

June 3, 2007

Laura White
Wilderness and Zone Trails Coordinator
Coronado National Forest
300 W. Congress Street
Tucson, AZ, USA 85701

Re: Travel Management Planning and Off-road Vehicle Use on the Coronado National Forest

Dear Ms. White:

In light of the new regulations concerning off-road vehicle (ORV) management in National Forests¹ and the fact that the Coronado National Forest (CNF) is in the process of drafting a proposed action, the Coronado Planning Partnership would like to take this opportunity to provide input on the CNF's travel management planning process.

The Coronado Planning Partnership is made up of more than 30 groups, whose membership consists of more than 50,000 individuals, all of whom have a stake in the management of the Coronado National Forest.

The Coronado Planning Partnership promotes the protection of wild species, their habitats, and ecological communities, as well as the processes that sustain them, on the Coronado National Forest. To accomplish this goal for the benefit of future generations, the Partnership (1) mobilizes a wide range of individuals and groups on behalf of our shared stake in the Forest, to ensure conservation-based management; and (2) provides and fosters leadership in the oversight of the revised Forest Plan: its development, outcome, implementation, and long-term monitoring.

The Coronado Planning Partnership represents the shared views of thousands of our members concerned with management of our nation's National Forests. We are dedicated to preserving threatened and endangered species, wild areas and protecting forests, grasslands, deserts, rivers, and wetlands. Our goal is to assure protection for important places and the creatures that depend on these places for survival. We also work to preserve public lands so that future generations will enjoy the clean air and water, wildlife, beauty, and opportunities for recreation and renewal that abound.

In this vein, the Coronado Planning Partnership agrees with former Forest Service Chief Dale Bosworth that unmanaged off-road vehicle use is a "major

¹ U.S. Department of Agriculture, Forest Service; Travel Management; Designated Routes and Areas for Motor Vehicle Use; Final Rule; Nov. 9, 2005 (36 C.F.R. §§ 212, 251, 261, and 295).

threat” affecting our nation’s forests and should be “one of the highest priorities for the agency.”

Each year, the national forests and grasslands get hundreds of miles of unauthorized roads and trails due to repeated cross-country use. We’re seeing more erosion, water degradation, and habitat destruction. We’re seeing more conflicts between users. We have got to improve our management so we get responsible recreational use based on sound outdoor ethics. How do these threats affect outdoor recreation? As I said, our focus in the Forest Service is on protecting air and water, habitat for wildlife, scenery, and naturalness. That’s what people come to the national forests to find – but increasingly they’re not finding it. They’re not finding it if forests are out of whack and unhealthy. They’re not finding it if invasives and loss of open space are driving out our native species. And they’re not finding it if streambanks are collapsed, trails eroded, and sensitive meadows degraded because we’re not properly managing recreational use.

- Dale Bosworth, USFS Chief, “Ensuring the Future of Outdoor Recreation,” Partners Outdoors, Snowbird, UT (Jan. 11, 2004).

We agree with the Chief that the rapid expansion of ORV use on National Forests and Grasslands is damaging the ecological and cultural resources of federal lands, and that unmanaged ORV use has resulted in unauthorized roads and trails, erosion, water quality degradation, habitat destruction, and conflicts among users. Consequently, we agree with the overall goals of the agency to create a designated ORV route system that is ecologically sustainable, manageable, and enforceable. The revised regulations in the travel management rule take positive steps by prohibiting widespread cross-country travel and instituting a policy that deems areas closed unless marked open on the travel use maps, thereby placing the responsibility on ORV users to know which routes are legal.

Although the CNF has yet to initiate the NEPA process, the CNF has solicited public input through a pre-scoping process. We therefore provide these comments consistent with the spirit of that solicitation, before the contours of the anticipated proposed action are set. These comments build upon previous letters sent to the CNF and the regional office by member groups of the Coronado Planning Partnership, as well as conversations with you and other regional and forest staff. Our recommendations are based on a comprehensive review of the Travel Planning Rule and the CNF’s associated planning and decision-making processes (e.g., Forest Planning).

Using both regulatory mandates and ecological considerations, the Coronado Planning Partnership hereby provides the following comments to the CNF for its consideration during implementation of the November 9, 2005 Travel Planning Rule.² We offer several general recommendations (in Part I) that will help accomplish the above goals. We also propose that certain sensitive areas receive special protection and be reserved for other recreational uses and/or resource protection (Part II). We have generated detailed, area-specific recommendations for the Coronado National Forest and ask that you accept these general comments in conjunction with those.

We ask you to consider the issues we raise here as you craft the proposed action and urge you to incorporate our recommendations into the draft proposed action that you will release to the public in the near future.

