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Mark Lambert, Acting District Ranger  
San Juan National Forest, Dolores District  
28211 Hwy. 184  
Dolores, CO 81323

## **RE: Boggy-Glade Travel Management**

Dear Mr. Lambert:

Please accept these comments to Boggy-Glade Travel Management project and the Environmental Assessment dated October, 2011, including the modifications addressed in your letter dated October 21, 2011, (collectively, the “EA”). These comments are submitted on behalf of the Trails Preservation Alliance (TPA) and Colorado Off Highway Vehicle Coalition (COHVCO). In addition, we incorporate by reference, concur with and support comments submitted by individual and organizations members of TPA/COHVCO, which specifically include but are not limited to the comments submitted by Casey McClellan on behalf of the Timberline Trail Riders and by Gary Wilkinson on behalf of the San Juan Trail Riders. Any communications regarding these comments should be directed to Don Riggle, (719) 338-4106; [driggle10@msn.com](mailto:driggle10@msn.com) or Paul Turcke at the above-listed contact information and [pat@msbtlaw.com](mailto:pat@msbtlaw.com).

## **I. SUMMARY**

We appreciate the opportunity to provide input and several positive aspects of the proposed action. Game retrieval is an important issue for many hunters. We also appreciate the slight additional increases for campsite access and motorized route mileage, along with the associated plan amendment increasing road density guideline from 1.0 to 1.2 miles per square mile.

There remain several important issues which have not been adequately addressed. Single track riding has been virtually ignored in this planning effort. A meaningful network of single track trails has been previously used and must be incorporated into the range of viable decision

options. The EA also fails to adequately disclose or analyze route decommissioning. It is unclear whether the District contemplates ground disturbing decommissioning actions tiered solely to the EA and a subsequent FONSI. It should not – decommissioning using ground disturbing methods will require further NEPA analysis including an opportunity for public input following proper disclosure of any proposed projects.

## **II. SPECIFIC COMMENTS**

We will expand on the specific flaws in the EA.

### **A. The Decision Fails to Properly Analyze or Address Recreation Demand.**

The EA suffers a flawed purpose and need regarding motorized access and single track riding in the project area.

While unpopular to some, it is a fact that “[m]otorized recreation is a legitimate use” of the National Forests. Travel Management Rule Final Communication Plan, November 2, 2005, p.5. The various factors that must be reflected in a route designation decision include “provision of recreational opportunities” and “access needs.” 36 CFR § 212.55(a). Then-Chief Dale Bosworth stated upon release of the Travel Management Rule that “[l]and Managers will use the new rule to continue to work with motorized sports enthusiasts, conservations, state and local officials and others to provide responsible motorized recreational experiences in national forests and grasslands for the long run.” USDA Forest Service, News Releases, “*USDA Releases Final Rule for Motorized Recreation in National Forests & Grasslands*,” dated November 2, 2005. Indeed, “it is Forest Service Policy to provide diversity of road and trail opportunities for experiencing a variety of environments and modes of travel consistent with the National Forest recreation role and land capability.” Forest Service Manual 2353.03(2). The Forest Service should be planning for a managed system, and working with all groups, including OHV enthusiasts, in order to comply with not only the agency’s own directives and the Travel Management Rule, but the policies behind the Rule.

Single track trails are among the most treasured recreational opportunities throughout Colorado and the West. The EA is woefully deficient in properly framing or addressing single track use and opportunity.

The EA starts from the flawed premise that “[n]o single track motorcycle trails exist currently and motorcycle[] riders use the road system or 50-inch ATV trails.” EA at 8. This statement is factually incorrect. There are countless but uninventoried “trails” that motorcycle riders (and other users) have long traveled within the project area. More importantly, the EA’s observation is inappropriate for an area that is (and has long been) open to cross country travel. There has been no legal or practical need to even inventory, let alone designate, single track trails. Rather than recognizing the opportunity to essentially write on a blank slate, the EA uses the current “open” status to effectively eliminate the opportunity to formalize existing (or new) trail system(s) through a “no trails exist so we won’t recognize any” mentality.

Single track trail experiences should be a high priority for the District, for both motorized and nonmotorized users. The ecology, topography and use history of the area create an outstanding opportunity for multiple use recreation on single track trails.

The deficiencies in addressing single track opportunities can be rectified in several ways. Yet another new alternative(s) could be proposed and submitted for additional public comment. Or an alternative could be crafted from within the current range of alternatives. Travel planning must be a dynamic and evolving exercise, so it would also be possible to formalize the preferred alternative as a foundation, while recognizing the need to soon refine and revisit the analysis, specifying single track riding as a high priority topic for future analysis.

B. The Plan Lacks Legally Required Route Specific Analysis.

A travel planning process like this one necessitates detailed analysis of myriad factors for virtually every route. These factors might include soil, water, wildlife, vegetation and other physical resource impacts, as well as facilitation of human activities including vehicle-focused recreation, vehicle access to facilitate other forms of recreation such as camping, hiking, hunting, and others, and nonmotorized recreation.

