

RWDTMP EA
Dolores Public Lands Office
29211 Highways 184
Dolores, CO, 81323

Date: June 21, 2009

Submitted by:
Colorado Off-Highway Vehicle Coalition (COHVCO)
Glenn Graham, Chairman
13670 Cherry Way
Thornton, CO 80602
303 722-1327

Trails Preservation Alliance (TPA)
Don Riggle, Operations Manager
P.O. Box 38093
Colorado Springs CO 80937
719-338-4106

The comments and recommendations in this letter represent the combined input of the Colorado Off-highway vehicle Coalition (COHVCO) and the Trails Preservation Alliance (TPA). These 2 organizations represent the majority of off-highway vehicle users in the State of Colorado. The off highway vehicle users in the state number more than 200,000. TPA, COHVCO, as well as many local clubs and organizations have been actively involved with the Rico-West Dolores planning process since its inception the analysis provided in this document includes the consolidated remarks from many of the local OHV organizations in the state. All of these organizations have spent considerable time and effort in the review of the of the Rico-West Dolores EA. TPA and COHVCO intend to remain as active partners with the Forest service throughout the remainder of the process

1. Irreversible Commitments of Resources and Irretrievable Losses

Please refer to EA page 92.

1A. The Forest has correctly selected an EA to support this plan. An EA will produce a Finding of No Significant Impact. It will do this because the EA has uncovered no unresolved conflicts. Thus, the text on page 92 under 3.15, paragraph 3, is incorrect. There won't be any irretrievable losses or any irreversible commitments of any natural resource.

This is the incorrect text: "Irretrievable commitments of resources from roads and trails exist because the travel way changes the natural landscape to a non-natural, out-of-vegetative production landscape."

These are the reasons we say it is incorrect:

1) The Forest Service can and does "un-commit" and restore to vegetative production the roads and trails anytime it wishes. This is illustrated right on EA page 5, where the Forest Service declares its intent "to restore lands back to their natural state." 2) No irretrievable losses of any natural resource will occur regardless of any alternative selected, including doing nothing, because the routes under consideration already exist. They are already part of the habitat, and no

measured effects of the present situation are reported in the effects analyses in this EA. 3) The statement, "the travel way...changes the natural landscape to a non-natural ...landscape" is a values choice. Trails (travel ways) have been part of the landscape since humans occupied the area, as noted at EA page 39, "Occupation in southwestern Colorado dates back to approximately 10,000 B.C. with the first migrations into the area by Paleo-Indians. Since that time the area has been occupied by various Native peoples and Euro-American groups."

Those people moved from place to place and community to community via trails that were created by the repeated use of a linear route. They did this because the topography in the study area is very rugged. Thus, to choose that trails are not "natural", we must also concede that the traces of those early occupants are also not natural. By the same token, if those traces are a valued resource (and the law says they are) then it stands to reason that the travel ways are indeed part of the natural, highly valued resource.

Our point is not whether the trails are "natural" or not. Our point is, this type of value decision is outside the scope of the analysis. We are directed by the TMR to designate a system of roads and trails --developed from the already existing inventory of roads and trails---that is open to people who use motor vehicles to travel in the forest.

1B. The proposed action will result in an irretrievable loss to the recreation resource, however. This happens when a trail is removed from the open-to motor-travelers inventory, but kept for non-motor travelers. To date, not a single trail, formerly open to people who rely on motorcycles to tour the forest, has been restored for use for those people. This outcome will be repeated in the proposed plan, but it is concealed by the absence of an analysis of the no-action alternative.

1C. Because no unresolved conflicts were identified, it is not appropriate for any trail presently open to people who rely on motorcycles, to be closed to those people by this Decision. In addition, the Forest Service has the opportunity to produce a travel plan that need not be revisited in the near-term future, by restoring each trail previously closed without a formal review that factually, lawfully, or scientifically justified that closure (outside of Wilderness), to be reopened to people who rely on motorcycles to tour the forest.

2. Undisclosed Private Deliberations



2A. The terms “internal concern,” "internal scoping," and "internal parties" is used on page 5, page 13, page 14, page 15, page 21, page 22. The reviewers of this document cannot tell what this is. Does this refer to differing values between Forest Service staff and various publics, or philosophical differences between Forest Service staff? What are you folks talking about, and why is it repeated in this document? It adds no new information to the analysis. The Forest Service staff discloses in the analysis what their concerns are and how to resolve them in each of the "effects analyses." These other, 'internal' concerns suggest that some of the information or issues used to formulate the proposed action have not been disclosed in this analysis.

For example: on page 5, we find: "**Need: To Identify What is Not On the Official Designated Travel System for the Planning Area & be Able to Restore Lands Back to Their Natural State.**"

The Congressional mandate to restore non-Wilderness land "back to its natural state" is quite limited. NFMA addresses timber productivity methods, timber haul road construction and disposition, reforestation, contract procedures, requires a transportation system within the forest, and adds that sales must "take into consideration" the other resources. Only timber haul roads are specifically called out for restoration to a natural landscape contour, and those, not even all the time. And in the FLPMA, restoring the land back to its natural state is also not the primary goal. Multiple-use, productivity, and natural functionality are mandated by FLPMA.

2B. Restoring the land to its natural state is much more closely associated with creating Wilderness values. The National Forests were never intended by Congress to be Wilderness, including IRA's. If it was not the intent of Congress for the National Forest to be Wilderness, the Forest Service cannot assign itself the task of making the Forest more like Wilderness in every plan it writes. How does the Forest Service do this? With "internal" mandates such as **Need: To Identify What is Not On the Official Designated Travel System for the Planning Area & be Able to Restore Lands Back to Their Natural State.**

2C. This is why the expression of some "internal" agreement, agenda, or presumption, as noted above, must be disclosed and opened to public scrutiny. Then, the results of those internal deliberations may be incorporated or removed from the proposed action, as appropriate to the congressionally delegated Forest Service mission and the LRMP directives.

Please tell us what the internal concerns are, and how, exactly, they influenced this analysis. We are particularly concerned about this perceived need to close existing roads and trails, and restore the land back to its natural state. This clearly implies that no other use or activity will be allowed on the restored lands, as the agency investment in the restoration will be used as the reason to prohibit further human activities.



Above: *The natural state of NFS lands, circa 1938.*

3. What activity does the Forest Service Intend to Manage?

3A. The EA has no description of the activity that it proposes to manage. Because one of the objectives of the NEPA is to find the balance between the benefits of the human activity and the effects on the natural environment, it is very important to the analysis that this description fully describes the value that participants derive from the activity. The Deciding Officer needs this information to inform the question of whether the effects on the natural environment are in balance with the benefits to human society.

We are not attempting to deny that there are physical effects upon the natural environment from trail motorcycle recreation. We are attempting to help the FS produce a more accurate, defensible analysis. We know there will be some effects, and not all will be positive. The purpose of the NEPA is not to find that place where there are no effects, but to find the balance between the benefits to the human environment and the effects upon the natural environment. NEPA, Section 2 “prevent or eliminate damage to the environment and biosphere and *stimulate the health and welfare of man*”, and Section 101 under Title I, “recognizing the critical importance of restoring and maintaining environmental quality to the overall *welfare and development of man.*”

3B. Therefore, it is incumbent upon the Forest Service to provide a professional examination of the social benefits of wheeled motor recreation. Given the diversity of cultural values present in modern American society, and the fact that it is not the role of the government to dictate the ways in which individuals and families choose the recreation activities that they find most stimulating and beneficial, the Forest Service is expected to develop a science-based management protocol for motor vehicle recreation activities. All linear recreation activities have their own negative effects upon the natural environment (Gaines 2003). By developing an accurate description of motorcycle trail riding, and placing it prominently in the draft EA, the

contribution of motor recreation to the “welfare, development, and stimulation” to individuals and families that participate in motorcycle trailriding will become evident, and thus create a science- based and professional weighing of the benefits with such environmental effects as may occur.

3C. We have found a substantial library of academic literature describing the emotional and social benefits of this sort of “serious leisure,” and this draft EA is totally silent about it. **This is an incredible omission.** If you review some of the literature, you will find that:

Recreation research reveals that leisure activities can be rated according to quality, which is defined as an overarching quality-of-life benefit to the participant. Very high quality leisure activities, called “serious leisure” by researchers in the field, require a considerable number of complex factors which, in combination, provide satisfaction, personal growth, and fulfillment to the participant. (Stebbins, R.A. 1983, “Serious Leisure, A Conceptual Statement,” *Pacific Sociological Review*, 25, 251-272).

Since Stebbins’ early conceptual statement, the ideas around “serious leisure” and the associated improvements in quality of life and health, has been extensively explored by the leisure academy, resulting in a large body of literature on the sociology of complex hobbies.