I. ROUTE DESIGNATION PROCESS RECOMMENDATIONS

Adopt a Three -Phase Approach

We believe that the ORV route designation process should be guided by current Forest Service policy and regulatory mandates as well as by the best available peer-reviewed and objective ecological data. The foundations of the travel plan rule revisions are Executive Orders 11644 (1972) and 11989 (1977) which, according to the Department of Agriculture, “cannot be met while still allowing unrestricted cross-country travel.”³ The Orders specifically state that the route designation procedures “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.”⁴ In accomplishing this broad goal, the executive orders and travel regulations require that the designation of areas and trails shall be in accordance with the following:

- 1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.
- 2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.
- 3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses

² See 70 Fed. Reg. 68264 (Nov. 9, 2005)

³ Federal Register, Vol. 70, No. 216, p. 68265/Wednesday, November 9, 2005/Rules and Regulations

⁴ Executive Order 11644 § 1 (1972) as amended by Exec. Order 11989 (1977) – Use of Off-Road Vehicles on Public Lands.

with existing conditions in populated areas, taking into account noise and other factors.

4) Areas and trails shall not be located in officially designated Wilderness Areas.⁵

We agree with the strong language above. The Forest Service has correctly focused the new rule around the key principle from the Executive Orders: ORVs should be permitted *only* where they do not excessively interfere with other recreational uses or damage natural resources. In addition, the 1976 National Forest Management Act (NFMA) recognizes the importance of National Forests in the context of biological conservation, and NFMA requires that the U.S. Forest Service manage the National Forests in an ecologically sustainable manner that protects soil and water resources, streams, stream banks, shorelines, wetlands, fish, wildlife, and the diversity of plant and animal communities.⁶ Because hiking and equestrian trails and Wilderness areas are not being concurrently designated, care must be taken to ensure that other recreational opportunities and protection of natural resources are not precluded by an overly ambitious ORV route system.

In our view, the Travel Planning Rule, by offering a “national framework” implemented at the “local level,” affords the CNF considerable leeway to protect wildlife, habitats, related resources and associated sensitive lands within the CNF from harmful activities.⁷ Specifically for areas where threatened or endangered species are a consideration, the ESA directs the FS “to conserve endangered and threatened species and to utilize their authorities in furtherance of the purposes [of the ESA].”⁸ Pursuant to the ESA, the FS must “insure” that travel planning “does not jeopardize the existence of any endangered species or threatened species or result in the destruction or adverse modification” of critical habitat of such species.⁹ This provision obligates the FS to engage in “consultation” with the U.S. Fish and Wildlife Service.¹⁰

The mandates of the Travel Management Planning Rule, NFMA, ESA and the Executive Orders, individually and collectively, suggest that the CNF should proceed very cautiously with travel planning. Indeed, to satisfy these intertwined

⁵ Exec. Order 11644 § 3 (1972) as amended by Exec. Order 11989 (1977). We expect full compliance with the Executive Orders, notwithstanding the recent weakening of language in the Forest Service implementing regulations.

⁶ 36 C.F.R. 219.10

⁷ 70 Fed. Reg. 68264, 68265

⁸ 16 U.S.C. §§ 1531(c)(1), (2)

⁹ 16 U.S.C. § 1536(a)(2).

¹⁰ 16 U.S.C. § 1536(c)(1)

mandates, the Forest Service must adopt robust, science-based methods and verify those methods through ground-truthed data and study.¹¹

The CNF should therefore not design a travel planning process that sanctions the existing route network and adds on new routes to meet a perceived demand for motorized recreational use. Such a process is a recipe for disaster given that with increasing populations and interest in motorized recreational use, there is potentially no limit to the numbers of motorized recreationists that would flock to the CNF if it is perceived as an unregulated “playground.” The Travel Planning Rule, though providing considerably flexibility to the CNF to tailor the travel planning process to local conditions, demands a more rigorous, science-based, and ultimately protective decision-making process that comports with the CNF’s duty to all uses and values of the our National Forests.

To properly account for these values through a science-based decision-making process, we recommend that the CNF implement travel planning in three key phases spread over the course of the next several years. We expect that this phased process may be resisted by the motorized user community. However, we submit that it represents a straightforward, reasonable process that, ultimately, best accounts for the CNF’s broad mandate to manage the CNF for multiple use, in particular relative to watershed and water resource values and associated wildlife species and habitats.

Phase 1 would consist of establishing a limited, baseline travel network for motorized use of the CNF. This baseline travel network would, in effect, implement the Travel Planning Rule’s prohibition against cross-country travel and ensure that motorized use is limited to existing, designated routes that fully and without question satisfy the criteria set forth in 36 C.F.R. § 212.55. We expect that this process could be rapidly completed through preparation of an Environmental Assessment and would not warrant preparation of a more time-consuming and laborious Environmental Impact Statement. Consequently, the FS would be able to publish the motorized vehicle use map (36 C.F.R. § 212.56) and allocate limited FS resources to more pressing concerns, such as law enforcement and restoration-based forest projects.

During Phase 1, the CNF would not consider new route additions except in extremely limited, compelling circumstances (e.g., in order to protect or improve public safety or to re-route Forest users around sensitive or degraded lands that need time to heal). This recommendation is in line with the undeniable fact that the Travel Planning Rule was precipitated by abusive, uncontrolled motorized use. As Forest Service Chief Bosworth declared in 2003, unmanaged outdoor

¹¹ See *Ecology Center v. Austin*, 430 F.3d 1057 (9th Cir. 2005) (FS violated substantive NFMA protections by failing to demonstrate the reliability of its scientific methodology); *The Lands Council v. Powell*, 393 F.3d 1019, 1034-1037 (9th Cir. 2005) (same).

recreation – in particular ORV use – constitutes one of four principal threats to our National Forests:

*Each year, the national forests and grasslands get hundreds of miles of unauthorized roads and trails due to repeated cross-country use. We're seeing more and more erosion, water degradation, and habitat destruction. We're seeing more and more conflicts between users. We're seeing more damage to cultural sites and more violation of sites sacred to American Indians. And those are just some of the impacts. We've got to get a handle on that.*¹² [Cf. pp. 1-3.]

