

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105
May 6, 2009

Sue Warren
Team Leader
Stanislaus National Forest
Attn: Motorized Travel Management
19777 Greenley Road
Sonora, CA 95370

Subject: Draft Environmental Impact Statement for Stanislaus National Forest
Motorized Travel Management, Alpine, Calaveras, Mariposa, Tuolumne
Counties, CA (CEQ# 20090054)

Dear Ms. Warren:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA commends the Forest Service for its efforts to address the many challenges inherent in developing a balanced Public Motorized Travel Management Plan that responds to recreational and resource management demands. We acknowledge that the Travel Management Plan process is a positive step in addressing resource impacts from motorized uses. The permanent prohibition of cross country travel off designated routes and the switch from unmanaged to managed motorized recreational use will result in significant environmental benefits.

We commend the proposal to eliminate existing unauthorized routes where water quality effects cannot practicably be mitigated. Also of note is the implementation of season-of-use periods and wet weather closures to protect sensitive resources and minimize erosion, sedimentation, and related impacts. While we support expanded use of seasonal closures, we are concerned with the conversion of closed routes to open, the enforceability of closure periods, and the limited data supporting the proposed season-of-use dates. We urge implementation of season-of-use dates that avoid and minimize adverse effects on environmental resources, especially those most vulnerable to motorized vehicle use.

We have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed “*Summary of Rating Definitions*”) due to our concerns regarding the scope of the travel management planning process, above Season of Use concerns, and potential effects on water resources and threatened, endangered, and sensitive species and

their habitat. Additional information is necessary to fully describe seasonal closures, monitoring, and enforcement commitments.

EPA is aware of the decision by the Pacific Southwest Region of the Forest Service to limit the scope of the travel management planning process to prohibition of motorized vehicle travel off designated routes, addition of existing unauthorized roads and trails to the National Forest Transportation System (NFTS) so they may be designated for motor vehicle use, and changes in vehicle class and season of use. The rationale for the limited scope of this process is schedule constraints and limited funding and resources.

We acknowledge the constraints of funding and resources; nevertheless, we had hoped the Forest Service would take this opportunity to review and rationalize the NFTS, pursuant to Travel Management Rule direction to identify the minimum road system needed (36 CFR Part 212 Subpart A); to address known road-related resource impairments and use conflicts of both the existing NFTS and unauthorized user-created system; and to align the transportation system with maintenance and enforcement capabilities. We note a similar request has been made by Senator Feinstein (see attached letter) and Congress (H.R. 1105 Omnibus Appropriations Act, 2009 Conference Report).¹

Route designations are only part of what is needed to reduce the ongoing adverse impacts to water quality and other resources from the NFTS. We continue to believe a more holistic approach to travel management planning, whereby route designations are guided by travel analysis, known locations of resource impairment, and prior determination of the minimum road system needed, would better serve the long-term interests of the public, Forest Service, and National Forest resources.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one CD ROM to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact Laura Fujii, the lead reviewer for this project. Laura can be reached at (415) 972-3852 or fujii.laura@epa.gov.

Sincerely,

/s/

Kathleen M. Goforth, Manager
Environmental Review Office
Communities and Ecosystems Division

¹ H.R. 1105 – Omnibus Appropriations Act, 2009 Conference Report, Division E – Department of the Interior, Environment, and Related Agencies, Page 1146, March 11, 2009.

Enclosures:

Detailed Comments
Summary of Rating Definitions
Letter from Senator Dianne Feinstein to Regional Forester, December 18, 2008

cc: Steve Thompson, California Operations, US Fish and Wildlife Service
Kenneth D. Landau, Central Valley Regional Water Quality Control Board
Park Superintendent, Yosemite National Park

Scope of the Alternatives Analysis

Provide information on the minimum Forest road system needed and how this information was used to formulate the alternatives. The scope of this action includes prohibition of motorized vehicle travel off designated routes, the addition of unauthorized user-created roads and trails to the National Forest Transportation System (NFTS) so they may be designated for motor vehicle use, and changes to vehicle class and season of use. The draft environmental impact statement (DEIS) also states that unauthorized routes not included in this proposal are not precluded from future consideration for addition to the NFTS and inclusion on the Motor Vehicle Use Map (MVUM)(p. 2). We believe a holistic approach to travel management planning, whereby route designations are guided by travel analysis, known locations of resource impairment, and prior determination of the minimum road system needed, would best serve the long-term interests of the public, Forest Service, and National Forest resources.

