain range improvements. It is our understanding that language will be forthcoming as the current permits are re-issued to also incorporate wording that allows off road travel as well. In the mean time, we support the Forest's intention to place off road language in the Annual Operating Instructions/Plans. Off road travel is essential in order for our permittee members to perform the tasks necessary to comply with the terms and conditions of their permits.

Many of our members also harvest firewood on the Forest. MCCA supports your decision to allow firewood cutters to travel off road to harvest firewood. This is an important component of our local economy. We know that the Forest is currently modifying by hand the conditions of the firewood permit to allow off road travel. We encourage the Forest to develop a new permit form that contains the appropriate off road language.

We recognize the importance of access for recreationists using All Terrain Vehicles. We know you have taken a strong stand to allow mixed use on many of the current maintenance level 3 roads. MCCA does not oppose this stance. However, several of our members have had close calls with ATV riders while operating their cattle trucks on these roads. MCCA encourages you to build some flexibility into this decision so it can be revisited if safety issues emerge.

In conclusion the MCCA appreciates the outreach of the Forest during the development of this document. Your staff has kept our organization current, as the maps and plan have been developed. We look forward to continuing this relationship as the policy is finalized.

Sincerely,

Ray Page

Ray Page
MCCA President

Jim & Liz Robinson
1795 Houston Road
Phoenix, Oregon 97535

February 2, 2009

Travel Management Team
Modoc National Forest
800 W. 12th Street
Alturas, CA 96101

Dear Forest Service:

Please consider our comments which follow on the draft Modoc travel management plan. We live 3 hours' drive from you, and we have visited the Modoc National Forest. My brother had a summer job in your area.

The draft proposes an excessive system of off-road vehicle routes, adding 336 miles of unauthorized user-created routes to the approved route system. That is too much, and we doubt the Forest Service is prepared to enforce or maintain so large a network. Already you have too many impacts from ORVs going off the approved routes, damaging wildlife habitat and scarring the land.

Please adopt Alternative 3 and strengthen it as follows:

- Close and decommission ORV routes that subdivide the citizens' wilderness proposals shown in Table 3-163, especially the Medicine Lake, Captain Jack, Lost River and South Warner Additions.
- Adopt a wet-season closure for all native-surface routes, to prevent erosion when the soils are saturated. Several other forests have adopted winter closures to reduce the impacts of erosion.
- Continue to bar ORVs from the bald eagle winter roost area near Tionesta, and retain the closure already adopted in the Forest Plan.

As written, the draft does not comply with Forest Service regulations that require you to identify the minimum road system needed, identify the roads that are obsolete and should be decommissioned, and complete a science-based analysis of the existing route system. These steps should be taken before any final decision is made.

Thank you for considering our comments.

Sincerely yours,

C. Robert Wells
708 W. Jewel Avenue
Kirkwood, Missouri 63122

2 February 2009

Stanley G. Sylva, Forest Supervisor
Attn: Travel Management Plan
800 West 12th St.
Alturas, CA 96101

Dear Mr. Sylva:

These comments are about your draft travel management plan for off-road vehicles. One of my friends worked in your area and has told me of his pleasure in exploring that little-known region of California. Here in Missouri we value the Mark Twain National Forest and take pains to protect its wild lands. The Modoc is a *national* forest, and it deserves careful protection against damage by ORVs.

It is surely wrong to be adding 336 miles of illegal, unauthorized ORV routes to the official route map, as proposed in your draft. Please drop that idea and instead work toward a restoration of the forest from the ecological damage and scars left by ORVs. It is unfortunate that you did not identify obsolete roads and propose to decommission them, and you did not make a science-based analysis of the existing route system. Those analyses are required by Forest Service regulations, and they should be done before this project goes any further.

I favor Alternative 3, but it should be strengthened by closing all routes that penetrate the citizens' proposed wilderness areas listed in Table 3-163. Also, ORV routes that approach the boundaries of the South Warner Wilderness and Lava Beds National Monument closer than 2 miles should be closed to discourage violations and cut down on ORV noises radiating into these protected areas.

Thank you for considering my views.

Sincerely,

C. Robert Wells

California Regional Water Quality Control Board
Lahontan Region

Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

February 11, 2009

Travel Management
Modoc National Forest
800 W. 12th St.
Alturas, CA 96101

COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE MOTORIZED TRAVEL MANAGEMENT PLAN, MODOC NATIONAL FOREST

The Staff of the California Water Quality Control Board, Lahontan Region (Water Board) has reviewed the above referenced Draft Environmental Impact Statement (DEIS). The DEIS states that the Modoc National Forest (MDF) has completed an inventory of unauthorized routes on Modoc National Forest lands and identified approximately 491 miles of unauthorized routes. An interdisciplinary review process was then conducted to determine what routes would be added or removed from the Modoc National Forest Trail System (NFTS). The DEIS presents four action alternatives and one no action alternative.

The proposed EIS will specifically disclose impacts associated with the following proposed actions:

1. Prohibit cross-country motorized vehicle travel off designated NFTS roads.
2. Adds between 0 and 336 miles of unauthorized routes to the NFTS, some of which would have seasonal use restrictions (depending on the chosen alternative).
3. The following changes would be made to existing NFTS roads:
   - Add seasonal restrictions to between 0 and 425 miles of road.
   - Add non-highway legal vehicles access to between 0 and 531 miles of roads.
   - Restrict use on roads 44N08 and 44N01 to "highway vehicles only".
   - Close road 46B29HB to preserve heritage resources.
4. Amend the MDF Land and Resource Management Plan for areas not covered under the Sierra Nevada Forest Plan Amendment, by removing the objective to "Keep over 87%" of the forest open to Off-Highway Vehicles (OHV).
5. Allow a specific area exemption to the bald eagle winter roost guidelines to allow for motor-vehicle use year round in the bald eagle winter roost area on forests service roads outside of Toinesta.

General Comments

Our current scientific knowledge indicates that roads are the greatest human-caused contributor of sediment to watercourses in forested ecosystems. Roads also intercept

groundwater, increase peak flows, and obstruct fish passage. Unmanaged OHV use has resulted in unplanned and unauthorized roads and trails, which has lead to excessive erosion and watershed degradation. Water Board Staff supports the MDF decision to evaluate and mitigate the impacts caused by the current network of unauthorized trails and roads. In the interest of restoring watershed function and to protect water quality, unauthorized and unneeded routes should be decommissioned and restored. Additionally essential routes authorized under the NFTS should be reconstructed and/or retrofitted when needed with appropriate best management practices (BMPs) to control nonpoint source pollution. It is also important that the MDF be accurate when estimating its ability to maintain designated roads and trails (including maintaining closure), avoid non-essential new road construction as well as user created roads, and only designate official routes where retrofits and routine maintenance can be accomplished on a regular basis.

Specific Comments

1. The Soils and Water report states the 20.1 percent of proposed road additions to the NFTS are located on soils with very high Maximum Erosion Hazard Rating (MEHR), rapid to very rapid Water Runoff Potential (WROP), and high or greater Slope Stability Hazard (SSH) and Watershed Sensitivity (WSS). However, field visits in 2008 showed that only one route in the high risk areas was actively eroding. The report also stated that all watersheds containing these high risk factors had Thresholds of Concern (TOC) well below 80 percent. Additionally all routes in high risk areas were hydrologically stable and disconnected from perennial and seasonal watercourses. Presently these road segments do not appear to be causing environmental degradation, however to ensure that conditions do not deteriorate in the future the Water Board requests that project design standards and Best Management Practices for road retrofits be applied and regularly monitored.

2. The Water Board also requests the monitoring take place to ensure seasonal road closures as well as permanent road closures are enforced and that adequate funding is available for law enforcement needs to enforce the road closures.

2. The Water Board recommends that all permanent crossings be built to accommodate a 100-year storm event. Please provide more information on the type of stream channel crossings currently present or planned for all unauthorized roads that will be included in the NFTS under the proposed alternatives.

3. Water Board staff encourage the removal of roads from sensitive areas and therefore supports alternatives that include decommissioning and routing roads and trails out of RCA's and CAR's

4. The Water Board suggest the any road within an RCA be closed seasonally to reduce the chance of sediment delivery to perennial and seasonal streams during wet times of the year.

5. The Water Board recommends that the MDF adopt Alternative 4 or Alternative 2 in that order. The Water Board is in support of Alternative 4 due to its higher protection of natural resources and response to resource concerns. Alternative 4 adds less miles of unauthorized routes to the NFTS and includes more seasonal closures of the transportations system than all other alternatives. The seasonal closures protect natural resources and decrease road maintenance by prohibiting motorized vehicle use on moist or saturated soils.

Thank you for providing the Water Board staff the opportunity to provide comments on this project. Please contact me at (530) 542-5449 if you have any questions or would like to discuss the comments submitted in this letter.

Taylor Farnum
Environmental Scientist
Nonpoint Source Pollution Control Unit

PHIL VERMILLION

402 S. Estes St.
Modoc County.
Alturas, Ca. 96101
Phone (530) 233-4509

February 10, 2009

Forest Service, U.S. Department of Agriculture
800 W. 12 Th. Street
Alturas, Ca. 96101

Stanley G. Sylva, Forest Supervisor

Kathleen Borovac Teem Leader
Motorized travel Management ESI
Draft Environmental Impact Statement

Kathleen,

First off, let me thank you for your time and trouble. I realize it takes a lot of work to deal with the public while working on a motorized travel management plan. As you know, I have some major issues with a few people back in Washington, D.C. telling us what we can or can not do with our, Modoc National Forest. If anything needs to be fixed, it is not the roads on the Modoc National Forest. It is the management of forest (timber) or lack there of. 50 to 80 years ago, the USFS built a few roads on the Modoc, mostly so they could cruse timber and prep. For sales. The people who bought the timber also had to build roads into the sale areas. (Per. USFS spec.) the new roads were used by the USFS, the loggers, wood halers, cattle men, hunters, fisherman, campers, sight-seers and Native Americans. This happened time and time again, also what happened was someone wanted to go just a little farther than that old road went, they wanted to hunt, fish or gather wood. So what we see to day has come from years and years of forest management or should I say miss-management, and it dose not look like any thing that we (Modoc Residents) say, will do any good anyway. The people who make all the decisions back in Wash. D.C. do not care what local residents think or want. If they did care we would not have millions of board feet of fir trees dieing or dead, standing and falling down. There would not be acres of burned over timber that has not been removed, ground cleared and replanted. And this is just a few of the problems on the Modoc.

I personally would like to see Alternative 1 & 5 combined . What bothers me with Alt. 5. The prohibition of cross-country travel. There is no reason for stopping a ATV from crossing an area when a large 4X4 truck haling 1 or more cords of wood can travel with the USFS ok. The ATV will leave a mark on the land (if it is no rocks) for a day to maybe a month. That 4X4 truck just extended this road by up to ¼ of a mile or more. This is how most of all your short side roads were made. Not by ATVs, and if you don't believe me go out and measure the width of the tracks. In my best judgment , I would say that 99% of the time you see ATV tracks it is on a old road(unimproved) you will see two tracks, the original tracks that are approximately 6 ft. wide and then a third track a lot lighter in the center, the reason for this is, An ATVs track is only 42 to 48 inches wide. (4-ft.) Most of the time when a person rides a ATV this way, it is more dangerous because one set of tires are in the old ruts while the other set is up in the center of the old track, sometimes 2 inches up to 10 inches difference in height. It is smother and safer off this type of road.

If there is no other choice, since Alt. 1 dose not count. Alternative 5 is the less of 4 evils that are left.

(evil) in the dictionary,

1. Morally bad: profoundly immoral or wrong.
2. Harmful: deliberately causing great harm, pain, or upset.
3. Causing misfortune:
4. Malicious: characterized by a desire to cause hurt or harm.
5. Devilish:
6. Disagreeable: very unpleasant.

Sincerely,

Signature
Phil Vermillion
Resident of Modoc, County.

February 11, 2009

sent via email to:
modoc.route.designation@fs.fed.us

Stanley G. Sylva, Forest Supervisor
Modoc National Forest
800 West 12th Street
Alturas, California 96101

Re: Draft Environmental Impact Statement for motorized travel management in the Modoc National Forest, California

Dear Supervisor Sylva:

On behalf of Trout Unlimited (TU), Backcountry Hunters & Anglers, and the undersigned parties and TU members nationwide, we submit the following comments on the Draft Environmental Impact Statement (DEIS) associated with motorized travel management in the Modoc National Forest. Trout Unlimited appreciates the opportunities given to work with the Modoc National Forest to construct a travel management plan that both protects critical and vital public resources while providing a recreational opportunity for motorized and non motorized users alike.

TU and BHA are interested parties in the Forest Service's travel management process because of the potential or already-present effects of OHV use on waters and lands that provide important habitat for trout and salmon and large game species. We welcome the opportunity to help the Forest Service create an environmentally and fiscally sustainable travel system that meets the needs of both motorized and non-motorized recreationists without compromising the Modoc NF's outstanding fish and game values and fishing and hunting opportunities.

Background

Trout Unlimited agrees with the opinion of the former Forest Service Chief Bosworth that unmanaged off-highway vehicle use is a "major threat" affecting our nation's forests and should be "one of the highest priorities for the agency."

The OHV route designation process should be directed by current Forest Service policy, as mentioned earlier, as well as certain regulatory mandates and the best peer-reviewed and objective ecological data available. The fundamentals of the Travel Management Rule revisions are Executive Orders 11644 (1972) and 11989 (1977). These Executive Orders explicitly state that the route designation process "will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands."[1] Subsequently, the designation of special use areas and motorized routes (roads and trails alike) should be in accordance with the following:

1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

General Comments

After reviewing the Draft Environmental Impact Statement (EIS) for Motorized Travel on the Modoc National Forest, Trout Unlimited can only support Alternative 3 with amended rules to add the *proposed seasonal restrictions* as defined in Alternative 4. Almost 4,600 miles of NFTS roads already exist on the Modoc National Forest. No new routes should be added to the system until the Modoc can establish, through a science based approach, a minimum road system and cumulative watershed impact analysis. This alternative is also the most cost effective.

Nationally, the number of OHV users has climbed sevenfold in the past 30 years, from approximately 5 million in 1972 to 36 million in 2000.[2] This number now

[1] Executive Order 11644 § 1 (1972) as amended by Exec. Order 11989 (1977) – Use of Off-Road Vehicles on Public Lands.

[2] Lassen National Forest, California, Lassen National Forest Public Wheeled Motorized Travel Management EIS; Federal Register / Vol. 72, No. 206 / Thursday, October 25, 2007

well exceeds 51 million today. There is no question that this significant increase in OHV use calls for immediate management action by the MNF. With over 5 million registered OHV users in California alone, it is clear that a new motorized system must be established in order to protect forest resources, visitor experience, and recreation opportunities. The MNF travel management process should create a **better**-motorized travel system, one that minimizes impacts to natural resources, roadless backcountry, opportunities for quiet and solitude, and non-motorized visitor experiences. This process should not be used to simply add more designated routes to the system.

Trout Unlimited is not looking to shut motorized users out of National Forest land. To the contrary, we feel that in some cases motorized access should be improved and even increased, and subsequently, in other cases it should be seasonally restricted and in further cases even prohibited. All of this is decidedly dependent on impacts related to motorized use as we previously described.

We highly object to designation of any OHV routes that would penetrate Inventoried Roadless Areas. The final Record of Decision should be consistent with the 2006 petition from the State of California to the Secretary of Agriculture, requesting that 100% of all Inventoried Roadless Area's in California remain in their current condition. That is, that no new roads or motorized use trails should be built or allowed to be developed through Inventoried Roadless Areas.

In addition to IRAs, Trout Unlimited is in opposition to both system and proposed unauthorized routes crossing any stream, whether perennial or seasonal, without sufficient infrastructure and law enforcement to prevent degradation of water quality and stream channel structure. Our mission is to conserve, protect and restore native and wild trout and their watersheds. The Modoc contains two rare native trout species; the Goose Lake and Warner Lake redband trout. Trout Unlimited finds the DEIS completely inadequate in regards to addressing OHV impacts concerning these two species. To be exact, there is no mention of them anywhere within the document.

We were surprised -- and alarmed -- to discover that there are some 336 miles of unauthorized routes in the Modoc National Forest OHV route inventory, all of which are proposed to be added to the NFTS. Some of these routes penetrate Inventoried Roadless Areas and cross or impinge on creeks, meadows, and other important fish and game habitat. While we appreciate the fact that some OHV users want opportunities to explore new (previously untracked) terrain, this opportunity should not be allowed if it will degrade or eliminate other forest

values and more traditional recreation opportunities. No other user group that we can think of would be allowed to cause such widespread and significant resource impacts, and subsequently be rewarded by having unauthorized routes incorporated into the designated system of OHV trails and roads instead of being closed and rehabilitated. Therefore, we strongly support the Forest Service's intent as an agency to prevent widespread OHV cross-country travel and to designate only certain roads, trails, and areas for OHV use.

Despite the rapid rate of growth in the sport, OHV users still represent only a small percentage (3 to 7 percent) of national forest visitors. The documented 897 OHV users on the Modoc in 2004 represents an even smaller percentage (less than one percent). Yet this relatively small number of users requires a disproportionate amount of management and tolerance from non-motorized visitors, as OHV use can degrade scenic, ecological, and social values far faster and more extensively than any other form of recreation. We urge you to protect the forest and its incredible resources for the rest of us to enjoy.

TU finds that the proposed action in the Draft EIS is insufficient in following the directives established by a handful of different laws and frameworks, most blatantly the Sierra Nevada Forest Plan Amendment (SNFPA) and Northwest Forest Plan (NWFP), which require, among other things:

1) A watershed analysis be completed that determines the influence of each road on Aquatic Conservation Strategy objectives, and that roads be designed to minimize impacts on riparian and aquatic resources, and that reconstructing unauthorized routes to bring them to NFTS standards in meadows or wetlands should therefore be avoided.

2) These standards and guidelines require the Forest Service to avoid road construction, reconstruction, and relocation in meadows and wetlands

3) Construction of new roads in wetlands is prohibited. Adding unauthorized routes to the NFTS in meadows or wetlands constitutes road construction, and should be avoided. Stream crossings are required to be designed to pass a 100-year flood and allow for passage of aquatic fauna.

Recommendations for the Draft Environmental Impact Statement

I. Hunting and Fishing Resources
II. Inventoried Roadless Areas
III. Seasonal Closures

I. Hunting and Fishing Resources

The Modoc National Forest is one of the most diverse forests enjoyed by sportsmen in the West. Two native trout species, the Warner and Goose Lake redband trout, are at serious risk from unmanaged off-highway vehicle use and the proliferation of new roads in the forest. The Modoc boasts exceptional hunting for both upland birds and large game species such as Rocky Mountain Elk and California Mule Deer. The forest must protect the last, best places so future generations have the opportunity to pursue these game species.

A. Goose Lake redband trout

These sensitive trout are only present in six creeks in California and 13 in Oregon. However, living at the upper edge of their tolerance makes them exceedingly vulnerable to drought and climate change.

Redband trout are inland forms of rainbow trout (Behnke 1992, 2002) and the Goose Lake trout belongs in the group of redband trout that Behnke (2002) calls "redband trout of the northern Great Basin." The Goose Lake form is most similar to redband trout of two adjacent basins: the Warner Basin, Oregon and Nevada, and the Chewaucan Basin, Oregon (Behnke 2002). This conclusion was based on the lower vertebral counts and higher gill-raker counts of redband trout in the basins and distinct genetic markers (Behnke 2002).

Goose Lake redband trout, a subspecies of rainbow trout, occurs in Goose Lake and most of its tributaries, as well as some of the tributaries of the Pit River. Historically, significant spawning runs consisting of thousands of 2-5 pound trout occurred in most suitable tributaries and provided a popular trophy fishery. Today, most of the spawning runs are blocked by diversion dams and are de-watered for irrigation purposes.

The California Department of Fish & Game (DFG) feels that, despite the drought of 1992-93 that caused the lake to dry out completely, there is a good chance for the population to stabilize and even grow. In tributaries such as Lassen Creek, several hundred Goose Lake trout have been seen spawning. The Fish and Wildlife Service wants to see the trout listed while the DFG feels that they should

not be. The USFWS has lumped Goose Lake redband trout with five other Great Basin redband trout as one Distinct Population Segment when considering a petition for listing them as threatened under the Endangered Species Act (Federal Register 65(54), March 20, 2000, 14932-14936).

Although the Goose Lake watershed may have had connections to other Great Basin watersheds during wetter climatic periods, it is clearly isolated from other basins today and presumably has been for thousands of years. Regardless of its ultimate taxonomic designation, the Goose Lake redband trout is clearly a distinct evolutionary unit confined to the Goose Lake basin and upper Pit River.

1. Importance of Headwaters

There are two life history strategies present in the Goose Lake redband trout: a lake strategy and a headwater strategy. The lake strategy fish live in Goose Lake where they grow to large size and spawn in tributary streams. The headwater strategy fish remain small and spend their entire life cycle in streams. It is almost certain that the two forms represent one population because the aperiodic desiccation of Goose Lake presumably has eliminated the lake forms repeatedly in the past. This was demonstrated most recently in 1992 when the lake dried up entirely during a prolonged drought. In the next two years, the lake refilled and about three years later, small runs of large trout appeared in the streams again. The best explanation for this is that the new fish came from headwater populations.

In the small cold streams of the Warner Mountains above the lake, scattered populations of resident trout have managed to persist, completing their entire life cycle in the streams. Most of these populations are above apparent barriers to fish coming in from the lake. Nevertheless, they seem to be identical to lake fish, even if they look quite different because of small size and color patterns reflecting responses to a stream environment. Presumably, small numbers of headwater redbands always moved downstream, a natural mechanism for dispersing to new habitats or for recolonizing streams wiped out by drought or other natural disasters. Some of these fish reached the lake and a few years later, they matured and spawned, renewing the cycle.