Accordingly, this phase of the process would ensure that the FS can, in fact, “get a handle” on motorized recreation use. At present, we are disturbed by the overall number and density of existing, designated routes and illegal, user-created routes on the CNF. The process outlined above would establish a limited, baseline travel network that ensures continued recreational use but dramatically improves the level of protection for the CNF. Meanwhile, the CNF can collect monitoring data on use of the CNF to assess user compliance with the baseline travel system, assess the CNF’s ability to enforce the designations based on evaluations of agency staff and resources, and repair damage caused by illegal or overly intensive ORV use (e.g., by restoring damaged riparian areas and obliterating user-created routes).¹³

Phase 2 would consist of the already scheduled, formal revision to the Coronado Land and Resource Management (“Forest Plan”). This revision presents the opportunity to comprehensively address water resource and non-motorized recreational uses within the CNF and can, accordingly, establish comprehensive, ecologically based standards and guidelines (above and beyond the CNF-specific travel planning standards suggested for Phase 1) that would then serve as a foundation for future travel planning. At present, we are deeply concerned that the current travel planning process, focused, as it seems to be, on motorized use, will consider only narrow management alternatives centered on motorized vehicle use and will therefore limit if not preclude comprehensive management options that otherwise could be considered during the comprehensive Forest Plan revision.¹⁴

Such options include, e.g., the designation of “quiet areas” ideal for non-motorized recreation activities such as hunting, camping, backpacking,

¹² See www.fs.fed.us/news/2003/speeches/07/bosworth.shtml

¹³ See 36 C.F.R. § 212.57 (obligating the LNF to “monitor the effects of motor vehicle use on designated roads and trails and in designated areas....”).

¹⁴ See, e.g., 40 C.F.R. § 1506.1 (prohibiting agency action that would “[h]ave an adverse environmental impact” or “limit the choice of reasonable alternatives” pending issuance of a record of decision, here the record of decision for the Forest Plan revision).

picnicking, and hiking, and the designation of “Special Areas” necessary for the protection of biological, ecological, and cultural resources, such as Research Natural Areas or Botanical Areas.¹⁵ If the FS uses the travel planning process to sanction a high-density route network through, for example, the addition of otherwise illegal user-created routes, and therefore, effectively subordinates consideration of management options for otherwise equal if not paramount uses and values, then such management options could be forever precluded from meaningful consideration and adoption.

Put another way, the travel planning process “represents a link in a chain of bureaucratic commitment that will become progressively harder to undo the longer it continues” and could therefore limit or preclude management options for the CNF because “[o]nce large bureaucracies are committed to a course of action, it is difficult to change that course - even if new, or more thorough, NEPA statements are prepared and the agency is told to ‘redecide.’”¹⁶ If the CNF proceeds to sanction a high-density route network and engages in a travel planning process without first addressing comprehensive management issues through the Forest Plan revision process, the CNF risks providing a textbook example of “putting the cart before the horse.”

The above recommendation is consistent with our view that the CNF should engage in a science-based landscape approach to management of the CNF’s resources and use. A recent review of relevant scientific literature found that motorized recreational use causes significant and severe direct, indirect, and cumulative impacts to the environment, including wildlife mortality, habitat loss and displacement, erosion, soil compaction, destruction of stream bank stability, impairment of water quality, and other effects.¹⁷ The review recommends that

As demand for off-road recreational opportunities increases, land management agencies must develop science-based plans to manage the ecological threats caused by ORV use and ensure adequate monitoring and enforcement of regulations.

And, further, that

Ecological effects must be the first and foremost consideration in making management decisions. Desires for recreational access cannot take priority over protection and conservation of natural resources on public lands.

¹⁵ See Forest Service Handbook § 1909.12, Chapter 10, § 11.15 (discussing FS policy to protect special areas “because of their unique or special characteristics” through the land management planning process).

¹⁶ *Massachusetts v. Watt*, 716 F.2d 946, 952-953 (1 Cir. 1983) (imposing injunction on sale of offshore oil and gas).

¹⁷ See Ecology and Economics Research Department, The Wilderness Society, *Addressing the Ecological Effects of Off-Road Vehicles (ORVs)* (August 2006) (available at www.wilderness.org/Library/Documents/upload/ScienceBrief_ORVEffects_August2006.pdf).

