



November 16th, 2023

Manti-La Sal National Forest Supervisor's Office
Attn: Forest Plan Revision
599 West Price River Drive
Price, UT, 84501

Re: Manti-La Sal National Forest Land and Resource Management Plan #50121

Dear Planning Team:

Ride with Respect (RwR) and Trails Preservation Alliance (TPA) submit these comments regarding the Manti-La Sal National Forest (MLSNF) Draft Land Management Plan and associated EIS ("the Proposal").

1. Introduction

The Proposal resolves few of the concerns we have raised by comments submitted in 2021, 2020, and other years going all the way back to 2004 with the original scoping period to revise the MLSNF LMP.

We support Alternative A of the Proposal. Although elements of Alternative C may have merit, in sum we cannot support any of the other alternatives. Overall the Proposal casts only a negative light on all forms of recreation and provides almost nothing addressing the benefits to communities and the public more generally from recreation.

We could support some of the concepts and land allocations in Alternative C, but even it concerning new standards such as trails being limited to 66" in width or new limitations on recreational activities above 11,000' in elevation. The lack of detailed analysis of these changes makes substantive comments on the standards difficult to comment upon as there is no insight provided regarding the challenges being addressed or how the decision was made to use this course of action over others. As an example of why detailed analysis is needed, both of the aforementioned standards greatly concern the snowmobile community as grooming requires wider routes and most riding in Utah is limited to high altitude.

Meaningful public comment is difficult on the Proposal, because standards are inconsistently addressed in the Proposal. They fail to answer basic questions around implementation. Many inventory efforts were

identified from which to develop management decisions rather than planning decisions. Inventory terms are used interchangeably in what appears to be a management decision.

Alternative D is completely untenable and unworkable. It conflicts with numerous legal requirements and ignores the fact of the growing population in the planning area. The inventory randomly identifies select characteristics mixed with random unsubstantiated standards of usage. A coherent vision is lacking that can be understood and applied by the future managers and the public effectively. This deficiency must be addressed.

Specific to the Recreation Opportunity Spectrum (ROS) zones, all of the action alternatives would severely limit future forest planners from effectively providing an ample quantity, quality, and variety of motorized trails to accommodate the current level of interest, let alone future interest in light of the electrification of vehicles and other technological advances. Given the increasing scrutiny of subsequent travel management planning, zoning designations are only appropriate to provide modest guardrails, thus empowering state of the art planning to gain the visitor compliance so essential to conserving resources.

2. Recognize our organizations as important stakeholders in the MLSNF.

The TPA is an advocacy organization created to be a viable partner to public lands managers, working with the United States Forest Service (USFS) and the Bureau of Land Management (BLM) to preserve the sport of motorized trail riding and multiple-use recreation. The TPA acts as an advocate for the sport and takes the necessary action to ensure that the USFS and BLM allocate a fair and equitable percentage of public lands access to diverse multiple-use trail recreational opportunities. Ride with Respect ("RwR") was founded in 2002 to conserve shared-use trails and their surroundings. Over 750 individuals have contributed money or volunteered time to the organization. RwR has educated visitors and performed over twenty-thousand hours of high-quality trail work on public lands. Our work in cooperation with the USFS has ranged from rerouting trails by hand to installing rolling dips by machine. In the Monticello Ranger District, we've contributed a few thousand hours of trail work including on Camp Jackson, Wagon Wheel Gap, Spring Creek, Robertson Pasture, Red Ledges Red Ledges Access, Aspen Flat, Indian Creek, Shay Mountain, Shay Ridge, Vega Creek, and Gooseberry. In the Moab Ranger District, we've contributed a few hundred hours of trail work including on the Lower Twomile ATV Loop, Blue Lake Road, Geyser Pass Road, Pole Canyon, Brumley-Dorry, Miners Basin, and Beaver Basin. Collectively RwR and the TPA will be referred to as "The Organizations" for purposes of these comments.

3. Carefully consider these comments and those of other entities.

Please note that the Organizations have not encouraged others to submit MLSNF LMP comments in the past two years. We could have generated hundreds of unique and substantive comments because thousands of motorized trail enthusiasts are quite interested in current and future recreational

opportunities of the MLSNF. Instead of reading hundreds of other letters, we ask you to give particular consideration to our comments, which speak for hundreds of our contributors and thousands of motorized trail riders.

We also ask you to particularly consider comments of the three counties in which the MLSNF contains the greatest acreage, which are Sanpete, Emery, and San Juan. Comments from San Juan County were especially attentive of the DEIS ramifications to its citizens, and the Organizations generally support the comments from all three counties.

Finally the Utah Snowmobile Association thoughtfully described its perspective, and constructively offered solutions that are proportional to the scale of resource conflicts, so we generally support the comments from this group as well. While the organizations focus on summertime recreation, many of our contributors participate in OSV travel, particularly with the rise of ski and track kits for off-highway motorcycles.

4. The Overall Management Model is deeply problematic and flawed as it immediately conflicts with the 2012 USFS Planning Rule.

There is no map reflecting management decisions for the forest under the various alternatives. We found the GIS map provided with the Proposal difficult to navigate, providing at best confusing information and failing to provide various inventory areas on the interactive map. Clicking the management area designation layer rarely provided any additional information about the decision. The most common designation we found for a management area was as follows:

“3 - managed for multiple uses - subject to extractive (e.g. mining or logging) or OHV use”

When these management area designations were identified the GIS map moved to highlighting the entire district or area and often included areas that are Congressionally designated for other non-multiple use areas, such as Wilderness. Obviously, the conflict with the summary above and anything close to Wilderness or recommended Wilderness is immediate. We can locate a wide range of issue specific inventories of characteristics on the Forest provided via a PDF map, but these are not management decisions and should not be interchanged. The confusion of decisions and inventory processes only compounds and confuses any analysis provided.

This preliminary failure is in direct conflict with the 2012 USFS Planning Rule, which specifically requires the identification and designation of management areas and boundaries as follows:

“(d) Management areas or geographic areas. Every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.”¹

Conceptually this provision viewed in isolation would allow designation of just ROS type characteristics, but the other parts of the 2012 Planning Rule require management decisions that are related to the management area, as follows:

“Management area. A land area identified within the planning area that has the same set of applicable plan components. A management area does not have to be spatially contiguous.”²

When clicking onto Management Area boundaries in the GIS mapping tool, the entire Ranger District is immediately highlighted. While the political boundaries of a Ranger District might be a management boundary, they cannot be altered in the Plan, rendering this type of interpretation irrelevant to the effort. Applying the term management area in this manner fails to address that federal regulations require similar management components to be present in the management area. We are unable to find any map or other resource to identify where management area boundaries might be or how they change across the various inventory of characteristics.

In its place, the Recreation Opportunity Spectrum (“ROS”) that apparently is supposed to guide some management decisions at the Forest level and subsequent site specific NEPA. This departure from existing management designations and causes significant concern, as ROS is only one of many inventories of characteristics that have been prepared on the Forest, such as Roadless Areas, Visual Quality Objectives, possible Wilderness, wild and scenic corridors to name a few. The Proposal fails to address how to resolve conflicts among inventories of characteristics.

5. The Proposal fails to comply with CEQ regulations for an environmental impact statement.

NEPA regulations require an EIS to provide all information under the following standards:

“...It shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment... Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses...”³

¹ 36 CFR 219.7(c)

² 36 CFR 219.19

³ 40 CFR 1500.1

The regulations include development of the Council on Environmental Quality (CEQ), which expands upon the detailed statement theory for planning purposes. The CEQ regulations state the need for the quality information being provided as part of this relationship as follows:

“It shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives”⁴

The poor quality of information that supports confused inventory and decision standards is a problem. The impacts are compounded by the fact many huge recreational changes are simply never mentioned. CEQ regulations continue in requiring analysis as follows:

“Discussions of impacts are to be proportionate to their significance”⁵

Given that areas like Moab heavily rely on recreational access to public lands for basic economic viability of local communities, standards that keep major historical users from accessing the Forest are significant both to the users and the communities. These concerns are addressed in more detail subsequently.

6. Often desired conditions and other standards are directly in conflict with other management standards.

The Organizations must address the immense barrier that the inconsistencies in the Proposal pose to the creation of a substantive comment addressing a possible concern around the standard and complying with NEPA requirements. These inconsistencies are further confused by the use of inventory concepts as management standards. These types of allocations of inventories are significant standards. They present important issues that must be addressed and have not been. This type of decision making is specifically required by federal forest service planning regulations, as follows:

“(e) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan.”⁶

No analysis is provided on how to allocate the above absolute standard across the numerous characteristics of provided inventories. This situation occurs throughout the Proposal and is exemplified

⁴ 40 CFR 1502.1

⁵ 40 CFR 1502.2(b)

⁶ 36 CFR 219.7d

by the following situation where two entirely different management issues are simply merged into a desired condition without analysis. Desired condition #6 in the Proposal provides as follows:

“06 Road and motorized trail use do not impact wildlife winter range and quiet winter recreation opportunities.”⁷

The Organizations are immediately concerned that the above desired condition has absolutely zero flexibility in its application. It has been our experience that standards such as this are immensely difficult to implement. Our concerns on how this will be implemented are compounded when we ask questions like “How does this align with the various Recreational Opportunity Spectrum based standards and goals in the Proposal?” While avoiding all impact to quiet recreation may be appropriate in a Primitive setting, we question how this standard could ever be achieved in other ROS settings.