2. Spawning

In California, the lake-dwelling form spawns in Lassen and Willow Creeks. If sufficient flows are available, they spawn primarily in Cold Creek, a small

tributary of Lassen Creek, and in Buck Creek, a small tributary of Willow Creek. Upstream of its confluence with Cold Creek, a steep, rocky gorge apparently prevents spawners from ascending further up Lassen Creek. In Oregon, they formerly spawned in Thomas Creek and its tributaries and possibly in Cottonwood and Drews Creeks. Spawning migrations occurred in Willow and Lassen Creeks following snow melt and rain in the spring, usually during late March or in April. Spawning fish are rather pale looking, presumably from a life in murky water. Adults return to the lake following spawning. Young trout apparently spend one or more years in the stream before moving down into Goose Lake.

There are a total of 6.74 miles of unauthorized routes within Riparian Conservation Areas (RCAs) for perennial streams and lakes, and 37.84 miles of unauthorized routes within RCAs for seasonally flowing streams and lakes. We find this completely unacceptable.

Trout Unlimited requests that all proposed unauthorized routes be eliminated from these important spawning tributaries and that system routes receive strict seasonal closures during the wet season to protect the spring spawn.

B. Warner Lake/Valley

Warner Lake redband trout is a rainbow trout subspecies that was isolated in Warner Lake roughly 15,000 years ago. Evolutionary changes during their long period of isolation resulted in a unique strain of trout. Human impact over the last 150 years has resulted in the fragmentation and loss of the marsh, lake, and stream systems this species depends on.

Basin floors were developed for agriculture, where road and water systems included extensive damming, channeling, draining and loss of marshlands. Irrigation diversions were constructed on most streams causing de-watering and physical blockages for both upstream and downstream migrating trout. Cattle grazing also contributed to channel destruction in some locations. In several cases, the loss of adjacent marshlands appears to be related to increased alkalization. Lake and marsh rearing habitat and functioning migration corridors have been lost as a result. Exotic warm water species have infiltrated and spread.

Although densities and abundance are relatively high in the headwater and mid-reaches, densities in the lower reaches may be low and vulnerable to extreme environmental fluctuations and degraded habitat. Only three of the six interim

criteria were met, thereby classifying this SMU as 'at risk'. Limited data sets and inferences from other information for populations in this SMU provide a qualified level of confidence in the assessment of the interim criteria.

Trout Unlimited is very disappointed to see so many new proposed road additions in the only habitat occupied by the Warner Lakes redband on the Modoc National Forest. This area already contains a large number of routes that are part of the National Forest Roads System. Trout Unlimited feels that adding new routes is unnecessary, will continue to threaten Warner Lake redband trout, and will not provide any additional hunting or fishing access.

The following list of Unauthorized Routes should be eliminated from this area:

SS551, SS554, SS551, SS556, SS557, SS558, SS562, SS563, SS565, SS566, SS557, SS574, SS575, SS588, SS589, SS590, SS691, SS693, SS601, SS603, SS605, SS607, SS593, SS582, SS573, SS584, SS585, SS656, SS614

On top of this, Trout Unlimited is asking that all existing system routes within the Mount Vida and Mount Bidwell IRAs have a strict seasonal closure to protect the spring spawning of the Warner Lake redband trout. The majority of these system routes parallel the perennial streams that represent the only habitat left in California for this native trout species.

The following list of System Routes should have strict seasonal closures in this area:

48N32, 48N32C, 47N98, 47N21, 47N28, 47N28B, 47N28D, 47N98, 48T32A, 48T32C, 48N32A, 48N10CA, 48N10, 47T98A, 47T98B, 47T98C, 48N02B

C. Mule Deer

The National Forest Management Act requires individual forests to:

"(1) provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use, Sustained-Yield Act of 1960, and in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and timber, watershed, wildlife and fish, and wilderness;"

The Modoc NF Travel Management Plan DEIS identifies management direction in the Modoc NF LRMP for mule deer, a Region 5 management indicator species: *K. Within mule deer habitat: On deer winter ranges where OHV use is demonstrated to adversely affect deer, institute OHV closures from December 1 to March 31.* However, the DEIS provides no map of deer winter range. Nor does it make any provision for the protection of critical fawning habitat.

The DEIS discloses an alarming drop in mule deer numbers on the Modoc; from an estimated population of 100,000 in 1952 to 16,000 in 2004. [3] This is also a precipitous decline from the 25,000 animals estimated in 1996 by an inter-agency mule deer working group.[4]

The 1998 interagency report cited above divided California into 11 Deer Assessment Units (DAUs). The Modoc NF is in DAU 2, Northeastern Sierra. The report determined "the deer population in DAU 2 has declined more than any other in the state."

The Modoc DEIS analysis calculates a "zone of influence" to determine habitat suitability in key habitat for ungulates on the Modoc NF. The zones of influence are those lands adjacent to roads that are subject to human disturbance and therefore under-utilized by wildlife. The DEIS reports that all five alternatives for Travel Management on the Modoc result in 116 watersheds rated as having a "high" level of human influence, five watersheds rated "moderate," and one watershed rated "low."

According to the effects analyses for the five alternatives, none of the proposed alternatives would have a discernable positive effect on the reproductivity of deer and elk. Even alternative 3, which adds no unauthorized routes, would continue the linear effects of roads on the 4,580 miles of NFTS roads open for use. Alternative 3 would have the least route mileage within mule deer habitat, approximately 727 miles, and the least route mileage within elk habitat, approximately 433 miles. [5]

The DEIS suggests that winter and early spring seasonal restrictions in Alternative 2 would reduce impacts on 312 miles of road, but the impact is predicted to be undetectable because snow drifts currently make the roads

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[3] Modoc MIS report 2007, cited in DEIS, p. 3-232.
[4] California Department of Fish and Game, U.S. Forest Service, Bureau of Land Management. An Assessment of Mule and Black-tailed Deer Habitats and Populations in California. February 1998.
[5] DEIS, p. 3-238.

unavailable. The trend in increasing use in winter of high clearance 4-wheel drive vehicles may contradict that suggestion. Roads are known to cause displacement and stress on large ungulates; keeping IRAs intact should be a priority to protect both deer herd populations and increase hunting opportunities.

What is perfectly clear is that the existing NFTS on the Modoc is excessive and is having a serious negative impact on deer and elk numbers. It is likely in violation of the National Forest Management Act and the Multiple Use Sustained Yield Act. The Forest needs to review its existing system and identify routes that can be eliminated to improve the quality of deer habitat. It cannot simply continue to oversee the marked decline of a MIS species.

Given the proposed alternatives, Alternative 3, with the addition of a seasonal closure, best meets the needs of ungulates on the Modoc NF.

II. Inventoried Roadless Areas

Nineteen roadless areas representing nearly 202,000 acres exist on the forest. These large pieces of intact habitat are the last remaining vestiges of the Modoc, and their roadless character has to be preserved. Warner Lake and Goose Lake redband trout depend on the cold clean water that flows in and from these places. The responsible National Forest officials are required to "minimize conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands."[6] Under no conditions should new routes be added that penetrate Agency Inventoried Roadless, Citizens' Proposed Wilderness or Semi-Primitive Non-motorized areas.

Inventoried Roadless Areas (IRAs) are of enormous importance to Trout Unlimited and myriad sportsman groups throughout California. IRAs provide some of the last and best habitat left for native and wild trout species as well as large game animals in the State of California. Inventoried Roadless Areas should be protected from the side effects of new and poorly maintained roads and OHV trails to ensure a better hunting and fishing experience for sportsmen/women.

Two of California's rarest native trout, the Paiute cutthroat and Golden trout, exist only in creeks that flow either in or out of Inventoried Roadless Areas. On the Modoc, Goose Lake and Warner Lake redband only exist in these areas when

[6] 36 C.F.R. § 212.55

Goose Lake and lakes in the Warner Valley periodically go dry. In 2007, TU conducted a statewide survey of California hunters and anglers, which found that sportsmen overwhelmingly prefer that IRAs remain roadless and free of additional motorized trails.

All route designations must be consistent with Land and Resource Management Plans for each of the National Forests.[7] Where the Forest Plan does not, however, specifically prohibit the use of motorized vehicles in agency inventoried roadless areas, we contend that these areas generally should not contain designated OHV routes. The responsible National Forest officials are required to "minimize conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands."[8] By definition, roadless areas afford a type of quiet and primitive recreation that cannot be found near roads. To allow OHV use in these areas would cause disproportionate conflict between quiet recreationists and OHV users and will risk precluding roadless areas from further consideration for Wilderness designation. Given that more than 47,000 miles of roads currently exist in California's National Forests, the remaining roadless lands possess rare and critical ecological values, and therefore should remain roadless.

Furthermore, the Executive Order on Invasive Species[9] states that all federal agencies will use relevant programs and authorities to prevent the introduction of invasive species, and "not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species ... unless ... the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm." Given that roads and OHV's serve as corridors for exotic plant[10] and disease[11] invasion, and that invasion by exotic species is one of the four threats to the health of the National

[7] FSM 2355.03 § 1(a) and Federal Register Part IV, Vol. 70, No. 216, page 68268: "Designations must be consistent with the applicable land management plan. If a responsible official proposes a designation that would be inconsistent with the applicable land management plan, a proposed amendment to the plan must be included with the proposed designations so that the designation decision will conform with the land management plan."
[8] 36 C.F.R. § 212.55
[9] Exec. Order 13112 § 2 (Feb. 3, 1999)
[10] Parendes, L.A., and J.A. Jones. 2000. Role of light availability and dispersal mechanisms in invasion of exotic plants along roads and streams in the H.J. Andrews Experimental Forest, Oregon. Conservation Biology 14:64-75.
[11] Zobel, D.B., L.F. Roth, and G.M. Hawk. 1985. Ecology, pathology, and management of Port Orford cedar (*Chamaecyparis lawsoniana*). U.S.D.A. Forest Service, Portland, OR, General Technical report PNW-184.

Forests identified by the Forest Service Chief, we believe that roadless areas should serve as refuges from motorized encroachment.

In addition, the Governor of California petitioned the Secretary of Agriculture last summer for protection of all inventoried roadless areas because the "limitations on road construction and reconstruction would benefit fish and wildlife that use the lands in question and their habitat because roads have direct and indirect adverse impacts [including] ... disturbance to fish and wildlife from vehicular traffic; human activities such as poaching, pollution, and arson; and the introduction of invasive species that roads invite."[12] Intact Inventoried Roadless Areas harbor the best habitat available and are critical to the future of California's sporting legacy.

There is a fine balance that has to be achieved between access, protection of the resource and quality fishing experience. As any angler knows, adjacent motorized use while fishing has the potential to detract from the angling experience in both social (desired experience outcomes) and ecological aspects (bank erosion, dust clouds, water degradation from stream crossings). Inappropriate and mismanaged angling can also directly affect fishery resources. Thus access, especially easy access through motorized use is not appropriate for every fishery in the MNF, especially the most important spawning tributaries for Goose and Warner Lakes redband trout.

III. Seasonal Closures

Trout Unlimited endorses the strict seasonal closures under Alternative 4. Seasonal closures of unpaved roads and trails during winter months (wet weather) and/or during peak game migration periods is critical to reduce erosion and sedimentation, maintenance costs, and disturbance of wildlife.

Enforcing seasonal closures will be paramount to protect the spring spawning of Goose Lake and Walker Lake redband trout.

Future Opportunities

Trout Unlimited understands that Travel Management merely signifies the start of a long process; creating a new and better motorized system on the Modoc. In

[12] Petition of the Governor of California to the U.S. Secretary of Agriculture for Protection of National Forest System Inventories Roadless Areas in the State of California, July 12, 2006 (pursuant to 36 C.F.R. 294.10 – 294.18)

many cases, subpart B of the Travel Management rule is seen as a temporary fix to "stop the bleeding of impacts caused by unmanaged OHV use." After subpart B is addressed and the final Record of Decision is implemented, TU truly encourages the Modoc stepping forward to address subpart A of the Travel Management rule. This will ensure that a minimum trail system is established through a science based cumulative watershed impact analysis, which will more thoroughly address budgetary, resource and recreation concerns.

Trout Unlimited has its roots in local, grassroots restoration work to improve and protect coldwater fishing resources. Based on the final Record of Decision, we are looking forward to working with the Modoc to pursue funding sources and provide volunteers to restore specific decommissioned routes. We are also looking forward towards working with Modoc staff to identify potential problematic routes that are included in the final ROD, but do not meet concerns addressed in both subpart A and B of the Travel Management Rule.

Trout Unlimited anticipates a collection of both user created and system trails will need decommissioning and restoration in the years to come "post Travel Management." Poorly constructed and maintained roads are one of many threats to water quality affecting fishing opportunities, and we look forward to working together to address this issue and protect the important coldwater resources and native trout on the Modoc.

Conclusion

Trout Unlimited takes the management of our National Forests very seriously, and we expect the Modoc National Forest Route Designation Team to consider OHV travel and management in the areas listed above with the same expectations; with the protection of the resource first in mind. After attending MNF planning sessions and reviewing the set of maps attributed with the DEIS Proposed Action, **Trout Unlimited requests Alternative 3 be implemented.**

It is our opinion that new trails should be kept out of inventoried roadless areas to protect intact headwater areas and protect fish and game values for the future protection of existing recreation opportunities in the Modoc. Trout Unlimited expects to see a final ROD that considers all factors mentioned within this public comment letter, one that meets all legal and regulatory frameworks that the Modoc is mandated to operate under.

On behalf of the fish and game values of the Modoc National Forest, Trout Unlimited appreciates the opportunity to work with Forest staff and to comment on the Draft Environmental Impact Statement for Travel Management. We hope that you seriously consider our opinions demonstrated in this letter as they are the collective opinions of a diverse and national stakeholder group.

We know the Modoc takes its management and stewardship responsibilities seriously, and will make a best effort to fulfill the mandate of this process and protect the public interest and trust. We look forward to working closely with you after the conclusion of this process to develop ecologically sustainable, manageable, and enforceable Travel Management plans for the future. Thank you.

Sincerely,

David William Lass
Trout Unlimited
Northern California Field Coordinator
10356 Donner Pass Rd.
Truckee, CA 96161.

Chuck Bonham
Trout Unlimited (National)
Senior Attorney/California Director
1808B Berkeley, CA 94710-1915

Drew Irby; President
California Council of Trout Unlimited

Vicki Fenner; President
Tahoe Truckee Fly Fishers

Cindy Noble; President
Feather River Chapter TU

Carl Page; President
Wild Rivers Chapter TU

Kevin Mather; President
Sac-Sierra Chapter TU

George Sutherland; President
South Coast Chapter TU

North Bay Chapter TU

Howard Kern
Volunteer Coordinator, Golden Trout Restoration Project

Chip Brown; President
San Francisco Fly Casting Club

Organizational Overview

Trout Unlimited

Trout Unlimited (TU) is the oldest and largest coldwater fish conservation organization in North America. TU's mission is to conserve, protect and restore native trout and salmon populations throughout their historic watersheds. TU accomplishes this mission through a combination of direct advocacy for changes in law and policy, organizing of sportsmen, public education and outreach, research and dissemination of new science, and on-the-ground conservation projects implemented by TU's 150,000 grassroots members and chapter leaders.

TU, based in Arlington, Virginia, operates field offices in states and regions with especially high values for coldwater fisheries and habitat. California is one such state, with its exceptional fishing and hunting opportunities, eleven native species of trout and salmon (the most of any state outside of Alaska), and thousands of miles of rivers. However, many of California's native fish are imperiled and face a multitude of threats, including human development, water use, and now climate change. Native trout that TU is working to protect and restore in California include the Lahontan cutthroat, the Paiute cutthroat, central and southern coastal steelhead, Goose Lake and Warner Lake redband, the California golden trout, and coho salmon.

We have offices in Truckee, Berkeley, Fort Bragg and Santa Cruz.

Backcountry Hunters & Anglers

Backcountry Hunters & Anglers is a national non-profit organization whose mission is to sustain America's heritage of fishing and hunting in a natural setting, through education and work in behalf of clean water and wild backcountry lands. BHA works to preserve for future generations the peace, quiet, and sense of freedom that make hunting and fishing unique outdoor activities and that may be lost to the pressures of human population, industry and technology. BHA believes in keeping public lands healthy and accessible, in managing wildlife as a public trust, and in protecting large natural areas and natural functions that support our hunting and fishing heritage.

Stanley Sylva
Forest Supervisor
Modoc National Forest
800 W 12th St.
Alturas Ca 96101

4th February 2009

OHVs in National Forests

Dear Mr. Sylva

I suggest the vast majority of residents in N.E California, especially those making a living from the land do not want the area degraded by OHV riders on and off the roads, some of whom have no concept of the damage they do, and many who do not care.

Visitors who come not only from southern California, but from all over the U.S. and many from Europe seek the rural serenity of north East California, and the Tourists who spend a considerable amount of money during the Summer months are easily discouraged by the activity of O.H.V riders

Please do not let a noisy minority spoil it for the vast majority who have the interests and well-being of the area at heart.

Sincerely

Paul Moore

36898 Main St. • Burney, CA 96013 • Telephone 916-335-2285

February 11, 2009

Dear Supervisor Sylva:

We welcome this chance to participate in Route Designation/Travel Management on the Modoc National Forest. We appreciate NEPA Coordinator Kathleen Borovac and District Ranger Crabtree providing maps, a hard copy of the DEIS, and answering questions at the January 8th public meeting in Tulelake. We especially appreciated Ranger Crabtree advising a Klamath Falls OHV group member that there other ways of retrieving big game besides driving ATVs!

The Motorized Travel Management process provides Modoc National Forest with multiple opportunities to "do the right thing". Aldo Leopold, the father of wildlife management, once said, "A thing is right when it tends to preserve the integrity, stability and beauty of the biotic community."

BACKGROUND

We've waited a long time, some 37 years, since President Nixon's 1972 Executive Order #11644, directed federal land management agencies to "ensure that the use of off-road vehicles on public land will be controlled." Off-highway vehicles interests have incorrectly characterized the Travel Management Rule as an attempt to unfairly shut down public access to the forest. Even Modoc National Forest's Alternative 3 would allow continued motorized travel on thousands of miles of NFTS and county roads, as well as access via horseback, hiking and mountain biking.

Modoc NF's DEIS gets it right, "Unmanaged 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 OHV use on soils. Riparian areas and aquatic dependent species are particularly vulnerable to OHV use." Our deeply felt concerns about OHV's detrimental impacts on Modoc National Forest's diverse ecosystems inspire and inform the comments detailed herein.

CALLAHAN AND LAVAS ROADLESS AREAS

These Roadless Areas are contiguous with federal wilderness located within Lava Beds National Monument, and are particularly important to Sierra Club members and to the Redding-based California Wilderness Project. As you know, both the Callahan Flow RA and the westernmost part of Lavas RA are also designated ROS Semi-Primitive Non-Motorized by Modoc NF's LRMP. Roads 46A21MA and 46A21MB in the Callahan RA/ROS Semi-Primitive Non-Motorized are almost completely overgrown, don't really exist on the ground, and are not shown on your "Modoc Country" map. Likewise with 46N16A, 46A17BB and 46A17B in the Lavas RA/ROS Semi-Primitive Non-Motorized tract. These routes do not belong on the MVUM that MNF is preparing.

Routes 46N21M and 46A21M are currently used by Pacific Northwest 4-Wheel Drive Association on their "Mt. Dome Ride" and are entirely within the Semi-Primitive Non-Motorized ROS land allocation, providing motorized access to the western border of the Callahan Flow RA. OHV enthusiasts could just as easily use routes 46N20, 46N22, 46N22A and 46N22AA, which are located due west of the aforementioned routes. Please see the attached maps for more information.

NOXIOUS WEEDS

As you know, in 2003 Forest Service Chief Bosworth named the spread of noxious, invasive alien species as one of the four significant threats to our public forests and rangelands. Modoc National Forest states that "vehicle traffic is a major factor and vector in the introduction and spread of noxious weeds" and "the presence

of these invaders affects many other resources such as soil, wildlife habitat, and sensitive plants" (p. 175, Modoc NF Travel Management DEIS, 2008). With the banning of motorized cross-country travel, it follows that very careful consideration must be given to the addition of unauthorized routes to MNF's system and to expanding non-highway legal vehicle use on system routes.

The Botanical Resources section of Modoc NF Travel Management DEIS assumes that "change of vehicle class on NFTS roads has no impact to rare plants or their associated habitats" (p. 128). However this shortsighted assumption is belied by the following statements found on p. 185 of the same document, "Since off-road vehicles are designed and intended for use off-road. these vehicles have a higher probability of having been driven through noxious weeds prior to entering Modoc National Forest than standard passenger vehicles, and therefore have a higher risk of transporting noxious weed propagules to the Forest. They also have a greater risk for entering known weed occurrences within the 30 foot buffer adjacent to NFTS roads, allowed for in the proposed MVUM, than do passenger cars, due to their ability to go off-road." Thus we see that MNF has not sufficiently analyzed the noxious weed threat posed by adding 336 miles of unauthorized routes to the NFTS and by allowing mixed use on 138 to 531 miles of roads.

OHV's knobby tires are very efficient at spreading invasive plant species. Montana University found that one off-roader dispersed 2,000 spotted knapweed seeds on a 10 mile course, and, in 2003 scientists found OHVs to be the primary vector spreading noxious weeds in roadless areas (Best Management Practices for OHV Use on Forestlands, Switalski and Jones 2008). MNF's Travel Management DEIS claims that there are just 5.14 acres of spotted knapweed on the Forest, and that a mere 7941 acres of noxious weed infestations are within the "affected environment". Yet MNF states that "there have been no systematic noxious weed surveys on the Forest since 2004" and that "no route-specific surveys for noxious weeds were conducted" for Travel Management" (p. 178, MNF TM DEIS 2008). USDA Forest Service tells us that noxious weed infestations are increasing at a rate of up to 12 percent a year, and Modoc staff writes, "The actual total infested area of the Forest is considerably higher, since widespread infestation of Medusahead, cheatgrass, bull thistle, and Russian thistle have not been documented at all, and other species such as Dyer's woad are not fully documented" (ibid). No reason is given as to why such widespread infestations have not been documented, and this paucity of field data is surprising because we know that quality rangeland is an important economic resource on the Modoc Plateau. It is clear that MNF has very little current, accurate field data as to how much public rangeland and forest is infected with noxious weeds, much less any realistic idea of what the noxious weed situation is on the hundreds of miles of proposed NFTS additions.