Fundamentally, a landscape perspective helps ensure that redundant routes are not designated and that routes are not merely examined in isolation. This affords the CNF the opportunity to use science-based analytical techniques such as spatial analysis to evaluate landscape-level impacts to natural resources from past, present, and reasonably foreseeable activities on the CNF and develop commensurate landscape-level standards and guidelines to protect overall landscape connectivity.¹⁸

Insofar as the current Forest Plan ostensibly purports to offer sufficiently current guidance, we are compelled to conclude that the current Forest Plan has proved patently inadequate to control motorized recreation and therefore needs to be revised. This much is conceded by the Travel Planning Rule and the fact that the Forest Plan is imminently slated for revision. We would consider it a severe disservice to the community if travel planning decisions reached in a vacuum compromised the CNF's ability to restore and protect water resources and sensitive lands in accord with the exercise of the CNF's comprehensive planning authorities and duties through the Forest Plan revision process.

This cautious approach – wherein the CNF uses Phase 1 to establish a baseline travel network and uses Phase 2 to establish comprehensive, ecologically based standards and guidelines for the entire CNF – can then feed, as needed, into a **Phase 3** of travel planning wherein the CNF adjusts the baseline travel network to meet CNF-wide standards and guidelines and user demand. At this stage, routes would be removed if they are found to be incompatible with the established standards and guidelines and motorized users could provide the CNF with requested additions to the travel network. Through this process the CNF would also be able to make reasoned and informed choices as to which route additions are appropriate based on revised Forest Plan standards and guidelines and monitoring data collected via Phase 1's establishment of a baseline travel network and Phase 2's Forest Plan.

In moving through these phases, we emphasize that planning and NEPA processes are critical as they set the stage for post-decisional adaptive management. Put another way, the efficacy of any adaptive management system is predicated on the agency's completing prior analysis commensurate with the significance of the impacts projected for the chosen action. At present, however, this marriage – between pre-decisional planning and NEPA and post-

¹⁸ See, e.g., Ecology & Economics Research Department, The Wilderness Society, *Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard Bureau of Land Management Lands* (May 2006) (discussing use of habitat fragmentation analysis – a form of spatial analysis – for informed, science-based travel planning management decisions) (available at www.wilderness.org/Library/Documents/upload/TravelBriefFinal.pdf); Ecology & Economics Research Department, The Wilderness Society, *Landscape Connectivity: An Essential Element of Land Management* (February 2004) (available at www.wilderness.org/Library/Documents/upload/Landscape-Connectivity-An-Essential-Element-of-Land-Management.pdf).

decisional adaptive management – has proven rocky. Too often, adaptive management systems are simply an excuse for inaction and shallow environmental analysis. We recommend that the CNF ensure that baseline planning decisions and NEPA analysis afford the CNF the ability to constrain motorized vehicle use within acceptable limits.

Thus, we suggest that Phase 1 of the travel planning process expressly consider and adopt criteria to facilitate post-decisional remedial actions consistent with the CNF's obligation to close routes whenever ORV use "will cause or is causing considerable adverse effects"¹⁹ and to not just close routes, but to in fact re-designate routes to prohibit ORV use. Phase 2 – the Forest Plan – could build upon these measures and extend them to comprehensively address all Forest management issues. For example, the CNF could adopt a nonexclusive set of clearly defined triggers for nondiscretionary closures tied to the Forest Service's substantive duties – e.g., routes will be closed whenever necessary to prevent pollution in CWA 303(d) limited waters as evidenced by water quality monitoring data or the proliferation of new user-created routes.

Make ORV Route Designation Decisions at a Landscape Level

Travel planning at a landscape level should simultaneously take into account the wide variety of multiple uses and users of the public lands. A landscape-level approach ensures that large areas of the Forest remain relatively quiet for wildlife and the majority of forest users who enjoy public lands through hiking, backpacking, horseback riding, bird watching, hunting, and fishing. The high impact of off-road vehicle recreation (due to noise, pollution, and dust that extend far beyond the trail itself) diminishes the quality of wildlife habitat and often completely displaces non-motorized visitors. The process should focus not solely on individual route designation, but on achieving a system of trails that minimizes habitat fragmentation and minimizes conflicts between quiet and motorized recreation.

Similarly, route designation should consider the direct, indirect, and cumulative ecological impacts of ORVs on the larger landscape, including watersheds, wildlife corridors, and core areas of protected habitat for wide-ranging, low-density, or disturbance-sensitive species. The National Environmental Policy Act (NEPA) requires that the Forest Service evaluate "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions...result[ing] from individually minor but collectively significant actions taking place over a period of time."²⁰ A landscape perspective will help ensure that redundant routes are not designated and that routes are not merely

¹⁹ (Executive Order 11644, § 9, as amended by Executive Order 11989; 36 C.F.R. 212.52(b))

²⁰ 40 C.F.R. 1508.7 – 1508.8

examined in isolation. The agency should use spatial analysis to evaluate landscape-level impacts to natural resources.

Ensure that the Agency is Able to Enforce, Monitor, and Maintain the ORV System

The newly adopted travel rule mandates that the Forest Service consider “the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration.”²¹ The rule also states that the responsible official must “monitor the effects of motor vehicle use on designated roads and trails and in designated areas.”²² The designation of ORV routes, therefore, must be compatible with the ability of the agency to monitor, enforce, and maintain that system. Considering the great length of user-created ORV trails in the CNF, the Forest Service should refrain from designating routes that it will be unable to maintain, monitor, or patrol with its current budget and staff. This will be even more critical in the future as budgets continue to shrink.

