



April 24, 2012

Appeal Deciding Officer
Mark Stiles- Forest Supervisor
15 Burnett Court
Durango CO 80301

RE: Part 215 Notice of Appeal, Turkey Springs Trail Management Record of Decision
Pagosa District, US Forest Service, San Juan National Forest.

Dear Appeal Deciding Officer:

Please accept this correspondence as the Notice of Appeal under 36 C.F.R. Part 215 from the Decision Notice("DN") and Finding of No Significant Impact ("FONSI") and Final Environmental Assessment ("EA") from the Turkey Springs Trail Management Plan for the Pagosa Springs District of the San Juan National Forest (collectively, the "Decision"), dated March 16, 2012.

This appeal is presented on behalf of the Trails Preservation Alliance (TPA) and the Colorado Off -High way Vehicle Coalition,(COHVCO). These 2 organizations represent the majority of off highway vehicle users in the state of Colorado. The TPA and COHVCO thru their memberships have been active in the San Juan NF for the past 25 years. Both organizations have a long and current history of working with the USFS on all OHV recreation issues. The TPA and COHVCO are both currently involved with intervening action in support to USFS on going law suits.

The comments below are submitted in addition to the comments submitted by the San Juan Trail Riders (SJTR). It appears to the TPA and COHVCO that the past 24 months of work by the SJTR were not considered by the Pagosa District Ranger in his final record of decision. In fact it appears to us that the SJTR membership, the 24 months of work, coordinated by the district ranger were not considered in the final ROD. In addition it appears the final ROD represents a plan that does not meet the expectations conveyed by the Forests Service to the SJTR during their 24 month of work. The Organizations believe that the seasonal closure of the single track motorcycle trails for the benefit of other user groups is arbitrary and not supported by science. These seasonal closures must be reviewed and amended to provide a plan that conforms with current science and the purpose and intent of the planning.

While the Organizations have concerns regarding the decision and related documents, the Organizations were thrilled to see that the decision accurately reflected and implemented the roadless rule. Often the Roadless Rule is the basis for significant erroneous closures of routes and trails.

Decision Notice and FONSI

The Purpose and Need states on page 1 that there is a "perceived lack of adequate opportunities for certain recreation activities and user groups." In reading this statement, one is left to assume which user group perceives a lack of adequate recreation opportunities. Motorized, mechanized and non-motorized recreationists have all sought, at various times and locations, additional recreation opportunities. This type of subjectivity has no basis in a document that, by law, is to be supported by site-specific and science-based analyses as required by the NEPA. Because this statement is made in the Purpose and Need of the DN, one is left to conclude that this "perceived lack of adequate opportunities" was, in part, the basis for the decision made by the Deciding Official. Referring to a perceived lack of recreation opportunities as one purpose of the EA and DN without any further analysis is a violation of NEPA.

The Purpose and Need states on page 1 that, "The need for this project is to address recreation opportunities and existing problems, including ... (a) proliferation of user-created routes, (and) user group conflicts...." In reviewing the DN and EA/FONSI, there is no site-specific analysis or documentation of either a proliferation of user created routes or of user group conflicts. While user conflicts may have been cited during the comment period, it is widely known that some non-motorized trail users are extremely intolerant of other users and experience "conflict" if they simply hear a motorized vehicle in the distance. While this intolerance for other users defines these users and their purpose, it is not acceptable and should not be used as a basis for the decision that was made. Because a proliferation of trail and user conflicts are not documented in the site-specific EA/FONSI, one is led to believe that **they** are also "perceived" and using these criteria as a basis for the NEPA decision is, again, both arbitrary and capricious.

The Purpose and Need of the analysis on page 1 indicates that, "The need for this project is to address...a perceived lack of adequate opportunities for certain recreation and user groups..." Given a review of the decision and comments provided, this lack of adequate opportunities for certain recreation and user groups are, perhaps among others, single-track motorized users. On page 4 of the DN, it states that, "...there is currently only one trail on the Pagosa District covering 8.1 miles, that is designated for single-track motorized use. In contrast, there are over 370 miles of trails on the Pagosa District that are closed to motorized use and available exclusively for non-motorized recreation."