Another apt description of serious leisure activities is “...a social and emotional interactive process which deconstructs the social and historical biographical inequalities of lived experience to create *with-equal other social human bond*” (emphasis added). (Podichak W., 1991).

In reviewing the literature, it can be noted, then, that there are a number of essential qualities which identify serious leisure:

- High levels of emotional commitment,
- complex planning and advance preparation,
- learning new skills,
- self-discipline to practice skills, with the goal of steadily improving performance
- operating within relationships with others (the social reference point),
- success in familiar and in unfamiliar social settings,
- problem-solving, ranging from very simple to highly complex and potentially life-saving,
- goal-oriented challenge, and a moderate degree of personal risk,
- pro-active interest in physical condition, particularly to overcome a disability,
- a sense of accomplishment when the adventure is completed.

Motorcycle trail riding falls directly into the most complex forms of “serious leisure.” Examples of some other forms of serious leisure that are pursued on NF lands include all types of skiing, mountain bicycling, kayaking, rock climbing, and backpacking. Therefore, there is a compelling case to be made for closely examining the perceived negative impacts,

and correcting inaccuracies. There is also a compelling case to be made that the “err on the side of caution” policy, in matters of *speculative* negative impacts, is counterproductive to the USFS purpose and mission of offering quality recreation opportunities on the National Forest, particularly opportunities that are not available in any other setting.

And finally, there is most definitely a case to be made in favor of reasonable trade-offs between the significant social benefits of motorized trail recreation and any measured negative resource impacts that may be noted after monitoring begins.

4. Visitor use numbers

4A. On EA page 47, we learn that "Visitor use continues to grow in both the number of potential activities and the number of people participating in each activity."

Yet on p. 49, we learn that a majority of the trails have the same designations today as they did in 1971, 1974, 1978, 1981, 1985, 1994, 2001, and 2005. This is not a correct statement. Examples of trails such as Section House, School House, Tenderfoot and Loading Pens have changed designations. There are others listed as identified on the 1979 map that also fall into this category.

As the proposed action now stands, the Forest Service solution to the growing numbers (increased demand in each activity) is to reduce supply. We fail to see the rational connection between that solution and the statement "visitor use continues to grow."

4B. However, we have no baseline data, and no way to determine how much change over time has occurred, to determine the fidelity and accuracy of the statement cited in 4A. On EA page 19, we paraphrase: "[... these issues]....were categorized into three key issues: volume and type of access....[then] ...were used directly to form the action alternatives under consideration..." Yet we find scant factual information about "volume" in the analysis. Perhaps this information came from the undisclosed private deliberations?

By the same token, the Forest Service seems to want this both ways: increasing demand justifies closer management, yet the solution to increasing demand is not management but rather, reduced supply. No rational service provider reduces supply when there is a manifested increase in demand.

4C. In the draft EA, we find no mention of traffic counters, no mention of the number of visitor contacts, and no estimates of how many people visit each year. There appears to be no numbers whatsoever to enlighten the Deciding Officer.

This is a critical omission. The reason is as follows: If we limit our discussion to the singletrack trails, we need to know:

- a. How many miles of trail are open to people who ride motorcycles?
- b. How many people ride their motorcycles on that inventory?
- c. Is that number growing each year? Declining? Is that number a tiny percentage of total trail usage, or is it the majority, or is it about the same as other trail uses?
- d. How frequently do nonmotorized users encounter a person riding a trailbike on the singletrack trail?

- e. What is the proportionate difference in group size when nonmotorized users meet people riding trail bikes?
- f. How long do these encounters last, on average?

4D. Why is this important? We know of a variety of reasons, and those reasons do not "support" or "oppose" motorcycle riding on singletrack in the Forest. The reasons do however, inform the Decision:

- a. Frequency of encounters and group size are key elements in recreational travel planning. Because this type of data is not available in the analysis, segregation by activity has no analytical basis, and appears to be arbitrary.
- b. Perhaps motorcycle trail riding is a tiny minority of total trail use. That would cause all claims of "user conflict" and all claims of resource damage caused by trail-based motorcycle recreation to be unsustainable. There would be no justification for any closures. Why?
- c. Because the vehicles weigh only 250 pounds and use tire pressures of 15 P.S.I. or lower. The tire surface area that actually touches the ground (contact patch) is less than ten inches total. The motorcycle rider travels on the trails at an average speed of 10 M.P.H.
- d. Thus, if we see 300 riders per season, spread over 150 miles of trail; no one would even know that those people even use the trail.¹ If those 150 miles of trail must sustain 3,000 riders annually, we begin to notice. If we expect those 150 miles to sustain 30,000 riders annually, we would have to assume that very few visitors hike the trails for recreational purposes. We would assume that almost everyone rides.
- e. If we use the national average of 3.9 percent as the proportion of Forest visitors who visit the Forest for trail-based motorized activities,² and we have 150 miles of trail with 200 miles of road connecting various trails, the chances of non-motorized user ever encountering a person riding a trailbike on the singletrack trails are *extremely* low. The chances would be too low to expend any substantial amount of government resources on managing trailbike use ---other than ask people to stay on the trails. We would contend that 98 percent of the time, that a non-motorized user is on a shared-use trail, then that non-motorized user will never see a person riding a trailbike.
- f. Or, perhaps motorcycle trail riding comprises a large majority of total trail uses, and expending government resources for hiking would be unnecessary. This changes the range of viable alternatives. We would need at least one alternative that proposes to keep every mile open to

¹ Please refer to the Forest Service research on "Effects of variable tire pressure on road surfacing" to understand why we say this. That research has isolated and analyzed the factors most pertinent to road damage. Low tire pressure, low weight, and low speeds always resulted in significantly less road damage. Because of this research, the Forest Service did an extensive cost-benefit study on the advantages of requiring contractors to reduce tire pressures to 30 P.S.I. or lower, and to reduce vehicle speeds to 25 MPH on native-surface roads. The exact same principles apply to every type of wheeled vehicle.

² On EA page 56, "National Visitor Use Monitoring (NVUM) survey data for the San Juan National Forest was not used for this analysis, because the NVUM for the SJNF does not represent widespread use across the analysis area; it is therefore considered unreliable for the RWDTMP EA." Does this indicate that item "f" may be the case in the study area?

motorcycle riders, for sustainability and to reduce the frequency of encounters. Would we also need an alternative that proposes to close most of the trails to non-motorized users? Probably. Why would that be an unlawful alternative?

Because National Forest recreation planning is not a "majority rules" proposition.

4E. Our National Forests are and always have been **"open to everyone."** We have always shared the National Forests with others, whether they are like ourselves or different from ourselves. It is bizarre to find the 21st-century Forest Service assuming that reduced opportunity and segregation are rational and lawful proposals, as set forth in this EA.



Above: Facts about volume and frequency of encounters do matter in this Decision.

5. ELK

The presence or absence of the landscape-scale systems that the elk need, is not reliant upon the presence or absence of recreational trails used by motorcycles.

From the SJNF draft LRMP: Page 3.151:

“Elk numbers within the planning area have increased substantially since the early 1980s. As of 2004, the estimated post-hunt population exceeded the total long-term objective of 26,600 elk by more than 40%.”

“Within the planning area, mule deer numbers have fluctuated during the past 20 years. As of 2004, all of the deer DAUs varied from 1 to 30% below the long-term objective. However, deer numbers have risen lately and currently fluctuate at, or near, the population objective of 83,500.”

The existing recreational roads and trails in the study area clearly do not constrain the elk population, and according to the above-quoted discussion, no connection is made between the presence or absence of recreational road and trail access and mule deer populations.

6. Route Density

We appreciate the professional treatment of route density in the EA. However, as this EA may be subject to revision by the pending Forest LRMP, we must go on record with the following data:

6A. The calculation of route density is almost entirely arbitrary. Why? Because the ratio of route miles per square mile in any given area is entirely dependent upon the boundaries of the area. The actual surface area stripped by the routes is entirely dependent upon the type (width) of the route. Thus, the boundaries can be set so that any result is possible, and the difference in effects can be concealed by not disclosing the types of routes in the calculation.

6B. On the SJNF, the road density within the selected boundaries is entirely a product of the Management Area prescription. Further, the calculation does not take into account the zones within the boundaries that do not have routes, their conductivity, or geomorphic features that define undisturbed zones within the boundaries. There is no standard for route density and the effect on land health, and the Forest Service has not successfully linked the route density with any land health issues (please refer to our comments on that exact subject for the proposed LRMP. The comments are detailed and intensely researched, so we will not repeat them here).

7. Roadless Areas

At EA page 42: "It should be noted, that this travel management plan only considers designation of use on system trails (motorized and non-motorized) within inventoried roadless areas. It does not designate any new system roads through roadless areas."