Recommendations:

The final environmental impact statement (FEIS) should describe the information that was used to formulate the motorized travel management alternatives, and the relationship of that information to the requirement to identify the minimum road system needed for safe and efficient travel and administration of National Forest System lands (36 CFR Part 212 Subpart A, Section 212.5(b)). The FEIS should describe how the minimum road system needed will be identified pursuant to the requirements of the Travel Management Rule (36 CFR Part 212 Subpart A).

The FEIS should describe the factors that would be used in the consideration of future additions of unauthorized routes. We recommend that such factors include travel analysis and identification of the minimum road system needed.

Expand the scope of the action to include current NFTS roads and trails with known impacts. The current estimate of annual deferred road and trail maintenance is approximately \$96,965,742.00 for the Stanislaus National Forest (Forest) (p. 171). EPA is concerned with the Forest Service's ability to adequately address known road- and trail-related resource impairments, given the acknowledged lack of maintenance funds and this proposal to add to the NFTS additional miles of roads and trails known to contribute to soil and water resource impairment.

Recommendation:

We recommend the Forest expand the scope of this action to consider, for seasonal or permanent closure to public motorized use, current NFTS roads and trails with known resource impacts. For example, consider seasonal or permanent closure of public motorized use on existing NFTS roads and trails adjacent to Yosemite National Park to reduce incursion of OHVs into the National Park, as suggested by Yosemite National Park (p. 26).

Season of Use and Wet Weather Closures

Implement proven, protective season of use periods and wet weather closures. The action alternatives would implement season of use periods for all public motorized vehicle routes based on elevation and wet weather closures on native surfaced routes. The season of use periods replace all existing road closures (Summary, p. xiv) of which there are 55.55 miles closed year-round (p. 17). The DEIS does not state the reasons for the current year-round road closures or whether the proposed season of use changes would have adverse effects as a result of providing open periods for roads currently closed year-round. Nor does the DEIS describe the criteria used to select the season of use dates or whether current wet weather use of existing NFTS and unauthorized routes results in significant environmental impacts.

While EPA supports expanded use of seasonal closures, we are concerned with the conversion of closed routes to open, the enforceability of closure periods, and the limited data supporting the proposed season of use dates. We urge implementation of season of use dates that avoid and minimize adverse effects on environmental resources, especially those most vulnerable to motorized vehicle use.

Recommendations:

EPA recommends implementation of proven, protective season of use periods and wet weather closures. We advocate the expanded use of seasonal closures as a means to avoid and minimize adverse resource effects of roads, trails, and motorized use. For instance, we recommend season of use periods and wet weather closures in lower elevations, currently proposed to be opened all year, in watersheds with sensitive resources such as meadows, fens and seeps, vulnerable threatened and endangered species habitat, or high erosion potential soils.

The FEIS should state the reasons for the current year-round closures. We recommend retaining these existing year-round closures, if the closures are protecting sensitive resources (e.g., aquatic systems, drinking water sources, threatened and endangered species), private property, or minimizing user conflicts. We recommend the FEIS describe the criteria and scientific data used to select the season of use dates.

The FEIS should provide information on significant environmental impacts caused by current wet weather road and trail use. In addition, the FEIS should analyze the potential environmental impacts that would result from seasonally opening roads that are currently closed year-round.

The FEIS should identify specific enforcement measures proposed by the Forest Service to ensure that seasonal closures are followed.