Often the basis of winter travel is around parking lots and groomed routes as these are the only viable means of access to the backcountry. These are issues that should be directly addressed in site specific winter travel and not anecdotally in an LMP, as there are significant issues involved in these standards that are not addressed at all in the Proposal. This viability of access to the backcountry is a major concern as the only user groups that pay to maintain public access in the winter are the motorized users through their voluntary registration fees paid to the State. Usage of these funds to maintain exclusive access for nonmotorized groups is generally prohibited under state law. While shared usage may result from the motorized funding, the motorized community is not obligated to provide access to areas they can't legally access.

This shared usage of groomed winter trails is often unacceptable to many in the nonmotorized community, and often access is sought to be provided to address this issue. This attempt at management fails to recognize that all areas of the forest are available to nonmotorized recreation. While they may be available, they are not accessible. This is not a management issue that should be addressed through standards and guidelines in a LMP, this is a funding issue that should be addressed with the development of a voluntary user registration fee for nonmotorized usages. We would support such a program but we are not aware of any effort to this scale being undertaken in the country. While only two of the standards are mentioned in this portion of these comments, this problem is prevalent throughout the plan. Addressing each instance of this type of problem is simply too large for a public comment.

7. The Proposal fails to provide any economic analysis of decision and alternatives being proposed.

Another concern is the lack of any economic analysis with the Proposal. There are no updates to the 2017 Economic assessment for the planning area, which was exceptionally brief to begin with. Huge changes in the demographics and economic activity have occurred across the country as a result of 2020. More timely economic analysis information is needed. Federal regulations require this. But not even a draft

⁷ Draft EIS at pg 2-63

economic report is available. This is a foundational flaw in the Proposal as an economic assessment and economic analysis are significantly different efforts that may not be used interchangeably. USFS regulations specifically require economic analysis of possible impacts to economic contributions to the surrounding communities from LMPs in planning rule as follows:

§ 219.8 Sustainability.

The plan must provide for social, economic, and ecological sustainability within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

(b) *Social and economic sustainability.* The plan must include plan components, including standards or guidelines, to guide the plan area's contribution to social and economic sustainability, taking into account:

(1) Social, cultural, and economic conditions relevant to the area influenced by the plan.

The need for economic analysis of management alternatives is woven throughout the planning rule with consistently high levels of detail:

"(a) Integrated resource management for multiple use. The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(7) Reasonably foreseeable risks to ecological, social, and economic sustainability."⁸

These highly specific provisions of the 2012 Planning Rule cannot be satisfied with a document that was completed prior to the development of any alternatives to be analyzed for the planning area. Relevant court rulings have concluded:

*"an EIS serves two functions. First, it ensures that agencies take a hard look at the environmental effects of proposed projects. Second, it ensures that relevant information regarding proposed projects is available to members of the public so that they may play a role in the decision making process. Robertson, 490 U.S. at 349, 109 S.Ct. at 1845. For an EIS to serve these functions, it is essential that the EIS not be based on misleading economic assumptions."*⁹

Without an economic analysis we and the rest of the public cannot understand underlying economic assumptions of the Proposal. This is a foundational NEPA flaw compounded by the fact management

⁸ USFS Planning Rule 36 CFR 219.10

⁹ Hughes River Watershed Conservancy v. Glickman; (4th Circ 1996) 81 f3d 437 at pg 442; 42 ERC 1594, 26 Env'tl. L. Rep 21276

area boundaries cannot be derived from the Proposal, which precludes any third-party analysis or forecasting of possible impacts.

8. The Proposal has not analyzed compliance with EO 14008 issued on January 27, 2021 by President Joe Biden mandates improved recreational access to public lands and associated economic benefits.

The failure to provide a management area map with clear management standards and an economic analysis violates various Executive Orders on the need to improve recreational access and associated economic contributions to small communities. President Biden's January 27, 2021 Executive Order # 14008 has specific goals of improving access to public lands and improving the economic contributions from recreation to local communities. §214 of EO 14008 mandates improved recreational access as follows:

"It is the policy of my Administration to put a new generation of Americans to work conserving our public lands and waters. The Federal Government must protect America's natural treasures, increase reforestation, ***improve access to recreation***, and increase resilience to wildfires and storms, while creating well-paying union jobs for more Americans, including more opportunities for women and people of color in occupations where they are underrepresented."

§215 of this EO is as follows:

"The initiative shall aim to conserve and restore public lands and waters, bolster community resilience, increase reforestation, increase carbon sequestration in the agricultural sector, protect biodiversity, ***improve access to recreation***, and address the changing climate."

§217 of EO 14008 requires improvement of economic contributions from recreation on public lands as follows:

"Plugging leaks in oil and gas wells and reclaiming abandoned mine land can create well-paying union jobs in coal, oil, and gas communities while restoring natural assets, ***revitalizing recreation economies***, and curbing methane emissions."

The Proposal fails to meet the spirit and letter of these Executive Orders. Defiance against these EOs is signaled by the failure to provide the public with maps of various management areas and economic analysis of the impacts of these decisions being provided.

9. The Goals of the Congressionally mandated USFS National Trails Strategy are not satisfied with the Proposal.

The USFS has been developing the National Sustainable Trails Strategy for the last several years,¹⁰ to comply with the mandate of the National Trails Stewardship Act of 2016.¹¹ The National Trails Strategy clearly identified goal of improving sustainable access and partnerships as a goal of this Congressionally mandated effort. This strategy also sought to strategically change how the USFS looks at partners and sustainability of routes and given the Proposal will guide the sustainable access and partnerships on the Forest for the foreseeable future. The Organizations submit that the planning process that has been applied is not the new look at sustainability and partnerships that was envisioned by the National Trails Stewardship Act.

The Organizations are commenting on this issue given the fact this effort is simply never mentioned in the Proposal despite the Congressional mandate. The conflicting direction of the Proposal to the goals and objectives of the Legislation and National Trails Strategy is also concerning. The National Strategy clearly states this as follows:

“Strategic Intent

The strategic intent of the strategy is to embrace and inspire a different way of thinking—and doing—to create sustainable change where grassroots initiative meets leader intent. The combined effort and momentum of many minds and hands will move the trails community, as a whole, toward shared solutions. This strategy builds on the many examples from across the country where the Forest Service, its partners, and the greater trails community have successfully embraced a community-driven and locally sustainable trail system model.”¹²

The Utah OHV program is probably the largest trail partner with USFS and this program is predominately funded from the voluntarily created OHV registration program. This significant direct funding probably makes the motorized trail network the most sustainable on the MLSNF. These types of contributions were recently recognized by the USFS planners as part of the sustainable trails effort as follows:

“The engagement and efforts of motorized groups have improved the condition of trails across National Forest System lands and we look forward to continued engagement with the motorized community as part of the Trail Challenge.... During phase one, I welcome collaboration to adequately track, monitor, and acknowledge accomplishments by the motorized community while identifying lessons learned to incorporate into future phases of the Trail Challenge.”¹³

¹⁰ A complete copy of this strategy and more information on the process as a whole is available here: [National Strategy for a Sustainable Trail System | US Forest Service \(usda.gov\)](#)

¹¹ PUBLIC LAW 114–245—NOV. 28, 2016

¹² National Trails strategy at pg. 4

¹³ A complete copy of this correspondence is attached as an exhibit to the comments of ORBA et al.

While many interests struggle to provide a single maintenance crew, the motorized community now provides significant annual funding through the OHV Program, which exponentially improves management abilities every day. Rather than fixing trails with shovels these grants are buying skid-steers for USFS employees. It is anticipated that this funding stream will significantly grow over the life of the Proposal. This is a model of collaboration moving forward, and the Proposal should avoid any unintended negative impacts to this collaboration.

President Nixon's 1972 travel management Executive Orders have led to over 50 years of scrutiny of every motorized route available for usage, producing the most analyzed and sustainable trail network for any type of resource usage. No other recreational activity on the Forest has been subjected to this level of scrutiny and analysis. Yet the Proposal arbitrarily fails to utilize that important work, to support a sustainable trails network that aligns with the national efforts. The sad reality is USFS is radically altering how it views and achieves sustainability with partners. NEPA requires that the implications of such a radical alteration of strategy be addressed and undergo rigorous analysis in the Proposal, to transparently expose to the public how the Proposal conflicts with the requirements of the National Trails Strategy and National Sustainable Trails Act. The failure to do this is a glaring NEPA inadequacy.

10. Economic analysis of management alternatives is a critical step in the planning process.

USFS collaborative documents developed with partners, also show the need for economic contribution calculations and economic impacts, which the Proposal fails to provide. These partner documents require a balance of numerous factors that directly impact the spending habits of those sought to be studied. The Western Governors Associations' recreational economic contributions study show the required complexity of any economic determinations and the required size of the calculations, as follows:

"How is "economic impact" calculated? Many people might think of a consumer buying equipment – a tent, fishing pole, ATV, bicycle, boat, snowboard or rifle. However, the impact is much more complex than the manufacture and sale of gear and vehicles. Gas stations, restaurants, hotels, river guides and ski resorts benefit from outdoor recreation. In total, equipment and travel expenditures represent billions in direct sales that create jobs, income, tax revenues and other economic benefits."¹⁴

The sheer number of pages required in most economic impact reports, just to explain the analysis process used to arrive at any final figure of any economic contribution, is notable. Given the complexity of these calculations, that analysis must be provided as part of the planning process.