7A. This statement is unnecessary and unlawful. Designating existing motorcycle trails in the IRA's is completely legal. Re-designating an existing trail in an IRA, to open it to motorcycle riders is completely legal. Constructing a new trail in an IRA for motorcycle riders to use is completely legal.

7B. The TMR is silent on motor access in IRA's because, law already settles the issue of motor access in IRA's. Motor access is left undisturbed, unless the local Forest planning process changes that.

2B. The purpose of the local planning process is to identify a change over time, and/or a lawful need for excluding the motor access. By "rational explanation" we mean, the conclusion must have a rational connection to the facts before the agency considers any changes.

7C. By lawful, we mean that, just because the acreage is an IRA, does not assign the Forest Service the task of making it into a Wilderness. If Congress did not designate it as Wilderness within ten years of the passage of the act and none of it was recommended during any subsequent inventories, then Congress did not intend for the acreage to be Wilderness. Furthermore, after the most recent inventory the Forest Service declared these areas still unsuitable.

7D. The EA provides no analysis of a no-action (existing situation) alternative. The purpose of the no-action alternative is to reveal that there may be a need for a management change, and provide reviewers with a rationale for the decision.

7E. The EA Section 3.5.2, page 42, provides no rationale for the decision to close any unclassified trails and routes in IRA's.

7F. The total miles of single-track or 2-track trails in IRA's that are presently, or were at one time open to people who ride trail bikes, is not disclosed in this EA.

7G. However, the most fundamental fault with the declaration from page 42 is the fact that this is not proposed. This has already been decided. The public never had the opportunity to participate in formulating or even commenting on such a proposal because it has already been decided.

Was this decided in the "undisclosed internal deliberations, noted at #2 comment previously in this comment?

7H. A clue is identified that some, perhaps a substantial amount of motor access will be lost if any of the alternatives are implemented:

At EA page 43: "In general, the six roadless areas that fall within the analysis area were not recommended for inclusion into the Wilderness Preservation System. In addition, motorized use (including road construction or reconstruction) is allowed at this time in all of the roadless areas within the analysis area. Several system trails also lie within each of the roadless areas, offering a variety of recreational opportunities ranging from motorized, non-motorized, and quiet uses."

7I. In other words, this plan, regardless of alternative, will close all existing unclassified trails in IRA's to all people who ride trail bikes. The EA provides no rationale for this decision, and the EA evades disclosing the effects on the recreation resource and the recreational trail system of this loss by not analyzing the no-action alternative.

7J. Now three examples from page 43:

"2. San Miguel:*Recreational activities include everything from hiking and backpacking in isolated areas of great mental solitude to motor biking along trails.*"

"5. Hermosa:*However, there exists a strong public sentiment to keep the area roadless but not stop historic, high demand recreational activities such as motorcycling and mountain bike use that exists on the trails in the area.*"

"6. Ryman: *The RARE II study and analysis recommended that the entire area remain non-wilderness. The area had a very low wilderness attributes rating because of numerous unimproved four-wheeled routes and range improvements. The area cannot be connected to other roadless or designated wilderness areas.*"

As the EA states on page 43, "the six roadless areas that fall within the analysis area were not recommended for inclusion into the Wilderness Preservation System. In addition, motorized use

(including road construction or reconstruction) is allowed at this time in all of the roadless areas within the analysis area."

Yet even though Congress never designated these areas, and even though the Wilderness Act instructs agencies and the public that the Act is not to be deemed to interfere with the Multiple-Use-Sustained Yield Act nor the Federal Land Planning Management Act, the EA does not disclose that the San Juan National Forest placed an average of 60 to 90 percent of all the areas listed on page 42 and 43 in primitive, nonmotorized recreation prescriptions in the 1983 LRMP and its subsequent amendments. This was not required by any law. The Forest Service was not required and not obliged to treat the lands as though they were Wilderness quality lands.

By doing this, the Forest Service closed almost all of the existing trails and ways in those areas to motor access, and disregarded the wishes of all people who want to do activities that the Forest Service identified as popular, but does not its self (Forest Service) want.

With those prescriptions, the Forest Service also set in motion the natural outcome of highly restrictive management: the area would eventually become less roaded.

We have the factual reports revealing that there were many miles of trails and ways and then were closed to motor access at that time, and other ways were closed or abandoned via various subsequent local arbitrary Ranger District Decisions, some supported by a CEQ-compliant process, and many others, not so well-supported.

Yet those trails would never have existed if no one wanted to ride them. That is "generally considered" to be a clear manifestation of demand, which the Forest Service persistently chooses to disregard.

7K. At EA page 44: "Generally, foot, horse, and mountain bike travel in inventoried roadless areas is considered compatible with roadless characteristics; therefore, those uses are not further analyzed in this section." Here, the Forest Service obviously intends us to believe that motorcycle trail riding in IRA's is not "generally compatible" with roadless characteristics. This is incorrect. Just because the acreage is an IRA, does not assign the Forest Service the task of developing it into a Wilderness.

Declaring that these lands are incompatible with recreational motor trails is neither a rational or logical outcome of the documented failures of these lands to qualify as "Wilderness quality."

In fact, because these lands have failed to qualify for addition to the Wilderness system in *every inventory since the Act was passed in 1964*, we find it astonishing to hear the Forest Service tell us that a person who rides a motorized trail bike on a designated trail, is "not compatible" with the "values" of that area. This is the essence of arbitrary and capricious.

At EA page 44: "Alternative C would provide the least amount of motorized routes, thereby providing the best overall opportunity for non-motorized recreation." and, "Since all alternatives would decommission some level of unclassified routes and/or system roads, the overall undeveloped nature of inventoried roadless areas would improve." This entire narrative reflects a stunning disrespect for the law and for the desires of a rapidly growing recreational cohort. These areas are not reserved by any law or regulation for non-motorized recreation. How many roads or trails are decommissioned is not a legal measure of what has been "improved," because, we will now say it again, these lands have failed to qualify for addition to the Wilderness system in *every inventory since the Act was passed in 1964*.

This entire narrative is in direct contradiction with the previous paragraph, "While some people may feel that motorized travel detracts from roadless area characteristics, it should be noted that motorized travel, limited to ATVs and motorcycles, is allowable."

"Allowable" is not the correct description. "Completely lawful" is the correct description of the status of motor recreationists in these IRA's.

We will say it again, to be sure that our position is clear: Congress did not designate it as Wilderness within ten years of the passage of the act, and none of it was recommended during *any* subsequent inventory.

This explains why the EA provides absolutely no rationale for closing all unclassified trails and ways in these areas. There is no rational or lawful explanation, so the Forest Service chooses to make the decision prior to the analysis, and evade public scrutiny.

8. Habitat Security Areas



Above: Mountain goat inspecting the front fender of a trail motorcycle on an alpine trail. Although not in the photo, the rider is sitting on the trail motorcycle.

8A. Again, we appreciate the professional treatment of this subject in the EA. However, as this EA may be subject to revision by the pending Forest LRMP, we must go on record by providing the following data:

8B. While we recognize that this analysis is examining the designation of roads and trails for motor vehicle use, we take issue with the assumption that people riding motorcycles on singletrack trails have a greater, or in any way more profound, effect than pedestrians, horse riders, pet dogs, or bicyclists on the same single-track trails. Primitive nonmotorized areas per se, do not provide an undisturbed-by-human habitat. Here is a partial list of studies showing that

humans on foot, who are allowed to travel both on and off trails, cause a much more profound disturbance to wildlife than humans in a vehicle:

- Schultz & Bailey 1975 “Responses of National Park Elk to Human Activity”;
- Ward & Copal 1976 “Telemeter Heart rate of Three Elk Affected by Human Disturbance”;
- Freddy et al 1986 “Responses of Mule deer to Persons Afoot and Motor Vehicles”;
- Ferguson & Lloyd “Influence of Nordic Skiing on Distribution Moose & Elk” in: “The Canadian Field Naturalist”;
- Cassirer et al 1988 “Elk Responses to Cross country Skiers”;
- Henson & Grant 1991 “Response of Swans to Human Disturbance”;
- Gutzwiller et al 1994 “Effects of Human Intrusion on Song Occurrence and Singing Consistency in Subalpine Birds”;
- Knight & Gutzwiller, 1995 *Wildlife and Recreationists Coexistence through management and research*, Island Press;
- Klein “Waterbird Responses to Human Disturbances,” *Wildlife Society Bulletin. Volume 21*
- Papouchis et al 2001 “Response of Desert Bighorn Sheep to Increased Human Recreation,” -
- Swarthout et al 2001 “Flush Responses of Mexican Spotted Owls to Recreationists,”
- Gaines, et al, 2003, USFS General Technical Report PNW-GTR-586 “Assessing the Cumulative Effects of Linear Recreation Routes on Wildlife Habitats on the Okanogan and Wenatchee National Forests.”