Incorporate the Best Available Science

Given the significant threat of growing ORV use on public lands, science must play an important role in the planning process. Public agencies may be tempted to approach travel planning solely as a series of social negotiations between competing user groups. Such an approach, however, neglects the agency’s responsibility to use the best available scientific information and methods to manage the natural resources found on public lands for sustainability and use by future generations. The Data Quality Act directs federal agencies in “ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies.”²³ Decisions made in minimizing damage to soil, watersheds, vegetation, wildlife, and habitats should incorporate and cite findings of peer-reviewed studies regarding the negative or positive impact of ORV use.

Make Spatial Analysis Information Public and Timely

Any geographic information system (GIS), mapping, or spatial analysis data that the Forest Service uses in the route designation process should be available to the public at the same time the agency is using this data for analysis. The information should be provided to the public so that all analyses are transparent and repeatable. All data layers used for map creation or spatial analyses should be made easily available to the public. The Forest Service should explore the use of the Ecosystem Management Decision Support system and similar GIS-based

²¹ 36 C.F.R. 212.55 (a)

²² 36 C.F.R. 212.57

²³ P.L. 106-554 § 515

tools to aid the decision-making process. If used effectively, these methods would represent a long overdue marriage between comprehensive travel management and the use of robust GIS decision-support technologies while providing the public transparency into the arcane process of travel planning.

Do Not Establish Broad Exceptions for Dispersed Camping or Big-Game Retrieval

In designating routes, the responsible official has some latitude to “include in the designation the limited use of motor vehicles within a specific distance of certain designated routes, and if appropriate within specified time periods, solely for the purposes of dispersed camping or retrieval of a downed big game animal.”²⁴ In former Chief Bosworth’s memo entitled “Implementation of the Travel Management Rule,”²⁵ he directs officials to apply the rule “sparingly” rather than issue blanket exceptions. We also oppose any broad exceptions that allow cross-country travel to camp or retrieve big game. These exceptions would make enforcement of authorized routes difficult at best and would lead to wide swaths of impact, as ORV users would be authorized to go a certain distance off trail at any point along the route system. Thus, we have the following recommendations for treatment of dispersed camping, big-game retrieval and gathering of forest products.

Dispersed Camping: Dispersed camping opportunities add to the character of Forest Service land. However, *we do not support the practice of allowing excessive cross-country travel to maintain these opportunities. Instead, we recommend designating terminal routes or spurs that provide access to dispersed camping opportunities and/or allowing camping adjacent to designated routes.* This will serve to protect the environment and other users and will not detract from a visitor’s camping experience.

In 2004, the Chief identified unmanaged recreation, specifically ORV use, as one of four key threats to our public lands because of the damage that these vehicles do to the soil, wildlife, plants and critical habitat. If exceptions like this one are given, vehicles will remain unmanaged and damage will persist and likely increase in intensity.

The following option provided by the rule and mentioned in the Regional Forester’s guidance is difficult to enforce and maintain: “**Designating fixed distances from open routes** allowing cross-country travel for the specific purpose of dispersed camping.”

Currently, the agency does not have enough resources to enforce and maintain the route system that it has. If users are allowed to travel off a route to find a

²⁴ 36 C.F.R. § 212.51 (b)

²⁵ referenced in the June 8, 2006 letter “Travel management, Schedule for Implementation”

camping spot, this provision will increase user-created routes and decrease the probability that people will stay within the designated fixed distance.

Another troubling option recommended in the guidance has similar enforcement challenges: “**Designating an area for cross-country use.** Dispersed camping would be allowed in the area, along with other cross-country motor vehicle use.”

*While camping is a legitimate use of Forest Service land, we **do not** support the designation of open areas for cross-country use under the guise of providing dispersed camping opportunities, nor do we support the issuance of permits for cross-country travel for the purpose of dispersed camping.*

Neither creating open areas nor issuing permits for cross-country travel for dispersed camping is consistent with the primary purposes and intent of the Travel Management Rule. In fact, the use of a permit system or the designation of open areas for dispersed camping would violate designation criteria. This conflict can be found in Section 212.55 of the Rule. In particular such actions would violate the Rule’s mandate to:

- Protect natural and cultural resources
- Promote the safety of all users
- Minimize conflicts among the various users of National Forest System land
- Minimize damage to soil, watershed, vegetation, and other forest resources;
- Minimize harassment of wildlife and significant disruption of wildlife Habitats

Instead of providing these protections, these practices will create trails that are routinely and repeatedly used by motorized vehicles, leading to the creation of more routes and trails. They will further the existence of unmanaged recreation on our public lands, damaging the landscape and ruining the forest for non-motorized users and wild inhabitants. In addition, there is the glaring difficulty of enforcement associated with a permit system or an open area designated under the guise of dispersed camping.

Big-Game Retrieval: National Forests in Region 3 provide hunting opportunities that are important to the public; *however, we do not support exceptions to the ban on cross-country travel for big-game retrieval.* There are three unnecessary options outlined in the guidelines:

- 1) designating fixed distances;
- 2) designating areas for cross-country use; and
- 3) issuing permits.