According to the Western Governors Association collaborative efforts, mere integration of accurate economic information is often a weakness of the public lands planning process in the western United

¹⁴ Western Governors Association report; *A snapshot of the Economic Impact of Outdoor Recreation*; prepared by Southwick and Associates; July 2012 at pg. 1

States. This weakness has resulted in the creation of many other longer-term problems when decisions reflecting an imbalance of multiple uses are implemented. This concern was recently identified as a major planning issue that is not just limited to Colorado. The Western Governors' Association released its *Get Out West* report in conjunction with its economic impact study of recreation on public lands in the Western United States, which specifically identified that proper valuation is a significant management concern as follows:

"Several managers stated that one of the biggest challenges they face is "the undervaluation of outdoor recreation" relative to other land uses."¹⁵

The *Get Out West* report from the Western Governors' Association also highlighted how critical proper valuation of recreation is to the development of good management plans based on multiple use principals. The *Get Out West* report specifically found:

"Good planning not only results in better recreation opportunities, it also helps address and avoid major management challenges – such as limited funding, changing recreation types, user conflicts, and degradation of the assets. Managers with the most successfully managed recreation assets emphasized that they planned early and often. They assessed their opportunities and constraints, prioritized their assets, and defined visions."¹⁶

The Organizations believe our concerns regarding the Proposal failure of economic analysis and those expressed in the Western Governor's *Get Out West* report virtually mirror each other. This concern must be addressed prior to finalization of the Proposal in order to avoid increases to many other management issues that were sought to be minimized.

11. The 66" trail width restrictions are arbitrary and not supported by any rationale or analysis.

We oppose the proposed standard to limit all trails to 66" in width, given this width restriction is arbitrary in nature and completely lacks any analysis to support the decision and conflicts with federal regulations on this issue. We understand that many pushed for width and weight restrictions in the development of both of these national regulations, and there were VERY good reasons why these types of standards were not included in the national rule generally. The EIS never addresses what management issue the new arbitrary standard seeks to resolve, nor why the new width limitation is appropriate. Nor does the EIS analyze the fact the summer and winter trails are handled under different regulatory processes. Nor does the EIS explain why the width restriction is sought to be developed in the LMP rather than the travel management plan. This is in complete violation of NEPA and conflicts with numerous federal regulations that have already reviewed concepts around minimum and maximum widths for trails and roads have

¹⁵ Western Governors Association; *Get out West Report; Managing the Regions Recreational Assets*; June 2012 at pg 3

¹⁶ *Get Out West Report* at pg. 5

chosen not to restrict trail width. After years of detailed analysis and research these regulations determined that rather than limiting maximum trail width, a minimum width for roads and routes was the only restriction appropriate, given the huge number of uses of these resources that may or may not even be within the travel management rule. We submit that these routes provide basic access for issues like firefighting, and these issues must be reviewed prior to ANY width restriction being placed in the LMP. These are issues that simply are not addressed in the Proposal and not scoped in such a manner to develop meaningful public input on the issue.

Again, trail width is more appropriately addressed in a forest-wide travel plan, not the LMP. This naturally follows from the fact that trail width issues are outside the scope of the new planning rule but specifically addressed in the National Travel management Rule. Development of the national travel management rule and its governance of trail width issues took years to develop and resulted in thousands of pages of analysis. This renders plainly arbitrary the Proposal's forest level planning effort to apply a 66" width restriction to all trails, summer and winter, as follows:

"06 To provide off-highway vehicle recreation opportunities other than those provided on roads, motorized off-highway vehicle trails should be built no wider than 66 inches, unless greater widths are necessary to mitigate other resource impacts or provide for user safety."¹⁷

This entirely new standard is simply never analyzed or reviewed in the EIS. We see here, to put it as mildly and respectfully as possible, an absurd violation of NEPA. Width restriction issues like this should be addressed in the travel management process and not the LMP.

The failure of the Proposal to start planning based on an accurate summary of existing decisions, analysis and federal regulations is evidenced by the fact the Proposal recommends an entirely new travel management process and reopens many decisions already reviewed and declined to be applied. Summer travel management rule regulations requires all routes less than 50" to be a trail as follows:

"a motor vehicle route over 50 inches wide, unless identified and managed as a trail."

By comparison there is no upper limit on the width of a route that can be managed as a trail, which is provided for as follows:

"a route 50 inches or less in width or a route over 50 inches wide that is identified and managed as a trail."¹⁸

The National travel management rule clearly provides that all trails are routes, but not all routes are trails. Under the regulations, any route less than 50" in width must be a trail but there is no cap on the

¹⁷ Draft Land management plan @ pg 2-64

¹⁸ 36 C.F.R. § 212.1

width of trails. The compelling need for this type of management structure is provided by the basic public safety that is provided for those less than familiar with the USFS designation process. This ensures that the public will not be allowed to use over the highway vehicles on something that cannot support the usage under any circumstances. The idea of a full size over the road motor vehicle trying to use a designated singletrack trail limited to 36" in width did not appeal to anyone. This was immediately seen as a public safety issue. The safety implications exponentially expand when issues such as emergency responses to the area for search and rescue efforts or wildland firefighting are addressed. Has anyone reviewed the local ability of search and rescue to access the backcountry once they have to travel long distances on foot? How does this restriction impact the ability of a search and rescue team to recover injured members of the public? The Organizations are also intimately aware that the proposed width restrictions also create a monumental issue when issues like permittee access and private lands access are analyzed. Further explanation on the basis of the width restrictions is available in the summer travel management rule.

While the summer travel management rule only provides a floor for the width of routes, it also provides specific reasoning for the permissibility of a trail to be wider than 50" or 66". This allows the use of wider vehicles for recreational purposes is specifically addressed in the USFS TMP handbook as follows:

Generally speaking, NFSTs “present different challenges and require different skills from driving on roads,” with trails “characterized by narrower treads and clearing limits, slower speeds, narrower turning radii, and a more intimate experience with the surrounding landscape than roads designed for motor vehicles.”¹⁹

While the USFS summer travel rule distinguishes between roads and trails for limited management decisions, the USFS winter travel rule clearly states that groomed trails can occur on routes, roads, or trails while retaining local authority to address site specific issues as follows:

“(a) *General.* Over-snow vehicle use on National Forest System roads, on National Forest System trails, and in areas on National Forest System lands shall be designated by the Responsible Official on administrative units or Ranger Districts, or parts of administrative units or Ranger Districts, of the National Forest System where snowfall is adequate for that use to occur, and, if appropriate, shall be designated by class of vehicle and time of year, provided that the following uses are exempted from these decisions...”²⁰

Again, we object to the Proposed width restriction as it directly conflicts with federal regulations on winter travel as well as all routes are trails in the winter and winter routes are separately designated. We are familiar with why the federal regulations are structured in the manner they are, and we oppose any alteration of these standards without significant analysis of possible impacts. The only analysis we are able to identify in the EIS is provided as follows:

¹⁹ (FSH 2353.28j ¶ 1)

²⁰ 36 CFR 212.81

“Motorized trail opportunities include a mix of single track, 50 inches or less, and 66 inches or less routes. Demand for additional motorized trails persists, including for trails that can accommodate wider vehicles, as well as over-snow opportunities. Demand for non-motorized opportunities to accommodate an evolving suite of technologies and activities is also present, as population and public diversity also increases.”²¹

We cannot discern any basis or need for the standard from this paragraph. The isolated insertion of these standards in the MLSNF LMP without any analysis is NEPA inadequate and well short of the needed analysis of this issue. Again these are issues that must be analyzed and have not been.

12. The 66" trail width cap will prohibit all full size vehicle trails on the Forest.

We oppose inclusion of the 66"-wide trail cap as this will prohibit any full-size trail from existing on the Forest. These types of issues, pertaining to the requirement of landscape-level trail width and weight restrictions, were addressed in great detail in the development of the summer travel management rule. There is a good reason why the summer travel management rule contains no width restrictions. The need to recognize this issue in comments is deeply concerning to the Organizations, and this concern only expands when the proximity of the forest to globally recognized full size vehicle trails is recognized. The planning area has been a global destination for this type of activity for more than 75 years, and the common width for a jeep is around 68". Most full-size pickup trucks are around 72" wide. If USFS wants to keep full size vehicles away, that warrants a much greater deal of travel management planning and NEPA work than the couple of passing references made by the Proposal.

13. 66"-wide trails for OSVs will functionally prohibit many types of usage and any winter grooming on the forest.

The conflict of the 66"-wide trail width limit with winter travel management creates even further concerns and conflicts. The Proposal consolidates two separate and distinct planning efforts in the limited amount of discussion that is provided:

“Motorized trail opportunities include a mix of single track, 50 inches or less, and 66 inches or less routes. Demand for additional motorized trails persists, including for trails that can accommodate wider vehicles, as well as over-snow opportunities. Demand for non-motorized opportunities to accommodate an evolving suite of technologies and activities is also present, as population and public diversity also increases.”²²

²¹ Draft decision at pg. 2-62

²² Proposal at pg. 2-62

This consolidation of the two existing processes and decisions is a violation of national NEPA and regulations as USFS regulations clearly and directly identify that OHV and OSV management are two separate and distinct regulatory processes.

This distinction is an issue that has been successfully litigated against the USFS, and an issue that we are passionate about as many of our Organizations intervened in defense of the USFS.²³ Given our years of efforts that have already gone into addressing the difference between summer and winter travel, the Organizations are opposed to any decisions that could result in further litigation of this issue. We are concerned that the Proposal completely fails to address these regulations as separate and distinct travel management processes.

We are also very concerned that the 66" width restriction on trails will prohibit grooming of winter routes despite a long history of these efforts occurring on the forest.²⁴ This problem should have been recognized in development of the Proposal, as most winter grooming equipment is 10' to 14' in width. As a result, implementation of the proposed width restriction would functionally prohibit grooming on the forest. These are serious concerns and impacts that arise in the Proposal, for which there is no discussion or analysis to support the decision.