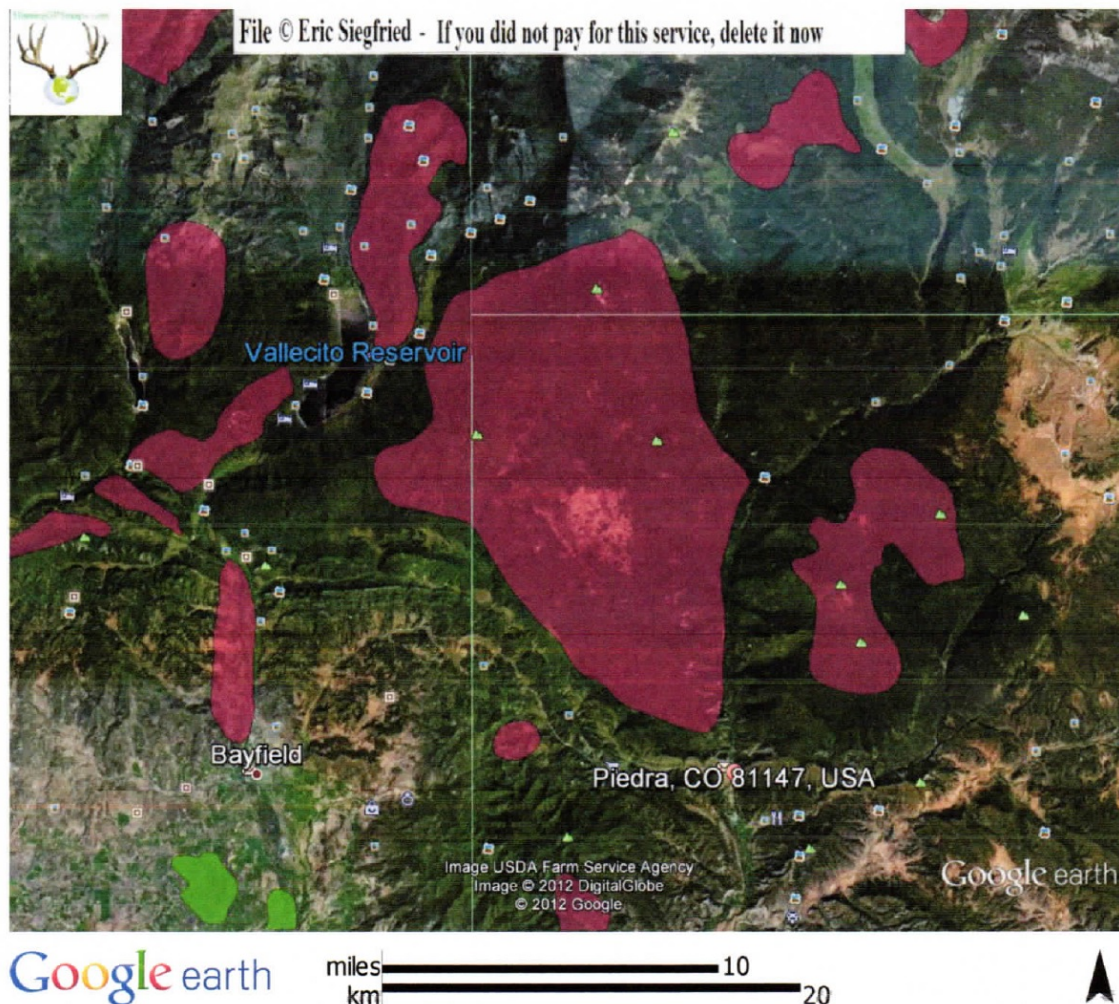
With the addition of only 13.6 miles of single-track motorized trails to the transportation system, this decision does not meet the Purpose and Need of providing adequate opportunities as outlined in the DN.

Additionally, there exist numerous viable alternatives that were not properly considered by the decisionmaker as required by NEPA. These alternatives would have included designation of substantially more single track motorized trail mileage and other decision elements as offered in our comments.

Seasonal Wildlife Closures

On page 3 of the DN, the District Ranger states that "all new single track motorized trails will have seasonal closure dates of September 1 through June 14 annually to provide for wildlife security during spring fawning and calving periods, and to provide for non-motorized recreation opportunities during the fall season." There is inadequate documentation of the need for the asserted enhanced wildlife security, nor is there documentation of any other wildlife-based justification for the trail restrictions. Nowhere in the EA/FONSI or DN is there any demand or socio-economic analysis to support the

seasonal closure of motorized trails so that non-motorized users can have additional opportunities. Even the DN acknowledges that the conflicts cited are *potential* conflicts.



