

June 9, 2014

Forest Supervisor
Travel Management Team
Six Rivers National Forest
1330 Bayshore Way
Eureka, CA 95501

RE: Smith River National Recreation Area Restoration and Motorized Travel Management DEIS Comments

Thank you for the opportunity to provide comments regarding the Smith River Restoration and Travel Management Project Draft Environmental Impact Statement (DEIS). The Klamath Siskiyou Wildlands Center (KS Wild), the Environmental Protection Information Center, the Klamath Forest Alliance, Friends of the Kalmiopsis, Siskiyou Land Conservancy, WildEarth Guardians, Friends of Del Norte, and The Wilderness Society would like to support efforts to reduce road maintenance costs, protect and restore aquatic and terrestrial ecosystems, and reduce the spread of Port Orford cedar root disease through road and route decommissioning in the Smith River National Recreation Area- unfortunately we are concerned that the preferred alternative in the DEIS will not adequately accomplish these objectives.

Contact information for our organizations may be found at the conclusion of these comments. Please ensure that we are provided hard copies of all forthcoming NEPA documents and decisions regarding this project.

It is undisputed that the existing network of user-created routes, in addition to a number of poorly-designed system roads, are a major cause of chronic sedimentation problems in streams, cause damage to rare and endemic plant populations, contribute to the loss of roadless wildland recreational opportunities, and spread of *Phytophthora lateralis* (PL). This planning process is the appropriate mechanism for alleviating the negative impacts associated with roads and motorized routes.

We remain extremely concerned that this NEPA process may be a precursory to an inevitable and forgone decision. As you know, for a wide variety of reasons, many of our organizations elected not to engage in the “collaborative group” stakeholder process for this project. Collectively our organizations represent thousands of Americans who value wildlife, water quality, botanical hotspots and wildlands. We were extremely

worried that the Forest Service identified a “starting point” for stakeholder discussions that appeared to discount many of our values in an effort designed to add “high risk” user-created motorized routes to the National Forest Transportation System (NFTS). Indeed, ***it is our understanding that the sole purpose of the collaborative group was to determine how many controversial user-created routes should be added to the NFTS.*** Our fears were realized when the collaborative group agreed to add 8 out of 9 highly controversial routes under consideration to the NFTS.

We believe that the values that most Americans find in roadless wildlands, rare botanical areas, Port Orford cedar stands, riparian areas, serpentine barrens and meadow habitat are not reflected in the agency’s preferred alternative (alternative 6) that is primarily based upon the preferences of some members of a collaborative group whose stated purpose was to determine how to add high risk controversial user created routes to the Smith River NRA NFTS. Alternative 6 favors the interests of the 1.1% of Six Rivers Forest visitors for whom ORV use is their primary activity (DEIS page 371) over the millions of Americans who value the roadless character of the last remaining 2% of our nation’s existing wildlands.

Low Need High Risk Routes

We remain extremely perplexed as to why the Forest Service continues to propose the addition of user-created routes to the NFTS that pose “high” and “moderate” risks to important natural values. Please note, the DEIS reflects a “preferred action” in which a number of user created routes are proposed for motorized use despite the “low” need for the routes and the “moderate” or (much more often) “high” risk to irreplaceable environmental values. Please further note, many of the allegedly “high need” user-created routes are not needed for any administrative or recreational purpose other than catering to the segment of forest visitors who primarily value the National Recreation Area as a place to engage in extreme off-road travel. Such a desire (or preference) does not objectively qualify as an “administrative need” that outweighs the agency’s duty under the Smith River National Recreation Act “to emphasize, protect and enhance the unique biological diversity” of the NRA.

An unfortunate example of the willingness to place high value natural resources at risk to meet a non-existent “need” for motorized access is the proposal to add route 305.118 to the NFTS. As pointed out in our 2012 scoping comments, ***this route is currently impassible to motor vehicle traffic and has been so for quite some time.*** Yet neither the DEIS or the Scoping Report reflect the fact that the route is and has been impassible to motorized travel. Additionally, the length of the route traverses numerous seeps, sub-surface flows (in the cut banks), springs and riparian features. Port Orford Cedar is found along the route. The potential for codified and mapped motorized use of this route to spread POC root rot disease is extremely high, and the consequences could be irreversible and significant. Additionally, this is a dead end spur route that provides very limited motorized recreational opportunities and none of the loop routes requested by motorized advocates. Indeed, *many forest visitors currently walk the route.* Additionally, the seeps,

springs and watercourses that are impacted by the route flow into the Horton Research Natural Area. Why is the agency willing to place the route's unique botanical, hydrological and cedar resources at-risk to re-open a currently impassible route for which there exists no real need? We asked that question in our 2012 scoping comments and we ask it again now.

Page 3 of the DEIS indicates that unauthorized routes can only be added to the NFTS when they have a high recreational value and do not pose resource concerns that cannot be "readily mitigated." Route 305.118 clearly does not meet that criteria. The recreational value it provides can be enjoyed by all who are willing to walk the route and the resource concerns of opening it to motorized travel are significant and (in the case of Port Orford Cedar) irreversible.