These are unnecessary because there is no need for **motorized** big-game retrieval, except in the case of disabled users. *We do support the provision in the rule*

allowing seasonal closures on certain designated routes based on the need for safe and secure big-game habitat.

Hunting is a legitimate use of Forest Service lands. However, an exception to the ban on cross-country travel for big-game retrieval will create enforcement problems and will likely create more conflict and resource damage because many dispersed camp sites and user-created routes receive use only during hunting season. The agency will be shirking its responsibility to close forests to cross-country travel by issuing this exception; the bulk of the problem that this rule purports to fix will be allowed to continue.

This loophole has the potential to open up relatively secure habitat if hunters do not have to pack their game out by foot or horse. The guidance states that supervisors should consider “providing for cross-country travel for the purpose of big-game retrieval where it would play an important role in meeting State big-game harvest or management objectives.” We are not aware of any evidence that this is a legitimate reason for allowing cross-country travel. Prohibitions on cross-country travel do not mean the hunting of big game is limited. They just mean that some people would have to enlist the assistance of a few friends in order to retrieve the animals.

The addition of exceptions for big-game retrieval and dispersed camping is very problematic. Both of these allowances would lead to cross-country travel and continued creation of illegal, renegade routes, even after a forest has designated routes.

Gathering of Forest Products: The ability to gather forest products such as firewood and acorns for personal use is important to many people in this region. We do not however, feel that cross-country travel is necessary for users to perform these activities. The Forest Service currently has a permit system in place to regulate the gathering of firewood. This is not effectively monitored or enforced and there is no reason to believe that more permits will change this fact. We are once again concerned that a lack of enforcement will allow for cross-country travel to run rampant thereby damaging resources. The only way to ensure the implementation of the rule is for enforcement to improve significantly. *Thus, we recommend limiting the extent of this use by designating areas along roads for fuelwood gathering. If designed to meet habitat or ecosystem management objectives, these areas would likely limit environmental damage.*

Acorn gathering is important to members of several local Tribes, who have a long and ongoing relationship to areas on the CNF. *We recommend keeping those roads used for this purpose open to allow Native people to continue these gathering activities as they have for centuries.*

II. AREAS OF SPECIAL CONCERN

Wilderness Areas

According to Executive Orders 11644 and 11989 and the revised travel management rules, “areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas.”²⁶ In addition, Congress bars the existence of any “temporary road” and the use of motor vehicles within wilderness.²⁷ The designation of ORV routes in Wilderness Areas is not acceptable.

Wilderness Study Areas

Wilderness Study Areas should be managed to protect their wild character until Congress has made a final decision on the long-term management of these areas. ORV use in these areas is incompatible with the defined characteristics of Wilderness Study Areas, including the requirements that the land be “affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable” and that it have “outstanding opportunities for solitude and a primitive and unconfined type of recreation.”²⁸ Forest Service recommended Wilderness Study Areas should not contain designated ORV routes. Agency policy states that “any inventoried roadless area recommended for wilderness or designated wilderness study is not available for any use or activity that may reduce the wilderness potential of an area.”²⁹

Inventoried Roadless Areas

All route designations must be consistent with Land and Resource Management Plans for each of the National Forests.³⁰ Where the Forest Plan does not, however, specifically prohibit the use of motorized vehicles in agency-inventoried roadless areas, we contend that these areas should not contain designated ORV routes. The responsible National Forest officials are required to “minimize conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands.”³¹ By definition, roadless areas afford a type of quiet and primitive recreation that cannot be found near roads. To allow ORV use in these areas would cause disproportionate conflict between quiet recreationists and ORV users and will risk precluding roadless areas from further consideration for Wilderness designation. Given the large number of miles of roads that currently exist on the National Forests of Region 3, the remaining roadless lands possess rare and critical ecological values.

²⁶ Exec. Order 11644 § 3 (1972) as amended by Exec. Order 11989 (1977)

²⁷ 16 U.S.C. § 1133(c)

²⁸ 16 U.S.C. § 1131 (c)

²⁹ Forest Service Manual (FSM) 1923.03

³⁰ FSM 2355.03 § 1(a) and Federal Register Part IV, Vol. 70, No. 216, page 68268: “Designations must be consistent with the applicable land management plan. If a responsible official proposes a designation that would be inconsistent with the applicable land management plan, a proposed amendment to the plan must be included with the proposed designations so that the designation decision will conform with the land management plan.”

³¹ 36 C.F.R. § 212.55

Furthermore, the Executive Order on Invasive Species³² states that all federal agencies will use relevant programs and authorities to prevent the introduction of invasive species, and “not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species ... unless ... the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm.” Given that roads and ORVs serve as corridors for exotic plant³³ and disease³⁴ invasion, and that invasion by exotic species is one of the four threats to the health of the National Forests identified by the former Forest Service Chief, we believe that roadless areas should serve as refuges from motorized encroachment.