The DEIS's Noxious Weeds: Environmental Consequences section states, "Designation....has the potential to increase the risk of noxious weed introduction and spread. Routes, infestations, mitigation or control measure will need to be reevaluated on a continual basis to assess and address the risk from noxious weeds (p. 179, ibid). Where is the plan for continual noxious weed risk reevaluation? How can we believe this will be done for routes proposed for designation, when MNF is not currently doing so for NFTS routes? Modoc NF's 2002 Road Analysis Report tells informs taxpayers that the MNF's transportation system needs $8,418,987 for deferred maintenance and $43,124,096 for identified capital improvements (p. 19). How will MNF fund the continual noxious weed risk reevaluation prescribed by the TM DEIS?

AQUATIC SPECIES CONCERNS

We find it odd that the MTM DEIS's Aquatic Organisms section fails to mention even one single species or even one watershed by name. Much of the Aquatic Organisms section seems to be an incomplete, "boilerplate" template. Modoc NF's 2002 Road Analysis Report lists federal T&E species including Modoc Sucker, Shortnose Sucker, Lost River Sucker, Shasta Crayfish, and the proposed Oregon Spotted Frog (p. 11). Why doesn't the TM DEIS even mention these organisms? The Road Analysis report also tells us that the Forest hosts 40 Forest Service listed sensitive species (p. 11). How many of these are aquatic, and why are zero FS sensitive aquatic organisms mentioned in the MTM DEIS?

We are particularly concerned about native populations of Goose Lake redband trout (*Oncorhynchus mykiss* ssp.), a USFS Region 5 Management Indicator Species and a USFWS Species of Concern. Goose Lake redband trout "is clearly a distinct evolutionary unit confined to Goose Lake and the upper Pit River" (Moyle et al. 2008). These unique fish have two life strategy/population types, one living in Goose Lake and spawning in streams, and another that spends their entire life cycle in streams with headwaters in Modoc NF. The headwaters strategy fish population replenishes the Goose Lake population when rains return after the lake dries up completely, as it did in 1992, in 1926, and in the 1630s and the 1420s (ibid). The attached USDA Forest Service .pdf printout, Climate Change, states, "over the next hundred years, the average temperature in the U.S. is expected to rise by 4 to 9 degrees", "warming in western mountains is projected to…reduce summer streamflows", and "snow and ice will melt earlier, resulting in drier summer conditions". Thus Goose Lake headwaters strategy populations will be critical to the survival of this unique subspecies as climate change continues to impact the biosphere.

Inquiring citizens must look to MNF's Land Resource Management Plan (Chapter 4 - Warner Mountain Management Area Direction) to learn that Management Areas 31, 32, 34, and 36 contain fisheries for which there exist management prescriptions. These include: a) "minimize cumulative watershed impacts on stream channel condition and water quality by assessing the effects of each land - disturbing activity prior to its undertaking", b) "develop site specific management practices for soil disturbing activities", c) "restrict use or obliterate roads and trails, when necessary, to protect the soil resource and maintain water quality" and d) "continue fish habitat enhancement work in Lassen and Cold creeks and complement, where possible, watershed improvement activities".

We question whether or not Modoc NF's LRMP was carefully adhered to when preparing the MTM DEIS. It would be best for the continued survival of Goose Lake redband trout if Modoc NF decommissioned and restored NFTS and unauthorized roads and trails to protect soil and hydrological resources in watersheds where *Oncorhynchus mykiss* spawns.

WILDLIFE CONCERNS

In 1903 President Theodore Roosevelt hiked and camped for three days in Yosemite with Sierra Club founder John Muir. Their campfire conversations focused on the need to preserve America's majestic wildlands for future generations. As you know, in the following year President Roosevelt created a Forest Reserve in response to Modoc County stockmen's concerns about deteriorating range quality, and since then ongoing federal regulation has played a leading role in conservation on the Modoc Plateau.

Modoc NF is home to many species that are experiencing declines. Habitat fragmentation and degradation threaten security for wildlife, such as elk, deer, pronghorn, mountain quail, and sage grouse. Hunting is big business in Modoc County, bringing needed revenue to local service and tourist businesses. The Department of California Fish and Game website tells us that Zone X-1 deer herds are considerably below levels seen in the late 1960s, that the odds of drawing a local elk tag are 1 in 277, and that "you may not see many deer from the roads in this area and generally the more successful hunters do more hiking to locate deer." Backcountry hunters are acutely aware of how the abuse of off-road vehicles scars the land, pollutes water, spreads weeds, frighten wildlife and destroys solitude. Expanding Modoc National Forest's road system is not likely to enhance traditional local hunting opportunities. Modoc NF has the opportunity to increase habitat security for a number of wild species by not adding hundreds of miles of routes to an already drastically under funded system.

Best management practices (BMPs) for wildlife include prohibiting OHV use in critical habitat, maintaining habitat security in large unfragmented blocks of forestland, and reducing road density below 1 mi./mi.^{2}. The attached Best Management Practices for Off-Road Vehicle Use on Forestlands cites more than 150 papers and has been reviewed by several scientists, including wildlife biologist Michael Wisdom of the USFS's Pacific NW Research Station. Please see pages 21 through 27, Wildlife BMPs. We've also attached a copy of Michael Wisdom's "Effects of Off-Road Recreation on Mule Deer and Elk."

RECREATIONAL CONCERNS AND THE PREFERRED ALTERNATIVE

The Sierra Club's members have strong recreation and conservation interests. The 2004 National Survey on Recreation and the Environment found birding, day hiking, and backpacking to be the three fastest growing activities, well ahead of off-road driving. With increasing population and recreation pressures on public lands, a rise in user conflicts is inevitable, even in relatively remote places like Modoc County. Growth is coming to "Nor-Cal", like it or not; Tehema County Board of Supervisors is currently seeking to implement a growth plan that would add more than 400,000 housing units to the I-5 corridor, a mere 3 hour drive from the Modoc.

While Modoc NF's Alternatives #2 and #5 propose to add 336 miles of unauthorized routes and add mixed use on 138 and 531 miles of NFTS roads. The Proposed Actions on adjacent National Forests would add many less miles of routes/mixed use. Klamath NF proposes to add 54 miles of authorized routes and add mixed use on 24 miles of NFTS roads. Shasta-Trinity NF proposes to add 43 miles of authorized routes. Lassen NF proposes to add 37 miles of authorized routes and add mixed use on 12 miles of NFTS roads.

Given this situation, it is plain to see that if either Modoc NF's Alternatives #2 or #5 were to be implemented, the Modoc National Forest would be transformed into a mecca for OHV riders and groups. OHV impacts on MNF would grow exponentially as renegade riders and their machines flocked to "their" National Forest.

ACTIONS SOUGHT

- Please read and study the attachments to our comments.
- Please "do the right thing" and choose Alternative 3, or at least come up with a more ecologically conscious Alternative. The Shasta Group would be glad to meet with ID team members and discuss such an Alternative.
- Decommission and restore NFTS roads and unauthorized routes to protect soil and hydrological resources in all watersheds where *Oncorhynchus mykiss* spawns, as per the LRMP.
- Carefully consider your MTM DEIS's Noxious Weeds section and our critique of it before designating routes for mixed use.
- Do not add routes and mixed use disproportionately when compared to adjacent National Forests.
- Consider the impact of climate change when implementing MTM.
- Omit routes 46A21MA, 46A21MB 46N16A, 46A17BB, 46A17B 46N21M and 46A21M from inclusion in the MVUM, as per the CALLAHAN AND LAVAS ROADLESS AREAS section herein.

CONCLUSION

With the Forest Service's publication in the Federal Register of Final Directives for Travel Management on 12/9/08, the "travel analysis/sub-part A" controversy seems to have abated somewhat. Yet, the published Summary of Changes to the Current and Proposed Directives for Forest Service Manual 7712.3 states, "travel analysis is not required for decommissioning unauthorized routes". Thus decommissioning user-created routes and unauthorized roads is a very real option under Travel Management.

We wish to thank the entire ID team for their time, patience, and indulgence. Yours is not a job we envy.

Sincerely,

Bob Musgrove
Shasta Group of the Sierra Club
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Mount Shasta CA 96067

Curtis Knight
California Trout
Mount Shasta Area Program Manager
PO Box 650
Mount Shasta, CA 96067

Gordon Johnson
California Wilderness Project
P.O. Box 992438
Redding, CA 96099

Kyle Haines
Eastside Coordinator
Klamath Forest Alliance
P.O. Box 457
Klamath Falls, OR 97601

SIERRA ACCESS COALITION

PO Box 944, Quincy, CA 95971
(530) 283-2028
Info@sierraaccess.com

February 8, 2009

Modoc National Forest
Stanley Sylva, Forest Supervisor

Sierra Access Coalition (SAC) is a user group based out of Quincy, CA. with approx. 900 members. We have reviewed the Modoc NF Travel Management Plan. We want to commend you on a well thought out plan that is responsive to the needs of the public while protecting resources and considering local economy.

Alternative 1 is unacceptable because it allows cross-country travel to continue. SAC does not support any alternative that allows continued resource damage.

Alternative 3 doesn't designate any routes in addition to existing system routes. The impact to recreational use and dispersed camping is significant and unacceptable.

Alternative 4 also is not acceptable because of the impact to recreational motorized use.

According to Table 2-4, the rankings between Alternative 2 and Alternative 5 are negligible, with only a slight improvement in Alternative 2 for Botany and Noxious Weeds, and an improvement in Alternative 5 for recreation. Alternative 2 is the Modoc's Proposed Alternative. However, we support Alternative 5 for the following reasons:

Recreation: This alternative provides the most miles of recreational opportunities, and allows mixed use on all level 3 roads (544 miles). It is refreshing to see a forest that is standing up and allowing the California Highway Patrol to interpret the applicability of the California Vehicle Code on forest roads. Green stickered vehicle access on maintenance level 3 roads is essential for a complete recreational experience with loop opportunities. Alternative 2 only changes 138 miles to mixed use roads. Alternative 5 is preferable because of the higher mileage for mixed use and greater recreational opportunities. Public safety has been adequately considered, with restrictions on only a limited number of roads.

Dispersed Camping: The Modoc plan was developed with dispersed camping considered as a primary issue. By keeping short spurs open, rather than making an arbitrary decision to close them based only on their length, the plan provides maximum access to dispersed campsites that families and others have used for years. This is also linked to the mixed use issue. The public needs access from their dispersed campsites into the forest. This often requires use of maintenance level 3 roads to connect to other routes, without having to load up and move their OHVs.

Wildlife: Your wildlife analysis is excellent. Adding an exemption to allow OHV use year round on certain roads in Bald Eagle roosting areas Tionesta shows a sensitivity to the community and the local economy. You documented how this will not impact the eagles, resulting in a win-win situation.

Aquatics: Impacts to Aquatic Resources is the similar between Alternatives 2 and 5, with no significant impacts.

Heritage Resources: Alternatives 2 and 5 both provide for protection of Heritage Resources.

Botany: The Botany analysis shows that the impact of Alternative 2 is only marginally better than Alternative 5. Vernal pools would be more protected under Alternative 4. But the analysis states that any of the alternatives, other than Alternative 1, would provide a significant level of protection for rare plant species and their habitats. For that reason, SAC supports Alternative 5.

Socio Economic: The DEIS does an excellent job addressing the economics of communities in the Modoc NF area. This is an important consideration, and you address it well.

Overall, the Modoc has done an outstanding job. As stated previously, Sierra Access Coalition supports Alternative 5 rather than the Modoc's Proposed Alternative 2.

Please give me a call if you have any questions.

Thank you,

Mike Lazzarino

Mike Lazzarino
Executive Director
Sierra Access Coalition

cc: Sierra Access Coalition Steering Committee
cc: California Off-Road Vehicle Association
cc: Paradise Ridge Riders
cc: Recreation Outdoors Coalition
cc: Dave Wood
cc: Don Amador, Blue Ribbon Coalition

Betsy Shade, M.D.
1762 Belle Court
Millersville, MD 21108

January 31, 2009

Modoc National Forest
Attn: Travel Management Team
800 W. 12th St.
Alturas, CA 96101

Dear Sir or Madam:

These comments are submitted for consideration on the Modoc National Forest travel management plan. I feel close to this area because my sister and her husband visited the Modoc a few years ago. My six children (ages now 9 to 13) love wild country, and we all hope the roadless areas of the Modoc will still be wild when they grow up and explore our beautiful land for themselves.

Your draft says 336 miles of unauthorized routes created by off-road vehicles will be added to the approved ORV route system. Please reject that addition. The Modoc already has a road maintenance backlog of more than $128 million. Those added miles will mean more maintenance obligations, because ORVs cause serious damage.

I urge you to select Alternative 3 because it is best in limiting the impacts of ORVs on the forest. It should be made stricter by closing routes that divide the citizens' proposed wilderness areas listed in Table 3-163. Your proposal goes in the wrong direction by opening 16 more miles in those areas. The proposed wilderness areas – such as Captain Jack, Lost River and Medicine Lake – will be a valuable addition to the national wilderness system someday. Your plan should be helping toward that protection.

The bald eagle roosting area near Tionesta should remain closed to ORVs in winter, as required by the Forest Plan. Please close existing routes within roadless areas adjoining Lava Beds National Monument and South Warner Wilderness – those areas deserve extra care as wild, roadless lands. ORVs should not be allowed within 2 miles of the boundaries of Lava Beds or South Warner.

Thank you for considering my thoughts. I wish you well in this planning effort.

Sincerely yours,

Betsy Shade MD

To Stan Silva,

In regards to the road system being proposed we would like you to consider #5 on your list. This is the only one that fits the need of everyone in the county.

Thank you

Mrs. Chuck Roethler
1205 W. 12th St.
Alturas, Ca.
96101

RECREATION OUTDOORS COALITION
4000 Beacon Drive
Anderson, CA 96007

February 11, 2009

Travel Management Team
Modoc National Forest
800 West 12th Street
Alturas, CA 96101

Dear Travel Management Team:

Recreation Outdoors Coalition (ROC) is a non-profit organization created to promote responsible access, multiple use, stewardship, tolerance and safety for those recreating on our public lands. We support local, State and federal land management policies while advocating environmentally sustainable recreation use.

ROC has, in general, been very supportive of route designation. We believe a well designed and managed, sustainable off-highway vehicle (OHV) program is necessary to provide quality riding experiences on the Modoc National Forest (MNF). We support a modified Alternative 5 as representing the best balance between access and environmental stewardship.

1) Motorized Mixed Use on Other Public Roads through the Modoc National Forest

A key objective of travel management planning is: "To coordinate travel planning and analysis on NFS lands with federal, state, county and other local governmental entities and tribal governments and to allow the public to participate in the designation of NFS roads, NFS trails, and areas on NFS lands for motor vehicle use."[1]

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

2) Access Over Private Lands

The lack of a formal or legal road agreement across private ownerships should not eliminate unauthorized routes from designation. The public can still travel on them through NFS land and the landowner may have given users implicit permission to pass

[1] Forest Service Manual 7702, Objectives

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

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

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

Most NFS passenger car roads are unpaved, single lane with design speeds less than 25 mph and low average daily traffic counts (Source: FS INFRA Roads). NFS passenger car roads provide important links to the MNF's maintenance level ML 2 road system and motorized trails. "Share the road" information, maps, speed limits, and/or road signs will greatly enhance visitor safety on all unpaved ML 3-5 roads designated for mixed use.

Based on a traffic survey ROC did on 72 miles of ML 3-4 roads on the Lassen National Forest in 2005, we believe almost all traffic on NFS passenger car roads is high clearance vehicles (pick up trucks, sport utility and trail rated vehicles). It is a misnomer for the FS to continue to refer to unpaved ML 3-5 roads as "passenger car roads." On the Lassen National Forest, only 10 percent of the use on ML 3-5 roads was actually passenger car. The rest were high clearance vehicles or non-highway legal vehicles. We noted 17 percent of your traffic on ML 3 roads was passenger car (Appendix N).

The DEIS states:

"Many MNF roads were constructed to permit access for fire suppression and to facilitate vegetation management. These roads also provide access for resource protection and for commercial activities or public uses such as grazing, mining, vegetation management, fire suppression and recreation outfitting and guiding."[2]

In ROC's view, most MNF roads are logging, fire or service roads and fall under the exemption from a "highway" in Section 38001 CVC:

"For the purposes of this division, the term 'highway' does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted."

Motorized Mixed Use Policy for the Pacific Southwest Region:
The Region 5 motorized mixed use policy cites the CVC for prohibiting non-highway legal travel on ML 3-5 roads. However, agencies may propose "combined use" on

[2] DEIS, Volume 1, page 32.

if not gated or signed at the private land boundary. Please summarize your discussions with private landowners for proposed routes that cross their ownerships in the FEIS. If forest routes to private land have existed for decades, now is not the time to close them simply because of the private land issue. They may still have value for firewood collecting, hunting, or other recreation activities. Private landowners can post their property if they wish to restrict public access.

3) Motorized Mixed Use on Unpaved National Forest System Roads

Alternative 5 proposes mixed use on many ML 3 roads. However, the ML 3 road mileages vary between 531 miles in Table 2-13 on page 20 in Volume 1; 544 miles in Table 2-11 on page 19 in Volume 1; and 703.4 miles in Appendix K on page 172 in Volume 2. We are unclear if mixed use is proposed on all ML 3 roads or only a portion of them. Please clarify this in the FEIS. ROC's Modified Alternative 5 includes the designation of all unpaved NFS roads for mixed use unless a rare exception exists. Our analysis of the Region's mixed use policy and the California Vehicle Code supports this recommendation.

California Vehicle Code:
The Pacific Southwest Regional Forester has said all NFS passenger car roads (maintenance level 3-5) are "highways" under the California Vehicle Code (CVC). This conflicts with the December 19, 2007 letter from the California Highway Patrol (CHP). Please note, there is no definition for a "highway" "public highway" or "forest highway" in Forest Service Manual 7700, except in FSM 7741.1, which states:

> "Forest highways are a special classification of forest roads. They are specifically designated State or local government roads that meet the criteria listed in 23 CFR 660.15. The designation of forest highways is not intended to form a 'system' of roads. Instead, the purpose of the designation is to identify State and local government roads that qualify for construction and reconstruction funding under the forest highway program. To qualify for designation as a forest highway, a forest road must: 1) Be a State or local government road that is open to the general public. A forest development road may have the designation of a forest highway, provided that the Forest Service assures the Federal Highway Administration that a State or local government agency will assume jurisdiction and maintenance responsibility upon completion of improvements."

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

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

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

highway segments if the procedures in Section 38026 CVC are followed and the CHP concurs. Since the Regional Forester says ML 3-5 roads are subject to the CVC, then the correct term to permit non-highway legal vehicles on NFS "highways" is "combined use", not mixed use. If a Forest Supervisor assumes supremacy over the CVC in the management of NFS passenger car roads, the correct term would be mixed use. If the Regional Forester accepted CHP's interpretation that the CVC does not apply to unpaved ML 3-5 "roads", then the correct term to permit non-highway legal vehicles on these roads is also mixed use.

Engineering Analyses:
We compliment you on proposing so many ML 3 roads for mixed use under Alternative 5. Non-highway legal vehicle travel on ML 2 roads would be "segmented and would not provide a continuous motor-touring experience for motorized recreationists."[3] Under Alternative 5: "The motor touring experience would be enhanced because all of the Level 3 connector routes would be available for use by all vehicles."[4]

ROC requests you modify Alternative 5 to allow non-highway legal vehicles on all unpaved NFS passenger car roads (ML 3-5) unless an exception exists and mitigation will not be effective. You may have already considered other ML 3-5 roads and prepared the engineering analyses, but this information is not in Appendix N for our review. Your road mileage data is also inconsistent. Table 3-22 indicates 44 miles of higher level roads are open to highway legal vehicles only under Alternative 5 while the text says: "Of the 4,919 miles of NFTS, 4,630 miles would be designated for mixed use . . ."[5] This statement implies 289 miles would be designated for highway legal vehicles only. The total NFTS numbers also differ (4,339 in Table 3-22 and 4,919 in the text). Are you proposing to add 336 miles of unauthorized routes or 339? Which numbers are correct?

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

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

Per Forest Service national direction, an engineering analysis is required to assess the probability and severity of crashes on roads proposed for mixed use.[7] Where the criteria in FSH 7709.55, 30.3 are met, the MNF may prepare an engineering judgment instead of an engineering report. These three criteria are:

[3] DEIS, Volume 1, page 75.
[4] DEIS, Volume 1, page 78.
[5] DEIS, Volume 1, page 77.
[6] Federal Register, Vol. 70, No. 216, Rules and Regulations, November 9, 2005.
[7] See EM-7700-30, "Guidelines for Engineering Analysis of Motorized Mixed Use on National Forest System Roads."

"When all of the following conditions exist, a qualified engineer may document engineering judgment that an engineering report is not needed to designate a road for motorized mixed use:

1) The proposed designation is consistent with State and local law *(and it is for unpaved NFS roads regardless of maintenance level according to the CHP).*
2) The road being considered for designation currently has motorized mixed use.
3) There is no documented crash history involving motorized mixed use on the road or similar roads in the vicinity."[8]

Please consider more mixed use roads and prepare engineering judgments when the three criteria above are met. Explain why mitigations would not be effective if a road is not designated for motorized mixed use. Include all engineering reports in Appendix N so the reader understands why some roads are not recommended for non-highway legal vehicle use. Appendix N shows the Forest has low traffic volumes with no crash history on all the roads listed. What about the other ML 3-5 roads not listed?