It appears that the findings of the Forest Service 2005 RAP regarding the need for a minimum road system and the risk/need assessment seem largely irrelevant to the content of the agency's preferred alternative. Rather than utilize the data in the RAP to inform the agency proposal, it appears that decision making authority has been largely handed over to the collaborative group assigned with adding controversial high-risk routes to the NFTS. It also appears that the DEIS justifies this approach by relying extensively on "mitigation" of high risk routes that requires funding that the Forest Service does not have access to and monitoring of a small segment of high risk routes (again dependent on hypothetical funding). Indeed, the agency's preferred alternative appears designed to increase, rather than decrease, the extreme NFTS maintenance backlog in the National Recreational Area.

While a great deal of the user-created routes proposed for motorized use in the DEIS notice present a "high" risk to sensitive forest natural resources, most of the NFTS roads proposed for closure or decommissioning pose a "low" risk to sensitive forest features. This dichotomy is arbitrary and capricious and threatens violation of the Smith NRA Act's mandate to ensure that recreational opportunities "are of the type and levels consistent with preservation, protection and enhancement" of the NRA's biological and hydrological values. It appears that the agency's preferred alternative places the preferences and desires of the motorized off-road vehicle lobby above the "high risk" to the botanical and hydrological forest resources the Forest is charged by Congress to preserve, protect and enhance.

Please note that page 4 of the DEIS indicates that the agency must implement the TAP to reduce risk to ecological and cultural resources and reduce NFTS maintenance costs in order to meet the purpose and need for the project. Yet the content of the preferred alternative suggests that the Forest Service has no intention of either implementing the TAP or reducing its NFTS maintenance obligations.

Prioritize High Need Low Risk Routes

Subpart B of the Travel Rule requires that public safety be considered when establishing the NFTS. The agency's own research indicates that roads which are not maintained to the appropriate standard pose substantial risk to user safety and to the environment. Hence, it is reasonable to implement an alternative that would adopt a road and motorized trail system that the agency would be able to maintain to standard.

The Smith River NRA Motorized Travel Management EA (initial EA) (page 25) found that:

*There are 209 miles of OML 3,4 and 5 on the NRA that would remain constant regardless of alternative, and that would provide access in addition to the road miles described in each alternative. **There are many recreational opportunities provided by these roads.***

The "many recreational opportunities" provided by OML 3, 4, and 5 roads could be reasonably supplemented by the addition of user-created routes that do not provide high risks to environmental resources and by improved management of Level 2 roads for recreation.

Given that "Eliminating unneeded roads will reduce maintenance costs, allowing for more frequent maintenance (such as brushing overgrown roads) to occur on the remaining roads," (initial EA page 27) it is entirely reasonable to develop, analyze, and implement a reasonable alternative that would limit the designation of *additional* system roads and trails to those routes that serve a high need and present a low resource risk.

Physical Closure of Routes that are not Added to the NFTS

Thank you for recognizing that routes that are not added to the NFTS and mapped on the MVUM must be physically closed to motorized use, otherwise the MVUM is unlikely to be followed by some ORV users and the conclusions contained in the NEPA analysis regarding effects to natural resources will be significantly undermined. Without physical closures (*effective* gates and berms) ORV users will continue to ride on "closed" routes as they have been doing illegally for the last 22 years in the NRA. This is an undisputed reality. A map alone will not prevent motorized use of "closed" routes. If the forthcoming decision document assumes that ORV use will not occur on "closed" routes that are in fact physically "open" we will challenge that assumption. Please note that we have repeatedly provided agency planners with photo-documentation of non-functional berms and POC gates in the Smith River NRA (**see photo attachments 1-5**), and hereby ask the Forest Service to include this information in the administrative record for this project. It is essential that the decision maker explain how and why closure mechanisms will prove effective given that they have been repeatedly breached in the past.

Monitoring

It appears that the Forest Service is contending that it can evade the intent and requirements of the Smith NRA Act to preserve, protect, and enhance botanical and

hydrological values through “monitoring” of the inevitable and foreseeable damage that codified motorized use of “high risk” routes will facilitate.

Please note that page 64 of the Scoping Notice indicates that the agency intends to monitor only up to 20% of the routes that present a “high risk” to water resources over the next 10 years, and *even that minimal amount of monitoring is contingent on funding that has not been secured*. Presumably, no “moderate” risk routes will be monitored at all. In other words, ***the Forest Service is proposing to add routes it knows present a “high risk” to aquatic values and monitor less than 1 in 5 of the routes over the next 10 years if funding is provided.*** Such an approach is wholly inadequate and does not ensure that hydrological resources will be preserved, protected, and enhanced as required by the Smith River NRA Act. Further, such an approach will not lead to the attainment of the Aquatic Conservation Strategy (ACS) objectives of the Northwest Forest Plan or compliance with the requirements of the Water Quality Board.