As noted in the Environmental Assessment for the decision, there is a serious imbalance of usage:

"Much of the District is inaccessible to mountain bikes either by virtue of terrain limitations or through the mechanized travel prohibitions associated with formal Wilderness and special area designations: over 30 percent of the District has such a designation."¹

In addition, there are thousands of acres of wilderness and secure fawning and calving areas and hundreds of mile of non-motorized trails available to wildlife and non-motorized users on a year-round basis. A lack of any site-specific analysis to support closing these trails to motorized recreation in favor of non-motorized recreation leads one to conclude that this decision is both arbitrary and capricious. In addition, there is simply no scientific analysis or justification provided for the selected closing date of September 1.

¹ Turkey Springs Travel Management Plan - Environmental Assessment March 2012 at pg 36.

In addition to the lack of a demand analysis, there is no explanation, scientific or otherwise, why other types of human disturbance are allowed on these trails when the additional stated purpose of the seasonal closure is to, "provide for wildlife security during spring fawning and calving periods." The seasonal closure of motorized trails without a scientific basis violates the very premise of NEPA.

User Conflicts

Throughout the decision and EA, ongoing user conflicts are identified as the basis for routing of trails and seasonal closures. While user conflicts are a VERY valid concern in planning, it appears that the proposition may not be relevant in the Plan. The EA notes:

"While these instances of recreation conflicts have been noted by users of the analysis area, outreach efforts have also revealed that such instances are fairly isolated and have not detracted considerably from the experiences of the majority of users of this area. In recent years, partnerships have been formed between several advocacy clubs (most notably the local ATV, horseback, and mountain biking clubs) to promote shared use and care of the trails in this area. Additionally, comments were provided during the scoping period for this project praising the degree of cooperation among the different groups and a general lack of contentiousness that has been perceived to be occurring between user groups on other Forests and Districts." ²

While management of user conflicts appears to target OHV usage in the decision, the Organizations note that user conflicts often exist outside motorized recreation, such as between skiers and snowboarders, heli-skiers and back country skiers, hunters and non-hunters, hunters and other hunters, hikers and bikers, runners and dog walkers on urban trails, and hikers and farmers. Despite the ongoing nature of these conflicts, motorized recreation on public lands is the only area for which closure has been asserted to be properly be the first method for remedying perceived conflicts.

The Forest Service is required to utilize best available science in the development of travel plans. Researchers have specifically identified that properly determining the basis for user conflict is critical to determining the proper method for managing this conflict. Scientific analysis defines the division of conflicts as follows:

"For interpersonal conflict to occur, the physical presence or behavior of an individual or a group of recreationists must interfere with the goals of another individual or group....Social values conflict, on the other hand, can occur between groups who do not share the same norms (Ruddell&Gramann, 1994) and/or values (Saremba& Gill, 1991), independent of the physical presence or actual contact between the groups.....When the conflict stems from interpersonal conflict, zoning incompatible users into different locations of the resource is an effective strategy. When the source of conflict is differences in values, however, zoning is not likely to be very effective. In the Mt. Evans study (Vaske et al., 1995), for example, physically separating hunters from nonhunters did not resolve the conflict in social values expressed by the nonhunting group. Just knowing that people hunt in the area resulted in the perception

² Turkey Springs Travel Management Plan - Environmental Assessment March 2012 at pg 38.

of conflict. For these types of situations, efforts designed to educate and inform the different visiting publics about the reasons underlying management actions may be more effective in reducing conflict.”³

Other researchers have distinguished types of user conflicts based on a goals interference distinction, described as follows:

“The travel management planning process did not directly assess the prevalence of on-site conflict between non-motorized groups accessing and using the yurts and adjacent motorized users.....The common definition of recreation conflict for an individual assumes that people recreate in order to achieve certain goals, and defines conflict as “goal interference attributed to another's behavior” (Jacob & Schreyer, 1980, p. 369). Therefore, conflict as goal interference is not an objective state, but is an individual's appraisal of past and future social contacts that influences either direct or indirect conflict. It is important to note that the absence of recreational goal attainment alone is insufficient to denote the presence of conflict. The perceived source of this goal interference must be identified as other individuals.”⁴

It is significant to note that Mr. Norling's study, cited above, was specifically created to determine why travel management had not resolved user conflicts for winter users of a group of yurts on the Wasache-Cache National forest. As noted in Mr. Norling's study, the travel management in the areas surrounding the yurts failed to distinguish why the conflict was occurring and this failure prevented the land managers from effectively resolving the conflict.