Prohibit motorized vehicle use over part mud and part snow. Describe implementation and enforceability of wet weather closures and wheeled-over-snow use. The action alternatives would close native surface routes when one inch of rain occurs in a 24 hour period, and allow for 72 hours of drying (Summary, p. xiv). In addition, Alternative 1

Proposed Action and Alternative 4 Recreation would allow 111.09 miles of wheeled-over-snow use on identified routes or where allowed by permit or other authorization (Summary, p. xiv). Wheeled-over-snow use would be allowed for Alternative Terrain Vehicles (ATVs) when 12 inches or more of snow is present (p. 14). We have concerns with the implementation and enforceability of wet weather closure periods and wheeled-over-snow use. We are also concerned with the potential adverse effects of over-the-snow ATV use, given the number of miles of routes with high erosion potential soils (p. 225) and the vulnerability of native surface roads to use on part mud and part snow.

Recommendations:

Off-Highway Vehicle (OHV) and ATV use during spring conditions, over routes that are part mud and part snow, is particularly destructive and should be prohibited. We recommend the FEIS describe in detail how use restrictions, such as temporary closures of native surface routes after heavy rain, will be enforced and what enforcement approaches have been successful. EPA encourages the Forest Service to consider enforcement as a significant issue driving the design and analysis of alternatives for motorized travel management. Once a road closure occurs due to wet road conditions, we recommend considering a policy of keeping the road closed until the end of the wet season in order to minimize public confusion and simplify enforcement.

Water Resources

Reduce routes and miles on highly erosive soils, on roads prone to loss of hydrologic function and water control, and in hydrologically sensitive areas. The action alternatives, except Alternative 3 Cross Country Prohibited, would add 24 to 151 miles of existing unauthorized routes to the NFTS that occur on soils rated high to very high under the Maximum Erosion Hazard Rating system (MEHR); 8.6 to 68 miles on soils with high rutting and erosion potential (Hydrologic Function Class rating, HFC); and open 2.8 to 45 miles of closed roads prone to loss of hydrologic function and water control (Table S.01-2, p. xvi; also see p. 225). In addition, there are routes proposed in hydrologically sensitive areas which include hydrologically connected segments (Table 3.10-6, p. 252).

Recommendations: We recommend reducing the routes and miles added to the NFTS and opened for motorized vehicle use that occur on soils with high erosion potential, through hydrologically sensitive areas, or that are at risk of losing hydrologic function and water control. In the FEIS, quantify the miles of routes reduced in each of these areas. Where feasible, we recommend elimination of routes with hydrologically connected segments.

Provide an evaluation of the water quality effects of the change from highway-only to mixed-use and the associated reduced maintenance level. The action alternatives, except Alternative 3 Cross Country Prohibited, would convert NFTS roads to trails and change NFTS roads from highway-legal-only to use by all vehicles with the associated reduced maintenance level (Table 2.05-1, p. 28). EPA acknowledges that this action may better align road maintenance requirements with available funds and resources. However, roads and trails are primary contributors of excess sediment and water quality contaminants,

many as a result of limited maintenance. We are concerned with the potential adverse water quality effects of a reduction of maintenance on roads where existing use may already be adversely affecting resources.

Recommendations:

The FEIS should provide a more rigorous evaluation and description of the effects of the proposed redesignation of roads to trails and highway-legal-only to all vehicle use. Specifically, the FEIS should include a description of the final maintenance levels for these roads and the potential environmental impacts to sensitive resources. We recommend additional BMPs be included to ensure the change in NFTS use and maintenance levels do not result in additional adverse water quality or sediment effects.

Threatened, Endangered and Sensitive Species and Their Habitat

Select a preferred alternative which avoids and minimizes adverse effects to sensitive species and their habitat. Within the analysis area, the Stebbin's lomatium and Kellogg's lewisia grow in lava cap habitat where the highest densities of motorized routes occur. Both rare plant species are anticipated to decline in number of individual and plant sites under all Alternatives (p. 86). Alternative 1 Proposed Action would add 29.3 miles of routes through lava caps, Alternative 4 Recreation would add 32.1 miles, and Alt 5 Resources would add 6.3 miles. All alternative would also include routes that affect moist habitat sites. Alternative 1 Proposed Action would affect 51 sites in moist habitats, the greatest number of the action alternatives (Table 3.02-15, p. 87).