Curiously, page 6 of the Scoping Report states that “monitoring plans that apply to the proposed action and all the alternatives considered in detail will be more fully developed in the EIS.” This is in fact not the case. Rather, the monitoring “plans” are if anything less developed in the DEIS. However, page 565 of the DEIS confirms that at most 20% of the high risk routes to water resources will be monitored annually for at most the first 10 years of implementation and that “monitoring is predicated on available funding.” How will the Forest Service demonstrate compliance with state and federal requirements pertaining to the protection of water quality if the Forest Service has no information on its activities and how those activities are affecting water quality?

Please note that page 390 of the DEIS acknowledges that “current appropriated road maintenance funding is insufficient to cover current annual road maintenance needs” and that “current and projected funding does not cover deferred maintenance, which means that the deferred maintenance backlog grows annually.” Yet the preferred alternative relies upon unfunded monitoring while increasing the size of the NFTS to be maintained. There is no reason to believe such an approach will receive adequate funding and many reasons to believe it will not. As stated on page 47 of the DEIS “the risks roads pose to water quality is increased by the fact that road maintenance funding has been declining while the road maintenance needs of our road system continues to increase.”

Unfortunately, the Botanical Resources Monitoring Plan is even more arbitrary and capricious. Despite the fact that one of the “primary goals” of Congress in establishing the Smith River NRA was “to emphasize, protect and enhance the unique biological diversity” of the NRA, the proposed action Botanical Resources Monitoring Plan simply writes off up to 10% loss of rare and endemic plants to ORV damage as a “green condition” indicating that resource objectives are being met on designated routes. ***Does the agency contend that the foreseeable loss of up to 10% of rare and endemic plants to user-created routes really emphasizes protection and enhancement of the area’s unique biological diversity?*** Such an approach threatens violation of the California Native Plant Protection Act. Further, page 67 of the Scoping Notice indicates that the proposed action will allow for loss of up to 20% of rare plants over a 5 year period. Why is the

codification of extreme motorized recreation in the NRA more important to the Forest Service than the protection of the unique and irreplaceable botanical legacy for which the NRA was designated? Why is the agency advocating for the loss of up to 19% of rare plants located near user-created routes in the NRA? Why would the proposed “monitoring” end after a mere 9 years? The DEIS addresses none of these questions despite their being raised in the scoping period for this project. Yet page 16 of the DEIS acknowledges that “monitoring is critical for evaluating the effectiveness of management designs and the accuracy of analysis assumptions and conclusions.”

Please note that the Noxious Weed Monitoring Program would only be administered for “up to four years.” Most of the project will not even have been implemented within that time frame. Unless noxious weeds are continuously monitored and problematic populations are addressed, motorized access is likely to exacerbate botanical resources in the NRA.

Also note that the DEIS provides almost no information about the content or efficacy of the barely-mentioned Port Orford Cedar “Monitoring Plan.” The Forest Service appears poised to simply write off the major riparian tree species in the NRA whose loss “might dramatically change ecosystem dynamics because there are few tree species that would provide similar ecological functions.” (DEIS page 208). Page 206 of the DEIS acknowledges that “seasonal gate closure success is dependent on the correct timing of the closure and the ability to restrict access beyond the gate,” yet the monitoring plan and the DEIS fail to disclose why the NRA has been unable to maintain effective seasonal gate closures for the past several decades and what the assumption that these closures will suddenly be effective is based upon.

Lastly, please note that the Recreation Monitoring Plan (DEIS page 567) calls for monitoring (depending on hypothetical funding) only 20% of motorized trails per year despite the fact that “most routes being evaluated to be added to the NFTS are likely in need of upgrading to NFTS standards as well as maintenance” (DEIS 246) and that “motorized routes may have unavoidable effects on streams, no matter how well they are located, designed or maintained.” (DEIS 106). Monitoring 1 out of 5 such routes annually (should funding be available) is arbitrary and capricious and will not meet the requirements of the Smith National Recreation Act or the Northwest Forest Plan.

Roadless Forest Values

Please note the recent Travel Management Decisions from *both* the Klamath National Forest and the Shasta-Trinity National Forest elected *not* to encourage and codify motorized use within Inventoried Roadless Areas (IRAs). Those decision documents were attached to our May 2012 scoping comments. Why then is the Smith River NRA, which is supposed to be managed “to emphasize, protect and enhance the unique biological diversity” of the area, proposing motorized use of routes that clearly threaten the world-class backcountry botanical values of the NRA? The preference of some in the collaborative group to encourage and codify off-road motorized use of IRAs does not

relieve the agency of its NEPA or NFMA responsibilities. Our organizations contend that there is no legitimate public or administrative need to encourage user-created “motorized trails” or roads in, or through, IRAs.

The agency’s insistence on designating non-system roads through the IRAs as “motorized trails” violates the Roadless Rule and the Final Travel Management Rule (which directs the agency to preserve areas of opportunity for non-motorized experiences) and will result in significant impacts to roadless forest values.