The Organizations believe that understanding why the travel management plan was unable to resolve socially based user conflicts on the Wasache-Cache National Forest is critical in the CRVO planning process. Properly understanding the issue to be resolved will ensure that the same errors that occurred on the Wasache-Cache are not implemented again to address problems they simply cannot resolve.

The EA relies on documents that accurately address these user conflict issues but the decision fails to heed the warnings of these works and relevant social sciences. The EA specifically provides:

"The greatest potential impact involves disruptions to hunters and hunting experiences, especially in areas that currently receive little to no motorized use but are known to be used by big game hunters (primarily the Devil Mountain, Horse Mountain, Horse Creek, and Elk Creek areas). As is well documented, the presence of motorized vehicles and users in forest environments can detract from the experiences of non-motorized users during encounters, including hunters (Yankoviak 2005 and Moore 1994). It can be reasonably anticipated that, because hunters would be exposed to greater levels of motorized use as a result of this alternative (both by virtue of the new trails being designated and the overall increase in motorized use predicted), some measure of impact to hunting experiences and opportunities is probable relating to the sounds of motorized vehicles,

³ Carothers, P., Vaske, J. J., & Donnelly, M. P. (2001). *Social values versus interpersonal conflict among hikers and mountain biker*; Journal of Leisure Sciences, 23(1) at pg 58.

⁴ Norling et al; *Conflict attributed to snowmobiles in a sample of backcountry, non-motorized yurt users in the Wasatch –Cache National Forest*; Utah State University; 2009 at pg 3.

the potential effects on game presence in certain areas, and direct encounters with motorized users."⁵

The Organizations agree that the Yankoviak paper does discuss various user conflicts and wildlife disturbances. The Organizations have to note that the clearly stated conclusions of the Yankoviak paper agree with the social science determinations noted above as the paper concludes:

"In terms of meeting the needs of a wide variety of recreationists, it is important for managers to evaluate ORV opportunities at a larger geographic scale. If nothing else, the relative availabilities of motorized and non-motorized opportunities in one forest may extend to other areas..... Consequently, ORV planning should be done across jurisdictional boundaries within a defined geographic area. At the very least, such arrangements would discourage situations where decisions made for the benefit of one party have equally harmful consequences for another (as, for example, when the closure of one area to ORVs aggravates the loading on another area). If nothing else, local Forest Service officials should be cognizant of how user-friendly the travel management plans are, as the average visitor is not going to be as familiar with regional, forest, or district boundaries as are Forest Service personnel. As things now stand, management plans too often seem to rely too heavily on boundaries that visitors are unlikely to be able to recognize."

The Organizations have to believe that the current decisions proposal for the resolution of possible user conflicts by closing only single track motorcycle trails for the benefit of hunters and wildlife directly contradicts the conclusions of the research that is relied on to justify these closures by relying on boundaries that may not be visible to forest users and relying on these boundaries to make land use decisions to the exclusion of certain users.

Summary

A 2005 National Survey on Recreation and Environment for the Forest Service's National OHV Policy and Implementation team found that 26% of adults in Colorado participate in OHV recreation activities (NSRE 2005). The reason that some national use monitoring surveys in the national forests find declining levels of OHV use is because national forests continue to reduce and eliminate trails available for motorized use. Sales of OHV vehicles continue to rise while public lands available for motorized use continue to decline.

All told, the Turkey Springs decision and the above-outlined components indicate a failure to adequately evaluate motorized recreation demand and meaningfully consider a proper range of management options.

The Trails Preservation Alliance respectfully requests withdrawal of the Turkey Springs Trail Management decision to analyze the demand for and possible addition of single-track trail miles. As has been proven in the past, our members and other members of the

⁵ Turkey Springs Travel Management Plan - Environmental Assessment March 2012 at pg 42.

single-track motorized community will work in close cooperation with the Pagosa Ranger District to ensure responsible riding and trail sustainability.

The point of contact for this appeal is Don Riggle, Director of Operations, TPA, driggle10@msn.com, and cell 719 338 4106

Sincerely,