All of these studies clearly indicate that trail-based pedestrian activities have almost exactly the same effects on wildlife as humans in vehicles on established routes. It is also becoming apparent that certain human recreation activities have a far more profound negative effect than people riding small motorcycles on singletrack trails. One of the most profound negative disturbances to wildlife is caused by the dogs that people often bring when they hike, even when the dogs are leashed. Another activity that is far more disturbing to wildlife than a person riding a motorcycle on a singletrack trail is a human hiking cross-country. This essentially eliminates all security areas, because surprise becomes a primary element of the disturbance. Most of the wildlife studies we have reviewed observe that negative disturbances are reduced by statistically significant amounts when the human activity is predictable. This difference is so significant that a number of researchers recommend restricting everyone to designated trails, whether afoot or in a vehicle, and some recommend that humans be required to stay inside or aboard their vehicles, to reduce the negative disturbance to wildlife.

8C. The only repeated, observable exception to these research results are deer and elk herds that are hunted.

9. If you are standing at a bus stop, you should expect to see a bus

Please refer to EA page 56, Section 3.7.2.

9A. Motorized activities do not cause "goal-interference" conflict with nonmotorized activities, in the areas of general forest access such as Management areas 2A, 3A, 4B, and 7E, and/or ROS classes such as semi-primitive motorized, roaded natural, and so forth. Why? Because motorized activities are expected in these areas. Every recreation activity relies on motor vehicles to a greater or lesser extent. Genuine "goal interference conflict" cannot be sustained in areas where motor vehicle use is expected and lawful. Therefore, individuals whose goals cannot be met, if there is any sign that motor vehicles have been or may be present, will

inevitably go elsewhere for their recreation. The conflict escalates only when the government offers encouragement to the least tolerant individuals.

9B. Supporting the concept that motorized activities inherently conflict with non-motorized activities will result in a gradual redefinition of general forest access standards by inserting Wilderness standards into the regulations for general Forest access. This not what Congress intended for NFS land use.

9C. Furthermore, we fail to see how motorcycles driving on these roads and trails can possibly be considered "unmanaged" motor vehicle use. We fail to see how designating every existing trail open to people riding trail bikes, and requiring these people to stay on these trails, does not constitute the elimination of unmanaged motor recreation.

9D. "User Conflicts" (as represented by the mere presence of motor access) in those areas of the Forest designated for motor access, disregards the LRMP that is already in place and which this EA claims to adhere to. We construe the use of this issue as an attempt to redefine the standards for all of the non-Wilderness areas of the entire forest to Wilderness-like standards. This is not what Congress intended for the Forest Service, and it is not what the LRMP intended.

9E. Here is a quote from a recent social research project, which will illustrate the foolishness of government-mandated segregation of forest visitors according to individual desires, values, and tolerance:

Goal Interference and Social Value Differences: Understanding Wilderness Conflicts and Implications for Managing Social Density

Alan E. Watson, USDA RMRS Proceedings, 2001, article begins on page 20:

"...*horse users felt invaded by llamas, a nontraditional method of access* to wilderness in the U.S."

And, please refer to Forest Service Research Paper INT-468, "Hikers and Recreational Stock Users: Predicting and Managing Recreation Conflicts in Three Wildernesses."

To summarize: "...the majority of the behavior creating conflict for hikers were horses defecating ...noisy horse groups, rude horse groups, and trail damage caused by horses.separating uses is generally supported by hikers but not by horse users."

In both these surveys, "conflict" is identified by the Forest Service in Wilderness exactly as it is everywhere else.

As we noted above, and as illustrated by all of the known research, the Forest Service has embarked upon a fool's errand. In the matter of recreational goal-interference on NFS lands, there is apparently no end in sight.

9F. Given the universal agreement that lifestyle intolerance is the most common indicator of "goal interference-based conflict," we fail to see how any "user conflict" issue can ever be settled

by segregation. Each step toward segregation, will lead to yet another step toward ever more segregation, until the administration of the area, road, and trail allocations becomes impossible (and, it should go without saying, unlawful).

For the most accurate and reliable LEO capability, and to minimize individual Officer error, and ensure equal treatment under the law, all trails would have to be shared use.

Furthermore, it appears to be outside the scope of this analysis. We fail to see how motorcycles driving on the roads and trails can possibly be considered "unmanaged" motor vehicle use.

10. Our National Forest: "They" Are Allowed In, but "We" Are Kept Out

At EA Page 54: "Incorporating December 2005 National Motorized Travel Regulations:

"In December of 2005, the Forest Service published a new national travel management regulation, Travel Management: Designated Routes and Areas for Motor Vehicle Use (the Travel Rule) relating to designated routes and areas for motor vehicle use. This Rule is part of a nationwide effort to address unmanaged recreational motorized use and to better focus on providing high quality recreational opportunities for motorized users. The direction in the Travel Rule focused primarily on summer motorized off-highway vehicle (OHV) use."

10A. The Travel Management Rule does not mandate segregating the people who use the trails according to activity (or any other standard). The local managing unit will be in full compliance when using a system of shared-use trails with all motor vehicles limited to designated roads and trails, should the local managing unit so choose. "Designation" is not the same as "segregation."

10B. We take issue with any claim that this plan will "focus on providing high quality recreational opportunities for motorized users." We fail to see how reducing the opportunities for people who ride trail bikes, and segregation under the color of NEPA, provides a higher quality recreation opportunity that we presently enjoy.

10C. "This Rule is part of a nationwide effort to address unmanaged recreational motorized use..." In this very analysis, we are told that the existing motorized trail system works incredibly well. "Unmanaged" motorized recreation is specifically presented as a problem in matters of dispersed camping, but never in matters of trail use. Thus, we fail to see how closing any existing trails to people who prefer or rely on motorcycles, solely for the purpose of enhancing the nonmotorized users' experience, is relevant to reducing unmanaged recreation.

Please refer to EA page 4:

1.3.1 Purpose

"The purpose of the RWDTMP EA is to identify the transportation system with the goal of balancing the physical, biological, and social values served by such a system on approximately 244,550 acres of federal public lands. It responds to several needs noted below."

1.3.2 Needs

Need: To Identify an Official Designated Travel System and Eliminate Unrestricted Motorized Cross-Country Travel Management Areas

Need: To Reduce Adverse Resource Impacts Caused by the Designated Travel System.

At EA page 6:

Need: To Designate a Travel System That Attempts to Balance Social and Resource Demands."

These are identifiable, measurable subject areas which are consistent with the mission set forth by Congress in the MUSA, FLPMA, NFMA, the primary authorizing legislation for the Forest Service mission in the last century.

Now refer to EA Page 56: 3.7.2 "Affected Environment – User Conflict & Variety of Experiences.

"As more people and differing types of use continue to increase, it is inevitable that user conflicts will also continue to escalate. Conflict happens when a person's expectations for his or her recreational experience are not met. This can occur as a result of contact with another user or, of disturbance from the sound and physical evidence left by another user on public lands. Examples might include noise from firearms being fired, horse manure on a trail, or evidence of wheel tracks.

Here we learn that balancing social and resource demands is not what it appeared to be in the Purpose and Need.

Why do we say this? Please:

11. Escalating user-conflicts is an inevitable result of increasing demand?

We fail to see how such an assumption is possible. Four problems:

11A. EA page at 57: "The potential for conflict exists among all user groups, and even among the different members within a user group, when personal expectations of the desired experience are not being met." Here we learn that the Forest Service is setting sail on a fool's errand, since the Forest Service is telling us that "user conflict" exists among all user groups.

Because the Forest Service does not disclose how it chose to eliminate "motorcycles" from many trails, solely to resolve these differences, we have no way of knowing what, or how many other conflicts the Forest Service intends to resolve on this mission.

11B. Based upon what the EA says at page 57, "user conflict" is described as a social issue. This is correct. However, as this social issue is further detailed in the EA, it becomes some sort of "conflict," originating in philosophical differences between individuals pursuing lawful activities on public lands, which the Forest Service now perceives it must resolve.

How this conflict is manifested is not disclosed. The reason it is not disclosed is because it is impossible: "User conflict," as a social issue, is *ephemeral*, its occurrence is *hearsay*, and there is *no evidence*. **But most important of all, there are no standards by which public land visitors**

can reliably adjust their behavior such that the Forest Service does not construe more, or less, “user conflict.”

11C. This is not a task identified in NEPA, FLPMA or any other authorizing legislation pertinent to this EA.

11D. We fail to see how the personal distress that some individuals act out when encountering another person lawfully riding a motorcycle on the trail, falls within the scope of the regulatory mandate driving this analysis, which is: reducing unmanaged motorized recreation by designating all routes intended for motor vehicle use.