Our other Appendix N comments are:

1) Please define the different Traffic Service Levels (TSL) in the tables for the reader to understand. The majority of the roads listed have a C or D TSL. We believe a TSL of C is "flow interrupted, use limited." A TSL of D is "slow flow or may be blocked." All passenger car roads with a C or D TSL are appropriate to consider for mixed use.
2) Appendix B - Traffic Count Summary and Appendix C - Traffic Count Log. Your traffic count periods do not appear to be systematic. From a statistical standpoint, we question the validity of your data as the count hours are too random. You show vehicles per hour. Is this peak hour or average daily traffic?
3) Explain what the numbers mean in the location column in Appendix B - Traffic Count Summary.
4) We note the most common "Vehicle Type" is a high clearance vehicle; 17% of your use was passenger car. This is sufficient rationale to consider lowering maintenance levels. Why have so many miles of ML 3-5 passenger car roads when the majority of your traffic is high clearance vehicles? Dropping to a ML 2 does not restrict passenger cars on those roads and does not require NEPA.
5) Your analysis is inaccurate for several Analysis Areas. On page 231, the average traffic is 1.5 vehicles/hour not 3. On page 236, the average count is 1.6 vehicles/hour or less than 2, not less than 3.
6) Traffic counts were apparently taken at incoming intersections. ROC does not believe this is a reasonable estimate of traffic on the entire road.
7) The risk of a crash (item #9 in Appendix N) makes judgments about crash probability and crash severity. We do not know what criteria or benchmarks were used to determine this. Please include them in the FEIS. We have attached the benchmarks ROC used for the engineering analysis we completed on the Lassen National Forest (Exhibit 1).
8) How did you determine average speeds? It should be the speed of a prudent driver at the 80th percentile. You state most anticipated average speeds are less than 35 mph, which could range from 5-70 mph! If these roads have a TSL of C or D, we suspect most have a design speed ranging between 10-20 mph. Please display the INFRA design speeds of these roads as well as the TSL.

[8] FSH 7709.55, 30.3, #5

The Regional Forester's January 13, 2009 motorized mixed use letter of direction to the Forest Supervisors is a concern to ROC. The Region's mixed use policy invalidates your mixed use proposals on passenger car roads greater than three miles unless you: 1) Lower the maintenance level; 2) Assume supremacy over the CVC on these roads; or 3) Disregard the CVC. The steps for reclassifying a ML 3 or 4 road to ML 2 are both time consuming and expensive. Proposing "combined use" designations on 544 miles of ML 3 roads requires conformance with Section 38026 CVC. Segments must be less than three miles, which will prohibit non-highway legal vehicles on hundreds of miles of roads in the MNF. We also doubt the CHP has the personnel or funds to review many of these analyses.

If the MNF chooses to designate all 544 miles of ML 3 roads for mixed use (and perhaps more under our modified Alternative 5), the Regional Forester's Team (RFT) must concur with your proposal.[9] Isn't the RFT about 50+ people? Will many proposals be approved?

Please explain in the FEIS how the Regional Forester can cite the CVC to prohibit motorized mixed use on NFS passenger car roads, but then allow it on certain roads or road segments that are far greater than three miles in conflict with Section 38026 CVC. It appears the Forest Service is applying as well as ignoring the CVC at its own discretion. This inconsistency is confusing to the public. ROC believes the Regional Forester's January 13th letter is doomed to fail the OHV community as not many mixed use or combined use proposals will be submitted.

ROC asserts the Forest Service does not have enough mixed use accident data from Region 5 national forests to adopt a regional policy that prohibits motorized mixed use on thousands of miles of unpaved passenger car roads in California. If it's the Region's policy to treat "public safety as a paramount consideration when determining whether to allow motorized mixed use (mixed use) on National Forest System roads"[10], where is the data? ROC has requested, but never seen any regional accident data. To date, we know of no mixed use accidents on the Shasta-Trinity, Modoc, Lassen, Plumas or Inyo National Forests. The Tahoe National Forest has had four mixed use accidents in the past 15 years. There is insufficient accident data to adopt a regional policy that prohibits mixed use on thousands of miles of passenger car roads. Unpaved ML 3-5 roads should be open to all vehicle classes unless an exception exists for some road segments due to public safety, past accidents, resource concerns, user conflicts or other considerations that cannot be mitigated.

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

[9] RF letter dated January 13, 2009.
[10] RF letter dated January 13, 2009.

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

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

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

Mixed Use and the Highway Safety Act:
ROC has reviewed and commented on several environmental documents for travel management from other Region 5 national forests. They state passenger car roads are subject to the Highway Safety Act (HSA). Please note, roads subject to the HSA have to meet certain safety standards as defined in FSM 7733 and FSH 7709.59. The HSA, however, does not prevent the Forest Service from designating these roads for travel by non-highway legal vehicles. Please do not cite the HSA as a reason for prohibiting motorized mixed use on NFS roads on the Modoc National Forest.

4) Seasonal Restrictions

The Travel Management Rule allows the FS to adopt seasons of use and emergency closures. "Seasons of use" should also be considered for other NFS roads and trails when you develop your alternatives to prevent vehicle damage when road surfaces are wet and to reduce your road maintenance costs. However, wet weather closure plans should be based on weather-related criteria (rainfall, soil conditions, etc) and not set dates. We disagree with your statement on page 22 in the DEIS which says: ". . . it is not practical to change dates as they occur with different seasonal weather situations each year." However, this is how you manage your fuel wood program – the dates and times when cutting is permitted change every year based on weather conditions. We recommend the same approach for seasonal road closures. ROC assumes any "season of use" for specific roads applies to everyone, including Forest Service vehicles. Please respond to that assumption in the FEIS.

5) Affordability Analysis and Road Maintenance Levels

The FSM states: "Consider maintenance and administrative obligations and capability in the context of future budgets and staffing. Administrative units and ranger districts should avoid adding routes to the forest transportation system unless there is adequate provision of their maintenance. Grants, agreements, and volunteers may be used to extend Forest Service resources"[11].

[11] Forest Service Manual 7715.03, Policy, #6.

ROC is concerned about the Agency's liability due to the lack of maintenance of NFS roads. The DEIS states the MNF has approximately $128,000,000 in deferred road maintenance, although you believe $10,961,034 is a more realistic estimate.[12] Table 3-3 displays the Forest's annual estimated road maintenance costs. The cost to maintain a ML 3 road is almost 2.5 times the amount to maintain a ML 2, high clearance road ($538 vs. $213 respectively).[13] All alternatives require over $1.2 million annually to maintain the MNF's road system (Table 3-5) compared to an average budget of $768,000.[14]

The amount of your deferred maintenance and disparity between your current annual budget and annual maintenance cost does not meet the MNF's Forest Plan direction to: "Maintain all Forest roads to their objective maintenance level."[15] Please describe in the Affected Environment section of FEIS how many miles of roads are maintained to their objective maintenance level in accordance with Forest Plan standards and guidelines. Describe how this may change under each alternative.

Reducing objective road maintenance levels should be seriously considered to bring your road maintenance program in alignment with the MNF's expected out year budgets. "Setting road-maintenance levels and changing maintenance levels are administrative, and not subject to NEPA. However, changes in allowed vehicle class, season of use, access, and proposals to reconstruct facilities are subject to NEPA."[16] Since passenger car travel will not be prohibited and operators can choose to drive their passenger cars on ML 2 roads, NEPA is not required. It makes little sense to maintain roads to a higher ML if passenger cars are a minor component of the traffic (17 percent on ML 3 roads).[17] ROC believes "prudent drivers in standard passenger cars" with P-rated tires almost always stay on paved roads. The primary vehicle class using the road should drive the assignment of objective road maintenance levels and not vice versa.

The MNF's traffic volume on ML 3 roads is very low from the data in the DEIS, Appendix N, and Volume 1. A count of users on ML 3 roads showed that on any day of the week, the average use was 2 vehicles/hour.[18] The DEIS further indicates:

> "The roads on the Forest are gradually deteriorating due to surfacing being worn off or pushed off the edge of the roads, and by the occurrence of vegetation encroachment. Some of the roads are being encroached upon by brush; and unless the brush is cleared, the roads will eventually become impassable. There is the possibility that in some cases vegetation encroachment may result in less sight distance for drivers, which may result in a safety concern over time."[19]

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[12] DEIS, Volume 1, page 33.
[13] DEIS, Volume 1, page 33.
[14] DEIS, Volume 1, page 37. The FY09 allocation is $768,000. This amount differs from page 61, which states the projected FY09 allocation for roads is $688,000.
[15] DEIS, Volume 1, page 40.
[16] DEIS, Volume 1, page 26.
[17] DEIS, Volume 2, Appendix N.
[18] DEIS, Volume 1, page 68.
[19] DEIS, Volume 1, page 61.

ROC does not consider the MNF's ML 3 roads to be passenger car roads or "highways." They are "roughly graded" and becoming more so over time. The lack of road maintenance is a serious liability issue for the Agency.

As an option to reduce your maintenance costs, temporarily raise the operational ML of a road to provide more economical commodity haul (or for some other management purpose), then lower the operational ML when the activity has ended. Consider converting some ML 2 roads with low use to motorized trails to further reduce your maintenance costs. Re-classifying road maintenance levels is consistent with your Forest Plan direction to: "Plan, design, and construct local roads to the lowest standard commensurate with intended use."[20] This direction is appropriate for existing NFS roads and the predominate vehicle class using those roads. Assign your objective maintenance levels commensurate with your use.

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

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

6) Parking and Dispersed Camping Off Roads

Describe whether big game retrieval, parking or dispersed camping off designated roads, trails or areas will be allowed. The DEIS is silent on this, except to say access is proposed to dispersed campsites.

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

Table 3-23 displays how many proposed routes access dispersed camp sites by alternative, but we have no baseline to measure this number against.[21] In the FEIS, please include the total number of routes that access dispersed campsites in the discussion of Measurement Indicator 3 on page 70. Table 3-23 also differs from the statement on page 73, which says under Alternative 1: "This alternative provides motorized access to all of the dispersed campsites on the Forest." Table 3-23 indicates zero routes access dispersed camps. Which is correct? ROC recommends continued access to all historically used dispersed campsites. At some campsites, please consider designating an area for vehicle parking to protect riparian areas, meadows or other sensitive resources.

[20] DEIS, Volume 1, page 40.
[21] DEIS, Volume 1, page 70.

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

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

7) Impacts from Firewood Collection

The DEIS states:

> "Gathering firewood and hunting are the primary activities associated with OHV use. People are creating additional trails to access firewood areas. Although past use has not been significant, some resource damage is occurring."[22]

The DEIS further states:

> "Any activity associated with contract, permit, lease, or other written authorization is exempt from designation under the Travel management Rule . . . and should not be part of the proposal (e.g. fuel wood permits, . . .) Such actions are subject to separate NEPA analysis."[23]

ROC disagrees with this assumption. We believe the terms and condition of fuel wood permits should comply with the principles of the 2005 Travel Management Rule. It makes no sense for the MNF to restrict motor vehicle travel on unauthorized routes that are not designated if fuel wood cutters are allowed to use these same roads under the terms of their permit. Fuel wood cutting takes place season-long over the course of many months until fire restrictions come into effect. Cutters can continue to use existing unauthorized routes and also create new routes as the DEIS describes. This activity has never been analyzed under NEPA and there is no indication when you expect to do it. Please amend your fuel wood permit to restrict vehicle travel no more than 100 feet from a designated route and analyze this in the FEIS. Differential treatment for selected forest user groups and activities without analysis of the impacts is not advised. Fuel wood cutting is a travel management issue.

8) Environmental Consequences of the Alternatives

Soils and Water: We note the MNF's Proposed Action, Alternatives 2 and 5 are unlikely to result in adverse direct, indirect or cumulative effects to soil and water

[22] DEIS, Volume 1, pages 71-72.
[23] DEIS, Volume 1, page 26.

quality from the addition of 336 miles of unauthorized routes.[24] Please explain why these alternatives received a rank of 3 in Table 2-14 on page 21.

Botanical Resources: Alternatives 2 and 5 may have effects on two Sensitive plant species, but they will not lead toward a trend to Federal listing. There are no effects on the occurrence of any Federally-listed Threatened species.[25] Please indicate if mitigations such as barriers or re-routing the roads would be effective in eliminating OHV effects on the two Sensitive plant species.

The DEIS says mixed use on ML 3 roads under Alternative 5 "might potentially increase the risk of noxious weed propagule introduction, since OHVs might be more likely to have traveled through weed-infested sites than passenger vehicles prior to entering the Forest."[26] This assumption is highly speculative. As mentioned in the DEIS, mixed use has occurred on your ML 3 road system for decades. For Alternative 5, there are eight ML 3 roads totaling 5.74 miles with noxious weeds within 100 feet of them (or one percent of the total 531 miles proposed for mixed use). ROC disagrees noxious weeds are likely to spread once the Forest Motor Vehicle Use Map (MVUM) officially authorizes mixed use. Continued monitoring, road maintenance, and the enlistment of volunteers to help with your eradication efforts should be sufficient to mitigate this concern. Visitor education is also an important tool for mitigating the spread of noxious weeds. Initiate a campaign that asks all OHVers to wash their vehicles prior to riding on the Forest similar to the educational campaign for equestrians and the use of weed free feed.

Please justify Alternative's 5 rank of 2.3 for botanical resources in Table 2-14 on page 21. ROC also suggests you modify your rankings in Table 3-68 on page 173. We disagree with your rank of 1 (high impact) for miles of roads open for mixed use. None of your botanical resource indicators on page 130 assume motor vehicle travel off designated routes will continue once the MNF's MVUM is issued. Very few plants are directly impacted by routes. Miles of routes within 30 or 100 feet of plant sites, plant habitat or noxious weeds are not useful indicators if we correctly assume all vehicles will remain on the road unless they are parked or camping. If that is the case, designate sections of roads on the MVUM where parking and camping are not allowed due to resource or other concerns.

Visual Resources: Table 3-30, page 90, correct the row titles. One should be Inventoried Unauthorized Routes in Retention Visual Quality Objectives (VQOs).

Table 3-31 displays the total number of NFS and unauthorized routes in areas with a Retention or Partial Retention VQO. Alternative 5 would add 81 miles of unauthorized routes to the 1,170 miles of NFS roads within these two areas, a seven percent increase in roads. The addition of the unauthorized routes as ML 2 roads is an insignificant effect on the VQOs compared to the 1,170 miles of NFS roads that already exist. Yet Alternatives 2 and 5 have a rank of 3 for Visual Resources in Table 2-14 (page 21). Please justify all the rankings in this Table as they appear to be subjective.

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[24] DEIS, Volume 1, pages 119, 120, and 123.
[25] DEIS, Volume 1, pages 170-171.
[26] DEIS, Volume 1, pages 169.

Terrestrial Biota and Aquatic Organisms: We appreciate the excellent discussion in these sections of the DEIS.

9) **Appendix A-1: Route Analysis**

Please display this resource information for all unauthorized routes in the FEIS so the reader understands why some are not proposed for designation.

Again, thank you for the opportunity to submit ROC's comments. Alternative 5 is the first proposal we have seen in Region 5 that accommodates existing motorized uses on NFS roads and many of the unauthorized routes. It provides a well-connected transportation system for non-highway legal vehicles and reflects ROC's transportation planning goals. We greatly appreciate your efforts and hope you are able to implement this Alternative.

I would like to receive a hard copy of the FEIS and all the maps when it is issued.

Sincerely

Sylvia Milligan

SYLVIA MILLIGAN
Chair, Recreation Outdoors Coalition

cc:
Gregg Mumm, BlueRibbon Coalition
Don Amador, BlueRibbon Coalition
Dave Pickett, American Motorcyclist Association
Don Spuhler, Don Klusman, and John Stewart, California Association of 4 Wheel Drive Clubs, Inc.
Amy Granat, California Off-road Vehicle Association
Robert Reed, California League of Off Road Voters
Fred Wiley, Off Road Business Association
Tom Crimmins, National Off-highway Vehicle Conservation Council
Modoc County Board of Supervisors

Enclosure:
Exhibit 1 – ROC's Traffic Engineer Shared Use Assessment Form, Lassen National Forest

Traffic Engineer Shared Use Assessment — Lassen National Forest — Summer 2005

Road Number 30N16 BCDT Segment Number 1 Length 6.56 Sheet 1 of 3

Maint. Level: Objective 3 Operational 3 Observed June–August 2005 2 Functional Class L Service Level B

Probability of an Accident	Benchmark Rankings		Summary 2005 Observations	Assessed Rankings		
	High	Low		H	M	L
Crash History	Several Crashes	None Known	None Known			L
Average Daily Traffic (ADT)	>150	30 or less	Count Sta ① 5.48			L
User Knowledge	Not Acquainted	Well Acquainted	Unknown		M	
Average Speed (MPH)	>40	25 or less	15			L
Cross Section Changes	Changes	None Abrupt	None Abrupt			L
Surface Type Changes	Changes	No changes	None			L
Curvature	Abrupt	Smooth	Smooth *			L
Road Widths (Feet)	Variable	Uniform	Uniform @ 15'			L

Overall Probability Assessed Ranking Low

Severity of an Accident	Benchmark Rankings		Summary 2005 Observations	Assessed Rankings		
	High	Low		H	M	L
Average Speed (MPH)	>40	25 or Less	15			L
Clearance from Hazards	Little or none	Adequate	Adequate *			L
Alignment & Sight Distance	Poor	Adequate	Adequate *			L
Roadway Gradient	>12%	<12%	<12%			L
Downhill Side Slopes	>60%	<40%	<40%			L
Radical Speed Changes	Many	Few	Few			L
Multi-passenger Vehicles	Buses	Cars, SUVs	Cars, SUVs			L

Overall Severity Assessed Ranking Low

Season of Use June - November Surface Native % Street Legal 42 % Non-Street Legal 58

SHARED USE RECOMMENDATION YES (Yes or No)

Lo I and Won Yin
3152 Gracefield Road #323
Silver Spring, MD 20904

February 5, 2009

Travel Management Team
Modoc National Forest
800 West 12th St.
Alturas, CA 96101

Dear Forest Service:

We would like to submit the following comments on the draft travel plan for Modoc National Forest. We have family in California, we have visited your region, and our friends have visited the Modoc several times over the past 45 years. Your forthcoming plan comes not a moment too soon. We hope it will stop the abuse of the land by off-road vehicles.

We urge you to close the 336 miles of unauthorized ORV routes, mostly spur roads that create damage against the land and wildlife habitat. We prefer Alternative 3, which closes all unauthorized routes. They should be replanted with native vegetation, so the scars can heal. Your environmental analysis (Table 3-159) shows Alternative 3 to be the best for wildlife.

Please ban ORVs completely from the proposed wilderness areas (Table 3-163), including Medicine Lake Highlands (dramatic volcanic terrain), and Captain Jack (adjoining wilderness areas in Lava Beds National Monument). Existing primitive roads that cross those areas should be closed to ORVs and restored to nature. Of course, any needed for fire control should be gated to keep out public ORV traffic.

All ORV routes should be closed during the winter season, as the Forest Service is doing in other forests such as the Rogue-Siskiyou and Eldorado. That is when the land is most vulnerable to erosion by ORVs.

Thank you for this opportunity to participate.

Sincerely yours,

Lo I Yin
Won O. Yin

February 11, 2009

Stanley G. Sylva
Forest Supervisor
Modoc National Forest
800 West 12th Street
Alturas, CA 96101

sent via email to: modoc.route.designation@fs.fed.us

[cc: kborovac@fs.fed.us]

Re: Draft Environmental Impact Statement for motorized travel management in the Modoc National Forest, California

Dear Supervisor Sylva:

On behalf of The Wilderness Society, Public Employees for Environmental Responsibility, and California Wilderness Coalition, please accept the following comments on the Draft Environmental Impact Statement (DEIS) associated with motorized travel management in the Modoc National Forest. We appreciate the opportunity to work with the Forest Service to create a travel management plan that protects natural resources, minimizes user conflicts, and establishes an affordable, safe, ecologically sustainable, and enforceable motorized route system.

We agree with former Forest Service Chief Dale Bosworth that unmanaged off-highway vehicle (OHV) use is one of the "four key threats" affecting our nation's forests and should be "one of the highest priorities for the agency." Unmanaged OHV use has resulted in unauthorized roads and trails, increased soil compaction and erosion, increased sedimentation, water quality degradation, the spread of noxious weeds, increased fire risk, damage to cultural resources, habitat destruction and fragmentation, increased disturbance to sensitive wildlife, and conflict among users. Consequently, we strongly support the goals of the agency through this public process to prohibit widespread cross-country travel and to designate roads, trails, and areas for OHV use.

However, we find the DEIS to be inadequate in following the regulations established for travel management[1] and in addressing the environmental impacts associated with the current and proposed transportation systems. We request that these deficiencies be addressed and resolved in a revised DEIS or that route designations be strictly limited, as described below.

In addressing our concerns, this comment letter outlines the deficiencies of the DEIS and makes practical recommendations for how to rectify them. We welcome the opportunity for continuing collaboration with the Forest Service to create an environmentally and fiscally sustainable travel system that meets the needs of both motorized and non-motorized recreationists without compromising the integrity of the land.

