



MOTORIZED VEHICLE ACCESS IN CLOSED AREAS ON THE PSICC

United States Department of
Agriculture Forest Service

Pike - San Isabel National
Forests & Cimarron and
Comanche National Grasslands
2840 Kachina Drive
Pueblo, CO 81008

The Pike - San Isabel National Forests & Cimarron and Comanche National Grasslands (PSICC) has reviewed the appropriate statutes and history of allowing motorized access to closed areas of the Forest for mineral exploration. Motorized access is generally not reasonable for the purposes of minerals specimen collection or unpatented claim maintenance or monumenting. Therefore, it is the Forest's position that access to routes or areas closed by the Travel Plan or a Forest Closure Order will be provided for in the decision document approving a Plan of Operations for the proposed activity.

The Travel Management Rule (36 CFR Parts 212, 251, 261, and 295) required designation of those roads, trails, and areas that are open to motor vehicle use. The Rule further prohibits use of motor vehicles off this designated system, as well as use of motor vehicles on routes and in areas that is not consistent with the designations. With the signing of the ROD for the Travel Plan, many routes were not designated as "open." Travel on closed routes is permitted only for administrative purposes. Such purposes may include the use of Forest roads for mineral exploration.

Locatable Minerals regulations (36 CFR 228.12) regarding access state:

An operator is entitled to access in connection with operations, but no road, trail, bridge, landing area for aircraft, or the like, shall be constructed or improved, nor shall any other means of access, including but not limited to off-road vehicles, be used until the operator has received approval of an operating plan in writing from the authorized officer when required by §228.4(a).

Further, requirements for a Notice of Intent (NOI, 36 CFR 228.4) note that:

(a) Except as provided in paragraph (a)(1) of this section, a notice of intent to operate is required from any person proposing to conduct operations which might cause significant disturbance of surface resources.

Such activities as mineral specimen collection or claim maintenance or monumenting usually do not require motorized access. If motorized access is needed on a closed road or trail, a Plan of Operations is required to gain access but the means and modes of access must be reasonably necessary for the particular situation. The Forest Service is not obligated to approve access if the proposed means of access or mode of transport is not reasonably necessary for the work to be performed for prospecting, locating, and developing mineral resources. An operator who proposes means or modes of access that will result in significant disturbance of surface resources will be required to justify the proposal. A NOI or Plan of Operations is not required for claim maintenance but a Plan or NOI can be used to do the maintenance that is required yearly by the BLM. A vehicle/trail use permit is not an appropriate permit for activities covered under the 1872 mining Law.

For access to patented claims for purposes other than those related to minerals exploration or development, temporary access may be granted via a vehicle use permit, and permanent access requires a special use permit.