Under the Roadless Rule (36 CFR § 294.11) administratively designating an unauthorized/unclassified mining road as a “road” would qualify as “construction” and would therefore run afoul of the Rule. (36 CFR § 294.11: road construction is any “[a]ctivity that results in the addition of forest classified or temporary road miles.”). Presumably that is why the agency is calling the proposed roads through IRAs “motorized trails” rather than “roads”. Please note the running width of *all* of the proposed roads through IRAs is greater than 50 inches in width. These are roads, not trails (as defined by the roadless rule). Further, the agency is proposing no limit on the size of vehicle that can be driven on the “trail.” Full size 4-by-4 rigs driving on cleared surfaces wider than 50” inches indicate that the agency is codifying motorized road use (rather than trail use) in IRAs. Forest Service reliance on the arbitrary and capricious definition of a motorized trail that is indistinguishable in fact from a road, may result in a facial challenge to that definition.

Page 66 of the DEIS acknowledges that “the 2001 Roadless Rule defines road construction/reconstruction to include the process of adding a road to the transportation system.” This is a clear and unequivocal requirement that the Forest Service is attempting to undermine through semantics. Simply calling a “road” a “motorized trail” does not change the fact that it is indeed a road that has all of the negative impacts on wildland forest values that the Roadless Rule was promulgated to prevent. Indeed, the DEIS suggests that the impacts of these user-created routes may in fact be *greater* than those of traditional Forest Service roads. “Motorized routes have unavoidable effects on streams, no matter how well they are located, designed or maintained” and “routes can affect streams directly by accelerating erosion and sediment loadings by altering channel morphology and by changing the runoff characteristics of watersheds.” (DEIS page 106)

The Smith River NRA appears to rely upon the mental state of the vehicle driver to distinguish between motorized trails and roads. Page 317 of the DEIS indicates that roads are for moving from a point to a destination whereas motorized trails are for the purpose of recreation. The millions of Americans who drive Forest Service roads for recreation would be surprised to learn of this. Similarly, the off road vehicle users who drive motorized trails to access historic mining sites, dispersed recreational sites and hunting sites would also be surprised to learn of this. How does the agency claim to know the mental state and intent of motorized users? More importantly, how in the world does their mental state and intent influence the very real impacts of motorized trails that look and function exactly like roads on the roadless forest values of botany, hydrology, wildlife, and non-motorized recreation?

The DEIS acknowledges that in reality (that is outside of a driver's subjective mental state) the motorized routes in question are in fact indistinguishable from what Americans call "roads." Page 415 states that these routes "typically appear as any other forest road or trail (such as unimproved, natural-surfaced temporary roads or trails that may resemble physically Forest Service ML 1 or 2 roads or motorized trails)."

At page 447 the Smith NRA defines motorized trails as "a travel way usually, but not always, less than 50 inches in width, usually, but not always, available for use by ATVs and or motorcycles." Here *all* of the motorized routes through roadless areas are greater than 50" inches in width, effectively rendering the definition meaningless.

The Forest Service has also downplayed the significant impacts of motorized use in IRAs by referencing the "historic" nature of the "mining routes" that the agency intends to designate as motorized trails. Yet Smith River NRA Motorized Travel Management EA previously acknowledged that "[m]ining roads continue to erode in places where roads were constructed down a slope or across a drainage." These are the types of impacts that the Roadless Rule, and the Smith National Recreational Area Act, were designed to avoid rather than to facilitate and codify.

Ninth Circuit precedent requires that the agency disclose the major environmental impact and the irretrievable and irreversible commitment of resources involved in degrading a roadless area. Smith v. U.S. Forest Service, 33 F.3d 1072 (9th 1994). In *Smith*, the 9th found that the Forest Service failed to address the impacts of a project on the roadless values of *an adjacent roadless area*, and that this failure violated NEPA. As the ecological importance of roadless areas was described by the 9th in Kootenai Tribe of Idaho v. Veneman, 313 F.3d 1094, 1132 (9th Cir. 2002), it is clear that there are important roadless forest characteristics that will be impacted by the proposed road designation and motorized use.

The Forest Service must assess the wilderness qualities of the adjacent IRA lands, and the impact of motorized use on those qualities, and include that information in the forthcoming NEPA document. There is a well-settled line of decisions that hold that proposed activities that might harm the roadless quality of an area constitute significant impacts and must be analyzed in an EIS independent of wilderness considerations. See National Audubon Society v. United States Forest Service, 46 F.3d 1437 (9th Cir. 1993); Smith v. U.S. Forest Service, 33 F.3d 1072 (9th Cir. 1994). Greater Yellowstone Coalition V. US Forest Serv., 2014 WL 1319760 (D. Idaho Mar. 31, 2014).

"There can be no serious argument that restrictions on human intervention in these wilderness areas will not result in immeasurable benefits from a conservationist standpoint." Kootenai Tribe of Idaho v. Venemen, 313 F.3d at 1124-25.

"Many sensitive wildlife species...make their homes in wild and roadless areas of forest, and can know no other life... many wildlife species that are hard-pressed for survival have final refuge in roadless areas... As for the forests themselves, which mankind itself

needs to survive, they have not fared well in aggregate in recent decades.” Kootenai Tribe of Idaho v. Venemen, 313 F.3d at 25 n. 30.