[1] 36 CFR 212 – Travel Management

I. Summary of Comments

We support the prohibition of widespread cross-country travel by motor vehicles. Without this prohibition, travel management on the Modoc National Forest would run contrary to the Executive Orders on the Use of Off-Road Vehicles on Public Lands[2], the Travel Management regulations, and the Sierra Nevada Forest Plan Amendment.[3] We also support seasonal wet-weather closures of native surface roads to reduce erosion and sedimentation, to lower road maintenance costs, and to reduce harassment and poaching of wildlife during times when they are most vulnerable. We do, however, feel that the DEIS is flawed in the following ways:

1) The Modoc National Forest has improperly proceeded to carry out route designation under Subpart B of the Travel Management regulations without first following the requirements under Subpart A. Specifically, the Forest has not: a) identified the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands; b) identified the roads under their jurisdiction that are no longer needed to meet Forest resource management objectives, and that, therefore, should be decommissioned or considered for other uses, such as trails; and c) completed a science-based Travel Analysis to inform these decisions.

2) The Forest is not using Travel Analysis to inform motor vehicle route and area designations under Subpart B of the Travel Management regulations; there is no comprehensive, broad-scale, science-based analysis of system roads and motorized trails to determine whether the transportation system designated for motor vehicle use meets resource and other management objectives adopted in the Forest Plan, meets applicable statutory and regulatory requirements, reflects long-term funding expectations, minimizes conflicts among forest visitors, and minimizes adverse environmental impacts. The Forest is completing Travel Analysis only for the designation of unauthorized routes. Due to this deficiency, cumulative environmental impacts of the designated motor vehicle route system are not fully addressed.

3) The Forest is arbitrarily limiting the scope of the planning effort to fit what appears to be a pre-determined outcome. The agency has considered comments from the public related to: a) changing the season of motorized use on system roads; b) changing the class of vehicles that are allowed on system roads; c) changing the maintenance level of system roads; and d) closing one system road currently open to motor vehicle use—but has refused to consider public comments related to the closure or decommissioning of other system roads. Due to this deficiency, a full range of reasonable alternatives has not been evaluated.

4) The Forest has not provided adequate or reliable documentation for what they consider to be the "baseline" of the current transportation system. The Forest has not provided Decision Notices, Records of Decision, National Environmental Policy Act (NEPA)

[2] Executive Order 11644 § 1 (1972) as amended by Exec. Order 11989 (1977) – Use of Off-Road Vehicles on Public Lands.
[3] January 2004.

documentation, Road Management Objectives, or funding allocation data for putative system routes in its jurisdiction. The Forest is, therefore, unable to provide convincing evidence that all of the routes in the INFRA database were designed to be open for long-term, public motorized recreation. Moreover, routes that are in the INFRA database and listed as routes that are currently closed (or are recommended for closure) to motor vehicles are designated as open to motor vehicles on the maps depicting the Alternatives.

5) The analysis of environmental impacts is insufficient under NEPA because no method of analysis is given for determining which unauthorized routes were added to the transportation system. While the DEIS provides a plethora of information on possible environmental impacts and future mitigations, the decisions concerning which new routes to designate are arbitrary.

6) Designation of certain unauthorized routes conflicts with the Executive Orders on Off-highway Vehicle Use, the Travel Management regulations, the Modoc National Forest Land and Resource Management Plan (LRMP), national environmental laws or regulations, or a combination of the above.

7) The Forest did not perform adequate site-specific field checks of unauthorized routes. Because these routes are unofficial and many are user-created, these routes should be checked on site to ensure that there are no resource problems (or even if the routes exist) before they are designated for recreational motor vehicle use.

II. Remedy

The Modoc National Forest should immediately conduct a broad-scale, science-based Travel Analysis as required by the Travel Management regulations, document its findings in a Travel Analysis report, identify the minimum transportation system, and publish a list of routes recommended for decommissioning. After these steps have been completed, the agency should develop a new proposed action and analyze this proposal along with a full range of reasonable alternatives in a new DEIS.

Alternatively, in the event the Forest insists on designating routes under Subpart B before performing the required analysis under Subpart A, the only option that preserves a semblance of the required process and protections of the applicable regulations is to adopt a modified version of Alternative 3, which would designate no new user-created or unauthorized routes. The Forest should, however, add to this Alternative the seasonal closures described in the other action alternatives, as the Forest appears to believe, as we do, that they are necessary for resource protection.[4] Furthermore, the route designations and their depiction on a Motor Vehicle Use Map (MVUM) under this modified Alternative 3 should be limited to those motorized routes which can be justified through appropriate documentation showing that they were designed to be used by the public for long-term motorized recreation.

[4] There is no valid reason presented why these restrictions were not included in Alternative 3.

III. Purpose and Need

The purpose and need statement is insufficient to set up a proper and complete analysis.

The Purpose

The purpose of the proposed action is clearly established in Subpart B of the Travel Management regulations: to designate roads, trails, and areas for motor vehicle use and prohibit motor vehicle use off those designated routes and areas (i.e., ending widespread cross-country travel).[5] The general criteria for designating that system are also clearly established in Subpart B: the responsible official shall consider effects on "natural and cultural resources, public safety, provision of recreational opportunities, access needs, conflicts among uses of National Forest System lands, the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated, and the availability of resources for that maintenance and administration."[6] The method to assess these effects is Travel Analysis.

The Need to Complete Travel Analysis

In our view, travel planning must evaluate and address the environmental, social, and cultural impacts associated with unauthorized routes *and* system roads, trails, and areas, as identified through a landscape-scale, science-based Travel Analysis.

Analyzing impacts to ecological and cultural resources across the entire transportation system is a critical factor in determining the minimum road system as envisioned by 36 CFR 212.5 (b) (1)[7]. Travel Analysis should be used to determine the minimum system and to identify unneeded roads that should be decommissioned or considered for other uses, such as trails. The Modoc National Forest has excluded from its purpose and need statement the need to conduct travel analysis to inform decisions regarding route designations, determining a minimum system, and identifying unneeded routes for decommissioning. We believe that this interpretation of relevant guidance is both erroneous and lacks common sense. We believe that analysis and planning to determine the minimum route system should inform, and thus precede, designation of new routes for motorized travel.

The Route Designation Guidebook for National Forests in California directs Forests to use Travel Analysis to evaluate the proposed *and* the current transportation system:

Travel analysis is a pre-NEPA analysis that helps to identify proposals for changes in travel management direction and supports the environmental analysis associated with those proposed actions.…The main issues for travel analysis are probably: 1) recreational use of motor vehicles on NFS roads, NFS trails and areas of NFS lands, 2) the addition of non-NFS roads and trails to the NFS transportation system, 3)

[5] 36 CFR 212.50 (a) "Purpose"
[6] 36 CFR 212.55 (a)
[7] "For each national forest, national grassland, experimental forest, and any other units of the National Forest System (§ 212.1), the responsible official must identify the minimum road system needed for safe and efficient travel and administration, utilization, and protection of National Forest System lands."

motorized mixed use, 4) reduction of road maintenance levels, and 5) ***elimination of un-needed NFS roads and trails*** (emphasis added).[8]

The recently published travel planning directives state that "travel analysis assesses the current forest transportation system and identifies issues and assesses benefits, problems, and risks to inform decisions related to identification of the minimum road system per 36 CFR Part 212.5 (b) (1) and designation of roads, trails and areas for motor vehicle use per 36 CFR Part 212.51."[9]

Unfortunately, the new directives also grant an exemption which relieves Forests that have released proposed actions before January 8, 2009, from the obligation to perform the Travel Analysis that the agency believes "can and should be used"[10] to designate motorized routes. We could not disagree more strongly with this exemption. It is our opinion that the directives are meant to instruct Forest Service employees how to implement Travel Management regulations, not how to avoid them. We believe that the exemption in the final directives is contrary to the Travel Management regulations at 36 CFR 212.

The Need to Protect Forest Resources

All current direction and authority that allow, restrict, and prohibit vehicle use off roads on National Forest lands are tiered from Executive Order (E.O.) 11644, signed by President Nixon in 1972, and modified by President Carter's E.O. 11989 in 1977.[11] These executive orders should be the guiding principles for the purpose and needs related to OHVs and route designation. The Orders state that the route designation procedures "will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands."[12] In accomplishing this broad goal, the executive orders specifically require that the designation of motorized areas and trails shall be in accordance with the following:

1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring

[8] Route Designation Guidebook: National Forests in California, USDA Forest Service, June 2004 (revised September 2006), page 28.
[9] Forest Service Manual 7712 – Travel Analysis.
[10] Federal Register Vol. 73, No. 237, Tuesday, December 9, 2008, page 74692
[11] Route Designation Guidebook: National Forests in California, USDA Forest Service, June 2004 (revised September 2006).
[12] Executive Order 11644 § 1 (1972) as amended by Exec. Order 11989 (1977) – Use of Off-Road Vehicles on Public Lands.

public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

4) Areas and trails shall not be located in officially designated Wilderness Areas.[13]

The Travel Management regulations carry forward relevant language from the Executive Orders which requires minimization of damage to soil, watershed, vegetation, and other forest resources; minimization of harassment of wildlife and significant disruption of wildlife habitat; and minimization of conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands or neighboring Federal lands, and conflicts among different classes of motor vehicle uses of National Forest system lands or neighboring Federal lands.[14]

Recommended Changes to the Purpose and Need Statement

The Modoc National Forest, however, in the statement of purpose and need chooses to place the greatest emphasis in designating routes on providing motorized recreational opportunities—which was not the principal goal of either the Executive Orders or the Travel Management regulations. The heart of these two guiding documents—minimizing social and environmental damage from motor vehicles—is not equally represented or emphasized.

We recommend strongly that you adjust the purpose and need statement, as follows, to reflect more accurately the intent of the Executive Orders, the Travel Management regulations and the purpose of travel planning.

We have identified the following needs for this proposal:

• the need to eliminate widespread cross-country travel and move to a system of designated roads, trails, and areas consistent with the Travel Management regulations and the Executive Orders on use of off-road vehicles on public lands;

• the need to address degradation of environmental, social, and cultural resources associated both with user-created routes and current system roads, trails, and areas, as identified through Travel Analysis;[15]

• the need to—by way of a broad-scale, science-based analysis—"identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands" and identify roads that are "no longer needed

[13] Exec. Order 11644 § 3 (1972) as amended by Exec. Order 11989 (1977).
[14] 36 CFR 212.55 (b) (1) – (4)
[15] Forest Service Handbook section 21.4 (1): "Examine the major uses and environmental, social, and economic effects of the part of the forest transportation system under analysis."

to meet forest resource management objectives and that, therefore, should be decommissioned or considered for other uses, such as for trails";[16]

• the need to provide opportunities for motorized and non-motorized recreation within the carrying capacity of the land (minimizing damage to soil, watershed, vegetation, cultural sites, and other resources of the public lands; and minimizing harassment of wildlife or significant disruption of wildlife habitats);[17]

• the need to adjust both the core transportation system and recreation travel network in light of funding limitations for maintenance, monitoring, and enforcement;[18] and

• the need to address public safety concerns, user conflicts, private property rights, lost non-motorized recreational opportunities, and impact to natural soundscapes and air quality that have arisen or might be expected to arise given recent trends in motorized use.[19]

IV. No Action/Baseline

Under the No Action Alternative in the DEIS, no changes would be made to the current National Forest Transportation System (NFTS), no cross-country travel prohibition would be put into place, the provisions of the Travel Management regulations would not be implemented, motor vehicle travel by the public would not be limited to designated routes, unauthorized motorized trails would continue to have no status, and no Motor Vehicle Use Map would be produced.

Widespread cross-country travel is prohibited by the Travel Management regulations, and by the Sierra Nevada Forest Plan Amendment of 2004, which requires forests to "prohibit wheeled vehicle traffic off designated routes, trails, and limited off-highway vehicle (OHV) use areas."[20] While we understand that NEPA allows consideration of a No Action Alternative which is contrary to current law, we do not believe that such an alternative should serve as the baseline for comparison of the Action Alternatives. We believe that the Action Alternatives must be compared among each other and to an alternative which designates only those routes that are currently in the NFTS. The threshold for determining whether a route is currently in the transportation system should be consistent and rigorous. In our view, the baseline transportation system should be limited to those current motorized system routes that are supported by prior NEPA analyses or decision documents that justify their inclusion on maps and in spatial databases. We believe that any routes lacking documentation (including routes which were constructed or came into being before NEPA was enacted) should be analyzed as new unauthorized routes, in recognition of the fact that there is no record of

[16] 36 CFR 212.5 (b) (1) and (2), respectively.
[17] 36 CFR 212.55 (b)
[18] 36 CFR 212.55 (a)
[19] 36 CFR 212.55 (a) and (b)
[20] Sierra Nevada Forest Plan Amendment, January 2004, Appendix A: Management Direction, page 59.

administrative decision or analysis addressing the environmental impacts of motor vehicle use on these routes.

An accurate accounting of the true extent of the current transportation system is a critical step in setting the appropriate baseline for analysis. We are concerned that a significant discrepancy may exist between what the Forest Service is calling its "system" and the routes which are supported by appropriate documentation. We would expect the Forest Service to perform a comprehensive inventory of its past transportation decisions as part of Travel Analysis.[21] **In our "scoping" comments we requested, but did not receive, this documentation.**

As part of its description of the legal baseline, the Modoc National Forest should include a table identifying the specific documentation or evidence which supports the inclusion of all existing routes in the transportation system. Such documentation would include NEPA analysis and decision documents, approval of Road Management Objectives (RMOs) or Trail Management Objectives (TMOs), or records establishing the expenditure of normally-appropriated maintenance funds on a specific route. Routes lacking such documentation should be marked accordingly. In scoping comments we included a sample spreadsheet to serve as an example.

We have included in **Appendix A** an Excel spreadsheet of roads in the INFRA transportation database (sent by Kathleen Borovac to The Wilderness Society on January 26, 2009) that either 1) do not meet the threshold to be considered in the transportation system, 2) were not designed to be permanent routes for public motor vehicle use, or 3) have been recommended for closure to motor vehicles. These routes should not appear on the MVUM without adequate justification and environmental analysis.

As a first step in determining which routes are truly in the system, we believe the agency must consider, at minimum, the information given in the INFRA database. In Appendix A, the Excel spreadsheet tab labeled "Route Status" lists all roads that are labeled in INFRA as "converted" (defined as a route that was no longer needed and has been converted to another use[22]) or "decommissioned" (defined as a route that was no longer needed and has been removed from service). These roads should not appear on the Motor Vehicle Use Map because they are no longer system routes open to motor vehicles. The tab labeled "Operating Maintenance Level" lists all of the roads that are labeled in INFRA as "basic custodial care (closed)" (defined as an intermittent service road closed to vehicular traffic). These roads should not appear on the Motor Vehicle Use Map because they are not currently open to motor vehicles. The tab labeled "Service Life" lists all of the roads that are labeled in INFRA as "short term service" (defined as a road for short term use—including temporary roads), "intermittent stored service" (defined as an intermittent service road closed to traffic), or "intermittent term service" (defined as a road closed to vehicle traffic between periods of use; the closed period must exceed one

[21] FSH section 21.2 (2) (b) and (g): "For the part of the forest transportation system under analysis, produce an inventory of NFS roads and NFS trails [and] a summary of existing travel management decisions."
[22] All INFRA database definitions are from the Travel Routes National Data Dictionary, Roads, Infrastructure Application, Version 1.5, Nov. 2006.

year). Roads in these categories were not constructed for long-term public motor vehicle recreation and should not appear on the MVUM without justification and environmental analysis. The tab labeled "Objective Maintenance Level" lists all roads that are labeled in INFRA as "basic custodial care (closed)" (defined as roads that are intermittent service roads closed to vehicular traffic). These roads should not appear on the Motor Vehicle Use Map because the Forest has determined that their objective for these roads is to close them to motor vehicles.

We have checked a few sample routes that appear on the DEIS Alternative Maps against the routes in Appendix A and have found that routes that should be closed to motor vehicles currently appear on the DEIS maps. It is crucial that these errors be remedied.

V. Range of Alternatives

The National Environmental Policy Act[23] requires a "hard look" at "all reasonable alternatives,"[24] which would include one or more alternatives emphasizing a *minimum* transportation system which is streamlined, non-redundant, and protects natural resources. A range of alternatives that does not include the minimum transportation system is not sufficient under NEPA. The Forest Service Handbook guides managers to "develop other alternatives fully and impartially…[and] ensure that the range of alternatives does not prematurely foreclose options that might protect, restore, and enhance the environment."[25] There is much legal precedent to guard against an insufficient range of alternatives.[26] By not considering in detail our comments advocating that the Forest perform Travel Analysis to determine a minimum transportation system, the Forest is foreclosing options that might protect, restore, or enhance the environment.

In addition, the Modoc National Forest has arbitrarily constrained the range of alternatives in the DEIS by not considering in detail public comment regarding the deletion of motor vehicle routes from the system. The Forest maintains that they are dealing only with "limited changes" to the transportation system. But in reality the DEIS considers 1) changes in season of use for motor vehicles on system routes, 2) changes to vehicle class that may use system routes, 3) changes to maintenance level of system

[23] 42 USC 4321-4347
[24] 40 CFR 1502.14 (a)
[25] FSH 1909.15 § 14.2
[26] "An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action." *Nw. Envtl. Defense Center v. Bonneville Power Admin*., 117 F.3d 1520, 1538 (9th Cir. 1997). An agency violates NEPA by failing to "rigorously explore and objectively evaluate all reasonable alternatives" to the proposed action. *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1310 (9th Cir. 1990) (quoting 40 C.F.R. § 1502.14). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122–23 (9th Cir. 2002) (and cases cited therein). NEPA requires that an actual "range" of alternatives is considered, such that the Act will "preclude agencies from defining the objectives of their actions in terms so unreasonably narrow that they can be accomplished by only one alternative (i.e. the applicant's proposed project)." *Col. Envtl. Coal. v. Dombeck*, 185 F.3d 1162, 1174 (10th Cir. 1999) (citing *Simmons v. U.S. Corps of Eng'rs*, 120 F.3d 664, 669 (7th Cir. 1997)). This requirement prevents the EIS from becoming "a foreordained formality." *City of New York v. Dep't of Transp*., 715 F.2d 732, 743 (2d Cir. 1983). *See also Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002).

routes, and 4) the closure of one system route. Yet, the alternative submitted by the Wilderness Society et al. during scoping was altered by not considering in detail any of our recommendations for decommissioning system routes. The DEIS gives no convincing rationale for this decision. The Forest is giving the impression that the DEIS is a foreordained formality by not rigorously exploring all reasonable alternatives. The scope of the alternatives with regard to closing or decommissioning system routes is so narrowly defined that it can be accomplished only by the proposed action. The Forest has considered only two options for system road closure: either one system road (46B29HB) is closed to motor vehicles or no system roads are closed to motor vehicles. How can closing system roads to motor vehicle use be outside of the scope of the proposal when the Forest is considering closing a route to motor vehicle use? The fact is the Forest is including road closure in the scope of the project, but only if it is the one route that they want closed. This is a clear violation of NEPA.

We request that our route closure recommendations be included in an alternative in a revised DEIS.

VI. Direct, Indirect, and Cumulative Environmental Impacts

NEPA requires federal agencies to assess the direct, indirect, and cumulative environmental impacts of proposed actions, taking a "hard look" at environmental consequences, and performing an analysis commensurate with the scale of the action at issue.[27] Each alternative should address, in the environmental consequences section of the DEIS, the potential impacts to the following natural resources: soil; riparian areas; water quality; noxious weeds; fire; sensitive, threatened, and endangered plants; sensitive, threatened, endangered, game, and management indicator animal species; fisheries; air quality; and natural quiet. The analysis should be informed by and make specific reference to the best available science. If information is lacking, the precautionary principle should be used to protect natural resources.

The Modoc DEIS makes a fundamental error by placing existing system routes outside of its direct and indirect impacts analysis. To justify this action, the Forest relies mistakenly on Travel Management regulations which state that the "responsible official may incorporate previous administrative decisions regarding travel management made under other authorities, including designations and prohibitions of motor vehicle use, in designating National Forest System roads, National Forest System trails, and areas on National Forest lands for motor vehicle use under this Subpart."[28]

This justification is misguided for two reasons: 1) We have no record of previous administrative decisions regarding travel management in spite of our request (June 9, 2008 – scoping comments) to the Forest to provide us with those decisions. The only information the Forest has provided is INFRA transportation data (that lacks the relevant columns of data labeled "EVENT, "EVENT_SUBTYPE," and "EVENT_DATE," which would have described the transportation planning documentation, decision

[27] 40 CFR § 1502.2 (b) and 1508.8
[28] 36 CFR 212.50 (b) "Scope".

documentation, and the dates on which these decisions were made). 2) Even if we had received records of previous administrative decisions regarding travel management, this does not relieve the Forest from analyzing the effects of these previous decisions on social, cultural, and natural resources. The Travel Management regulations allow the Forest to incorporate previous decisions into *designations* of those routes (which is not a NEPA process); the regulations say nothing of incorporating previous decisions into the *analysis of the impacts* of those routes.

We suspect that many existing so-called system routes have never been subject to NEPA analysis for direct and indirect impacts to natural and cultural resources. Moreover, those routes for which the Forest might be able to provide NEPA decision documents or other previous administrative decisions would have to be analyzed for impacts given their role as long-term recreational motor vehicle routes that would appear on a widely-available Motor Vehicle Use Map and not be analyzed solely for impacts from their use at the time of construction.

Finally, by not conducting travel analysis on and considering the environmental impacts of the entire transportation system, the assessment of cumulative impacts is deficient under NEPA.