14. Elevation based management standards are arbitrary and again not thoroughly analyzed.

Elevation based management standards for recreation reveal an arbitrary bias against recreation. The standard again is provided without any discussion of management issues sought to be addressed or other tools that might be used to achieve these goals. The elevational-based management standard is outlined in the Proposal as follows: ²⁵

1	Alternative A. The LMP is silent on recreation in alpine areas above 11,000 feet in elevation.	Alternative B. New and future recreational impacts are limited in alpine areas, and currently impacted sites reclaimed.	Alternative C. New and future recreational impacts are limited in alpine areas, and currently impacted sites reclaimed.	Alternative D does not include limits on recreation uses in alpine areas.
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The Proposal entirely fails to provide any analysis of this standard or the management issue that it is seeking to resolve. Basic definitions of what could be included as a recreational impact are not provided. Issues like this are often fraught with ongoing conflicts between interests. Is a visible trail a recreational

²³ A complete copy of this lawsuit is attached as an exhibit to the comments of ORBA et al.

²⁴ [ephriammanti1.pdf \(utah.gov\)](#)

²⁵ DEIS at pg. 2-20

impact? Is a visible trailhead a recreational impact? Are educational materials and basic infrastructures, such as shelters or GPS towers, a recreational impact? If a route has a recreational function and other functions that might now even be managed by the Forest Service, how will these issues be resolved? We are aware of numerous routes that access cell phone towers, 911 repeaters, connect to water related infrastructures and other permitted activities that may also have some type of recreational component to their usage. In these situations, how do these possible recreational impacts relate to the ROS and other management decisions that may not even be made by the USFS. If sites are found to be recreational impacts how will this capacity be replaced in order to comply with mandates like Executive Order 14008.

The basic questions that we have presented above may easily be pushed aside as abstract or remote, until other provisions of the Proposal are reviewed. While the Proposal seeks to mitigate recreational impacts in alpine areas, the Proposal also requires the installation of signage in these areas. This is required as follows: ²⁶

Recreation and Access	FW-REC-OB	No similar component.	No similar objective	Within 10 years of the Plan's approval, install at a trailhead that accesses alpine areas at least one informational kiosk or interpretive sign that discusses recreation's impacts on alpine communities.	No similar objective
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We question why a standard addressing such a small, site-specific issue is worthy in a LMP discussion, especially when so many large-scale concerns are overlooked and deemed not worthy in the LMP.

The failure of the analysis in the Plan leaves fundamental conflicts unresolved or even recognized. Questions such as “How does this standard relate to winter recreation as most of the winter recreational opportunities on the forest are at or above 11,000'?” are critically important to the winter motorized recreational community. The Organizations have participated in numerous winter travel planning efforts in California and are aware that elevation was used to determine when OSV could and could not be used on these forests. These forests would include the Tahoe National Forest, Plumas National Forest, Lake Tahoe Basin Management Unit, El Dorado National Forest and the Lassen National Forests. In these discussions, elevation was thought to be an easy way to address various issues. Despite having a far more narrowly and specifically defined challenge on these forests after extensive discussion, these decisions were withdrawn for a wide range of reasons as once the standard was reviewed the standard would have created more issues than it resolved. We encourage the MLSNF to review the winter travel EIS on these other forests to gain a more complete understanding of the challenges associated with management based on elevation.

²⁶ DEIS at pg. 2-30

15. Recreational Visitation data is merely mentioned in the Proposal.

Throughout the Proposal, information about the types and volumes of visitation to the forest simply are never provided in any manner. This lack of information is fairly apparent when compared to other forests we have been involved. We are concerned that there appears to be very little visitation available, and we are also concerned that the data may not be accurate. This type of information is critical in determining the proper allocation of recreational opportunities or infrastructure on the forest. This is concerning as the Proposal is seeking to guide these resources on the forest over the next several decades, but also there are also new resources available that will allow this information to be compiled quickly and accurately. The Organizations are currently working on several forests to obtain cell phone-based visitation data from sources like Google and others to accurately determine visitation on the forest. At best, when these resources are obtained for the MLSNF and they don't align in any manner with the assumption made in the Proposal, this will heavily impact public support for and faith in the Proposals.

This lack of integrity in planning that can result from poor to non-existent information necessary for planning is a direct violation of the new NEPA provisions added in the Fiscal Responsibility Act of 2023. These NEPA provisions are now specifically applying generally-applicable data-quality standards that have historically been present to the NEPA process. While these new NEPA specific requirements are recent additions specifically to NEPA, these provisions require application of statutory requirements that have been in place for decades including Crowdsourcing and Citizen Science Act of 2016 and Data Quality Act of 2001. As an example, the Data Quality Act provided the following general standards for all government efforts:

“(D) ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document;

“(E) make use of reliable data and resources in carrying out this Act;”²⁷

The NEPA provisions added in the Fiscal Responsibility Act of 2023 further clarify the applicability of existing provisions of the Data Quality Act and Crowdsourcing and Citizen Science Act to the NEPA process as follows:

“(3) SOURCES OF INFORMATION.—In making a determination under this subsection, an agency—

“(A) may make use of any reliable data source; and

(B) is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable.”²⁸

²⁷ 42 U.S.C. 4332(2)

²⁸ 42 U.S.C. 4321

We are unable to identify any information in the EIS that satisfies these requirements with regard to recreational visitation or how this information supports the decisions made in the Proposal. The Proposal should extend ROS designations until such time as sufficient high-quality information is available to support designations. As we have previously mentioned, we have serious concerns regarding the quality of visitation to the forest. This issue appears exceptionally problematic for all recreational usages.

16. The Organizations oppose new USFS Recommended Wilderness Areas in Utah the MLSNF.

The Organizations oppose any new recommended wilderness areas in the planning area. The recommended wilderness areas in Alternative B and Alternative D tend to be too large, virtually abutting trails and roads (even some graded roads), effectively creating permanent walls against even bicycle travel. They are somewhat redundant with other restrictions, such as Primitive ROS zones and Research Natural Areas. The difference is that, until Congress acts on these specific locations, they would apparently be managed like wilderness.

By constricting the development and maintenance of even non-mechanized trails to a standard that many non-mechanized recreationists prefer, these recommended wilderness areas would displace some non-mechanized recreation and all mechanized trail development to motorized areas, which may in turn displace motorized trail recreation to graded road corridors or off the forest completely. Recommending wilderness designation per se is generally not needed to provide for non-mechanized recreation, and it actually tends to hinder the agency's ability to manage for a diversity of recreation opportunities.

On top of recreational concerns, the Organizations urge you to consider potential consequences to forest health and fire management. One example is MA-RECWILD-ST-04, which states "Timber harvest in a recommended wilderness area shall only occur if required to maintain the wilderness characteristics of that area." Thus timber harvesting (which is often the only affordable option) couldn't be permitted for vital goals such as forest health or public safety, only for furthering the social construct of "wilderness characteristics." Another example is MA-RECWILD-GD-01, which states "To maintain wilderness characteristics, fire suppression actions should apply minimum impact strategies and tactics, except when direct attack is needed to protect life, adjacent property, or to mitigate risks to responders." Thus recommended wilderness would even constrain fire crews except in the most dire of emergencies.

Last but certainly not least, existing law prohibits the USFS from proposing let alone managing for new recommended wilderness areas. In the Utah Wilderness Act of 1984, PUBLIC LAW 98-428, September 28, 1984, Congress determined in Section 101(a)(1) of the Act that all USFS lands in Utah not designated as wilderness "should be available for nonwilderness multiple uses under the land management planning process, other applicable laws and the provisions of this Act." The express stated purpose of the Act was to "insure that certain other national forest system lands in the State of Utah [other than designated as

wilderness in that Act] be available for nonwilderness multiple uses.” *Id.* at Section 201(2). See also Section 201(b)(3) of the Act.

Congress in the Utah Wilderness Act of 1984 also expressly upheld, ratified, and adopted the Department of Agriculture’s second roadless area review and evaluation program (RARE II) for all forest system lands in the State of Utah, Section 201(a)(1), despite how the Courts may have rule against RARE II for purposes of the rest of the country, and Congress expressly declared in Section 201(b)(1) and (b)(2) of the Act:

(b) On the basis of such review [RARE II], the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Utah, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Utah;

(2) with respect to the national forest system lands in the State of Utah which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised...

In Section 201(b)(5) of the Act, Congress declared:

(5) unless expressly authorized by Congress, Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Utah for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

These provisions of the 1984 Utah Wilderness Act render void and invalid the 2001 Roadless Area Review conducted under the purported administrative authority of the 2001 Roadless Area Conservation Rule (“2001 RACR”). The 2001 RACR is an invalid exercise of administrative authority that is clearly trumped by the legislative authority of Congress which forbade additional statewide roadless area review and evaluation of Forest System lands in Utah. Any suggested wilderness addition in the Proposal is therefore legally barred as the fruit of the poison (illegal) tree, namely the 2001 designation of roadless areas, made illegal and without authority by the above-cited provisions of the 1984 Utah Wilderness Act. Hence we

are adamantly opposed to the Proposal's suggested additions to wilderness since they stem from the 2001 roadless area inventory and designation.

17. The Proposal must address Inventoried Roadless Areas (IRAs) in compliance with existing law.

See our discussion the Recommended Wilderness Areas section, which is incorporated here. The Proposal apparently sticks with boundaries of IRA designations from the 2001 inventory. While this is better than using even more recent inventories, to be legally and fundamentally correct, you should not exceed the designations recognized in the 1979 RARE II inventory of roadless areas. (See our Exhibit 1 enclosed.) This was the only inventory properly sanctioned and authorized by Congressional legislation. If going with the RARE II designations is not preferred because they were subject to court challenge, then the only legally right thing to do is have no roadless area designations. This would be the legally correct application, although we have no objection to the RARE II designations, but we do oppose the 2001 Roadless Area Conservation Rule ("Roadless Rule") designations.