Recommendation:

Select a preferred alternative which avoids and minimizes adverse effects to threatened, endangered, and sensitive species and their habitat.

Select a preferred alternative that is in full compliance with U.S. Fish and Wildlife Project Design Criteria for threatened and endangered species. Alternative 1 Proposed Action and Alternative 4 Recreation would add routes with stream crossings and incursions into Riparian Conservation Areas within suitable threatened California red-legged frog (CRLF) habitat. These additions would not comply with the U.S. Fish and Wildlife (USFWS) document entitled "Route Designation: Project Design Criteria for „No Effect' or „May Affect Not Likely to Adversely Affect' determination for threatened and endangered species – October 2006 version 1" as approved in the USFWS Letter of Concurrence on December 27, 2006 (p. 358). These route additions would require further consultation with the USFWS (p. 326).

Recommendation:

Select a preferred alternative that is in full compliance with U.S. Fish and Wildlife Project Design Criteria for threatened and endangered species.

Describe rationale and need for the routes that pass within 1/4 mile of occupied western pond turtle habitat. Demonstrate that adverse effects to the western pond turtle would be minimized. Alternative 1 Proposed Action and Alternative 4 Recreation would require

a Forest Plan amendment that would make an exception for 8.93 to 9.32 miles of routes that pass within ¼ mile of occupied western pond turtle habitat. These routes would be contrary to the existing Forestwide Land and Resources Management Plan Standards and Guideline restriction on construction or use of routes within ¼ miles from occupied habitat of western pond turtle or approved by Wildlife Biologist (pps. 15, 19).

Recommendations:

The FEIS should describe rationale and need for the routes that pass within ¼ mile of occupied western pond turtle habitat. The FEIS should include data that demonstrates that adverse effects to the western pond turtle would be minimized, and supporting decision of ‚no affect’ of this Forest Plan amendment on western pond turtle.

Monitoring and Enforcement

Develop, describe, and implement a Travel Management Plan Monitoring and Enforcement Strategy. It is important that wildlife protection, vegetation management, and erosion control goals be achieved to minimize the potential adverse effects of the Motorized Travel Management Plan. Effective enforcement is especially critical given the proposal to designate trails with existing resource concerns requiring mitigation prior to use (p. 22). We believe the public and decision makers would benefit if a strategy is developed that includes specific information on funding, monitoring and enforcement criteria, thresholds, and priorities.

Recommendations:

We recommend development of a detailed Travel Management Plan Monitoring and Enforcement Strategy. Such a Strategy should include specific information on the monitoring and enforcement program priorities, focus areas (e.g., issues, specific locations), personnel needs, costs, and funding sources. We recommend the FEIS demonstrate that the proposed monitoring and enforcement strategy is adequate to assure that motorized vehicle use will not violate access restrictions or exacerbate already identified road-related resource problems. We recommend the Monitoring and Enforcement Strategy be periodically updated (e.g., annually or biennially).

Describe the rationale and scientific basis for the proposed monitoring and evaluation standards. Table 2.01-1 Monitoring and Evaluation Plan states that the Forest Service would monitor: 1) conflicts with private property and other users; 2) designated route miles, and 3) trail condition rating in watersheds at risk (p. 12). The monitoring standards, methods, personnel, and reporting frequency are provided. EPA is concerned that the monitoring standards may not be sufficiently rigorous to avoid and minimize adverse effects of the project. For example, the standard used to determine trail condition rating is “No more than 20% of the total trail miles per National Forest System Watershed rated as Red.” The DEIS does not describe what this standard means. Depending on the significance of a Red trail condition rating, 20% may represent a significant adverse effect to sensitive resources or watersheds at risk of cumulative watershed effects.