VII. Budget for Transportation System and Administration

Both Subparts A and B of the Travel Management regulations address the affordability of the Forest transportation system. Subpart A requires the Forest to determine the minimum system needed to "reflect long-term funding expectations."[29] Subpart B requires the Forest to "consider effects on…the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration."[30] The Forest Service Manual further states that "[a]dministrative units and ranger districts should avoid adding routes to the forest transportation system unless there is adequate provision for their maintenance."[31]

Yet, the DEIS itself reports that a national random sample of deferred maintenance needs done in 2006 estimates the deferred maintenance cost for roads on the Modoc National Forest is $128,053,267.[32] Even if we take the much-reduced dollar figures from the Modoc's non-scientific estimate, the estimate for deferred maintenance is nearly $11,000,000.[33]

The Forest reports that the current year (FY 09) appropriated funding is down to $768,000 from $779,000 with no projections of an increase in road maintenance money. There is simply no justification for designating new routes when the Forest has such a

[29] 36 CFR 212.5 (b)
[30] 36 CFR 212.55 (a)
[31] FSM 7715.03; *see also* FSM 7715.6 (6).
[32] DEIS, p. 33
[33] DEIS, p. 33

significant maintenance backlog. Unmaintained and degraded roads may lead to substantial erosion, may collapse, and may cause serious safety problems.

The analysis of affordability in the DEIS does not address how the Forest will reduce the maintenance backlog or even how they will prevent the increase of a maintenance backlog. In fact, the proposed action has the largest (tied with Alt. 5) maintenance cost of any Alternative. The Forest needs to explain how they will reduce the maintenance backlog or admit that they are further contributing to it.

In addition, the Forest reports that approximately 50% of all routes are missing route markers. Yet the Forest proposes to add new routes to the system with the expectation that motor vehicle users will know which routes are legal to use.

VIII. Problems with the Proposed Action and Environmental Analysis

In addition to the deficiencies noted above, the proposed action Alternative, if chosen, would be in violation of numerous laws and regulations and be in conflict with the Modoc Land and Resource Management Plan.

A. Water Quality

OHV use can cause significant impacts to riparian areas and can have negative impacts on water quality, soil properties, and vegetative cover, which can result in accelerated rates of erosion and sedimentation and elevated levels of turbidity in affected watersheds. These impacts can be minimized and often avoided by prohibiting routes and OHV use in and near riparian areas, yet the Forest Service is doing just the opposite by proposing to designate routes within riparian areas.

The DEIS fails to analyze the impacts of the OHV trail designations on the specific riparian areas affected. The Modoc DEIS does not disclose how these OHV designation decisions will minimize impacts to riparian areas

Intention of 303(d) To Protect Impaired Water Bodies Where Reasonable

The Clean Water Act establishes standards for water quality to "restore and maintain the chemical, physical, and biological integrity of [waters]."[34] Under the Act, limitations are placed on pollutant discharges to prevent "[interference] with the attainment or maintenance of that water quality,"[35] adding that limitations on effluent "shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality."[36] When promoting optimal health, the law focuses on what can be *reasonably* accomplished. Because OHVs are used for recreational purposes, it is reasonable that they be restricted from areas where they will be a stressor

[34] 33 U.S.C 125
[35] 33 USC 1312
[36] *Id.* Sec 302(a).

to water bodies whose damaged "chemical, physical and biological integrity," has already been established.

B. Air Quality

The DEIS fails to adequately address issues of air quality. The Forest Service must prepare a full-fledged, comprehensive quantitative analysis; acknowledge and quantify background concentrations of pollutants in the area; analyze whether the activities permitted in the Modoc National Forest would lead to a significant deterioration of air quality; prepare a more comprehensive inventory and then perform dispersion modeling to understand impacts; and include plans for protecting and restoring air quality in the region.

The existence of designated routes and travel of automobiles and OHVs on designated routes will generate significant amounts of fugitive dust which will negatively affect air quality in the region. The Modoc DEIS completely failed to consider such emissions. The Modoc DEIS must use quantification and modeling in order to understand whether the Modoc National Forest's plans will comply with federal and state air quality standards and to know what impact they may have on human health, wildlife, vegetation, water bodies, and climate.

The Forest Service must actually estimate the number of vehicles that will travel these routes and the number and mileage of routes that will be open so that it can correctly inventory the fugitive dust that is likely to result. If every unpaved route identified in the Modoc DEIS were closed, and the soil subsequently stabilized, there would be much less fugitive dust compared to the amount likely to result from implementation of the preferred alternative. If only one or two unpaved routes were open to vehicular travel in the entire planning area the fugitive dust generated by these roads would likely be much less than the fugitive dust that will be generated by miles of designated routes that are proposed for vehicular traffic in the DEIS. The Forest Service must improve the DEIS by including a comprehensive inventory of fugitive dust generated by designated routes (both when being traveled by vehicles and as a result of wind erosion) and the engine emissions generated by the vehicles traveling these routes

In summary, the DEIS does not adequately analyze the impacts to air quality that will result from the activities planned and permitted in this document. These failures are contrary to NEPA, which requires that the Forest Service disclose the impacts of the activities it is analyzing. The Forest Service must prepare a comprehensive emissions inventory, which includes fugitive dust emissions, and then model these figures in near-field, far-field, and cumulative analyses. Without doing so, the Forest Service cannot know what impact these activities will have and whether it is complying with federal and state air quality standards.

C. Soil Resources and Hydrology

The DEIS fails to comply with NEPA.

NEPA requires that all alternatives be rigorously explored and objectively evaluated. This DEIS evaluates Alternative 2 and essentially dispenses with assessment of the other alternatives, concluding that because the proposed project is the most environmentally impacting, the other alternatives need no analysis. The DEIS does not identify an "Environmentally Preferable" Alternative with respect to soils and hydrology.

The Soils and Hydrological assessment lacks the NEPA-required disclosure of both site-specific and cumulative impacts. The information provided in the DEIS is quantitative, but not qualitative. While the "DEIS Effects Analysis Methodology" describes an 8-step process for determining the acceptability of routes for vehicle use, there is no documentation of this actually occurring. "Appendix D: Soils and Hydrology field review" contains no information other than identifying the route to be added, the watershed in which it exists, size of the watershed, length of the route, and whether it was field checked. There is no actual information regarding soil types, erosion hazard, existing condition, slope stability or needed mitigations.

The Soil Resources chapter is replete with statements that point out the need for disclosure of route-specific impacts:

"There are isolated patches of soils that have a high and very high maximum erosion hazard ratings based on steeper hillsides."[37] Which, if any, of existing or proposed new routes are on these patches?

"The erosion rating is moderate to high and very high on approximately on (sic) *40 to 60 percent of the soils, a water runoff of rapid to very rapid, and a slope stability/watershed sensitivity of moderate to high on more than 25 percent of the hillsides."*[38] Which existing or proposed routes are on these soils?

Table 3-34 on page 112 identifies 20.1 miles of routes on soils with high risk factors; which routes are these? The DEIS asserts these were field-checked by the Forest hydrologist during the summer of 2008; it does not reveal what the hydrologist found. Nor is there a discussion of whether negative impacts would be apparent during the dry season.

The DEIS states, "approximately 0.3 percent of the proposed additions to the transportation system are located within RCAs for perennial streams and lakes.[39] Where is the Riparian Conservation Objectives Analysis for these routes? The percent of proposed additions within the RCAs is much less relevant than a discussion of how the routes affect the RCAs. That analysis is completely lacking.

NEPA requires analysis of the impact of designating existing level 2 roads for OHV use. Use of OHVs on native surfaced roads has impacts to soils and hydrology far beyond that

[37] DEIS, p. 111
[38] DEIS, p. 112
[39] DEIS, p. 115

which occurs as a result of street-licensed only use. The level and type of use directly affects erodibility. OHV trails are subjected to more intensive traffic-induced sediment detachment processes than roads. Foltz found hydraulic conductivity generally decreases with increasing level of disturbance class and that interrill erodibility generally increases with increasing level of disturbance. These factors can increase the erodibility of the trail surface by almost more than an order of magnitude relative to forest roads (Foltz, 2006).[40]

For this same reason, NEPA requires an analysis of the routes proposed for mixed use. The proposed action, Alternative 2, proposes to change vehicle class to allow an additional 138 miles of level 3 system roads for mixed use. The mixed use was not analyzed for direct, indirect or cumulative effects *"because the mixed-use roads were already a part of the NFTS.*[41] These roads should have been analyzed for the additional impact of OHV use. Are these native-surfaced roads? Without the required analysis of how the additional and different vehicle use will affect these roads, there is no justification for assuming there will be no additional impact.

The DEIS describes portions of the Warner Mountains with streams with PFC ratings of "functional at risk." Where are these streams, and if, as asserted, they are recovering naturally, how will designating additional routes affect that recovery? The DEIS contains no such discussion.

"All of the routes on soils with high to very high, or rapid to very rapid water runoff potential (WROP) within the Warner Mountain Ranger District, were field checked.[42] What did this field check reveal? Where are these findings?

The DEIS fails to comply with MNF LRMP Soils and Watershed Standards and Guidelines.

The MNF LRMP requires Design Management activities not to exceed an average allowable soil loss of one ton per acre per year.[43] The DEIS includes no analysis to determine average soil loss and whether this project will result in exceeding the allowable loss.

The DEIS fails to comply with the SNFPA.

The DEIS fails to comply with the Sierra Nevada Forest Plan Amendment (SNFPA) Standards and Guidelines for vehicle routes within Critical Aquatic Refuges (CARs) and Riparian Conservation Areas (RCAs).[44] There is no Riparian Conservation Objectives

[40] Foltz, R.B. 2006. Erosion from all terrain vehicles (ATV) trails on national forest lands. ASABE Paper No. 068012. St. Joseph, Mich.: ASABE.
[41] DEIS, P. 115
[42] Ibid
[43] DEIS, P. 109
[44] SNFPA RCO objective #4: Ensure that management activities, including fuels reduction actions, within RCAs and CARs enhance or maintain physical and biological characteristics associated with aquatic- and riparian-dependent species.

Analysis, as required by SNFPA. The DEIS states that "all routes within RCAs were field checked, and it was determined if there was a hydrologic connectivity to a perennial or seasonally flowing stream course." However, not all routes within RCAs were field checked by a hydrologist. Furthermore, the SNFPA requirement for a Riparian Conservation Objectives analysis is not limited to RCAs with hydrologic connectivity to perennial or seasonal streams. Connectivity is only one objective that must be met. There is no discussion in the DEIS of the other RCO objectives required by SNFPA.
Within the Doublehead and Devil's Garden Ranger Districts, the DEIS identifies .08 miles of new routes within the RCAs for perennial streams or lakes.[45] There are 32 acres of new routes within seasonal RCAs. Again, the DEIS offers the irrelevant assertion that none of these routes was identified as being hydrologically connected. Hydrological connectivity is only one RCA objective.

In the Warner Mountain RD, 40 to 60 percent of the 31.4 miles of routes proposed to be added are on soils with a high or very high MEHR. According to the DEIS these are hydrologically stable because they are on old skid trails and temporary roads with water bars. Water bars are designed to seasonally stabilize roads no longer in use; they do not hold up under regular vehicle use, which is why rolling dips are now designed into OHV trails. They may be, as claimed, consistent with BMP 1.17 (Erosion control on skid trails) and BMP 2.26 (Obliteration of Temporary Roads), if not actively in use, but designation as a system route renders those BMPs irrelevant. The DEIS states that the 1.72 miles of authorized routes within perennial streams or lakes in the Warner Mountain RD are not hydrologically connected to the stream courses. [46] This makes absolutely no sense; if they are within the RCA of a perennial stream, they are part of the stream hydrology.

BMP 2.24 would restrict use of roads to times when rutting is not likely to occur. The DEIS states this is unlikely to occur except for a few times during the year. [47] Studies have shown that, once saturated, native surface roads will suffer rutting from vehicle use until the subsurface has been allowed to dry. This is why other forests are adopting season-long closures, once the soils have become saturated.

The Cumulative Watershed Effects Analysis is inadequate.

The CWE analysis appears to have been done earlier in association with harvest activities.[48] The DEIS doesn't explain why all the listed 6th field watersheds were determined to have a Threshold of Concern (TOC) of 12%. It appears somewhat arbitrary to assign the same TOC to all the evaluated watersheds. Table 3-35, Summary of Results of ERA-TOC CWE Analysis doesn't disclose the existing level of disturbance in any of the watersheds; rather, it apparently identifies the percentage of TOC reached in the watershed. It assumes a lower level of disturbance in years 2013 and 2018. If, in fact, this table was based on disturbance from harvest activities, it is unlikely the assumptions of

[45] DEIS, p. 117. The DEIS does not go so far as to say whether this RCA is a stream or a lake.
[46] DEIS, p. 118
[47] DEIS, p. 118
[48] DEIS, p. 121

watershed recovery are valid, when the project being evaluated is the addition of roads to the watersheds.

D. Noxious Weeds

The Noxious Weeds Assessment discloses the Direction relevant to the management and prevention of noxious weeds. These include:

- Forest Service Manual (FSM) 2081.03 requires a weed risk assessment for any ground disturbing activity and noxious weed control measures for any project having moderate to high risk of introducing or spreading noxious weeds;

- Executive Order 13112, which directs Federal agencies to prevent introduction of invasive species, detect and respond rapidly to and control such species, not authorize, fund or carry out actions likely to cause or promote introduction or spread of invasive species unless the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measure to minimize risk of harm will e taken in conjunction with the actions;

- Sierra Nevada Forest Plan Amendment (SNFPA) identifies standards and guidelines applicable to motorized travel management and noxious weeds;

- Modoc National Forest Land and Resource Management Plan Standards and Guidelines, which direct the Forest to control noxious weds and perform annual monitoring of noxious weed population levels.

The Modoc Travel Management DEIS (DEIS) reveals the failure of the Forest to comply with its LRMP Standards and Guidelines. According to the DEIS, "there have been no systematic noxious weed surveys on the Forest since 2004."[49] Further, "no route-specific surveys for noxious weeds were conducted."[50]

There are currently 539 mapped weed occurrences on the Forest, with a total of 7,941.19 mapped infested acres, but the actual total infested area of the Forest is "considerably higher, since widespread infestations of Medusahead, cheatgrass, bull thistle, and Russian thistle have not been documented at all, and other species such as dyer's woad are not fully documented."[51]The DEIS estimates that Forest lands infested with noxious weeds increases at a rate of 8 to 12 percent per year.

Given the serious threat posed by invasive species (Forest Service Chief Dale Bosworth called them one of the "four threats" to forests and rangelands), the failure of the Modoc to conduct the required surveys is unfathomable. It is not even possible to do a legitimate noxious weed assessment, as required by the above authorities, absent the basic inventory of infestations.

[49] DEIS, p. 178
[50] Ibid
[51] Ibid

All the action alternatives, except Alternative 3, designate unauthorized routes with a high risk of introducing or spreading noxious weeds. The proposed action, Alternative 2, would designate 1,166 high-risk routes. Implementation of Alternatives 2, 4, or 5 would violate the authorities cited at the beginning of this section, as they propose no noxious weed control measures. Alternatives 2, 4 and 5 would require active noxious weed control measures, such as are required for other ground disturbing activities; i.e. washing of vehicles prior to entering the Forest.

Alternative 3 would reduce the threat of noxious weed introduction and spread by banning cross-country travel and not designating any unauthorized routes.

Mixed-Use

Off road vehicle tires may potentially carry more soil-bearing weed seed than standard passenger tires, especially during wet conditions. [52] Therefore, designating ML-3 roads for mixed use increases the threat of noxious weeds. Unless the Forest can make a determination that the benefits of this increased OHV use outweighs the potential harm, it must select Alternative 3, with the addition of wet season closures.

E. Terrestrial Wildlife

The analysis of the effects of adding unauthorized routes to the Forest transportation system is not scientifically valid. The proposed action would add 175.6 miles of roads in habitat for late-successional species; 15.7 miles of roads in habitat for the wide-ranging carnivore, black bear; 149.6 miles of roads in habitat for riparian bird species; 225.5 miles of roads in habitat for cavity-dependent species; 163.1 miles of roads in habitat for the oak group of species; 18.21 miles of roads in habitat for wetland species; and 36.9 miles of roads in habitat for the sage-steppe group of species.

For each species group the argument is the same. In addressing direct and indirect effects, the DEIS states that the differences between alternatives are essentially undetectable against the background fluctuations of weather and stochastic events such as fires. For instance, the DEIS claims that because Alternative 2 contains only 7% more routes in late-successional species habitat than Alternative 3, the difference is undetectable. The wildlife biologist who wrote this section provides no reference to published literature or scientific basis for this claim. We request that the biologist refer to the studies of impacts of roads and motor vehicles to wildlife that we included in our scoping comments.

In addressing cumulative impacts, the biologist writes that routes "can be converted to equivalent-acres by assuming each mile of route is approximately 1.8 acres based on a 15-foot wide impact."[53] Thus the 35 miles of new roads added to Northern Goshawk habitat in the proposed action would be equivalent to approximately 64 acres, or about one percent of the area impacted annually by timber harvest for sawlogs or fiber. There

[52] DEIS, p. 185
[53] DEIS, p. 212

are two flaws with this argument. The first is that the comparison is not warranted. The Alternative should be compared against one that does not add new routes, not against the Forest's timber program. Second, the assumption that the impact from a 15-foot-wide road is 15 feet is not based on sound wildlife biology. The impact of a road to wildlife is not limited to the footprint of the road itself. Even a cursory examination of the scientific literature would provide many examples to counter this argument. Please see the bibliography and summaries that we included in our scoping comments (a CD including pdfs of the complete papers was also provided to the Forest). The Forest uses no scientific studies to determine the potential effect zone of roads open to motor vehicles, and thus, the analysis is speculative at best.

F. Mule Deer

Ungulates Group

Relevant laws include The National Forest Management Act, which requires forests to: "(1) provide for multiple use and sustained yield of the products and services obtained there from in accordance with the Multiple-Use, Sustained-Yield Act of 1960, and in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and timber, watershed, wildlife and fish, and wilderness;"

The Modoc NF Travel Management Plan DEIS identifies management direction in the Modoc NF LRMP for mule deer, a Region 5 management indicator species:
K. Within mule deer habitat: On deer winter ranges where OHV use is demonstrated to adversely affect deer, institute OHV closures from December 1 to March 31. However, the DEIS provides no map of deer winter range. Nor does it make any provision for the protection of critical fawning habitat.

The DEIS discloses an alarming drop in mule deer numbers on the Modoc; from an estimated population of 100,000 in 1952 to 16,000 in 2004. [54] This is also a precipitous decline from the 25,000 animals estimated in 1996 by an inter-agency mule deer working group.[55]

The 1998 interagency report cited above divided California into 11 Deer Assessment Units (DAUs). The Modoc NF is in DAU 2, Northeastern Sierra. The report determined "the deer population in DAU 2 has declined more than any other in the state."

The Modoc DEIS analysis calculates a "zone of influence" to determine habitat suitability in key habitat for ungulates on the Modoc NF. The zones of influence are those lands adjacent to roads that are subject to human disturbance and therefore under-utilized by wildlife. The DEIS reports that all five alternatives for Travel Management on the Modoc result in 116 watersheds rated as having a "high" level of human influence, five watersheds rated "moderate," and one watershed rated "low."

[54] Modoc MIS report 2007, cited in DEIS, p. 3-232.
[55] California Department of Fish and Game, U.S. Forest Service, Bureau of Land Management. An Assessment of Mule and Black-tailed Deer Habitats and Populations in California. February 1998.

For all alternatives, 98.6 percent of the suitable acres (on a watershed basis) are rated as having a "High" level of habitat influenced by the effects of routes. The analysis reports the "high level of habitat influence in almost all the watersheds indicates that impacts to reproductive success from the existing route system (NFTS and all unauthorized routes) may be occurring. Hypothetically, this may be contributing to the long-term decline in deer numbers."[56]

While the Modoc TMP DEIS begins with an assertion that its road system is "different" than that on other forests because of low use, it is quite clear from the disclosures in the DEI that its existing road system is having a significant adverse impact on a Region 5 MIS species, and it is proposing to do nothing about it. On the contrary, the proposed alternative would add 339 miles of routes to the transportation system.

According to the effects analyses for the five alternatives, none of the proposed alternatives would have a discernable positive effect on the reproduction of deer and elk. Even Alternative 3, which adds no unauthorized routes, would continue the linear effects of roads on the 4,580 miles of NFTS roads open for use. Alternative 3 would have the least route mileage within mule deer habitat, approximately 727 miles, and the least route mileage within elk habitat, approximately 433 miles. [57]

The DEIS suggests that winter and early spring seasonal restrictions in Alternative 2 would reduce impacts on 312 miles of road, but the impact is predicted to be undetectable because snow drifts currently make the roads unavailable. The trend in increasing use in winter of high clearance 4-wheel drive vehicles may contradict that suggestion.

What is perfectly clear is that the existing NFTS on the Modoc is excessive and is having a serious negative impact on deer and elk numbers. It is likely in violation of the National Forest Management Act and the Multiple Use Sustained Yield Act. The Forest needs to review its existing system and identify routes that can be eliminated to improve the quality of deer habitat. It cannot simply continue to oversee the marked decline of a MIS species.

Given the proposed alternatives, Alternative 3, with the addition of a seasonal closure, best meets the needs of ungulates on the Modoc NF.

G. Fish and Game

The Modoc National Forest is one of the most diverse forests enjoyed by sportsmen in the West. Two native trout species, the Warner and Goose Lake redband trout, are at serious risk from unmanaged off-highway vehicle use and the proliferation of new roads in the forest. The Modoc boasts exceptional hunting for both upland birds and large game species such as Rocky Mountain Elk and California Mule Deer.

[56] DEIS, p. 3-235.
[57] DEIS, p. 3-238.

Goose Lake redband trout

These sensitive trout are only present in six creeks in California and 13 in Oregon. However, living at the upper edge of their tolerance makes them exceedingly vulnerable to drought and climate change.

Redband trout are inland forms of rainbow trout (Behnke 1992, 2002) and the Goose Lake trout belongs in the group of redband trout that Behnke (2002) calls "redband trout of the northern Great Basin." The Goose Lake form is most similar to redband trout of two adjacent basins: the Warner Basin, Oregon and Nevada, and the Chewaucan Basin, Oregon (Behnke 2002). This conclusion was based on the lower vertebral counts and higher gill-raker counts of redband trout in the basins and distinct genetic markers (Behnke 2002).