In fact we view as without legal authority the application of the Roadless Rule in the Proposal. The Roadless Rule is not a legitimate basis for inventorying characteristics on USFS lands. It provides exceptionally limited management direction, and unauthorized direction at that. The Proposal treats unauthorized Roadless Rule inventory analysis as if it were somehow a management decision itself. There is no legal basis for this. We see bright-line distinctions between inventories on the forest, and management decisions on the forest. The Roadless Rule is a unique, unauthoritative, and contentious designation, and we oppose using this tool in an LMP, particularly when the Roadless Rule itself states that it is not for LMP use.

18. The Proposal fails to recognize that the current motorized trail opportunities in the MLSNF is drastically insufficient.

The Proposal reports 322 miles of motorized trails, which isn't enough for any of the ranger districts (RDs), most notably the Moab RD that has 2 miles. The Proposal highlights 53 miles of motorized trails constructed since the current plan was approved in 1986, but fails to acknowledge that the majority of existing full-size vehicle routes and singletrack trails have since been closed to motorized use, primarily by the 1991 Travel Management Plan (TMP). The TMP was insufficient in 1991 and, since motorized recreation has grown exponentially, it's even far less sufficient today (let alone in the future).

Granted some modest alternatives exist, such as state land east of the La Sal peaks that provides a small network of primitive roads / ATV trails / motorized singletrack. However providing diverse recreation opportunities isn't central to mission of the Utah Trust Lands Administration, while it is central to that of the U.S. Forest Service (USFS) mission, as illustrated by the slogan "land of many uses." Some private lands are also nearby, but the MLSNF encompasses by far the most high-elevation land within range of nearby communities.

The three counties that have the most MLSNF acreage are San Juan, Sanpete, and Emery. All three counties have expressed concern about the Proposal constraining the maintenance and improvement of opportunities for OHV riding and snowmobiling as key components of the local residents' livelihood and quality of life.

19. The Proposal fails to recognize that adding well-designed motorized trail opportunities is less costly in the long run.

The Proposal refers to the cost of maintaining trails, but well-designed trails often require virtually no ongoing tread work, and the corridor work can be performed by volunteers. For example, in partnership with MLSNF, the Organizations rerouted large sections of the motorized singletracks in the Abajo Mountains (Robertson Pasture, Red Ledges Access, and Red Ledges in two locations). Despite being in challenging terrain, the reroutes have sustained, and they have benefited non-motorized recreation even more than motorized recreation. The three-mile reroute of Robertson Pasture became a favorite among some mountain bikers, and even became the highlight of a locally-organized mountain bike race.

The MLSNF could utilize far more OHV grants and volunteers. The MLSNF has applied for few grants in recent years. Partners like counties have applied a few times, but applications have not risen with use levels or with the increased OHV grant funding available. Even if performed by agency staff, the cost of trail work is less than the cost of law enforcement and various blockades to gain compliance with an overly restrictive TMP. Ultimately it's cheaper to guide visitors through well-designed trails than it is to keep them on graded roads. This proactive approach requires sufficiently desirable forest land to be eligible for motorized trail development, which is not the case in any of the action alternatives (B through D).

20. The Proposal fails to recognize and plan for the rapid growth of electric bicycles and electric OHVs.

Technological improvements are making some forms of motorized recreation increasingly compatible with other uses and resources of MLSNF. Electric bicycles (e-bikes) are the fastest growing segment of the cycling market. Likewise the number of electric motorcycles coming to market is growing exponentially, as is the capability of their batteries. Electric UTVs and 4WD vehicles are less common, but are already available for sale from major manufacturers. Over the life of a new LMP, the majority of motorized recreation seems likely to be using electric motors, which are significantly quieter while still producing some sound that can be beneficial when encountering other trail users or wildlife. They also still are capable of hauling maintenance supplies to maximize the efficiency of trail work.

We appreciate that Alternative C would allow Class 1 e-bikes in Semi-Primitive Non-Motorized (SPNM) Recreation Opportunity Spectrum (ROS) zones, especially since the vast majority of current e-bikes are Class 1. However there is also major growth in e-bikes that have either been modified from their Class 1

condition, designed as another class, or unclassified. There's also major growth in lightweight electric motorcycles, and these products collectively hybridize motorcycling and bicycling.

This spectrum of electric vehicles could be accommodated by expanding traditional motorized trails, which provides access to OHV grant funds, plus it reduces the enforcement burden of distinguishing between various classes or bicycle and motorcycle. Such vehicles could also be accommodated by adding trails of a new class, particularly if industry standards are established. Either way, such vehicles won't qualify as Class 1 e-bikes, so they'll depend heavily on motorized ROS zones.

21. The Proposal fails to recognize that the current TMP is missing many well-established routes that would be viable additions.

Across the MLSNF, well-established routes are missing from the current TMP, many of which have been continuously used since the 1991 TMP was approved. For example, above the designated spur Beaver Basin, one fork goes to a historic cabin while the other goes to a view of the glacial cirque. Many visitors have physical limitations that would prevent them from walking from the designated endpoint to see these two viewpoints.

The Organizations recognize that each route would need to be reviewed before adding it to the TMP, but that review would be precluded by all the ROS in action alternatives that would zone the routes as non-motorized. Since some of these routes haven't been marked closed, and since some of them are too short to distinguish on an MVUM, many visitors have no idea that the routes are technically closed. They understandably assume the routes would be left open when the agency claims that the Proposal wouldn't close any routes, yet the Proposal would actually preclude well-established routes from ever being added. There's no indication that the agency gave any consideration to non-designated routes when developing ROS boundaries in any action alternative.

Further the ROS in all action alternatives would zone several designated routes as non-motorized, such as Skyline to Black Canyon (FR 52467). Most of all, though, the action alternatives excessively constrain planning for new routes in quality terrain that would be sustainable as defined by the Proposal. The agency appears to assume that the current TMP is complete and sufficient for motorized recreation, and to entomb the current TMP by ROS zoning. The Proposal shows no evidence that the current TMP provides enough quantity and quality of OHV riding opportunities to meet current let alone future levels of interest.

22. The Proposal fails to demonstrate that non-motorized recreation needs a drastic expansion of non-motorized ROS zones.

The current LMP zones 92% of the forest as motorized in summer and even more of it is available for over-snow vehicle (OSV) travel provided adequate snowpack in winter. Even of the 8% that's non-

motorized, the current LMP doesn't outright prohibit designating a motorized trail. Yet since the LMP was approved in 1986, the motorized zones have seen total motorized access decrease while the designation of non-motorized as well as non-mechanized trails in the motorized zones has increased. Of course the total motorized access has decreased in non-motorized zones as well. Clearly, motorized ROS zones (particularly Semi-Primitive Motorized) have advanced non-motorized interests, which suggests that no major expansion of non-motorized ROS zones is warranted, let alone an expansion from 8% to about 50% in the action alternatives. Given that the Proposal excludes ROS within nearly 300,000 acres of Bears Ears including Dark Canyon Wilderness Area, it seems likely that the expansion of non-motorized ROS zones would greatly exceed 50% of the total MLSNF. The organizations might understand a need for change if the Proposal demonstrated significant levels of trail-use conflicts, particularly if such conflicts warrant separation at great distances, but the Proposal doesn't report such conflicts or a great likelihood of them developing.

23. Zoning is largely accomplished at the route level via subsequent travel management planning, so it doesn't require non-motorized ROS zones in the LMP to be vastly expanded.

Motorized trails can and do provide enjoyment for non-motorized recreation, but the Organizations recognize that some degree of separation can be useful to prevent conflicts. That said, non-motorized routes don't need to be miles away from motorized routes because national forests provide vegetative and topographic screening. Even in winter, the uses can often be separated by a stand of trees or ridge rather than an entire mountain. These smaller non-motorized ROS zones suffice to prevent "goal interference," particularly when subsequent travel management planning will analyze further separation at the route-specific level.

24. The Proposal fails to show its ROS inventory, boundary-specific analysis, cumulative analysis, or rationale for the zones proposed in any action alternative.

The ROS zones in all action alternatives would profoundly affect travel management planning yet, in stark contrast to the TMP process, the Proposal simply doesn't show its work. How did planners choose the location of each boundary? What tradeoffs did they consider, and why did they ultimately choose one over another? Once they decided upon all the new zones, did they analyze the cumulative effects upon each form of recreation, and what were the results? These fundamental questions must be answered for the public to be able to meaningfully review and comment on the proposal.

25. The Proposal fails to justify automatically changing motorized ROS zones to non-motorized ones in Inventoried Roadless Areas (IRAs) just because they currently lack routes designated for motorized use.

In addition to the Roadless Rule not being an appropriate basis for LMP management decisions, IRA status is not an appropriate basis for converting to non-motorized ROS zoning, and doing so would systematically erode the very spectrum of combinations (i.e. motorized trail riding in semi-primitive settings, particularly in the mountainous portions of the MLSNF) that ROS is designed to ensure.

The Proposal states:

"The Manti-La Sal National Forest contains 44 Inventoried Roadless Areas... While this does not preclude motorized opportunities completely, it does limit development of those opportunities that might impair roadless characteristics. Again, since a motorized ROS class doesn't ensure development of motorized opportunities but rather identifies them as potential and suitable, it is unlikely that the inventoried roadless areas would see the development of motorized opportunities regardless of the ROS. However, by better aligning the ROS and inventoried roadless areas, it would improve management direction consistency and clarity."

Further it states "the Roadless Rule provides guidance to manage for roadless characteristics which may not be congruent with a motorized ROS class." The Proposal doesn't explain what the characteristics are or how they would be impaired by developing any OHV trails. It doesn't describe impairment by the existing network of motorized singletrack that's in an IRA of the eastern Abajo Mountains.