“It is well established in this [9th] Circuit that harming an unroaded area is an ‘irreversible and irretrievable’ commitment of resources and ‘could have serious environmental consequences.’” And therefore requires and EIS. Sierra Club v. Austin No 03-35419; DC No. CV-03-00022 DWM (9th Circ 2003), *citing* Smith v. Forest Service 33 F. 3d 1072, 1078 (9th Circ 1994). The NEPA analysis for this project must adequately discuss the impacts of proposed road use and maintenance on the many significant values of roadless forests. These legally recognized (see 36 CFR §294.11) values include:

- (1) High quality or undisturbed soil, water, and air;
- (2) Diversity of plant and animal communities;
- (3) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
- (4) Primitive, semi-primitive non-motorized and semi-primitive motorized classes of dispersed recreation;
- (5) Reference landscapes;
- (6) Natural appearing landscapes with high scenic quality;
- (7) Other locally identified unique characteristics.

Please note that 66 FR 3244 specifically mentions the need to reduce road maintenance obligations in IRAs. Yet the Smith River NRA is proposing to add user-created routes in extremely sensitive and controversial locations that require extensive monitoring in IRAs. 66 FR 3244 also emphasizes that roadless lands make up less than 2% of the landmass of the United States. Yet the Smith NRA is proposing to emphasize off-road vehicle use within some of the last, best, most botanically diverse, and sensitive roadless areas in the country. 66 FR 3244 also emphasizes the need to prevent fragmentation of roadless areas. The codification and encouragement of “motorized trails” that look like roads, are as wide as roads, and are used by big trucks, ignores the intent and letter of the Roadless Rule.

There are several sections of the DEIS where the Forest Service acknowledges that motorized trails are in fact roads that have the same exact physical characteristics and impacts as roads. Page 241 of the DEIS states that “there is no difference in effects to soils of conversion of roads to motorized trails” because they are functionally identical. Page 336 states that no distinction was made during the analysis between routes described as roads or as trails...” Page 344 of the DEIS acknowledges that the Forest Service “does propose to create a number of new routes” from UARs, including those that traverse roadless areas.

The assumption on page 317 of the DEIS that massive jacked-up 4 by 4 vehicles have the same impact on roadless character as dirt bikes is arbitrary and capricious and not based upon any facts in the administrative record. **See photo attachments 6-7** of a large vehicles being hauled back from a “McGrew Trail Run” that enters the Smith River NRA. Does the agency contend that use of these vehicles has the same impacts to

riparian, soil, roadless, and botanical resources as would use of a dirt bike on a single track trail?

The botanical “analysis” of impacts to roadless values on page 323 of the DEIS simply ignores the information and photos submitted by the public regarding 305.118. **See photo attachments 8-11.**

Page 331 of the DEIS indicates that implementation of Alternative 6 “would favor semiprimitive motorized recreation opportunities over non-motorized opportunities.” This is a true and accurate statement. Alternative 6 favors the interests of the 1.1% of Six Rivers Forest visitors for whom ORV use is their primary activity (DEIS page 371) over the millions of Americans who value the roadless character of the last remaining 2% of our existing wildlands. The Blue Ribbon Coalition’s advocacy for the 11,200 annual motorized trail visits is impressive in its ability to get the Forest Service to discount the values and desires of the 212,800 non motorized visits. (DEIS page 371).

In contrast, implementation of Alternative 5 would result in “the greatest beneficial effect to non motorized recreation opportunities and natural resources within the Inventoried Roadless Areas.” (DEIS 321). Despite the fact that the Roadless Rule, the Travel Rule and the Smith National Recreation Area Act were designed to protect the irreplaceable “natural resources” contained within the world-class roadless areas at issue, it is a virtual certainty that the Forest Service will reject implementation of Alternative 5 in favor of the preferences of its hand-picked collaborative group that was assigned the task of maximizing motorized use of “controversial routes” in IRAs.

The contention on page 330 of the DEIS that the routes under consideration for addition to the NFTS within IRAs “are part of the existing condition” is simply not accurate. As reflected by photos submitted to the agency by our organizations, full size off road vehicles cannot currently utilize sections of 305.118 proposed for permanent motorized use.

Botanical Resources

The previous unsupported and undocumented contention on page 45 of the initial EA that motorized use of “non-system routes may affect individuals growing on travel surfaces *but will not cause a trend towards listing*” was speculative and arbitrary. The contention that permanently designating non-system routes in sensitive plant habitat will not trend plants towards ESA listing was directly contradicted by the acknowledgment that:

The direct negative effects to Sensitive species as a result of the proposed action include crushing, uprooting, or otherwise damaging individual plants and recruits. Indirect negative effects pertain to 1) altering habitat beyond its capacity to support Sensitive species which includes soil compaction, reduction of water vapor transport, increases in surface temperature, reduction in soil moisture content, and the mobilization and spread of dust which blocks photosynthesis (Trombulak 2000), 2) loss of habitat niches for recruitment, 3) potential reduction in occurrence size which has implications for the vigor of the occurrence over time,

and 4) potential for illegal motorized vehicle use off the road surface affecting Sensitive plant occurrences.