Neither does it appear to be consistent with the Purpose and Need, at least, not if we read and comprehend the words as they are written, and assume that the words are written within the context of the Forest Service authority as delegated by Congress.

12. The class of vehicle does not cause the crime

12A. If there are problems with property damage, personal injury, or damages resulting from any otherwise regulated transaction between visitors, these problems are the responsibility of the state.

In case this is still not clear, we will spell it out again: An identifiable resource conflict, for example riparian destruction caused by grazing, is one which FLTMA and NFMA assign the Forest Service to resolve. “Values” conflicts, such as a person who believes passionately that motorcycles should be prohibited on Forest Service lands, and is angry and upset by the sight of tire tracks on the trail, is not a matter the Forest Service is authorized to regulate, influence, support or dispute under any authority. The Forest Service is not responsible for the emotional disposition of the people who visit National Forests.

12B. The Forest Service’s responsibility is clearly spelled out by FLPMA and NFMA, and it is not by accident or coincidence that meddling in personal values, philosophies, or cultural differences between different people engaged in lawful activities on Forest Service land is not within that clearly spelled out authority.

We absolutely cannot allow the government to expand its regulatory authority into this realm.

The *expansion* of government regulation in an *administrative process* designed expressly for the *government to give itself more authority* over the individual citizen, is inappropriate when the proposed regulation is in support of or criminalizes any lawful activity based on individual differences of cultural, philosophical, and personal values.

Therefore, the answer to the statement on page 58, "No single measure can provide conclusive direction on how to best allocate limited resources for all these diverse user groups." is to simply go back to basics: everyone shares. As Americans, we are taught tolerance and acceptance from cradle to grave.

12C. Furthermore, we fail to see how the emotional expectations of hikers and horse-riders and bicyclists falls within the scope of an analysis whose Purpose is to restrict motor vehicle operators (people) to a designated trail system, in order to reduce unmanaged motor vehicle use.

We fail to see what has changed so substantially that these other users are no longer expected to share.

13. A Short Language Lesson

13A. The San Juan National Forest is directed by the Travel Management Rule (§ 212.55) to consider "conflicts among uses". Many people, forest staff and public alike, believe this is the same as "conflicts between users", but that is a misconception. The DPLO staff itself has confounded the two in the Purpose and Need of the EA. Please refer to page 2, "Summary," the second bullet item:

“Resolution of recreation conflict;..”

We thank the EA writers for doing a good job of describing what is meant by recreation user conflicts (EA page 56). The description is clearly and concisely set forth and it is consistent with the literature in the field. This reveals that the Forest Service should "know better." By that we mean, and have already noted earlier in our comments, that this task is outside the statutory authority of the Forest Service. Placing this task in the Purpose and Need encourages misunderstandings in the forest staff, and between the San Juan and the public. The expectation of encountering few or no people engaging in "unacceptable" activities will give some recreationists the false hope that the Forest will make decisions to benefit their activity, at the expense of others.

13B. Thus, one of your first tasks is to correct the wording in the Purpose and Need.

Please delete the erroneous statement "reduce recreation user conflicts' from the Purpose and Need on page 2, and replace it with the following wording, which accurately states the directive in the Travel Management Rule:

"Consider conflicts among uses"

To provide accuracy and consistency in the EA, and for the benefit and edification of the forest staff and the public, please insert the following Statement after the “Purpose and Need” which appears on page 2:

"The San Juan National Forest has no statutory authority to address or reduce philosophical differences between different people engaged in lawful activities on the national forest. Additionally, the resolving, reducing or mitigating of what is commonly named "user conflict" is not an objective of the Travel Management process, and shall not be used as a factor or a criteria for making decisions for designating roads, trails and areas for motorized use. The resolution of philosophical differences is not a Desired Outcome requiring management action on the part of the San Juan National Forest. Many activities and uses are legal, including but not limited to walking, bicycling, horseback riding, camping, and the use of motorized vehicles. The philosophical issues have been settled by law for 45 years, since the passage of the 1964 Wilderness Act."

13C. The EA fails to provide a rational explanation for how it is possible that offering segregation does *not* plant the seeds of intolerance. The EA fails to provide a rational explanation for how it is possible that when the government implements segregation in this plan, it does *not* nourish intolerance. The EA fails to provide a rational explanation for how it is possible that the enforcement of segregation does *not* create contentious emotional conflicts *where there were none before*.

We expect an explanation because historically, segregation always produces that outcome. It is a course of action which opens the door for arbitrary decisions by agency individuals under the color of their authority as Executive Branch employees, regardless of the activities under consideration.

13D. The EA cites the Jacob and Schreyer research, " Conflict in outdoor recreation: a theoretical perspective" published in the Journal of Leisure and Research in 1980. The fundamental theory, that lifestyle intolerance is the primary indicator for a person's inclination toward "user conflict" (as correctly defined in the EA), has been proven accurate by every social researcher since that time. Thus, it is highly imprudent for the Forest Service to base new restrictions (on otherwise lawful activities) according to cultural, philosophical, or values differences that different groups or individuals hold dear.

13E. From E.O. 11644, amended by E.O 11989:

Section 1. Purpose. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

Sec. 4. Operating Conditions. Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

Now please refer to Section 202(c) of FLPMA (43 U.S.C. 1712):

1. Use and observe the principles of multiple use and sustained yield;
2. use a systematic interdisciplinary approach to integrate physical, biological, economic, and other sciences;
3. give priority to designating and protecting areas of critical environmental concern;
4. rely, to the extent available, on an inventory of public lands, their resources, and other values;
5. consider present and potential uses of public lands;
6. consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values;

7. weigh long-term benefits to the public against short-term benefits;
8. provide for compliance with applicable Tribal, Federal, and state pollution control laws, standards, and implementation plans; and
9. to the extent consistent with the laws governing the administration of public lands, coordinate the land use inventory, planning, and management activities of public lands with land use planning and management programs of other Federal departments/agencies and state/local governments, as well as the policies of approved Tribal and state land resource management programs. The Agency must, to the extent practical, assure that consideration is given to those Tribal, state, and local plans that are germane in the development of land use plans for public lands. Land use plans must be consistent with state and local plans to the maximum extent consistent with Federal law.”

Note that the words used in the E.O. and in the TMR is "uses" and "use." The words "conflict between "users," and "user conflict," do not appear in the E.O.'s, the FLPMA or the NFMA. This is not by accident or chance. It is not the government's job to interfere with, take sides, support, or discourage any lawful, harmless activity based on differing cultural values, social strata, or philosophical beliefs.

13F. Should we also cite the NFMA, the MUSYA, the Organic Act, and so forth? We hope not. Nowhere in any of those laws do we find a Congressional or Executive mandate to resolve, reduce, or even address "user conflict" as it is defined in the Rico-West Dolores EA.

14. Cultural and Heritage Resources



15 Quiet Use

Managing for quiet uses is mentioned fourteen times in this analysis: on page 7, 9, 27, 31, 48, 61, 63, 64, and 72. However, no definition of quiet use is provided.

15A. No lawful definition has been developed. This is not by chance. "Harm" cannot be itemized or acted upon, because "quiet recreation," and what disturbs it, are entirely dependent upon personal and cultural values. One of the judicial standards an appeal of an agency decision is to show harm. We expect the same standard to apply here.

15B. Absent any lawful definition, **the public has no way of adjusting its behavior such that the Forest Service does not perceive that we have sufficient or insufficient "quiet use" opportunities.** Would a troop of bagpipe players hiking in time to their very brash and noisy instruments violate this condition? Loud laughter? A high school marching band practicing in the mountains where they perceive they are not bothering anyone? The only clear and lawful definition of this quiet use condition is already found in the Wilderness Act. Attempts to apply an undefined standard outside of Wilderness will cause visitor expectations to be left unmet, because the landscape study area is not Wilderness. The Forest Service has included literature

on user conflicts in this EA. Thus, the Forest Service knows that unmet expectations are the single most-cited cause of "unsatisfied" responses to visitor surveys and the single most-cited cause of user conflict.

Thus, as we have never delegated to the Forest Service the authority to manage for quiet use, please remove quiet use as an element that is used to formulate the FONSI.

15C. If Forest Service insists on keeping quiet use as a condition to be met somewhere in the study area, please add the following statement to this analysis: "**Although the Forest Service intends to try to create this condition in some places in the study area, Forest Service has no lawful definition for "quiet use" outside of Congressionally designated Wilderness areas.**"

15D. Non-motorized activities that require the total absence of any motor vehicles (outside of Wilderness, and outside of SPNM ROS classified acreage), will not be displaced by any of the alternatives, because the motorized activity is already present, and it is a legal activity.