Goose Lake redband trout, a subspecies of rainbow trout, occurs in Goose Lake and most of its tributaries, as well as some of the tributaries of the Pit River. Historically, significant spawning runs consisting of thousands of 2-5 pound trout occurred in most suitable tributaries and provided a popular trophy fishery. Today, most of the spawning runs are blocked by diversion dams and are de-watered for irrigation purposes.

The California Department of Fish & Game (DFG) feels that, despite the drought of 1992-93 that caused the lake to dry out completely, there is a good chance for the population to stabilize and even grow. In tributaries such as Lassen Creek, several hundred Goose Lake trout have been seen spawning. The Fish and Wildlife Service wants to see the trout listed while the DFG feels that they should not be. The USFWS has lumped Goose Lake redband trout with five other Great Basin redband trout as one Distinct Population Segment when considering a petition for listing them as threatened under the Endangered Species Act (Federal Register 65(54), March 20, 2000, 14932-14936).

Although the Goose Lake watershed may have had connections to other Great Basin watersheds during wetter climatic periods, it is clearly isolated from other basins today and presumably has been for thousands of years. Regardless of its ultimate taxonomic designation, the Goose Lake redband trout is clearly a distinct evolutionary unit confined to the Goose Lake basin and upper Pit River.

Importance of Headwaters

There are two life history strategies present in the Goose Lake redband trout: a lake strategy and a headwater strategy. The lake strategy fish live in Goose Lake where they grow to large size and spawn in tributary streams. The headwater strategy fish remain small and spend their entire life cycle in streams. It is almost certain that the two forms represent one population because the aperiodic desiccation of Goose Lake presumably has eliminated the lake forms repeatedly in the past. This was demonstrated most recently in 1992 when the lake dried up entirely during a prolonged drought. In the next two years, the lake refilled and about three years later, small runs of large trout appeared in

the streams again. The best explanation for this is that the new fish came from headwater populations.

In the small cold streams of the Warner Mountains above the lake, scattered populations of resident trout have managed to persist, completing their entire life cycle in the streams. Most of these populations are above apparent barriers to fish coming in from the lake. Nevertheless, they seem to be identical to lake fish, even if they look quite different because of small size and color patterns reflecting responses to a stream environment. Presumably, small numbers of headwater redbands always moved downstream, a natural mechanism for dispersing to new habitats or for recolonizing streams wiped out by drought or other natural disasters. Some of these fish reached the lake and a few years later, they matured and spawned, renewing the cycle.

Spawning

In California, the lake-dwelling form spawns in Lassen and Willow Creeks. If sufficient flows are available, they spawn primarily in Cold Creek, a small tributary of Lassen Creek, and in Buck Creek, a small tributary of Willow Creek. Upstream of its confluence with Cold Creek, a steep, rocky gorge apparently prevents spawners from ascending further up Lassen Creek. In Oregon, they formerly spawned in Thomas Creek and its tributaries and possibly in Cottonwood and Drews Creeks. Spawning migrations occurred in Willow and Lassen Creeks following snow melt and rain in the spring, usually during late March or in April. Spawning fish are rather pale looking, presumably from a life in murky water. Adults return to the lake following spawning. Young trout apparently spend one or more years in the stream before moving down into Goose Lake.

Unauthorized routes should be eliminated from these important spawning tributaries and system routes should receive strict seasonal closures during the wet season to protect the spring spawn.

Warner Lake/Valley redband trout

Warner Lake redband trout is a rainbow trout subspecies that was isolated in Warner Lake roughly 15,000 years ago. Evolutionary changes during their long period of isolation resulted in a unique strain of trout. Human impact over the last 150 years has resulted in the fragmentation and loss of the marsh, lake, and stream systems this species depends on.

Basin floors were developed for agriculture, where road and water systems included extensive damming, channeling, draining and loss of marshlands. Irrigation diversions were constructed on most streams causing de-watering and physical blockages for both upstream and downstream migrating trout. Cattle grazing also contributed to channel destruction in some locations. In several cases, the loss of adjacent marshlands appears to be related to increased alkalization. Lake and marsh rearing habitat and functioning migration corridors have been lost as a result. Exotic warm water species have infiltrated and spread.

Although densities and abundance are relatively high in the headwater and mid-reaches, densities in the lower reaches may be low and vulnerable to extreme environmental fluctuations and degraded habitat. Only three of the six interim criteria were met, thereby classifying this SMU as 'at risk'. Limited data sets and inferences from other information for populations in this SMU provide a qualified level of confidence in the assessment of the interim criteria.

We are disappointed to see so many new proposed road additions in the only habitat occupied by the Warner Lakes redband on the Modoc National Forest. This area already contains a large number of routes that are part of the National Forest Roads System. We feel that adding new routes is unnecessary, will continue to threaten Warner Lake redband trout, and will not provide any additional hunting or fishing access.

The following list of Unauthorized Routes should be eliminated from this area:

SS551, SS554, SS551, SS556, SS557, SS558, SS562, SS563, SS565, SS566, SS557, SS574, SS575, SS588, SS589, SS590, SS691, SS693, SS601, SS603, SS605, SS607, SS593, SS582, SS573, SS584, SS585, SS656, SS614,

On top of this, we request that all existing system routes within the Mount Vida and Mount Bidwell IRAs have a strict seasonal closure to protect the spring spawning of the Warner Lake redband trout. The majority of these system routes parallel the perennial streams that represent the only habitat left in California for this native trout species.

The following list of System Routes should have strict seasonal closures in this area:

48N32, 48N32C, 47N98, 47N21, 47N28, 47N28B, 47N28D, 47N98, 48T32A, 48T32C, 48N32A, 48N10CA, 48N10, 47T98A, 47T98B, 47T98C, 48N02B

H. Old Forest Habitat and Species

The Modoc is partially covered under the SNFPA which includes an objective to protect, increase and perpetuate old forest ecosystems and provide for the viability of native plant and animal species associated with old forest ecosystems. Species associated with old forest ecosystems include: California spotted owl, Goshawk, American marten, Pacific fisher, Sierra Nevada red fox, wolverine, and a number of migratory bird species, all of which are found in the Modoc National Forest.[58]

As noted throughout the DEIS, roads and trails fragment habitat. Andren (1994) suggested that as landscapes become fragmented, the combination of increasing isolation and decreasing patch size of suitable habitat is negatively synergistic, compounding the effects of simple habitat loss. In particular, species associated with old forest habitats may be impacted by such effects."

[58] These are protected by the Migratory Bird Treaty Act, which should be listed as a "required disclosure".

“Old Forest Emphasis Areas” (OFEAs) are to be managed for the purpose of maintaining or developing old forest habitat in areas containing the best remnant blocks or landscape concentrations of old forests and in areas that provide old forest functions, such as connectivity of habitat. Roads and OHV trails decrease interior forest patch size, decreasing the amount of habitat and increasing the distance between suitable interior forest patches for old forest species.

The SNFPA Record of Decision states, "The old forest and associated species conservation strategy in this decision aims to provide environmental conditions that are likely to maintain viable populations of old forest associated species, most specifically the California spotted owl, well-distributed across Sierra Nevada national forests. Further, SNFPA states, "The landscape strategy accomplishes this goal at multiple spatial scales by: (1) protecting and managing old forest emphasis areas to provide high quality California spotted owl habitat....(4) protecting all patches larger than 1 acre of high quality old forest characterized by large trees and high canopy closure.

The existing and proposed routes in old forest areas hinder, rather than further the goal of maintaining high quality habitat for old forest associated species.

As stated above, merely attempting to assess the potential impacts may or may not meet the legal bar for NEPA compliance, but it does not meet the higher standard of protection required under the Executive Orders and Travel Management regulations. These require that the project give deference to the needs of wildlife over the desires of motorized recreationists.

Some species, such as marten, are especially sensitive to fragmentation; and “may experience exponential population declines at relatively low levels of fragmentation.” (Bisonette et al,1997, in USDA FS 2004). In order to maintain or develop old forest habitat, road and trail density must be minimized. Designation of OHV routes in OFEAs violates the objectives for which they were designated.

Unauthorized routes should not be designated in CSO or goshawk activity centers. These species would benefit from the effort to maintain and develop old forest emphasis areas.

Likewise, many forest bird species are sensitive to habitat fragmentation and human intrusion. They are impacted by roads and trails that fragment old forest habitat, decreasing the amount of interior forest habitat and increasing edge effect.

Consultation with the U.S. Fish and Wildlife Service under the Endangered Species Act over the Effects of the Proposed Action

The Forest should consult with the FWS over the effects of it chosen alternative pursuant to the ESA, 16 U.S.C. § 1531 et seq., if any alternative besides Alternative 3, modified, is chosen. The DEIS identifies impacts to several listed species from continued ORV use on the Forest, and so consultation with the FWS is necessary to avoid extinction of species

or adverse modification of critical habitat. This cannot be avoided simply because a chosen alternative may have fewer impacts than the status quo.[59]

I. Impacts from Noise

The Draft Environmental Impact Statement for the Modoc National Forest inadequately considers the potential impacts of the propagation of engine noise around roads and recreational trails in either its route-specific assessment or its analysis of cumulative impacts of the motorized system. Many spatial models and software packages are available for analyzing potential noise propagation from transportation systems, including a GIS model that our office (TWS) recently developed for the specific purpose of analyzing noise propagation from off-road vehicles in forest landscapes.

The model we developed is based on the System for the Prediction of Acoustic Detectability (SPreAD), a workbook issued by the Forest Service and Environmental Protection Agency for land managers to "evaluate potential … acoustic impacts when planning the multiple uses of an area." We adapted the SPreAD model to a GIS environment so that potential noise impacts could be integrated with other variables being considered in the travel management planning process. We have included the user's guide for the SPreAD-GIS model as an appendix to this document (**Appendix C**), and we would be happy to provide an up-to-date version of the software at your request. The SPreAD-GIS model can be implemented in your existing ArcGIS software at no additional cost.

J. Cultural Resources

Section 106 of the National Historic Preservation Act (NHPA)[60] requires the Forests to protect historic sites from harm caused by transportation impacts. It requires the USFS to actively inventory and evaluate cultural resources within the Modoc National Forest and to "take into account the effect of the *undertaking* on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register" and "afford the Advisory Council on Historic Preservation . . . a reasonable opportunity to comment with regard to such undertaking."[61] (emphasis added).

The Advisory Council on Historic Preservation (the entity charged with interpreting the NHPA) states that the:

> Area of Potential Effect (APE) for the road, trail, or area shall include corridors or zones adjacent to the road, trail, or area that the Forest determines to be subject to

[59] *Aluminum Co. of America v. Bonneville Power Admin.*, 175 F.3d 1156, 1162 (9th Cir. 1999) ("We agree with NMFS that the regulatory definition of jeopardy, *i.e.*, an appreciable reduction in the likelihood of both survival and recovery, 50 C.F.R. § 402.02, does not mean that an action agency can "stay the course" just because doing so has been shown slightly less harmful to the listed species than previous operations.").

[60] 16 U.S.C. § 470f
[61] 16 U.S.C. § 470f

> direct or indirect effects due to local environmental factors or the proximity of particularly sensitive resources. This will include the road, trail, or area surfaces, passing or parking areas, and campsites or other features established as part of the road or trail. It shall also include additional affected areas or properties if the designation would facilitate increased access to those historic properties.

Under the NHPA, Forests shall also be responsible for identifying consulting parties and inviting them to participate in the decision-making process.[62] The consulting parties shall include, as appropriate, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and other federally recognized Tribal governments.

The Motorized Recreation Programmatic Agreement (PA) among the Pacific Southwest Region, California State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation for Designating Motor Vehicle Routes and Managing Motorized Recreation on the National Forests in California provides procedures for complying with 36 CFR § 800. The PA includes a Heritage Resource Strategy outlining the requirements for cultural resource inventory, evaluation of historic properties, and effect determinations. The Heritage Resource Strategy states the following:

> For the purposes of this strategy, all cultural resources within APEs are considered *historic properties,* even if they have not been formally evaluated using National Register of Historic Places (NRHP) Criteria (36 CFR § 60.4), unless they already have been determined *not eligible* in consultation with the SHPO or through other agreed on procedures (36 CFR § 60.4; 36 CFR § 800; CARIDAP, etc.). If designation of routes may diminish historic property prospective NRHP values, Forests shall follow the provisions of 36 CFR § 800 regarding evaluation and determination of effects….

The Executive Order[63] on Use of Off-Road Vehicles establishes that ORV use may occur only in areas where its use has been determined to minimize conflicts with other users, promote safety, and protect resources. ORVs are to be "controlled and directed" to

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[62] 36 CFR § 800.2

[63] The Executive Order is binding on the Agency in this context. "We have recognized, however, that under certain circumstances, Executive Orders, with specific statutory foundation, are treated as agency action under the Administrative Procedure Act." *City of Carmel v. U.S. Dept. of Transportation*, 123 F.3d 1144, 1166 (9th Cir. 1995). An Executive Order is to be "accorded the force and effect of a statute" when it has a "distinct statutory foundation." *Ass'n for Women in Science v. Califano*, 566 F.2d 339, 344 (D.C. Cir. 1977). Because Executive Order 11644 has a statutory basis in the organic statutes governing the Forest Service as well as the authority of the federal government to administer federal lands, the Executive Orders inform and control the Agency's efforts to designate routes for motorized use. "Under the codification of the applicable Executive Order [11644], the court concludes that the Defendants were charged to minimize likely future conflicts between forest users." *Northwest Motorcycle Ass'n v. U.S. Dept. of Agriculture*, 18 F.3d 1468, 1477 (9th Cir. 1994); *see also Cent. for Sierra Nevada Conservation v.Berry*, No. S-02-325, slip op. at 53 (E.D. Calif. Feb. 15, 2005) ("Executive Order 11644 created a policy striking a balance in favor of resource protection."). The mandate of Executive Order 11644 applies both to the existing travel system and any new designation.

specific areas. It is clear under this standard that few areas and trails are to be open to ORVs due to the resource damage and user conflicts they cause.

Executive Order 11644 and the Travel Management regulations set clear and unambiguous criteria that must be considered before designating any road/trail open to motorized travel. These criteria are necessary to ensure that motorized designations are informed by thorough consideration of the impacts to cultural resources and other uses of National Forests. Despite these clear mandates, the Forest Service has misconstrued its obligations to apply the minimization criteria at a site-specific level during the route designation process and is proposing to designate roads through 234 archaeological sites resulting in negative effects to the heritage resources on those sites.

K. Semi-primitive Non-motorized Areas

The Modoc Forest Land and Resource Management Plan (LRMP) describes the Recreation Opportunity Spectrum class of Semi-Primitive Non-Motorized (SPNM) as an area where there is "little evidence of roads" and "is closed to motorized travel." The LRMP includes Standards and Guidelines that "prohibit motorized recreation; eliminate and prevent OHV use." The DEIS ignores this prescription and proposes to designate over 50 National Forest Transportation System maintenance level 2 roads and at least 6 new unauthorized roads in areas within the SPNM class **(see Appendices D and E)**

The DEIS also proposes to designate two maintenance level 2 system roads (44N08A, 43N47A) and add 3 new user-created roads in an area with a Primitive ROS class. The Primitive class is described as an area where "motorized use is prohibited." Although the Primitive ROS class is not addressed in the Modoc LRMP, a Primitive ROS class is identified on the Region 5 GIS 'geodatabase available for download from the Region 5 GIS Clearinghouse (http://www.fs.fed.us/r5/rsl/clearinghouse/gis-download.shtml).

Designating motorized use in SPNM and Primitive ROS classes violates the Forest Standards and Guidelines of the LRMP which prohibits motorized recreation, eliminates and prevents OHV use, and recommends that these areas be managed for quiet forms of recreation (e.g., hiking, fishing and camping).

L. Inventoried Roadless Areas

We contend that agency inventoried roadless areas (AIR) and citizen-inventoried roadless areas (CIR) generally should not contain designated OHV routes. The responsible National Forest officials are required to "minimize conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands."[64] By definition, roadless areas afford a type of quiet and primitive recreation that cannot be found near roads. To allow OHV use in these areas would cause disproportionate conflict between quiet recreationists and OHV users and will risk precluding roadless areas from further consideration for Wilderness designation. By designating up to 258 miles of National Forest Transportation System (NFTS) roads in agency inventoried roadless

[64] 36 C.F.R. § 212.55

areas, 208 miles of NFTS roads in citizen-inventoried roadless areas, and 16.5 miles of new unauthorized roads in citizen-inventoried areas, the DEIS will deny reasonable access to those forest visitors who engage in quiet forms of recreation (**see Appendices D and E** for route numbers). The DEIS also proposes adding a road (PUB102) in the Mt. Bidwell Agency Inventoried Roadless area, which is in violation of the Roadless Area Conservation Rule of 2001[65].

Although the Forest claims that closure and decommissioning of NFTS roads is out of the scope of the DEIS, we have identified several NFTS roads in AIR areas and SPNM areas that either do not exist on the ground or are clearly never used as evidenced by the overgrown nature of the roads. If the Modoc National Forest had conducted a Travel Analysis on the NFTS, these roads would have been identified. We were unable to inventory all of the AIR areas for roads with similar problems and wonder how many more roads are on the NFTS that do not exist or are never used.

The following roads either do not exist or are partially to totally overgrown:

Callahan Flow Roadless Area/SPNM – do not exist on the ground

46A21MA and 46A21MB

Lavas Roadless Area/SPNM – partially to totally overgrown

46A17B, 46A17BB, 46A17H, 46A17E, 46A17F, 46A17C, 46A17X, 46N16A

These roads do not appear on the Modoc National Forest's map "Modoc County", which is the map currently provided to the public. If the roads are not currently being acknowledged by the Modoc National Forest as NFTS roads, they should be closed as part of this Travel Planning process.

Additionally, the Northwest Forest Plan provides clear guidance for decreasing the negative impact of roads in inventoried roadless areas stating that "no new roads will be constructed in inventoried roadless areas within key watersheds, the amount of existing system and nonsystem roads within key watersheds should be reduced (through decommissioning), and watershed analysis must be completed for all watersheds containing inventoried roadless areas before management activities can proceed." The DEIS fails to identify the inventoried roadless areas that are within key watersheds and has neglected to reduce the amount of existing system roads in these areas by identifying system roads for closure as part of the Travel Planning process.

Furthermore, the Executive Order on Invasive Species[66] states that all federal agencies will use relevant programs and authorities to prevent the introduction of invasive species, and "not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species … unless … the agency has

[65] 36 C.F.R. § 294
[66] Exec. Order 13112 § 2 (Feb. 3, 1999).

determined and made public its determination that the benefits of such actions clearly outweigh the potential harm." Given that roads and OHVs serve as corridors for exotic plant[67] and disease[68] invasion, and that invasion by exotic species is one of the four threats to the health of the National Forests identified by the former Forest Service Chief, we believe that roadless areas should serve as refuges from motorized encroachment.

M Climate Change

The Modoc DEIS violates NEPA in several respects by failing to analyze the impacts of climate change. See **Appendix B**.

N. Route-specific Comments (System Routes)

In **Appendix D**, we have identified numerous resource conflicts with the putative system routes that the Forest has included in their maps depicting the various Alternatives. The following Modoc NF existing system roads should be closed to motor vehicle use at all times of the year and eventually restored to a more natural condition. We examined all of the maintenance level 2 system roads in the proposal area and used G.I.S. spatial data obtained from USFS Region 5, Modoc National Forest, and the California Natural Diversity Database to identify which roads conflict with areas that we believe are incompatible with motorized use: Wilderness Areas, Primitive and Semi-primitive Non-motorized Areas, Research Natural Areas, Special Interest Areas, federally Endangered and Threatened Species critical habitat, agency-inventoried roadless areas, citizen-inventoried roadless areas, and montane meadows (**see Table 1**). Any maintenance level 2 system road or motorized trail that travels through these areas is recommended for closure. An Excel file is attached.

O. Route-specific Comments (Unauthorized Route Additions)

In **Appendix E**, we have identified numerous resource conflicts with the unauthorized route additions from the Modoc National Forest *proposed action*. These routes are those that we identified in scoping as having the greatest amount of natural resource problems; they should not be designated for motor vehicle use. Increased scrutiny and precaution should be used before adding new routes to the system; therefore we used the same filters as in **Appendix D** (using G.I.S. spatial data obtained from USFS Region 5, Modoc National Forest, and the California Natural Diversity Database), but also considered the proposed routes' effects on plants and animals listed in Region Five's sensitive species list by Forest and those species listed as threatened or endangered by the U.S. government or the state of California (**see Table 1**). Any unauthorized route proposal that travels through critical habitat for these plant and animal species, passes through a critical

[67] Parendes, L.A., and J.A. Jones. 2000. Role of light availability and dispersal mechanisms in invasion of exotic plants along roads and streams in the H.J. Andrews Experimental Forest, Oregon. Conservation Biology 14:64-75.

[68] Zobel, D.B., L.F. Roth, and G.M. Hawk. 1985. Ecology, pathology, and management of Port Orford cedar (*Chamaecyparis lawsoniana*). U.S.D.A. Forest Service, Portland, OR, General Technical report PNW-184.

aquatic refuge, or does not meet the criteria set out in **Appendix D** is recommended to be not designated. This does not imply an endorsement of other route additions in the proposed action. In fact, we do not condone the addition of any new unauthorized routes in the absence of travel analysis, identification of the minimum transportation system, and identification of unneeded routes. An Excel file is attached.