-Initial Smith River NRA Road Management and Route Designation EA pages 43-44.

The direct negative effects to Sensitive Species from adding UARs as motorized trails that may result in a trend toward listing are also acknowledged on page 178 of the DEIS as:

Reductions in photosynthetic capacity, poor reproduction, mortality, increases in bare ground, diminished litter cover, and a reduction in the overall cover and frequency of plant species. These effects are of particular concern with rare plant species which are typically represented by a limited number of populations and or individuals due to their potential to affect the long term viability of rare plant populations by increasing mortality and decreasing the vigor and productivity of populations.

Please note that our May 2012 scoping comments included an attachment consisting of a March 11, 2009 correspondence from Barbara Ullian to District Ranger Mary K. Vandiver documenting significant travel management issues concerning *Arabis macdonaldiana* that we indicated should be addressed in an EIS. Unfortunately, the DEIS failed to adequately address the site-specific information provided by the public during the scoping process for this project.

Many of the non-system routes proposed for addition to the permanent road system occur in rare, fragile, open serpentine stands that are especially vulnerable to further illegal ORV use as has occurred on many serpentine sites throughout Southern Oregon and Northern California. Page 44 of the initial EA acknowledged that:

“The RMRD project will add 46.96 miles of non-system road to the Forest System, the majority of which occurs in the serpentine areas. The serpentine areas contains (sic) suitable habitat for the majority of Sensitive plan species within the project area.”

Page 152 of the DEIS acknowledges that:

“There is a potential for both vehicular and pedestrian cross-country travel in areas with relatively flat topography and open vegetation. Such travel could impact unique botanical features within these areas such as rare species in Jeffrey pine woodlands and rocky barrens.”

Unfortunately the DEIS largely fails to analyze or disclose the potential for increased off-route and off-road ORV abuse of serpentine sites due to the addition of non-system roads to the system and instead assumes that such sites will not be subject to increasing motorized damage over time due to the decision to codify NFTS travel ways adjacent to and through them.

The Smith River NRA’s NEPA analysis should not pretend that increased illegal off-route and off-road use in serpentine areas will not occur as a result of adding routes to the mapped system. The California Native Plant Society writes of the 17N49 road system in their previous scoping comments:

“These areas provide habitat for one of the rarest of Forest Service sensitive plant species (STHO) as well as SISE. How serpentine habitat will be barricaded is hard to conceive as nearly all if not all of the STHO and SISE in this area exist on these roads or directly roadside.”

In the past our organizations have pointed to concrete and site-specific examples of illegal off-road use, like that occurring at Pappus Flat, only to have the agency respond that “the NRA is steep, rocky and very brushy.” Such vague generalizations will not pass NEPA muster. The comments submitted by Barbara Ullian on the initial EA contained photos demonstrating the increased “extreme” ORV use in which riders “rock climb” and “creek” on steep, rocky and brushy terrain located off-road. The agency has a NEPA duty to address this increasingly significant connected and cumulative impact of off road vehicle use that will be facilitated by the designation of controversial user-created routes as part of the NFTS system.

Our requests for detailed, accurate, site specific analysis of the threats to the world-class botanical resources in the NRA from codified and mapped motorized trails was not reflected in the DEIS analysis which concludes that “because data was not collected at the occurrence level a rigorous qualitative analysis and ranking of the scope and severity to specific occurrences [of rare plants] cannot be preformed.” (DEIS page 155). This failure to collect (or analyze) data renders the agency’s conclusions suspect.

Page 294 of the DEIS acknowledges that a “primary goal” of the Smith River NRA legislation was to “emphasize, protect and enhance” the area’s “unique biological diversity.” Table 76 on page 198 of the DEIS concludes that implementation of Alternative 5 would best protect rare plant species as required by this “primary goal” of Congress. Yet the Forest Service appears to “prefer” implementation of Alternative 6 in order to better maximize the recreational preferences of 1.1% of Six Rivers National Forest visitors. (See DEIS page 371)

Efficacy of Closure/Mitigation Measures

Previously the Smith NRA has erroneously concluded that “[b]arricades have proven to be (sic) effective deterrent to illegal off road travel” (initial EA Appx C page 19) and “gates have proven to be (sic) effective deterrent to wet weather travel” (initial EA Appx C page 1).

Such un-documented contentions can be directly contrasted with the findings of the Ashland Resource Area of the Medford District BLM which concluded on page III-110 of the Deadman’s Palm EA that “barricades are seldom 100 percent effective in eliminating autos and trucks, **and they don’t stop any of the OHV-type of vehicle use.** Consequently, even with barricades in place the negative impacts of noise disturbance, increased poaching potential, and the potential for over hunting remain.” As the Medford BLM has not posted that EA on-line, a hard copy of the Deadman’s Palm EA is available from KS Wild at your request.