15E. "Quiet recreation" outside Wilderness has no legal status such that other lawful activities must be excluded. It is based on differing personal value systems. The Forest Service has failed to show that "quiet" is not the predominant condition forest-wide. Furthermore, the Forest Service fails to provide a rational explanation of how, exactly, lawfully operated motor vehicles on existing routes cause this "less quiet" condition to be so acute that route reallocation and closure is now proposed. The reviewer is left to speculate.

15F. The Forest Service already has the authority to issue violation notices to people engaged in activities that are excessively noisy. We have a well-established legal standard for identifying such nuisances. Lawfully operated motor vehicles are not one of those identified activities. Forest-wide reallocations are not necessary.

15G. Adding 15D, 15E, and 15F together, it appears that what the Forest Service means by "quiet" recreation is a total absence of any motor sounds, even when the sounds are less audible than the natural forest sounds. This is a Wilderness standard, and it is not applicable to general forest access issues.

15H. Furthermore, it appears to be outside the scope of this analysis. We fail to see how any consideration of "quiet use," in management areas classified such that driving on roads and trails is completely lawful, can possibly be related to reducing unmanaged motor vehicle use.



Quiet use, circa 1920

16. Burnett Roads #422, 422A and 422B.

16A. First, we compliment the EA writers on their realistic appraisal of the effects of several proposals. We will further encourage the Forest Service to leave the use on these roads as it presently is, by adding the following:

16B. We find no information, report, referenced records, or summary of evidence of criminal activities. We have uncovered no evidence that the presence of motorcycles presents an immediate threat to life or property. There are approximately 30 million motorcycles in the United States. The EA fails to provide a rational explanation of how the "physical presence" of motorcycles (but not other motor vehicles) operating on an existing NFTS route, can lawfully be excluded from this road. *The road is already there.* Motor vehicles use the road. Motorcycles are motor vehicles. Their "physical presence" is *expected*.

16C. To complicate the issue, highway-licensed motorcycles cannot be lawfully excluded when all other classes of highway licensed vehicles are allowed. "Highway licensed" and "motorcycles" are not mutually exclusive. This is one of our points when we say the Forest Service is embarking on a fool's errand by trying to satisfy the philosophical, cultural and personal values of certain individuals or groups by the imposition of more and more restrictions on general forest access. Philosophical differences regarding the sights and sounds of motor vehicles, including motorcycles, have already been resolved by law. That is, only in Wilderness can the value-set of no motor vehicles, no sights, no sounds, and no tracks, be placed above all others (except human health and safety).

16D. We will repeat: The Forest Service has the authority to issue violation notices to people engaged in activities that are excessively noisy or which create a nuisance. Plus, the County Sheriff's deputies and the Rico Town Marshal have the authority to issue violation notices to individuals engaged in activities that are excessively noisy or which create a nuisance. We have a well-established legal standard for identifying such nuisances. Lawfully operated motor vehicles are not one of those identified activities.

16E. "Physical presence" is not a standard or criteria from the TMR. It is a suggested factor to be considered during the planning process. However, motor vehicle use is common in the town of Rico. Road density is extremely high. People expect to see motor vehicles on the roads.

16F. If we refer to the Forest Service San Dimas Technology and Development Center's Sound Levels of 5 Motorcycles Travelling Over Forest Trails, and Rock Creek Enduro Sound Tests Eldorado National Forest May 1993, publications # 0E11A40 (1993 and 1994) at page 2:

It should be mentioned at this point that a sound source such as a motorcycle can be clearly audible above the background, in some cases, even though its measured sound level is below that of the background. Explanation of this phenomenon is beyond the scope of this paper, curious readers are referred to References 5 and 6.

References 5 and 6 address "Signal Detection and recognition," that is, the human ability to discriminate between audible sounds that are the same or lower than the ambient sounds *and* attach a value judgment to that sound. That reaction is a function of that listener's attitude toward the sound source. Certain sounds represent objects that bother a few people--in this case, those who dislike motorcycles. Other people are indifferent, and the sound means nothing. Others enjoy motorcycles, and either don't care, don't mind, or are glad to hear the sounds.

When people expect to hear the sounds, their reactions are dramatically altered. In the Rural, Roaded, Roaded Natural, and the Semi-Primitive Motorized ROS classes, the presence or absence of motor vehicles, and the sound of a passing vehicle, are not lawful metrics for whether the condition is improved or degraded by the elimination of motor vehicles. As we noted above, the visitors (and the adjacent landowners) expect to hear the sounds.

16G. Furthermore, it appears to be outside the scope of this analysis. We fail to see how motorcycles driving on public NFTS roads can possibly be considered "unmanaged" motor vehicle use.



Forest Fire Crew Member

17. Case or controversy?

17A. The Forest Service indicates that "some" people want absolutely no *motorcycles* on the Burnett Road and Forest Roads 422, A, and B. These people dislike the sight and sound of motorcycles. We do not find any indication that it is illegal to ride a motorcycle on these roads. The Forest Service does not say why it is incumbent upon the Forest Service to satisfy the personal preferences of some people, at the expense of a key Forest access point for everyone else. The Forest Service does not describe any of the circumstances which cause a "conflict," other than some people strongly dislike it. The Forest Service has not identified the authority delegated by Congress or by Executive Order for the purpose of resolving some individuals "disagreement" with lawful and harmless activities. This is a controversy, not a case to be prosecuted in this analysis.

17B. Furthermore, it appears to be outside the scope of this analysis. We fail to see how motorcycles driving on existing system roads can possibly be considered "unmanaged" motor vehicle use.

18. No alternative describes the existing condition.

18A. The Forest Service displays no baseline condition to compare with the proposals. Because of this omission, we know nothing about the magnitude of the change to the affected environment, as reported in Chapter 3. The information in Chapter 3 is not used in Chapter 2.

18B. CEQ does not require that the no-action alternative be one that is possible for the Forest Service to implement. CEQ regulations emphasize the need for a baseline, to which the proposed action can be compared. Without any alternative that presents this baseline information, we have no way to assess the proposed action's magnitude of effects.

18C. To further clarify this, CEQ has specifically addressed the matter in its "40 Questions, #3:"

"... it is difficult to think of a situation where it would not be appropriate to address a "no action" alternative. Accordingly, the regulations require the analysis of the no action alternative even if the agency is under a court order or legislative command to act. This analysis provides a benchmark, enabling decisionmakers to **compare the magnitude of environmental effects of the action alternatives.** It is also an example of a reasonable alternative outside the jurisdiction of the agency which must be analyzed. Section 1502.14(c). See Question 2 above. Inclusion of such an analysis in the EIS is necessary to inform the Congress, the public, and the President as intended by NEPA. Section 1500.1(a)."

18D. The human environment and the natural environment are inextricably intertwined by the very nature of this analysis. That is, we are analyzing the forest as an environment in which human activities occur that are not available in any other environment. That "environment" is, humans using roads and trails in the Forest. Thus, we need a no-action alternative which fully and accurately describes the present situation: what trails are the people riding motorcycles on today, under the present regulatory scheme, regardless whether the trails are classified, unclassified, or System; and, regardless of which management area the trails are in; and, regardless of whether the trails are in an IRA.

18E. The Forest Service claims that an alternative that designates all existing routes would conflict with the TMR EA (page 19), and that is why it was not analyzed. The Forest Service is in error.

From CEQ 40 Questions: "2a. **Alternatives Outside the Capability of Applicant or Jurisdiction of Agency.** If an EIS is prepared in connection with an application for a permit or other federal approval, must the EIS rigorously analyze and discuss alternatives that are outside the capability of the applicant or can it be limited to reasonable alternatives that can be carried out by the applicant?"

"A. Section 1502.14 requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent (in this case, the TMR rule-makers) or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant (in this case, the TMR rule-makers).

"23c. What options are available for the decisionmaker when conflicts with [land use plan or policy] are identified?... **the decisionmaker retains the authority to go forward with the proposal, despite the potential conflict.**"

18F. Based on the West Dolores-Rico EA, designating all existing routes as open to motorized use (size-appropriate) is reasonable and in fact should be the preferred alternative. We say that because all of the routes *already exist*, and, the resource effects analyses all disclose that the environmental effects, at the present use-levels and the present maintenance levels, are not measurable.

18G. The judicial standards for upholding an agency Decision require that the Decision have a rational connection to the evidence before the agency, and stay within the statutory authority of that agency. The evidence before this agency has been set forth in this EA. We have no unresolved conflicts. Differences of philosophy, cultural attributes, and personal values which manifest themselves as "goal-interference" conflicts are outside the scope of this analysis and outside the statutory authority of the agency.