As the Organizations' previous comments have made clear, roadless doesn't mean trail-less or motor-less. We see no reason why ROS zoning needs to change from motorized to non-motorized just because of IRA status. Particularly in ranger districts like Moab and Price, converting IRAs to non-motorized ROS zones largely eliminates the potential of semi-primitive settings to be enjoyed by motorized recreation. The whole point of ROS is to ensure that a variety of activities can be enjoyed in a variety of settings, and OHV trail riding in semi-primitive settings is central to recreation in national forests, increasingly so.

26. All action alternatives would excessively constrain the development of recreation opportunities.

When it comes to subsequent travel planning, a heavy burden is placed on justifying the addition of any motorized route to the travel plan, which is why adding motorized routes even in motorized zones is rare. It requires stars will align, so to speak, thus it depends upon a wide range of options at the outset.

The organizations understand the intent of ROS to place guardrails on travel management planning, but the action alternatives would limit OHV trail development so severely in ranger districts like Moab and Price that future planners couldn't consider developing trails in terrain that's actually mountainous and forested other than within road corridors, most of which are dead ends.

Connectivity is key to OHV riding opportunities, yet the ROS zones of all action alternatives would prevent the development of motorized trails to link any of the spur roads in vast portions of the MLSNF.

Just as the ROS zones of all action alternatives fail to provide adequate connectivity, they fail to provide an adequate cross-section of the physical settings for OHV trail riding, particularly in the Moab and Price

ranger districts. Areas over 8,000' of elevation offers taller trees and slopes that are far more desirable. The Proposal acknowledges the importance of physical settings for recreation opportunities:

"Areas where vegetation is removed, areas of minimal to thick vegetation, and densely timbered areas all play a part in providing a variety of settings for a variety of recreation opportunities and activities. The variety of viewsheds, which range from sparsely to densely covered terrain, influence the setting for recreation activities. Additionally, it influences the visual appeal for some visitors."

Yet the ROS of all action alternatives would zone areas over 8,000' as nonmotorized except along the corridors of currently-designated routes, thus eliminating the most valuable settings for consideration of developing OHV trails.

The Proposal doesn't acknowledge this determination let alone justify it. Steeper slopes are entirely suitable for OHV trails given the proper design of a rolling contour. In fact steeper slopes help to keep vehicles on the trail while shedding water off the trail. Wildlife habitat is often as suitable for motorized recreation as it is for non-motorized recreation, as motors provide warning to wildlife of a vehicle's approach. Provided that operators slow down upon encounters, wildlife often habituates to vehicles.

27. Reducing motorized ROS zones to 50% of the MLSNF is not justified by the rhetoric of "balance."

The Proposal claims that "Alternatives B and C should provide an even balance between the demands for nonmotorized and motorized summer recreation opportunities" because the motorized and non-motorized ROS zones would each occupy roughly 50% of the MLSNF. The fact is that non-motorized zones would be 100% non-motorized due to the proposed standards and guidelines for such areas, while motorized zones would be 99% non-motorized in terms of route footprints due to the increasing challenges of approving any additions to the TMP. Therefore, when it comes to ROS, references to a 50/50 balance are highly misleading and inappropriate in agency planning documents.

Even regarding Winter ROS, in which OSV travel is permitted cross-country, there's absolutely no need for non-motorized zones to approach half of the area. Granted, portions of lower elevations can be reserved for wildlife winter range, or higher elevations can be reserved for a particular ski trail or drainage basin. However most areas are rarely crowded, and vehicle sound is dampened by snow. OSV travel doesn't impact soils or much wildlife at higher elevations. Further, some visitors use OSV travel to assist their non-motorized recreation.

Finally Winter ROS should accommodate OSV travel to connect areas while staying above 9,000' of elevation, as lower elevations often lack adequate snowpack. At the highest elevations, even though snow conditions often prevent OSV travel from one basin over to another, ROS zones should allow most basins to be connected for those times when conditions allow.

28. If ROS map changes of the action alternatives are not scaled back to resemble the current LMP, then ROS text changes should be softened to resemble the current LMP.

On top of drastically reducing the acreage of motorized ROS zones, all the action alternatives add standards and guidelines that would make the non-motorized zones entirely exclusive for non-motorized use. If the ROS boundaries aren't brought back much closer to the current LMP, then the ROS language should be left closer to the current RMP in which non-motorized recreation is the focus of non-motorized zones but not necessarily the exclusive recreational use of them.

In that case, below are five standards or guidelines that should be removed. In some cases, they could be merely qualified, such as by replacing "all project-level decisions" to "most project-level decisions" in FW-ROS-ST-02. Note that, even though FW-ROS-ST-01 would allow a motorized route to be opened provided that another motorized route is closed, this is no consolation since there are few if any routes in the current TMP to spare.

Regarding Summer ROS:

"Standards (FW-ROS-ST)

01 New system roads and motorized trails shall only be located within the Rural, Roaded Natural, and Semi-primitive Motorized classes unless they are replacements in kind of existing system roads or motorized trails to address resource impacts.

02 Existing roads and motorized trails in Primitive and Semi-Primitive Non-Motorized recreation opportunity spectrum classes shall be considered for closure during travel management planning.

Guidelines (FW-ROS-GD)

01 To sustain recreation settings and opportunities, all project-level decisions and implementation activities, including management activities at developed and dispersed recreation sites, should be moving toward the desired recreation opportunity spectrum mapped classes."

Regarding Winter ROS:

"Guidelines (FW-WINTER-GD)

01 To provide distinct recreation opportunities when adequate snow is on the ground, all project-level decisions and implementation activities – including management activities at developed and dispersed recreation sites – should move toward the desired winter recreation opportunity spectrum mapped classes; these classes should be applied instead of the summer recreation opportunity mapped classes.

02 To manage for and provide a diversity of winter recreation opportunities, motorized, over-snow travel is not suitable in Primitive and Semi-primitive non-motorized recreation opportunity spectrum classes except for emergencies or administrative uses. New motorized facilities and infrastructure should not be developed in those classes."

29. ROS comments that are site-specific

Below is a list of the most noteworthy locations that should remain in a motorized ROS class instead of being zoned non-motorized as proposed by Alternative B. (The organizations oppose virtually all expansions of non-motorized zones as proposed in Alternative D.) To be clear, this list is by no means

complete, and we urge the agency to start with Alternative A and only eliminate motorized ROS zoning in specific locations where the USFS is confident that recreation planners decades in the future shouldn't even consider any degree of access by e-bike, be it Class 1 or otherwise. By that logical guide, the portion of the forest that should remain in a motorized ROS zone is closer to the 90% of Alternative A than the 50% of Alternative B.

Monticello Ranger District:

While the network of motorized singletrack surrounding Robertson Pasture goes a long way toward filling out the range of recreation opportunities, only a quarter of the district is left out of Bears Ears National Monument, making this eastern quarter critical for its ability to more squarely focus on motorized recreation. For this reason, non-motorized zones proposed in this eastern quarter should be far more modest.

At the very least, motorized corridors should be greatly widened to accommodate any needed reroutes, the designation of short spurs, or development of parallel trails to provide a higher-quality opportunity than the graded roads, and to prevent conflicts with vehicles on the graded roads that tend to be larger and slower. Non-motorized boundaries should be set back at least 200 yards from both sides of motorized routes to give trail planners the latitude to deal with rugged terrain, like the road from Johnson Creek to Jackson Ridge and the road in North Canyon. (It would be great to reach the Robertson Pasture network by being able to start on singletrack immediately from the Blue Mountain Byway.)

Likewise the corridor of upper Abajo Peak Road should be widened and, on its west side, it should actually be widened all the way down to Cooley Pass (creating a triangle-shaped motorized zone) so that Trail 1 can be considered for reopening. Trail 1 combines with the Trail 5052 creates a mini-loop that can be a highlight for anyone traveling along the Abajo Peak or North Canyon roads, and e-bikers prefer to catch singletrack from the top of Abajo Peak for a long descent to Spring Creek Saddle. To consider making a parallel trail between Cooley Pass and Spring Creek Saddle, the motorized corridor should be widened to at least 200 yards from the graded road.

The road between Cooley Pass and Spring Creek Saddle is just one example of why a minimum of 200 yards is entirely justified, as unstable slopes actually extend 175 yards above the graded road, and below the graded road even further. Plus it's almost always preferable to make a parallel trail above the road so the trail avoids any drainage that may be concentrated by the road, so trail riders can more easily reach the road in an emergency, and so trail riders can enjoy the aesthetic and psychological benefits of being above the road rather than below it.

Another good example of the 200-yard minimum buffer is east of the pass on Robertson Pasture Trail. The reroute that RWR planned and implemented with the USFS is actually over 175 yards from the trail's original location. In fact, on the west side of the pass, the reroute RWR planned and implemented with the USFS is 550 yards from the trail's original location. Similar latitude would be provided by a 200-yard minimum buffer along lower Robertson Pasture Trail and upper Spring Creek Trail.

Moab Ranger District:

As with the eastern quarter of the Monticello Ranger District, most of the mountains south of La Sal Pass and north of Geyser Pass should remain motorized for future planners to consider any e-bike trails and perhaps a semblance of the motorcycle trail opportunities that existed all throughout the La Sal range for decades until 1991. The fact that Alternative B precludes any such consideration in the mountainous part of the Moab Ranger District (other than within the road corridors) is out of hand.