Tragically, the difficulty of keeping agency gates locked and vandalism-free has been in the news:

http://seattletimes.nwsourc.com/html/travel/2003517023_webkimfamily09.html

The Smith River NRA would truly be unique in the National Forest Service if it is the sole District in the system that has not been plagued by vandalism of locked gates. Such a curious and undocumented contention strains the agency's credibility. **Attached photos illustrate breached POC gates in the Smith River NRA.**

After the close of the first round of public commenting and the issuance of the Decision to implement the project in 2007, the agency belatedly claimed that "[f]rom 2000-2006, installed barriers were 93% effective in keeping vehicle traffic off of these decommissioned roads." (Appendix A at 41). Yet no analysis was provided as to the impacts of the illegal (and foreseeable) breaching of 7% of the barricades on resources such as Port Orford Cedar, hydrology and sediment, wildlife and botany nor is any such analysis forthcoming. We specifically ask that the Forest Service provide evidence –via monitoring reports or other documents –in the FEIS that establishes the efficacy of road closure mechanisms on the Smith River NRA.

We again bring to the agency's attention the images of off-road ORV resource damage submitted by Friends of Del Norte and Barbara Ullian in their comments on the initial EA. With very limited finances available to adequately patrol the Recreation Area, it is reasonably foreseeable that these abuses will continue and accumulate as the agency increases the size of the NFTS. Friends of Del Norte submitted a Triplicate article, dated Feb. 8, 2007, in their comments on the initial EA that highlights the lack of enforcement capability to control abuse of resources within the vastness of the Recreation Area, and the rise in damage that has been incurred. In that article US Forest Service Officer Steve White stated:

"We definitely have some crime issues that impact the quality of our resources and the quality of the time our recreationers enjoy....The sense of remoteness does really play into the people feeling more free (to commit crimes), and the sheer vastness of the parks and forests prevent thorough policing."

Page 206 of the DEIS acknowledges that "seasonal gate closure success is dependent on the correct timing of the closure and the ability to restrict access beyond the gate." The Smith River NRA has not been able to demonstrate success at restricting motorized access via gates, berms or boulders. Nevertheless the analysis contained in the DEIS rests upon the assumption that these methods will become effective once the ROD is signed.

Our organizations have submitted photos of non-functional POC gates as well as breached berm and boulder closures to the District Ranger, the Forest Supervisor and the "collaborative" group on multiple occasions. None of these site-specific photos are addressed in the DEIS.

Port Orford Cedar

It is impossible to overstate the importance to our organizations of retaining healthy populations of this key riparian tree species. The decisions we make now will determine the future of Port Orford Cedar (POC) populations for generations to come. As stated on page 19 of the Siskiyou National Forest's North Fork Smith Watershed Analysis "the consequences of disease introduction are high due to the amount of uninfected Port Orford Cedar at risk both on routes and downstream." As stated on page 206 of the DEIS "failure to limit vehicle use during the wet season on roads and routes near POC stands would have a potentially great impact." This is because in ultramaphic riparian reserves, POC are the "major riparian tree species" and their loss "might dramatically change ecosystem dynamics because there are few trees species that would provide similar ecological functions." (DEIS 208).

There is no question that the proposal to add "high risk" user-created routes in POC habitat is a highly controversial and significant action that threatens the values the NRA was established to protect.

Page 217 of the DEIS indicates that "system road 15N13 has the greatest risk by accessing the non-infected Goose Creek Watershed. Yet the road is retained for motorized use. Page 211 acknowledges that routes 17N49.7, 17N49.11 and 305.125 present high risks. Page 214 indicates that roads 18N02.3 and 18N09.100 are high risk. Page 218 concludes that 14N15.1 and 17N49.7 "have the potential to have a relatively large impact to POC plant communities based on plant community composition or the potential to infect [a] currently uninfected watershed." It is foreseeable that the Forest Service decision to dedicate these routes and roads to motorized travel will directly harm POC. The agency's reliance on seasonal gates as a foolproof solution has been proven ineffective time and time again in the NRA such that over 3,000 acres of POC have already been irreversibly infested. (DEIS page 199)

Please note that the proposal to retain 19N01 on the system for motorized use appears to rely on the agency's preference to simply give up on reducing or slowing PL infection in the watershed. This is arbitrary and capricious.

In Appendix A (page 5) of the initial EA the Forest Service acknowledged that:

The POC risk was based on the fact that 19N01 is already infected along its entire length, and has been for many years. The presence of uninfected POC in this infected area can be attributed to numerous variables related to specific locations of POC, such as degree of root contact and distance between trees (stand density), POC proximity to streams or wetlands, [and the] amount of overland flow of infected water that can contact roots.

The DEIS continues the practice of avoiding analysis or documentation as to the interaction of these variables with increased (or continued) motorized use on the road. Nor did the agency attempt to compare the influence of road decommissioning or road use on the interaction of these variables on the spread of the root disease. Instead, the Forest Service continues to write-off the entire road length regardless of the site-specific

conditions and variables that “resulted” in the retention of many stands of live, healthy POC stands despite the fact that the road has been infected “for many years.” NEPA requires the Forest Service to conduct the missing analysis.