19. Last, we look at the EA's attitude toward what "Dad" said to do

19A. Please refer to the EA Purpose and Need, Chapter 1, where the Forest Service sets forth the authorities it will adhere to in this EA:

"This analysis complies with the National Environmental Policy Act (NEPA), San Juan National Forest Land and Resource Management Plan (amended 1992), and other relevant Federal and State laws and regulations."

Also refer to EA 1.3.2, Needs:

"The travel management plan and environmental assessment will be developed in accordance with the Forest Plan and the laws and regulations that govern forest management. This action responds to the goals, objectives, standards, and guidelines outlined in the Forest Plan, and it helps move the DPLO toward desired conditions described in that plan."

Also refer to Section 1.5, Forest Plan Direction:

"The San Juan National Forest Land and Resource Management Plan 1983, amended 1992, (Forest Plan) is implemented under the requirements of the Forest and Renewable Resource Planning Act of 1974 (RPA, P.L. 93-378) and the National Forest Management Act of 1976 (NFMA, P.L. 94-588). The Forest Plan defines a set of goals, objectives, standards, and guidelines that provide the forest-wide direction for managing the San Juan National Forest and its resources. The Plan provides the framework for the actions proposed.

"Current Forest Plan direction for the management of recreation resources in the analysis area is highly generalized, with some restrictions placed on dispersed recreation opportunities or the use of motorized vehicles. General Direction in the Forest Plan pertaining to recreation and transportation is found at pages III-3, III-5, and III-75 through III-79. The RWDTMP EA will adhere to the Forest Plan.

"The Forest Plan went through an intensive NEPA process (analyzed through an Environmental Impact Statement) that resulted in a final plan and record of decision. The travel management plan is the mechanism to develop a transportation system that helps meet Forest Plan desired conditions."

19B. And what does Dad actually say?

Please now refer to the April 1992, Amended San Juan National Forest Land and Resource Management Plan,. We did not find any direction in the Forest Plan, either explicit nor implicit, that calls for minimizing or decreasing motorized opportunities on either roads or trails.

At page III – 3, Forest Direction for Recreation, Cultural and Visual, please note the first bullet item:

“Provide nearly equal areas for motorized and non-motorized dispersed recreation opportunities.”

On LRMP page III – 107, the detailed prescription for management areas includes this prescription for Dispersed Recreation:

Management Activities	General Direction
CONTINUATION OF: Visual Resource Management (A04) Dispersed Recreation Management (A14 and 15)	01 Emphasize semi-primitive motorized recreation Increase opportunities for primitive road and motorized trail use...". "02 Manage to allow low to moderate contact With other groups and individuals."

Trail system management on page III- 115 includes this prescription:

Trail System Management (L23)	"01 Maintain existing motorized routes or construct new routes needed as part of the transportation system. Provide loop routes of at least one-half to one day's travel time with at least one half of the total route located within the semi-primitive motorized ROS class and utilizing primitive local roads and/or trails available for motorized trailbike travel"
-------------------------------	---

And this prescription is reiterated on page III – 129:

<p>CONTINUATION OF:</p> <p>Road Maintenance (L19)</p> <p>Trail System Management (L23)</p>	<p>"01 Maintain existing motorized routes or construct new routes needed as part of the transportation system. Develop loop routes and coordinate them to compliment semi-primitive motorized opportunities in adjacent semi-primitive motorized ROS classes."</p>
--	--

Please note: we have edited the LRMP statements already covered by our comments (i.e. the difference between uses and user, etc).

19C. What Dad Did With This Instruction

And how close was the situation on-the-ground to these prescriptions? We refer the reviewer to the "Management Area Summary" which describes that Forest-wide, a "near-equal" allocation was not the case. The ratio was (we estimate) 800,456 acres to 156,191 acres (considering only recreation emphasis areas). Hence the explicit instruction in the LRMP to maintain and/or construct new motorized trail bike opportunity. Why? Because it was (and still is) needed, to achieve the goals and future conditions envisioned by the LRMP. Yet that never happened.

Also please note that while the EA study area may not fall strictly within the management areas specified in the LRMP for maintaining and increasing semi-primitive motorized trail bike opportunity, CEQ states that the authorized official retains the authority to proceed with a proposal that is not consistent with the LRMP. Thus, any existing motorized trail bike opportunity in IRA's and which are corridors through PNM ROS classes can be retained, and if the authorized official perceives the need, more semi-primitive motor bike trail may be retained, restored and constructed, even if it is within a primitive or semi-primitive non-motorized ROS class and an IRA.

Yes, we agree this can go both ways. However, the Forest Service must disclose its purpose when such a departure is proposed. When the LRMP direction is to "retain and increase," then any attempt to explain an intentional decrease will necessarily be difficult. Why? Because the result will speak for itself: further curtailment of semi-primitive motor trail and road opportunity makes the Forest more road-less, more trail-less, and more like Wilderness. As we stated earlier and the Forest Service well knows, Congress did not intend all NFS lands to be Wilderness and inaccessible.

In this case, to comply with the LRMP visions and goals, *more* semi-primitive motorized trail bike opportunity is needed. Why? Because Forest-wide, motorized trail bike opportunity has been persistently curtailed since 1992. We point the Forest Service to the constantly evolving travel maps, and ongoing route decommissioning as just two examples. We will not take the time to explicitly document this fact in our comment.

We *will* stand by our statement of persistent declines in motor trail bike opportunity regardless of the correspondence attached to the EA regarding Alternative B, because the target and goal of that correspondence is tainted. Not by dishonesty or by conflict of interest, but rather, it certainly appears that the correspondence is intended to reassure certain individuals that nothing has changed.

19D. Opportunities, Change, and Courage

This Travel Plan is an opportunity to correct the discrepancy reported in the 1992 LRMP amendment. This Travel Plan is an opportunity to keep the San Juan National Forest "open to everyone."

Yet it is only more curtailment of semi-primitive motorized trail bike opportunity that's proposed. We say "appears" because the Forest Service has made it impossible to determine whether the proposed travel plan is in compliance with the LRMP or not. How has it done this? Three ways:

1. On EA page 9 we learn what Management Areas predominate in the study area. We can find the Forestwide acreage allocations in the LRMP, but not the acreage allocations for the study area.

2. The Forest Service has selected boundaries for the study area that do not correspond with any of the boundaries set up in the 1983 LRMP or the 1992 Amendment, nor do the study area boundaries correspond with the Ranger District boundaries. Thus, reviewers cannot determine the Forest-wide acreage allocations and the study area acreage allocations. We are quite sure other reviewers have attempted to calculate this, and we will not duplicate their efforts.

3. The EA provides no analysis of the existing situation, in which we would learn the motorized and non-motorized recreation allocations in the study area as they exist today. The CEQ fact of the matter is, we must be able to compare the differences between the present allocations and the proposed allocations, and in this EA we cannot.

What we are able to compare in this EA is the raw acreage available to each type of activity.

Here we find what appears to be an insurmountable conflict with the LRMP. Non-motorized users are welcome to travel anywhere they wish in the study area, 244,550 acres. The existing situation, as reported on EA page 4, welcomes people who ride motorcycles on ~50% of that acreage (the "F" Zones). However, the topography in the study area is mostly steep and far too rugged for motorized trail bikes to travel cross-country and actually "use" that opportunity

People who ride motorcycles use paths made over the course of many generations, and these paths became established trails, and named, and placed on Forest Service maps. We would know all this if we had an analysis of the existing situation.

Why is this important? Because the non-motorized users have 244,550 acres, now, and will still have access to 244,550 acres post-FONSI/Decision Notice. The motorized trail bike riders will not, and never have, had that kind of access.



A Civilian Conservation Corpsman hauling logs.

19E. The missing Table

If we use the scale of effects calculation from the Soils And Geology Analysis (EA page 72), we find that the most generous alternative allots a total of 902 acres to people who rely on any type of motor vehicle. This is 0.37 of one percent of the *entire study area* (where 100% equals 244,550 acres).

Here is how the table would look if the Forest Service had chosen to present the data in comparable form.

Alternative:	Alt. C	Alt. D	Alt. E	Existing Situ.
Acres open to:				
Hikers and horsemen	244.550	244.550	244.550	244,550
Trail Motorcyclists	81	80	81	125,627 plus trail acreage outside of "F" Zones
Motorcyclists and Cars, trucks, SUV's, and 4x4's	869	912	902	125,627 plus trail acreage outside of "F" Zones

ATV riders (includes road acreage)	788	832	821	125,627 plus trail acreage outside of "F" Zones
--	-----	-----	-----	---

Are the numbers in the above table so lopsided that it looks irrational? Of course!

Wouldn't it be correct to say that anybody who leaves their vehicle also has access to the entire study area? Of course!

The absence of the no-action, existing situation analysis makes our table look silly. Why? Because reviewers *need to know* that cross-country travel by motor vehicle is nearly impossible in the study area. Reviewers *need to know* that the trails were made by repeated use of a linear path, and were always open to everyone because there is *no other way* unless a person is hiking cross-country.