Perhaps the most egregious part of Alternative B's ROS proposal is from Carpenter Basin Trail all the way down to the forest boundary by going through a chained pinyon juniper woodland that includes a through-going road, which is partially covered by vegetation but nevertheless exists (as one of many motorized routes whose existence is not acknowledged by the Proposal or past plans such as the Moab Open Areas Route Designation of 2009). For MLSNF LMP scoping in 2004, RwR proposed reopening South Mountain trails for motorcycling since hiking had become particularly popular north of La Sal Pass and mountain biking had become particularly popular north of Geyser Pass. In response to concerns, in 2006 RwR proposed merely going around the flank of South Mountain by reopening Carpenter Basin Trail, which is an old road that marked the northeast boundary of an OHV-open area until 2009. After being told to wait since 2006, Alternative B's ROS proposal essentially says that not only is Carpenter Basin Trail dead on arrival, but so would be any route that goes around the mountains. In other words, don't even think about developing a trail over South Mountain, on the flank of South Mountain, at the base of South Mountain, or across the chained pinyon-juniper woodland. If motorcyclists want a trail to reach from Spanish Valley to the state land of Upper Twomile, they can do it on BLM land, and stay off of the national forest, as it's simply not the "land of many uses." We urge the agency to keep any non-motorized zone well-above the Carpenter Basin Trail, and preferably above all foothills surrounding South Mountain, or at the very least 200 yards away from the edge of motorized routes.

Similarly the majority of the mountains north of Geyser Pass should remain in a motorized zone, or at least the portion of them that make prominent connections that may warrant future consideration of use by something more than a bicycle or Class 1 e-bike, such as Boren Mesa to Oowah Lake and from Miners Basin to Bachelor Basin. Also for future planners to consider making a parallel trail above the La Sal Loop Road and the Castleton-Gateway Road, the ROS should remain motorized north of the radio towers, northeast of Spring Branch, and above property that's near Bachelor Basin and Willow Basin (to connect east all the way to state land).

In Beaver Basin, a couple examples of the need for making corridors extend at least 200 yards from motorized routes are the well-established spurs that go to the historic cabin and the upper view of the glacial cirque. Likewise the corridor of Miners Basin Road should be widened. ROS zoning should remain motorized east of Miners Basin, where several old roads climb the flanks of Mineral and Green mountains. In fact, to keep planning options open for anything beyond a bicycle or Class 1 e-bike, the motorized ROS zone ought to extend from Miners Basin all the way to Beaver Basin. However what's

most essential is to have continuous motorized ROS zones for going around the La Sal Range, along the north side above several properties, and along the south side via Carpenter Basin Trail.

Ferron Ranger District:

It appears that Dry Wash, Dairy Trail, Pole Canyon and Gentry single track trails are cherry-stemmed in. While we are grateful for this consideration we are asked for a wider cherry-stemmed ROS within these routes to allow for mapping/data errors and for trail reroutes

However narrow many non-motorized ROS zones may be, some of them are many miles long, effectively creating a wall that excessively constrains future planning. For example, although the action alternatives would leave more of the Ferron District in a motorized ROS zone than the Price District, even the Ferron District has a fifteen-mile long continuous strip of non-motorized ROS zone from The Narrows of Stevens Creek all the way up to Swedish Knoll.

Price Ranger District:

All action alternatives are enormously restrictive by relegating motorized ROS zones almost entirely to road corridors, leaving virtually no potential to meaningfully improve connectivity. Even the Tie Fork Canyon - Pole Canyon motorcycle loop would struggle to get a motorized singletrack paralleling UT-31 (to keep motorcycle trail riders off the highway) since the measly hundred yards between the highway and the non-motorized ROS boundary is largely occupied by the meandering creek. Perhaps the most egregious example of entombing an inadequate TMP is at the north end surrounding Garret Ridge and Coffeepot Ridge. Not only would the action alternatives prevent the possibility of connecting the spurs of Blind Canyon, Cougar Ridge, or Dry Canyon, but the proposed non-motorized ROS boundaries actually truncate the existing roads.

San Pitch Mountains:

Other than by driving the primary road of Chicken Creek, all action alternatives would prevent the consideration of linking westward from anywhere between Horse Heaven Mountain (three miles from the forest's southern boundary) nearly fifteen miles beyond Salt Creek Peak to the forest's northern boundary.

30. Peavine Corridor

"Desired Conditions (DA-WILD-DC)

10 Use within the Peavine Corridor has a minimal effect on Dark Canyon wilderness resources; motorized use stays within the corridor and does not enter the designated wilderness."

"Guidelines (DA-WILD-GD)

02 To maintain wilderness character, management actions along the motorized Peavine Corridor should minimize user conflict and reduce impacts on soil, watershed, vegetation, and other resources."

As our 2020-12-18 comments pointed out, the Utah Wilderness Act of 1984 that created the Dark Canyon Wilderness clearly states "The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area." To comply with this law, the above statements could be condensed to read "Motorized use within the Peavine Corridor stays within the corridor and does not enter the designated wilderness" and "Management actions along the motorized Peavine Corridor should minimize user conflict and reduce impacts on soil, watershed, vegetation, and other resources."

31. Groundwater-Dependent Ecosystems

"Standards (FW-WETLAND-ST)

01 New road and trail development shall not be authorized in groundwater-dependent ecosystems and wetlands."

As our 2020-12-18 comments pointed out, the above statement is too sweeping, and should be followed with the caveat "...except to cross them in sustainable locations." This caveat would make the statement consistent with the rest of the draft Forest Plan, including (FW-ACCESS-GD-2) "To maintain the ecological health of riparian areas, new roads and trails should be located outside of riparian areas and should only cross them in sustainable locations."

32. Elk Ridge Geographic Area

Generally the Organizations oppose unique parts of Alternative D, but let us specifically explain some reasons we oppose the designation of an Elk Ridge Geographic Area (ERGA). The area includes valuable OHV riding opportunities such as the Gooseberry ATV Trail, but several provisions of the ERGA threaten continued enjoyment of such opportunities. For example, a standard prohibits increasing the density of routes, which could prevent rerouting a trail away from sensitive resources because doing so would increase the route density. Such provisions are not only unnecessary, but ineffective, and an inefficient use of managerial resources.

33. Conclusion

We strongly support Alternative A of the Proposal, as there are many troubling new concepts and standards in every other alternative of the Proposal. Throughout the Proposal, the entire direction of analysis reflects only negative impacts of all forms of recreation and provide almost nothing about the benefits to communities and the public more generally from recreation. We emphatically oppose

Alternative D, as it fails to align with numerous legal requirements and fails to set a vision for the planning area that reflects the growing population in the planning area.

While there are concepts and land allocations that we could support in Alternative C, this Alternative includes new standards, such as trails being limited to 66" in width and recreational activities above 11,000' in elevation needing to be limited, that are not acceptable. It is troubling to the Organizations that many of these entirely new standards are in every alternative and there is no discussion of possible challenges that could result from generalized standards such as these.

Development of meaningful public comment is made more difficult on the Proposal for several reasons. This is not a viable plan for the management of the MLSNF moving forward, as many tools intended as management decisions are purportedly used as planning decisions. This problem is only compounded when inventory terms are used interchangeably with what appears to be management-decision terms. This is a significant barrier to public comment and hence a serious NEPA inadequacy.

Specific to ROS, the current LMP that has held 90% of the forest in a motorized zone has yielded a drastic reduction in motorized access while many trails have become designated for non-motorized or non-mechanized use inside the motorized zones. Even though more non-motorized zoning clearly hasn't been needed to advance non-motorized opportunities, the Organizations are open to reducing the portion of the forest that's in a motorized zone. However reducing down to 50% is excessive, especially given that it would relegate almost any motorized trail development to the mesas below the mountains, and especially given that new standards and guidelines would make non-motorized zones exclusive to that use. Changing ROS boundaries in a more modest fashion would ensure that managers in the coming decades will retain sufficient latitude to find ways of providing ample recreation opportunities while juggling all of the other management goals.

For questions, please contact Clif Koontz (435-259-8334 / clif@ridewithrespect.org) or Chad Hixon (719-221-8329 / chad@coloradotpa.org).

Respectfully Submitted,



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Executive Director
Trails Preservation Alliance



Clif Koontz
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Ride with Respect

Exhibit 1 to Comments of Ride with Respect and Trail Preservation Alliance on the Forest Service 2001 Roadless Area Conservation Rule ("2001 RACR") as it pertains to the MLSNF Draft LMP/EIS.

Background, Summary and Text of 2001 Roadless Area Conservation Rule

In October 2011, USFS appealed the 2007 Wyoming district court decision enjoining the 2001 RACR, arguing the Wyoming district court's injunction was improper. The U.S. Court of Appeals for the Tenth Circuit agreed with USFS and upheld the 2001 Rule, vacating the injunction imposed by the Wyoming district court in 2008. *Wyoming v. U.S. Dep't of Agric.*, 661 F.3d 1209, 1272 (10th Cir. 2011). In reinstating the 2001 RACR, the Tenth Circuit rejected arguments that the rule violated NEPA and created de facto wilderness in violation of the Wilderness Act. *Id.*, at 1220-34. The State of Wyoming petitioned the U.S. Supreme Court review of the Tenth Circuit decision on writ of certiorari, but that petition was declined.

As a result, the 2001 RACR is currently nominally in effect throughout the United States except in Colorado and Idaho. However, the 2001 RACR is not actually currently codified in the current Code of Federal Regulations. Thus, the 2001 RACR's viability is solely judicially sustained by the 2011 Tenth Circuit decision cited above. The United States Supreme Court has yet to weigh in on the 2001 RACR, but as noted above that Court in 2012 declined to review the Tenth Circuit's 2011 ruling upholding the rule.

The actual 2001 RACR itself may be found only by going to the Federal Register publication of its final enactment, cited at 62 FR 3244-72, date January 12, 2001.

Here is a summary of the 2001 RACR, and then the actual text of the Rule follows:

As pertaining to roads, the 2001 RACR prohibits new road construction and reconstruction in inventoried roadless areas on National Forest System lands, except:

- To protect health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property.
- To conduct environmental clean up required by federal law.
- To allow for reserved or outstanding rights provided for by statute or treaty.
- To prevent irreparable resource damage by an existing road.