Recommendation:

The FEIS should describe the rationale and scientific basis for the proposed monitoring and evaluation standards. As appropriate, provide an example of how the standard would be applied and demonstrate that the standard is adequately protective of water quality standards and sensitive resources. The FEIS should describe the meaning of standards such as “National Forest System Watershed rated as Red.”

Identify mitigation measures required prior to use. Exclude routes on the Motor Vehicle Use Map not yet open for use due to mitigation measure implementation delays. The DEIS describes mitigation measures that may be required prior to approved public motorized use (pps. 22, 31). These measures may include drainage improvements, barriers, and fencing to reduce the increased risk of sedimentation and erosion, and potential adverse impacts to aquatic resources, fens, and wet meadows. Given the substantial level of deferred road maintenance, EPA is concerned with the Forest Service’s ability to quickly implement identified mitigation measures and the potential for continued un-authorized motorized use of these designated routes.

Recommendations:

The FEIS should state whether the Motor Vehicle Use Map (MVUM) would include the designated routes that are not yet available for use due to required mitigation measures. If these routes will be included on the MVUM, describe how use would be restricted until identified mitigation measures are implemented. If these routes are not included on the MVUM, described how and when the Forest would open and designate these routes for use. We recommend routes not yet open due to required mitigation measure be excluded from the MVUM in order to reduce the unintentional un-authorized use of these routes.

Climate Change

Address climate change and its potential effects on proposed route designations. The DEIS states that climate change is outside the scope of this analysis because the State of California controls tailpipe emissions (p. 41). A number of studies specific to California have indicated the potential for significant environmental impacts as a result of changing temperatures and precipitation.² Climate change effects and the need to adapt to climate change are emerging issues which should be considered in this action. According to the Government Accountability Office (GAO) report entitled, “Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources” (August 2007), federal land and water resources are vulnerable to a wide range of effects from climate change, some of which are already occurring. Roads and their use contribute to species stress through habitat fragmentation, increased disturbance, introduction of competing invasive species, and increased fire risk; which may further exacerbate species’ ability to adapt to the changing climate.

² For example: Draft 2009 Climate Action Team Biennial Report to the Governor and Legislature. See internet address: <http://www.climatechange.ca.gov/publications/cat/index.html>.

Recommendations:

The FEIS should include a discussion of climate change and its potential effects on the Forest as they relate to the route designation decision and final National Forest Transportation System. Of specific interest are potential cumulative effects of climate change and the NFTS on the connectivity of wildlife and threatened and endangered species habitat, air quality, water quality and quantity, fire management, invasive species management, and road maintenance.

We recommend the discussion include a short summary of applicable climate change studies, including their findings on potential environmental effects and their recommendations for climate change adaptation and mitigation measures.

Full Disclosure and Procedural Comments

Commit to route-specific environmental analysis for user-created route additions. On some National Forest System lands, repeated use by motor vehicle travel has resulted in unplanned motorized trails un-authorized for motorized use. These trails were generally developed without environmental analysis or public involvement and may be poorly located and cause unacceptable impacts (p. 2). EPA is concerned with the addition of un-authorized user-created roads and trails to the NFTS which may not have undergone site-specific environmental analysis or public involvement.

Recommendations:

The FEIS should state how the Forest will ensure specific user-created routes are adequately evaluated pursuant to NEPA requirements. Where prior site-specific environmental analysis has not occurred, we recommend the FEIS specify the manner and criteria by which specific user-created routes would be analyzed prior to the route's addition to the NFTS or its designation for public motorized use.

Include a description of the rationale and criteria used to develop the proposed changes to the existing NFTS. The action alternatives propose a number of changes to the existing NFTS. These changes include converting NFTS roads to NFTS trails, changing closed roads to open, changing open roads to closed, and changing highway-legal-only roads to open to all vehicles. The DEIS does not appear to describe the rationale or criteria used to develop these proposed changes.

Recommendations:

We recommend the FEIS include a description of the rationale and criteria used to develop the proposed changes to the existing NFTS.