We are concerned that there is no methodology in the DEIS which explains how routes were chosen to be added to the transportation system. We are especially concerned that only a very small percentage of the unauthorized routes were even visited by Forest Service staff to determine potential impacts on botanical resources, recreation, heritage resources, aquatic species, wildlife, hydrology, and soils. The rationale for the lack of field visits is entirely inadequate. For example, for wildlife resources, the DEIS claims that "the familiarity of the team and line officers with on-the-ground conditions made subsequent review of these segments duplicative and unnecessary for the wildlife resource area."[69] *Not one single route was field-checked for wildlife conflicts.* Moreover, the supposed knowledge of the team and line officers of on-the-ground conditions was not recorded in the DEIS. Whatever knowledge they assert they have is not shared with the public, which hardly fulfills the role of analyzing impacts and reporting them to the public as required by NEPA. To take this argument to its logical conclusion, the team and line officers could merely assert that their knowledge of on-the-ground conditions made review and reporting of any environmental impacts duplicative and unnecessary. As another example, for botanical resources, the DEIS states that "field visits were not performed on other [than in habitat for Federally Listed species] proposed routes because there was neither time nor an urgent need to visit every route."[70] Lack of time is not a valid justification for disregarding the requirements of NEPA. Furthermore, all routes need to be checked for potential environmental impacts, not merely those in potential endangered species habitat.

Because the vast majority of routes were never field-checked, we cannot even be sure that they exist on the ground or are suitable for motor vehicle use. These are data that cannot be verified by GIS layers or remote sensing. It is difficult to imagine that the team and line officers know from memory the condition of 1,806 unauthorized routes in the inventory.

[69] DEIS Appendix A-2, p. 43
[70] DEIS Appendix A-2, p. 43

Table 1. The following table explains the methods used for arriving at these recommendations:

Area or Resource of Concern	System Roads	System Motorized Trails	Unauthorized Route Proposals
Wilderness	decommission	close to motor vehicles	do not designate
Administratively Endorsed Wilderness	decommission	close to motor vehicles	do not designate
Primitive and Semi-primitive Non-motorized areas	decommission	close to motor vehicles	do not designate
Research Natural Areas*	decommission	close to motor vehicles	do not designate
Endangered Species Critical Habitat	decommission	close to motor vehicles	do not designate
Wild River Corridor*	decommission	close to motor vehicles	do not designate
Agency-inventoried Roadless Areas	decommission (with rare exceptions)	close to motor vehicles (with rare exceptions)	do not designate
Citizen-inventoried Roadless Areas	decommission non-essential roads**	close to motor vehicles (with rare exceptions)	do not designate
Pacific Crest Trail	decommission non-essential roads	close to motor vehicles	do not designate
Special Interest Areas*	decommission non-essential roads	close to motor vehicles	do not designate
Cultural Sites	decommission non-essential roads	close to motor vehicles	do not designate
Scenic River*	decommission non-essential roads	close to motor vehicles	do not designate
Recreational River*	decommission non-essential roads	close to motor vehicles	do not designate
Montane Meadows	decommission non-essential roads	close to motor vehicles	do not designate
Meadow Management Zones	decommission non-essential roads	close to motor vehicles	do not designate
State Threatened or Endangered Species	keep open but monitor	keep open but monitor	do not designate
Forest Service Sensitive Species	keep open but monitor	keep open but monitor	do not designate
Critical Aquatic Refuge	keep open but monitor	keep open but monitor	do not designate
Riparian Conservation Areas	keep open but monitor	keep open but monitor	designate if no damage is occurring

* or proposals for these designations

** "non-essential" can mean, for instance, roads that are not major travel arteries

We submit these comments in the hope that the Forest Service will make use of them to develop a Decision that meets all legal and regulatory requirements for OHV Designation. We look forward to working with the Tahoe National Forest and its staff for the protection and restoration of all resources on this forest.

Respectfully submitted,

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Organizational Information:

The Wilderness Society is a national, not-for-profit conservation organization with over 350,000 members. Founded in 1935 by Robert Marshall, Aldo Leopold, and Benton MacKaye, we provide scientific, economic, legal, and policy guidance to land managers, communities, local conservation groups, and state and federal decision-makers. In doing so, we hope to ensure the best management of our public lands. Our members in California and throughout the United States are deeply interested in travel planning as it pertains to recreation, wildlife conservation, water quality, and the ability to enjoy public lands for inspiration and spiritual renewal.

Public Employees for Environmental Responsibility (PEER) is an association of state and federal government scientists, law enforcement personnel and natural resource managers

who deal with natural resource-related issues. PEER assists public employees in removing obstructions to environmental protection, especially when those obstructions are lodged within or by the employee's own agency.

The California Wilderness Coalition (CWC) is a statewide non-profit organization that works to defend and protect California's last remaining wild places. The CWC has been involved in the travel management process in an effort to ensure the protection of environmental and natural resources.

Klamath-Siskiyou Wildlands Center ("KS Wild") is a non-profit organization incorporated in Oregon with offices in Ashland and Williams, Oregon. KS Wild has 1,800 members in over 10 states, with most members concentrated in southern Oregon and northern California. KS Wild advocates for the forests, wildlife, and waters of the bioregion. KS Wild works to protect and restore the extraordinary biological diversity of the Klamath-Siskiyou region of southwest Oregon and northwest California and has been actively engaged in travel management planning throughout the region.

The Shasta Group of the Sierra Club represents more than 850 families and individuals concerned with conservation north and east of Redding California.

Appendix B:

Climate Change

The Modoc DEIS Violates NEPA in Several Respects By Failing To Analyze the Impacts of Climate Change

In a recent Ninth Circuit case, *Center for Biological Diversity v. National Highway Traffic Safety Administration*, 508 F.3d 508, 555 (9th Cir. 2007), involving an NHTSA rule for corporate average fuel economy standards for light trucks, the court found that climate change satisfied several of the "intensity" factors in 40 C.F.R. § 5108.27(b). First, the court found that although the NHTSA rule at issue may have an "individually insignificant" effect on climate change, it may nonetheless have a "cumulatively significant" impact, thereby satisfying 40 C.F.R. § 1508.27(b)(7). In addition, the court found that climate change will affect public health and safety, satisfying 40 C.F.R. § 1508.27(b)(2).

Climate change will disturb normal ecosystem functioning by drying up watersheds and progressively making more areas uninhabitable. Developing forest plans around global ecosystem conservation principles is an important part of improving how we will fare as a planet, which must include examining the role of forests in the carbon cycle.

Specific knowledge of the effects of wilderness management on climate is avoided or unavailable in the Modoc DEIS, and no attempt is made to utilize existing studies as the basis for any further information about how climate change—with expected warmer weather—may affect the Modoc National Forest.

Several federal entities have published studies on climate change that could easily have been utilized by the Forest Service in its climate change analysis of the Modoc National Forest DEIS. These recent studies include: 1) U.S. Climate Change Science Program Final Report, Synthesis and Assessment Product 4.4, "Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources" (June 2008), *available* at http://www.epa.gov/ord/npd/pdfs/gcrp-factsheet_SAP-4-4.pdf; 2) Committee on Environment and Natural Resources, National Science and Technology Council, "Scientific Assessment of the Effects of Global Change on the United States" (May 2008), *available at* http://www.climatescience.gov/Library/scientific-assessment/; and 3) U.S. Climate Change Science Program, Synthesis and Assessment Product 5.2, "Best Practice Approaches for Characterizing, Communicating and Incorporating Scientific Uncertainty in Climate Decision Making," (April 2008), *available at* http://www.climatescience.gov/Library/sap/sap5-2/public-review-draft/default.htm.

These studies provide significant new information about the impacts of climate change on lands like the Modoc (do they?)National Forest, as well as emerging new best management practices to employ in the face of climate change. The June 2008 report, prepared by the Environmental Protection Agency, specifically "identifies strategies to address management challenges posed by climate change for a subset of federally

protected lands and waters. These strategies can also be broadly applied to other lands and waters managed by governmental or nongovernmental entities."[71] This information should have been included in the analysis of the alternatives in order to adequately address climate change.

Failure To Include the Impacts Of OHV Use On Climate Change

While omitting the consequences to either forest health or to the atmosphere from OHV use, the DEIS does include important data on OHV carbon emissions:

> Many of the off-road vehicles registered in California emit 50 times more pollution than a current model passenger car reflecting their lack of regulation in the past and designs that emphasize performance over fuel economy (CARB 1997 in Kassar 2005). Some estimates state that off-road vehicles produce as much as 4,000 times more carbon monoxide emissions and 118 times as many smog-forming pollutants as modern automobiles on a per-mile basis (CARB 1998 in Kassar 2005).[72]
>
> Off-road diesel-powered equipment is considered highly polluting. Diesel is one of the largest contributors to environmental pollution problems worldwide (Lloyd and Cackette 2001). Atmospheric deposition of air pollutants released from diesel exhaust is considered a significant source of ecosystem contamination (ibid). In addition, heavy metals and dioxins common to diesel exhaust can be transported long distances as gases or PM. EMFAC2000, California's emissions inventory model, estimated that even though diesel-powered vehicles contribute only 5 percent of the daily vehicle miles of travel in California, these diesel-powered vehicles produced at least 56 percent of the vehicle exhaust particulate matter in California in the year 2000.[73]

Despite acknowledgment from the Forest Service of these figures, any prediction of carbon emissions from OHV use in the Modoc National Forest under the varying alternatives is not included. Furthermore, no attempt is made to foresee the results of allowing the use of vehicles that have not been subject to emissions regulations. These emission standards exist for the sake of public health, fuel efficiency, and the environment as a whole; which includes climate change mitigation. For the Forest Service to prepare no analysis of such a potentially high source of pollution sets a powerfully dangerous precedent and is in violation of NEPA.

Failure to Take a Hard Look

[71] U.S. Climate Change Science Program Final Report, Synthesis and Assessment Product 4.4, "Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources" (June 2008), *available at* http://www.epa.gov/ord/npd/pdfs/gcrp-factsheet_SAP-4-4.pdf.
[72] Tahoe Travel Management DEIS, Vol III, p. 33
[73] *Id.*

A description of the effects of climate change on existing conditions such as the prevalence of exotic plant species, the availability of water, the health of riparian areas, zones of soil erosion or vulnerability to erosion all provide critical baseline information necessary for the Forest Service to determine whether the resources can withstand any of the proposed alternatives. Without this basic foundational information about the existing health of the land, it is impossible to make any informed decision about the level, location, and kind of activities it can support in the future.

The U.S. Department of Agriculture report, *The effects of climate change on agriculture, land resources, water resources and biodiversity*, notes that "the climate changes that we can expect are very likely to continue to have significant effects on the ecosystems of the United States."[74]

These impacts include:

- Climate effects on disturbances such as fire, insect outbreaks and wind and ice storms are very likely important in shaping ecosystem structure and function;
- Grasslands will transform into woody shrublands with reduced capacity for water absorption and greater vulnerability to channelization and erosion;
- Proliferation of non-native annual and perennial grasses are virtually certain to predispose sites to fire. The climate-driven dynamics of the fire cycle is likely to become the single most important feature controlling future plant distribution in U.S. arid lands;
- Climate change is likely to result in shrinking water resources and place increasing pressure on montane water sources to arid land rivers, and increase competition among all major water depletions in arid land river and riparian ecosystems;
- Climate change will increase the erosive impact of precipitation and wind;
- Surface soils will become more erodible;
- Increases in wind speed and gustiness will likely increase wind erosion.

While these findings are dramatic, the report further notes that "[i]t is likely that these changes will increase over the next several decades in both frequency and magnitude, and it is possible that they will accelerate." [75]

The DEIS provides no estimate of how much temperatures will increase in the Modoc National Forest or even in the general region, or how that increase may affect natural resources such as water, vegetation, wildlife, or any others managed by the Forest Service. The Modoc National Forest must address the issues of smaller snowpack, earlier snowmelt, less rainfall, drier climates leading to more fires and the impacts associated with these phenomena on ecosystems, in connection with the Travel Management Plan,

[74] U.S. Department of Agriculture (USDA) The effects of climate change on agriculture, land resources, water resources, and biodiversity:Synthesis and Assessment Product 4.3 <http://www.climatescience.gov/Library/sap/sap4-3/default.php>
[75] *Id.* at 23.

to properly determine the impacts of the proposed route system on the Forest.[76] The Forest Service must make predictions with these effects in mind.

At a minimum, a description of the effects of climate change on existing conditions such as the prevalence of exotic plant species, the availability of water and the health of riparian areas, zones of soil erosion or vulnerability to erosion, all provide critical baseline information necessary to the Forest Service's ability to determine whether public land resources can withstand any of the proposed management alternatives, including many miles of OHV routes and roads. Without this basic foundational information about the existing impacts of climate change on the land, and future expected impacts, it is impossible to make informed decisions about the level, location, and kind of activities the land and its ecosystems can support in the future.

This omission is a significant oversight given that federal departments and agencies including the USDA, the Environmental Protection Agency, and U.S. Geologic Survey have all published documents and/or provided public statements and even congressional testimony acknowledging the impacts of climate change on public lands resources. Together with the failure to incorporate the newer studies cited above, this oversight amounts to a failure to take the necessary "hard look" at the challenge of resource management in the Modoc National Forest, and an important aspect of that challenge.

Other forest management agencies--very importantly, leaders of both the Department of Interior and BLM-- have elsewhere gone further than simply acknowledging that climate change is a well-accepted phenomenon. On April 26, 2007, Department of Interior Deputy Secretary Lynn Scarlet testified before the House Interior Appropriations Subcommittee that global climate change could dramatically reshape America's public lands with increased species extinctions and wildfire. As she put it, "On the ground, we're seeing a lot of changes . . . some of them dramatic."[77] Ron Huntsinger, BLM's science coordinator, said,

> [w]e can anticipate further reductions in the level of allowable uses on public lands due to the loss of productivity and capacity . . . . The results are more fragile ecosystems, a greater susceptibility to the outbreaks of attacks by parasites and disease, increased vulnerability to wildland fire and erosion and an overall reduction in the carrying capacity of the land. [78]

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[76] *See* Stith T. Gower *et al*., "Fire as the dominant driver of central Canadian boreal forest carbon balance," *Nature, Letters*, Vol. 450, November 1, 2007.

[77] Testimony Of P. Lynn Scarlett ,Deputy Secretary , Department Of The Interior
Before The House Appropriations Subcommittee On Interior, Environment And Related Agencies, Regarding Climate Change , April 26, 2007,
<http://www.nps.gov/pore/naturescience/upload/climatechange_resources_congressionaltestimony_scarlett_070426.pdf>

[78] *Id.* < http://bullyinginstitute.org/education/braun/testimony.pdf>

Regarding the presence of a level of uncertainty about the precise degree of future change in climate conditions, uncertainty in forests does not excuse the failure to address this topic in forest management. As the EPA report explained:

> It is not possible to predict the changes that will occur, but managers can get an indication of the range of changes possible. By working with a range of possible changes rather than a single projection, managers can focus on developing the most appropriate responses based on that range rather than on a 'most likely' outcome.[79]

Additionally, NEPA contains specific requirements governing the treatment of uncertain conditions and imposes an obligation to state that existing evidence is inconclusive and to summarize the conclusions of that evidence. With respect to incomplete or unavailable information, 42 C.F.R. § 1502.22 provides in full:

> (a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.
>
> (b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include the information within the environmental impact statement:
>
> 1) A statement that such information is incomplete or unavailable;
>
> 2) A statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;
>
> 3) A summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and
>
> 4) The agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low,

[79] U.S. Climate Change Science Program Final Report, Synthesis and Assessment Product 4.4, Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources 9-14 (June 2008), *available at* http://www.epa.gov/ord/npd/pdfs/gcrp-factsheet_SAP-4-4.pdf.

> provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

NEPA regulations require that NEPA documents address not only the direct effects of federal proposals, but also "reasonably foreseeable" indirect effects. These are defined as:

> Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems."[80]

That there will be an increase of air pollution from adding motorized trails and from increased use on the extensive existing road system is eminently foreseeable. OHV use has increased dramatically in the last several years and will likely continue to increase. The environmental effects of these increases and measures to mitigate them must be discussed as compliance with NEPA necessitates.

The DEIS also violates NEPA by limiting the scope of the alternatives. Analysis of the beneficial environmental effects of closing the forest to OHVs has been excluded. The final environmental impact statement must consider and disclose the potential consequences of motorized recreation in the Modoc National Forest as it pertains to both increased carbon from vehicle emissions as well as ecosystem disjunction where a natural area is cleared for a road. Given that OHVs are associated with both the ignition of wildfires and the spread of exotic weeds, it is likewise reasonable to expect that the Forest Service would design an alternative based primarily on road closures and restoration of areas previously damaged by OHVs.

Failure to Include an Alternative that Captures Mitigation Options for Climate Change

An understanding of the predicted impact of climate change should, in turn, shape in important ways the various alternatives under consideration by the Forest Service. For example, given that so many of the predicted outcomes of climate change center on increased soil erosivity, dust storms, shrinking water resources, drier riparian areas, invasion of exotic plants, and the spread of hotter, larger wildfires, it is entirely reasonable to expect the Forest Service to design alternatives that minimize soil disturbance as much as possible.

[80] 40 C.F.R. § 1508.8(b). This regulation provides: " Effects include . . . Direct effects, which are caused by the action and occur at the same time and place. . . . Effects and impacts as used in these regulations are synonymous. Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.

Instead, without information about the effects of climate change in the area, the DEIS proposes a mix of exactly the kinds of actions that would compound the deleterious effects of a warming climate. Yet experts note that the "response of arid lands to climate change will be strongly influenced by interactions with non-climatic factors at local scales" including pressure related to the use of motorized off-road vehicles and grazing.[81] In this regard, the Forest Service's failure to consult the scientific literature, and in particular EPA's report, resulted in a fatally flawed document with none of the required options for managing a significant impact that will likely have systemic impacts throughout the Modoc National Forest.[82] The Forest Service should have drawn on EPA's own research and consulted with EPA staff whose report "provides information on how existing practices could be adjusted or new strategies developed, to address the effects of climate change on natural resources."[83] According to the report itself, these strategies involve increasing the resilience of ecological systems to climate change.

Caselaw underscores the importance of agency disclosure and public participation in an agency's decision-making process. *See, e.g., Wilderness Watch v. Mainella*, 375 F.3d 1085, 1094 (11th Cir. 2004); *Am. Iron and Steel Inst. v. U.S. Envt. Prot. Agency*, 568 F.2d 284, 291 (3d Cir. 1977) (emphasizing that public participation "enables the agency . . . to educate itself before establishing rules which have a substantial impact on those regulated"); *Big Hole Ranchers Ass'n, Inc. v. U.S. Forest Service*, 686 F. Supp. 256, 260 (D. Mont. 1988); *North Buckhead Civic Ass'n v. Skinner*, 903 F.2d 1533, 1540 (11th Cir. 1990). If a proposed action does not fully undergo the NEPA process, NEPA's purpose is undermined and the agency decision is insulated because final NEPA documents are not subject to a comment period. [84]

The public, interested parties and those with expertise in climate change have not been given the opportunity to review a climate change analysis or to provide input to the Forest Service about its accuracy or completeness. This is a violation of NEPA's objective to educate both the public and the decision maker, and as a result, the climate information should be improved and released for public comment in a draft plan and EIS. *See Westlands Water Dist. v. U.S. Dep't of Interior*, 275 F. Supp. 2d 1157 (E.D. Cal. 2002) (NEPA process "broke down" where agency's discussion of impact was not presented until after closure of comment period on draft EIS). *See also* 40 C.F.R. §§ 1500.2(d), 1503.1(a)(4), 1506.6 (2007) (all requiring public notice and availability of environmental documents so that interested persons and the agencies can be informed); *Anderson v. Evans*, 371 F.3d 475, 487 (9th 2004) (CEQ regulations require that the

[81] *See* Ryan, MG "Land Resources" Section of the Climate Change working group report at 8.
[82] U.S. Climate Change Science Program Final Report, Synthesis and Assessment Product 4.4, Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources 9-14 (June 2008), http://www.epa.gov/ord/npd/pdfs/gcrp-factsheet_SAP-4-4.pdf
[83] EPA, Global Change Research Program, Science in Action: Building a Scientific Foundation for Sound Environmental Decisions, *Assessment Provides Strategies for Managing Natural Resources in a Changing Climate: Findings of the U.S. Climate Change Science Program Synthesis and Assessment Product 4.4* at 2, *available at* http://www.epa.gov/ord/npd/pdfs/gcrp-factsheet_SAP-4-4.pdf.
[84] *California v. Block*, 690 F.2d 753, 771 (9th Cir. 1982).

"public must be given an opportunity to comment on draft EAs and EISs, and public hearings are encouraged to facilitate input on the evaluation of proposed actions").

Tell the Forest Service to protect Modoc

(form e-mail received from members of The Wilderness Society)

In the Draft Environmental Impact Statement (EIS) for Motorized Travel on the Modoc National Forest, you propose adding 336 miles of unauthorized roads to your current transportation system. This action seems surprising to me considering that the Forest is unable to properly maintain the nearly 5,000 miles of roads currently existing on the forest.

The current proposal focuses too much on analyzing the potential impacts of designating new user-created roads and not enough on assessing the environmental and social impacts of the existing system of roads. The current transportation system continues to allow motor vehicle use in ecologically and socially important roadless areas, in habitat of sensitive wildlife species, and in rare mountain meadow habitat.

The Draft EIS is wholly inadequate in following the regulations established for travel management and in addressing the environmental impacts associated with the current and proposed road systems. The Modoc National Forest has not: a) identified the minimum road system needed for safe and efficient travel and for protection of National Forest System lands; b) identified the roads under their jurisdiction that are no longer needed to meet Forest Service management objectives, and that, therefore, should be decommissioned or considered for other uses; and c) completed a science-based analysis of the existing road system to inform these decisions.

Because you have not completed a science-based Travel Analysis and included an Alternative that considers road closures on the existing National Forest road system, I encourage you to select Alternative 3, which prohibits cross-country travel but does not add new roads or motorized trails to the current unsustainable National Forest road system.