Primitive and Semi-primitive Non-motorized Areas

Where these two Recreation Opportunity Spectrum (ROS) classes do not overlap with agency- or citizen-inventoried roadless areas, motorized recreation should not be permitted in these areas. Forest Plans and agency policy generally prohibit motorized use in these areas,³⁵ but in situations where they do not expressly forbid ORV use, we believe that these areas should not contain designated ORV routes. ORV use conflicts with the objectives of primitive and semi-primitive non-motorized areas to provide isolation from the sights and sounds of humans, closeness to nature, tranquility, and self-reliance through the application of outdoor skills.

Research Natural Areas

Research Natural Areas (RNAs) are set aside in perpetuity to preserve representative examples of specific botanic, aquatic, and geologic features, primarily for non-manipulative scientific and educational purposes. These areas contribute to the preservation of examples of significant natural ecosystems, provide genetic diversity, and protect habitats of threatened, endangered, or sensitive plant and animal species. ORV route designation in these areas would conflict with at least three management objectives for RNAs: (1) to protect against human-caused environmental disruptions, (2) to serve as reference areas for the study of natural ecological processes, and (3) to serve as a baseline for comparing results of manipulative research.³⁶ Furthermore, these areas are to be used “only for research and development, study, observation, monitoring, and those educational activities that do not modify the conditions for which the

³² Exec. Order 13112 § 2 (Feb. 3, 1999)

³³ Parendes, L.A., and J.A. Jones. 2000. Role of light availability and dispersal mechanisms in invasion of exotic plants along roads and streams in the H.J. Andrews Experimental Forest, Oregon. *Conservation Biology* 14:64-75.

³⁴ Zobel, D.B., L.F. Roth, and G.M. Hawk. 1985. Ecology, pathology, and management of Port Orford cedar (*Chamaecyparis lawsoniana*). U.S.D.A. Forest Service, Portland, OR, General Technical report PNW-184.

³⁵ FSM 2311.11 – Exhibit 2

³⁶ FSM 4063.02

Research Natural Area was established.”³⁷ Therefore, we believe that ORV route designation is not appropriate in these areas.

Rivers Eligible for Wild and Scenic Designation

The Forest Service does not normally permit motorized travel on the trail system in the corridors of “Wild” rivers.³⁸ The federal regulations pertaining to “Scenic” or “Recreational” river areas state that motorized travel will be restricted or prohibited where necessary to protect the values for which the river area was designated. Motorized use will be prohibited if “the use causes, or is likely to cause, considerable adverse effects on the resource.”³⁹ The river corridors, according to regulations, “shall be administered in such manner as to protect and enhance the values which caused it to be included in said system.”⁴⁰ ORV routes should not be designated in areas of the CNF that contain lands eligible for designation as Wild River corridors or in Scenic or Recreational corridors.

Coniferous Forests

These relatively rare ecosystems on the CNF are of utmost importance for Mexican spotted owl, the Northern goshawk, and other species dependent on older mature forest habitats. While ORV use is not expressly prohibited or regulated in these areas, we expect a higher standard in these more limited habitat zones for ORV route designation. Designation decisions should take into account the disturbance to old-growth-dependent species, including behavioral and physiological changes due to noise, habitat fragmentation, and habitat degradation. Buffers for wildlife species will vary. For example, human disturbances to goshawk nests have been a suspected cause of nest abandonment.⁴¹ Therefore, ORV trails should not be located within 400 m of known nests, a minimum recommended buffer to prevent against disturbance during the breeding season (March 1 – Sept. 30).⁴² We intend to provide further recommendations for buffer zones for late-successional species based on the best available scientific information as we comment on individual Forest route designations.

Cultural Sites

³⁷ FSM 4063.03

³⁸ FSM 2354.42g and FSM 2354.41-Exhibit 01

³⁹ FSM 2354.42o

⁴⁰ Wild and Scenic Rivers Act; Federal Register revised guidelines (Sept. 7, 1982); Section 10(a)

⁴¹ Reynolds, R.T., R.T. Graham, M.H. Reiser, R.L. Bassett, P.L. Kennedy, D.A. Boyce, G. Goodwin, R. Smith and E.L. Fisher. 1992. Management recommendations for the northern goshawk in the southwestern United States.

⁴² Jones, S. 1979. Habitat management series for unique or endangered species. Report No. 17. The accipiters:goshawk, Cooper’s hawk, sharp-shinned hawk. Bureau of Land Management, Technical Note 335.

Routes should not be designated through or near cultural sites. Federal agencies are directed to “manage cultural resources as a nonrenewable resource to maintain their scientific, historical, and social integrity.”⁴³ Regulations require that the integrity of cultural sites should supersede route designation: “when a cultural resource is threatened by another resource activity, a reasonable effort should be made to redesign the activity in order to avoid damage or destruction to the property.”⁴⁴

Riparian Areas and Cienega Wetlands

Similarly, riparian areas and cienega wetlands are crucial in providing essential habitat for riparian-dependent species. ORV use should be limited in riparian areas so that wildlife species are not disturbed. In general ORV use should not be permitted in riparian areas unless it can be definitively shown that riparian-dependent species are not harmed. Roads and routes should be strictly prohibited from crossing any of the few but important cienegas found on the CNF. We will make recommendations for route designation on a case-by-case basis, largely dependent upon the needs of species inhabiting the Riparian Reserve.