The EA omits detailed analysis for any route. Instead, the approach is to discuss impacts or issues at the broadest level, if at all. Unlike many travel planning efforts, individual route options and eventual conclusions are not even presented via spreadsheet, table, or in any form. One cannot reasonably determine the proposed status for any particular route, nor can one compare route by route details across the alternatives.

This approach violates NEPA procedures as well as the substantive requirements of NFMA and the TMR. The agency is afforded latitude in making the difficult choices inherent in this process. But the agency must inform the public of the options being considered, identify relevant issues and information, rationally discuss them, and present a reasonably discernible path to the agency's final choice. These steps are simply not attempted in this effort.

The EA should be supplemented and route specific information provided.

C. The EA Presents An Illegally Limited Range of Alternatives.

The failure to meaningfully consider single track riding prevents construction of a sufficient range of alternatives. Forest considered only alternatives that would significantly reduce motorized recreation opportunity. NEPA imposes a mandatory procedural duty on federal agencies to consider a reasonable range of alternatives to the preferred alternative. 40 C.F.R. § 1502.14 (“agencies shall rigorously explore and objectively evaluate all reasonable alternatives.”) The alternatives section is considered the “heart” of the EIS and a NEPA analysis must “explore and objectively evaluate all reasonable alternatives.” 40 C.F.R. § 1502.14. The legal duty to consider a reasonable range of alternatives applies to both EIS and EA processes. *Surfrider Foundation v. Dalton*, 989 F. Supp. 1309, 1325 (S.D. Cal. 1998) (citing *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1229 (9<sup>th</sup> Cir. 1988) (“Alternatives analysis is both independent of, and broader than, the EIS requirement.”)). A NEPA analysis is invalidated by

“[t]he existence of a viable but unexamined alternative.” *Resources, Ltd. v. Robertson*, 35 F.3d 1300, 1307 (9<sup>th</sup> Cir. 1993).

A proper range of alternatives was not considered here. This argument dovetails with our earlier comment about the limited purpose and need and failure to address single track recreation issues. It neither reflects the history of use nor the requirements of the TMR to force motorcyclists onto the limited road/ATV trail system. Particularly in the District, which currently allows “open” travel, there are numerous viable alternatives which include meaningful single track riding opportunities. Specifically, the Timberline Trail Riders have provided route descriptions and information which should be included within the range of alternatives and designated for continuing motorcycle use. We hereby concur in these recommendations and incorporate by reference herein the route descriptions and maps submitted by the Timberline Trail Riders.

Additional alternative(s) should be created which would recognize and formally designate the robust single track riding opportunities in the project area.

D. The Plan Fails to Adequately Disclose or Analyze Decommissioning Actions.

Decommissioning is a site-specific action which requires site-specific analysis. We have stressed this point in comments and appeals to other Colorado Forests, which have gone ignored too often. We would prefer that the issue not require litigation, and would prefer that the Boggy Glade project tip the issue into litigation. The simple point we are trying to advance is that ground disturbing actions on the National Forest system must be specifically identified and subjected to meaningful NEPA analysis. In support of this fundamental proposition, we refer to the January 27, 2000 appeal decision from the Intermountain Regional Office clarifying the need for site-specific analysis where ground disturbing actions are contemplated. Again, we attach this document as Exhibit “A” hereto.

To the District’s credit, the EA contains more information than documents from some neighboring System units. A suite of decommissioning methods is outlined, and certain areas are mentioned and, in some instances, assigned a relative “priority” on the apparent list for decommissioning. EA at 22-24; 105-106 (Appx. B). However, this approach, standing alone, is not sufficient to support many of the described actions. The EA does not provide enough information where meaningful impacts to the human environment are contemplated, such as “blending and blurring” roadbeds with earth moving equipment, removing culverts, dropping live trees or otherwise destroying or utilizing resources to “disguise” a route entrance. The public is entitled to know, and comment upon, specific proposals for action at specific location(s) in a defined project area.

The appeal decision should reverse and set aside the decommissioning elements of the Decision and instruct the Forest to complete a separate process to disclose specific decommissioning methods in any and every instance where ground disturbing activity may occur in conjunction with decommissioning.

### III. CONCLUSION

The EA presents a solid foundation but incomplete package to satisfy legal requirements and practical recreation demands. The particular issues needing attention are single track riding opportunities and decommissioning procedures. The District must create mechanisms, through a final decision or by further supplementing the EA, to consider and designate a meaningful single track trail network. Rather than a flawed attempt to wrap designation and decommissioning into a single process, the District should complete route designation, receive the benefit of implementation and public feedback, and consider any extensive decommissioning options through a future, independent planning process.

We appreciate the opportunity to present these comments and look forward to further participation in planning and recreation management on the District.

Sincerely,

MOORE, SMITH, BUXTON & TURCKE, CHTD

*/s/ Paul A. Turcke*

Paul A. Turcke

PAT/cam