- To rectify existing hazardous road conditions.
- Where a road is part of a Federal Aid Highway project.
- Where a road is needed in conjunction with the continuation, extension, or renewal of a mineral lease on lands that are under lease, or for new leases issued immediately upon expiration of an existing lease.

As pertaining to timber activities, the 2001 RACR prohibits cutting, sale, and removal of timber in inventoried roadless areas, except:

- For the cutting, sale, or removal of generally small diameter trees which maintains or improves roadless characteristics and:
- To improve habitat for threatened, endangered, proposed, or sensitive species, or
- To maintain or restore ecosystem composition and structure, such as reducing the risk of uncharacteristic wildfire effects.
- When incidental to the accomplishment of a management activity not otherwise prohibited by this rule.
- For personal or administrative use.
- Where roadless characteristics have been substantially altered in a portion of an inventoried roadless area due to the construction of a classified road and subsequent timber harvest occurring after the area was designated an inventoried roadless area and prior to the publication date of this rule.

Here is the actual Federal Register Text of 2001 Roadless Area Conservation Rule. Again, this will not be found in the current Code of Federal Regulations. As may be seen, the 2001 RACR was initially codified at 36 CFR Part 294, but that is no longer the case:

PART 294—SPECIAL AREAS

1. Add and reserve §§ 294.3–294.9, designate §§ 294.1 through 294.9 as subpart A, and add a subpart heading to read as follows:

Subpart A—Miscellaneous Provisions

2. Remove the authority citations that follow §§ 294.1 and 294.2 and add an authority citation for the newly designated Subpart A to read as follows: Authority: 16 U.S.C. 472, 551, and 1131.

3. Add a new Subpart B to read as follows:

Subpart B—Protection of Inventoried Roadless Areas

Sec.

294.10 Purpose.

294.11 Definitions.

294.12 Prohibition on road construction
and road reconstruction in inventoried
roadless areas.

294.13 Prohibition on timber cutting, sale,
or removal in inventoried roadless areas.

294.14 Scope and applicability.

Authority: 16 U.S.C. 472, 529, 551, 1608,
1613; 23 U.S.C. 201, 205.

Subpart B—Protection of Inventoried Roadless Areas

§ 294.10 Purpose.

The purpose of this subpart is to provide, **within the context of multiple use management**, lasting protection for inventoried roadless areas within the National Forest System.

§ 294.11 Definitions.

The following terms and definitions apply to this subpart:

Inventoried roadless areas. Areas identified in a set of inventoried roadless area maps, contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, which are held at the National headquarters office of the Forest Service, or any subsequent update or revision of those maps.

Responsible official. The Forest Service line officer with the authority and responsibility to make decisions regarding protection and management of inventoried roadless areas pursuant to this subpart.

Road. **A motor vehicle travelway over 50 inches wide, unless designated and managed as a trail.** A road may be classified, unclassified, or temporary.

(1) Classified road. A road wholly or partially within or adjacent to National Forest System lands that is determined to be needed for long-term motor vehicle access, including State roads, county roads, privately owned roads, National Forest System roads, and other roads authorized by the Forest Service.

(2) Unclassified road. A road on National Forest System lands that is not managed as part of the forest transportation system, such as unplanned roads, abandoned travelways, and off-road vehicle tracks that have not been designated and managed as a trail; and those roads that were once under permit or other authorization and were not decommissioned upon the termination of the authorization.

(3) Temporary road. A road authorized by contract, permit, lease, other written authorization, or emergency operation, not intended to be part of the forest transportation system and not necessary for long-term resource management. Road construction. Activity that results in the addition of forest classified or temporary road miles.

Road maintenance. The ongoing upkeep of a road necessary to retain or restore the road to the approved road management objective.

Road reconstruction. Activity that results in improvement or realignment of an existing classified road defined as follows:

(1) Road improvement. Activity that results in an increase of an existing road's traffic service level, expansion of its capacity, or a change in its original design function.

(2) Road realignment. Activity that results in a new location of an existing road or portions of an existing road, and treatment of the old roadway.

Roadless area characteristics.

Resources or features that are often present in and characterize inventoried roadless areas, including:

(1) High quality or undisturbed soil, water, and air;

(2) Sources of public drinking water;

(3) Diversity of plant and animal communities;

(4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;

(5) Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation;

(6) Reference landscapes;

(7) Natural appearing landscapes with high scenic quality;

(8) Traditional cultural properties and sacred sites; and

(9) Other locally identified unique characteristics.

§ 294.12 Prohibition on road construction and road reconstruction in inventoried roadless areas.

(a) A road may not be constructed or reconstructed in inventoried roadless areas of the National Forest System, except as provided in paragraph (b) of this section.

(b) Notwithstanding the prohibition in paragraph (a) of this section, a road may

be constructed or reconstructed in an inventoried roadless area if the Responsible Official determines that one of the following circumstances exists:

(1) A road is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property;

(2) A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or to conduct a natural resource restoration action under CERCLA, Section 311 of the Clean Water Act, or the Oil Pollution Act;

(3) A road is needed pursuant to reserved or outstanding rights, or as provided for by statute or treaty;

(4) Road realignment is needed to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a classified road and that cannot be mitigated by road

maintenance. Road realignment may occur under this paragraph only if the road is deemed essential for public or private access, natural resource management, or public health and

safety;

(5) Road reconstruction is needed to implement a road safety improvement project on a classified road determined to be hazardous on the basis of accident experience or accident potential on that

road;

(6) The Secretary of Agriculture determines that a Federal Aid Highway project, authorized pursuant to Title 23 of the United States Code, is in the public interest or is consistent with the purposes for which the land was reserved or acquired and no other reasonable and prudent alternative exists; or

(7) A road is needed in conjunction with the continuation, extension, or renewal of a mineral lease on lands that are under lease by the Secretary of the Interior as of January 12, 2001 or for a new lease issued immediately upon expiration of an existing lease. Such road construction or reconstruction must be conducted in a manner that minimizes effects on surface resources, prevents unnecessary or unreasonable surface disturbance, and complies with all applicable lease requirements, land and resource management plan direction, regulations, and laws. Roads constructed or reconstructed pursuant to this paragraph must be obliterated when no longer needed for the purposes of the lease or upon termination or expiration of the lease, whichever is sooner.

(c) Maintenance of classified roads is permissible in inventoried roadless areas.

§ 294.13 Prohibition on timber cutting, sale, or removal in inventoried roadless areas.

(a) Timber may not be cut, sold, or removed in inventoried roadless areas of the National Forest System, except as provided in paragraph (b) of this section.

(b) Notwithstanding the prohibition in paragraph (a) of this section, timber may be cut, sold, or removed in inventoried roadless areas if the Responsible Official determines that one of the following circumstances exists. The cutting, sale, or removal of timber in these areas is expected to be infrequent.

(1) The cutting, sale, or removal of generally small diameter timber is needed for one of the following purposes and will maintain or improve one or more of the roadless area characteristics as defined in § 294.11.

(i) To improve threatened, endangered, proposed, or sensitive species habitat; or

(ii) To maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period;

(2) The cutting, sale, or removal of timber is incidental to the implementation of a management activity not otherwise prohibited by this subpart;

(3) The cutting, sale, or removal of timber is needed and appropriate for personal or administrative use, as provided for in 36 CFR part 223; or

(4) Roadless characteristics have been substantially altered in a portion of an inventoried roadless area due to the construction of a classified road and subsequent timber harvest. Both the road construction and subsequent timber harvest must have occurred after the area was designated an inventoried roadless area and prior to January 12, 2001. Timber may be cut, sold, or removed only in the substantially altered portion of the inventoried roadless area.

§ 294.14 Scope and applicability.

(a) This subpart does not revoke, suspend, or modify any permit, contract, or other legal instrument authorizing the occupancy and use of National Forest System land issued prior to January 12, 2001.

(b) This subpart does not compel the amendment or revision of any land and resource management plan.

(c) This subpart does not revoke, suspend, or modify any project or activity decision made prior to January 12, 2001.

(d) This subpart does not apply to road construction, reconstruction, or the cutting, sale, or removal of timber in inventoried roadless areas on the Tongass National Forest if a notice of

availability of a draft environmental impact statement for such activities has been published in the Federal Register prior to January 12, 2001.

(e) The prohibitions and restrictions established in this subpart are not subject to reconsideration, revision, or rescission in subsequent project decisions or land and resource

management plan amendments or revisions undertaken pursuant to 36 CFR part 219.

(f) If any provision of the rules in this subpart or its application to any person or to certain circumstances is held invalid, the remainder of the regulations in this subpart and their application remain in force.

Comment

The 2001 RACR does not prohibit the MLSNF from constructing, reconstructing, or maintaining motorized trails. Section 294.11.

The 2001 RACR defines Semi-Primitive Motorized classes to themselves be roadless characteristics. Section 294.11.

The 2001 RACR does not prohibit the MLSNF from maintaining existing roads but prohibits new road construction and reconstruction. Section 294.12(a).

The 2001 RACR does not compel the MLSNF to do anything by way of revision to the current land and resource management plan. Section 294.14(b).

The 2001 RACR must be applied in such a way as to respect and preserve multiple use management, and not be used as a club to forge de facto wilderness creation at the expense of multiple use management. Section 294.10.

Though it was upheld in the Tenth Circuit Court of Appeals, the highest court in the land has not ruled. The 2001 RACR is therefore still open to a possible legal challenge by pursuing United States Supreme Court review of excessive abuse of administrative rulemaking authority that overrides the multiple-use policies of the MUSYA, the 1964 Wilderness Act, and the NFMA. An as-applied challenge is conceivable in the Tenth Circuit as well.