Nevertheless, the Forest Plan direction is for providing “*nearly equal areas for motorized and non-motorized dispersed recreation opportunities.*”

19F. A Fast-Growing Recreational Cohort Asks For A Tiny Piece Of The Pie

Furthermore, it can be stated that SJTR does not disagree with the basic concept of designated motorized trail bike trails. We do object to the small and continually shrinking amount of trail being designated for motorized trail bike use. In fact, as the acreage charts above show, we are not asking for very much. Even when we ask to have every single-track trail restored to "open-to-motorcycle riding" status circa 1971, we will still "have" less than one percent of the study area.

The non-motorized users ---not restricted to any trails at all---would still have 99 percent of the 244,550 acres all to themselves. Their complete unwillingness to share a fraction of one percent of the study with people who are slightly different than themselves is stunning.

However, comparing acreage is only one way to make sure our point is clear. Let's take a look at LRMP compliance in the study area as proposed by this EA, using other recreation planning tools.

19G. Miles, Hours, and Choice

1) At EA page 56, we learn that the preferred alternative proposes 110 miles of single-track trail for motorcycle riders, and 199 miles of trail for all other non-motorized users.

Does this represent more miles for motorcycle riders, or less miles, than the present? We don't know because we have no way to determine the magnitude of change that the Forest Service proposes. Maybe the motorcycle riders have access to 300 miles of trails at this time, and will lose almost 75 percent of their access. Perhaps this is the reason we don't see a no-action alternative in this analysis. The Forest Service must conceal a totally lopsided re-allocation of trail miles.

Even without the no-action alternative to show the magnitude of change that's proposed, if we consider trail mileage the "areas" that the LRMP directs us to keep "nearly equal" for motor and non-motor access, anyone can see that 199 miles is not nearly equal to 110 miles. Semi-primitive motorized trail bike opportunity has access to just 55% of the area. It should be self-

evident, but it apparently is not so we will spell it out: 55% equals half as much opportunity. That's not "nearly equal" by anyone's definition of "nearly equal."

2) If we measure recreation experience in hours, and not miles, the proposed allocations are even more lopsided.

Please refer to EA page 56 for the basis of our calculations:

for a one-day trip, hikers and horsemen can access **32 times** the mileage needed. They have 32 different choices each time they plan a hike or a ride.

for a one-day trip, mountain bicyclists can access **14 times** the mileage needed. They have 14 different choices each time they plan a a ride.

for a one-day trip, motorcycle trail riders can access **2 times** the mileage needed. They have 2 choices each time they plan a ride.

These calculations do not include any overlap. Remember, everyone except the motorcyclists can travel cross country. The hikers and horsemen can use the bicycle trail.

In other words, everyone *except* people who ride motorcycles on single-track trails has a tremendous multitude and diversity of trip choices.

3) We further note that "future opportunity" is proposed for non-motorized users, yet zero "future opportunity" is proposed for motorcycle trail riders. The Forest Service is telling the people who ride motorcycles on single-track trail that this already lopsided situation will indeed, become even more lopsided.

4) Thus, no matter how we analyze the analysis, the proposed action is not in compliance with the LRMP. In fact, no alternative offered in this EA is in compliance.

5) To summarize, the Forest Service established the LRMP as one of the prime directives brought forward to guide this plan. That commitment is made in the foundational chapters of this Travel Plan analysis. The Forest Service cannot lawfully change the "rules of the game " at this point in the process.

In fact, the TMR provides the opportunity for the Forest to comply with the direction of its current Forest Plan by adding single-track trails, and thus bring motorized and non-motorized opportunities into better balance.



A Civilian Conservation Corpsman hauling logs.

20. The Resolutions for our Concerns

In consideration of the above comments on the Environmental Assessment for the Rico-West Delores Travel Management Plan, we request that the following changes be made to the proposed travel plan:

20A. Correct, delete, or add language in the EA text as we have noted, and as otherwise necessary, based on our discussion in each subject area. Specifically, the forest service can begin the corrections with the following:

1A, 1C, 2C, 3B, 4D(a), 6A, 6B, 7K, 9, 10A, 10B, 12A, 13B, 15 in its entirety, 16 in its entirety, 17A, 18F, and all subsequent changes as they become evident as a result of the above cited section changes. Change text under “Designated Motorized and Shared-Use Trails – Features Common to All Alternatives” referencing Calico Trail. To read: Calico Trail from the intersection with the Priest Gulch Trail Head on the South to the Northern Trail Head of Calico. This will match the map, which indicates the entire length of Calico from North to South as open to motorized single-track use. (page 24 in the EA)

20B. Permanently designate all trails presently open to motorcycles, and those being considered for re-designation, as motorized trails including additional critical connectors to current and other established system loops.

Burnett Creek Trail – (Historical Motorized Use) Designating this trail as half-open to motorized use and half-closed to motorized use is absolutely senseless in any reasonable term. The FS has shown no rationale for closure in this fashion or any other. This trail has no history of environmental degradation, is a principle connector from the Calico Trail into the town of Rico, which provides a significant element of rapid safety access for motorized users in the event of an incident or injury. FS designation for motorized use of this trail dates back to 1979 and prior mapping. It should not be considered for closure to motorized use in any Alternative.

West Fall Creek Trail – (**Historical Motorized Use**) Designate this trail as motorized for its entire length from Calico Trail to its intersection at Winter Trail. The FS has shown no rationale for closure of the lower section of WF Creek Trail. The elimination of the lower section of this trail creates difficulty in directly connecting with the Winter Trail at the most reasonable point. This trail has been designated on FS mapping for motorized use back to 1979 and prior. This trail should not be considered for closure to motorized use in any Alternative whereas no use conflict has been identified in the EA to warrant it.

Sockrider Peak Trail – (**Historical Motorized Use**) Designate this trail as motorized for its entire length. This is the least dangerous route along the Calico Trail for users and also provides a tremendous scenic opportunity as one of the highest points on the Calico Trail. This trail is designated as motorized on each end of the trail and has been listed on FS mapping since 1979 and prior for motorized use. The FS has presented no use conflict or additional rationale in the EA to warrant closure to motorized use. This trail should not be considered for closure to motorized use in any Alternative.

20C. Re-designate to single-track motorized / multiple-use the following trails:

Loading Pens Trail – (**As late as 1983 FS mapping this trail was open to motorized use**). This trail has continually been maintained by motorized users for multiple-use since that date. The consideration of this trail for re-designation is now critical for single-track users in that it now becomes the direct connection to the newly created ATV route on Taylor Mesa and further to the Spring Creek Trailhead to the North. Without this connection, motorized users will have to travel miles by FS road to the top of Taylor Mesa for a connection to any of the motorized single-track routes. The Loading Pens Trail has not and is not being used by any other recreational user other than single-track. It simply does not present itself as an attractive hiking or other non-motorized use opportunity and has no history of it. Since no use conflict exists, as identified in the EA, a multiple-use designation is appropriate.

Morrison Trail Connector (**Historical Motorized Use through FS Access route**). This route gives direct connection to all routes in Cortez/Mancos area and cannot be lost to the public just to satisfy local residents who have chosen to reside directly next to a designated trail section. The agency is clearly working to pacify the resident at the detriment to the general public. There are no environmental / resource use issue and philosophical differences of how this access trail should be used will never be resolved. However, without clear resource use issues the route must remain open to the Public. It is a critical North / South trail system connector, used in long time history by only by one recreation group (motorized). It cannot be lost in this EA.

Upper Bear Creek connecting to Bear Creek Basin (**Historical Motorized Use as early as 1983 mapping**). The FS has shown no conflict uses of this section of trail and should be made available for motorized use as it once was. Closure to motorized users has limited access to the Upper Bear Creek Basin and all associated scenery and fishing opportunities unnecessarily.

Section House Trail (**Historical Motorized Use on 1983 FS Mapping and before**)

Schoolhouse Draw Trail (**Historical Motorized Use on 1983 FS Mapping and before**)

20D. Additional trail closures to motorized use that do not have record of being legally processed through NEPA in the past must be reinstated and re-evaluated at a later date for suitability, if use concerns are identified. Those trails are identified from FS mapping as:

- Ryman Creek (all sections)
- Silver Creek
- East Fork Trail
- Groundhog Stock Driveway
- Fish Creek (upper)
- Pipe Creek
- Sharkstooth
- Kennebec Pass

On behalf of our approximately 400 members, the San Juan Trail Riders Association respectfully submits these comments and recommendations with the assurance that they will receive positive consideration and review as a part of the process of completing the final Dolores / Rico EA.

Glenn Graham – Chairman

Don Riggle - Director