Special Interest Areas

Responsible officials in the Forest Service designate special Scenic, Geological, Botanical, Zoological, Paleontological, Historical, or Recreational Areas to protect and manage areas of unique value. ORV route designation in these areas should be kept to a minimum, especially in Botanical or Zoological Areas where ORV use is generally not compatible with protection of unique plant and animal life. In accordance with policy, the Forest Service should “keep developments such as roads, trails, and other facilities to the minimum necessary for public enjoyment of the area ... [and] locate roads, trails, sanitary facilities, picnic grounds, and parking spaces without disturbing the special features of the established area.”⁴⁵

Endangered, Threatened, Sensitive, Game, and Management Indicator Species

The Endangered Species Act (ESA) makes it unlawful for any person to “take” a listed species. Take is defined as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct” and includes “significant habitat modification or degradation that kills or injures wildlife by impairing essential behavioral patterns, including breeding, feeding, or sheltering.”⁴⁶ ORV use has been shown to cause stress in many animal species and often results in major changes in animal behavior and reduced reproductive

⁴³ FSM 2361.03 (1)

⁴⁴ FSM 2361.21 (2)

⁴⁵ FSM 2372.4

⁴⁶ 16 U.S.C. 1532

success or survival.⁴⁷ ORV routes should not be designated where “take” of an endangered species may occur. In addition, ORV routes should not be designated in ESA-designated critical habitat for threatened or endangered species (both aquatic and terrestrial) unless it can be shown definitively that the species and its habitat are not harmed. The Forest Service should use the best ecological data available to make recommendations for ORV route designation with respect to each state and federal threatened, endangered, and proposed species, and also for Forest Service Sensitive, plan Watch List, and big game, on the CNF.

Soil, Hydrology, and Slopes

Soil is the foundation upon which all life in the forest grows. While all soils are vulnerable in some degree to compaction and erosion from ORV use,⁴⁸ certain soils are particularly erodible. ORV routes should not be designated in areas where the soil is classified as highly erodible (“severe” or “very severe”) by the Soil Conservation Service⁴⁹ or the Forest Service Manual on soil classification. Compaction is severe in wet, poorly drained soils.⁵⁰ ORV routes should not be designated in wetlands, wet meadows, ephemeral ponds, shorelines, or other wet areas. Routes in riparian areas should be closed because they cause erosion and otherwise damage a critical ecosystem. Stream crossings should be closed to vehicle traffic, but where that is not possible, all crossings should be perpendicular to the stream. Land-disturbing activities in riparian areas have direct, indirect, and cumulative effects on downstream uses. It is the responsibility of the Forest Service to avoid adversely affecting beneficial uses of water, such as for fisheries and human consumption. Furthermore, the Clean Water Act requires the implementation of Best Management Practices (BMPs)⁵¹ for non-point sources that would result in water quality violations if they were not controlled. BMPs direct the Forest Service to identify areas where ORV routes cause, or are likely to cause, degradation of water quality. The Clean Water Act also requires that states identify all water bodies that are “impaired” and establish the Total Maximum Daily Loads that these water bodies can assimilate and still meet water quality standards. Steep slopes are also especially susceptible to soil damage from ORV use. No routes should climb directly up hillsides or be in excess of 15% slope. The Forest Service’s policy paper on unmanaged motorized recreation calls mud bogging and hill climbs “thoughtless or irresponsible behavior.”

⁴⁷ Joslin G. and H. Youmans. 1999. Effects of recreation on Rocky Mountain wildlife: a review for Montana. Committee on Effects of Recreation on Wildlife, Montana Chapter of the Wildlife Society.

⁴⁸ Dotzenko, A.D., N.T. Papamichos, and D.S. Romine. 1967. Effect of recreational use on soil and moisture conditions in Rocky Mountain National Park. *Journal of Soil and Water Conservation* 22:196-7.

⁴⁹ <http://websoilsurvey.nrcs.usda.gov/app/>

⁵⁰ Burde, J.H., and J.R. Renfro. 1986. Use impacts on the Appalachian Trail. Pages 138-143 in R.C. Lucas, editor. Proc. National wilderness research conference: current research. USDA Forest Service, Intermountain Research Station, General Technical Report INT-212, Ogden, UT, USA.

⁵¹ 33 U.S.C. § 1329

While the above list of recommendations for the CNF is necessarily general, we feel it is best to let the Forest Supervisor and travel management planning staff know our priorities for ecosystem protection and managed recreation in advance of the formal NEPA process. We hope that early input will help the Forest Service shape its travel planning at a landscape level, considering the larger-scale effects on watersheds, vegetation, wildlife, and other forest uses. We realize that route decisions will be made at the Forest or District level, taking into account ecological, cultural, and other information particular to that area. We have scheduled meetings with recreation planners on the CNF to discuss the issues outlined here and are preparing a more detailed analysis of individual routes based on site-specific ecological and recreational considerations and Forest Management Plans. We look forward to working closely with you to develop ecologically sustainable, manageable, and enforceable travel plans.

Sincerely,

A handwritten signature in black ink that reads "David Hodges". The signature is written in a cursive, flowing style.

David Hodges

on behalf of the **Coronado Planning Partnership**