Please note that the Six Rivers LRMP (page IV-129) requires that:

20-6 Port-Orford-cedar will be managed as a long-term component of plant associations where it is present.

20-7 Strategies for reducing the risk to Port-Orford-cedar from infection of the root disease will be integrated into all levels of planning and analysis (NEPA documents, watershed analysis, Late-Successional Reserve assessments, wild and scenic river management plans, transportation planning, recreation planning and other activities or strategies) in all watersheds where it is present.

Transportation plans will evaluate the risk or spread of Port-Orford-cedar root disease through road upgrades, seasonal closures, maintenance, and decommissioning or obliteration.

As acknowledged on page 11 of the DEIS the Smith River NRA Management Plan requires that agency planners:

Provide for the long-term viability and presence of Port-Orford-cedar and ensure its continued present economic and noneconomic uses through implementation of management strategies developed by the Forest Service.

While the Forest Service acknowledged in the initial EA (page 37) that “vehicular access for both the public and Forest Service personnel is a concern within Port Orford-cedar range due to the potential spread of Port Orford-cedar root disease...” We contend that the Forest Service’s proposal to write-off partially infected watersheds, including POC pockets upstream and uphill from infected populations violates, the LRMP sections referenced above and indeed, the DEIS does not demonstrate that the Forest Service has complied with these requirements.

The Smith NRA has generally relied on gates and closures to mitigate the potential spread of POC root rot while steadfastly refusing to analyze or disclose the failures and impacts of agency road gating and road closure methodologies. As detailed in our previous comments regarding Sensitive plant species, many BLM and Forest Service Districts have concluded that gates and barricades (especially in serpentine forest types) are ineffective at preventing motorized use. The DEIS provided no (as in zero) evidence to refute the widespread belief that gates and barricades are often ineffective at preventing motorized use. However, the previous post-decisional Response to Comments (Appendix A page 84) acknowledged that “some barriers have been circumvented.” Yet in the DEIS the agency again refused to disclose the environmental impacts that have resulted from such circumvention despite our repeated requests that it do so and as NEPA and NFMA (through the LRMP and NRA Management Plans) requires.

The agency’s reliance on “gating” to prevent spread of POC disease from route 305.118 was misplaced and lacked support or analysis. This is particularly troubling given that the

route also traverses just uphill/upstream of the Horton Research Natural Area. We are very disappointed that the Forest Service refuses to consider decommissioning this unneeded route despite the potentially huge impacts to significant environmental resources.

Permanent road closure is the only reliable method of reducing the spread of POC root disease, and should be prioritized in all uninfected stands and watersheds. Jules and Kauffman (2003) wrote that:

Permanent closure of logging roads is by far the most direct and effective way to stem the spread of P. lateralis. There has never been much disagreement about the efficacy of this management strategy, given the clear association of the disease with road vectors.

The general thinking has been that large uninfected and roadless watersheds would remain free of the pathogen, so long as they remain free of roads. Our research findings have been in agreement with this assumption.

In our reconstruction of the history of disease spread across a 37 km² landscape, the majority of new infections were associated with roads (n = 26; Jules et al. 2002), and stream populations crossed by roads had a four- to five-fold increase in infection risk over the 23 years since the first infection in our study area (1977).

We suggest that road closures be a priority management goal in the range of POC. There is no better way to reduce the risk of further spread of the disease. Currently, federal agencies have implemented seasonal road closures in areas with which we are familiar. We believe that the agencies should not rely on seasonal closures for mitigating the spread of P. lateralis; rather these should be used in cases where no other option exists. No studies have been done to test the relative efficacy of seasonal vs. permanent road closures, but it is well-known that seasonal road closures do not mean that traffic does not enter the roads. Seasonal road closures, in our opinion, can be a risky strategy for several reasons. First, locking of gates must happen before the first rain, and we know this can be difficult for agency employees that have numerous other tasks to perform. We have known of many gates (with POC closure signs) that were not locked before the rainy season. Second, gates do not necessarily keep Off Road Vehicles (ORV) from driving the road, as gates can be bypassed by these vehicles. Third, we do not yet know the risk of infection during dry seasons, but our opinion is that it can be significant. Water, in the form of puddles and run-off near springs, often are evident into mid-summer with the range of POC. In short, seasonal road closures should not be considered as the equivalent of permanent road closures, and they should be viewed as an unproven mitigation measure.

Reliance upon the Risk Key as described in the 2003 Range Wide Assessment of Port Orford Cedar on Federal Lands is inadequate as described below by Port Orford cedar experts Jules and Kauffman (2004):

The Risk Key is, however, inherently flawed because there is no scenario in which the key can lend the following answer: this project is too risky and no mitigation will reduce risk enough to make it worthwhile.” While the response says this has been fixed, it is clear from reading the final Risk Key that the focus remains on going through with the project with mitigation regardless of a potentially high risk of disease spread. Indeed, the Risk Key states that if the project can’t be redesigned to reduce risk to acceptable levels then “...the project may proceed if the analysis supports a finding that the value or need for the proposed activity outweighs the

additional risk to POC created by the project.” If this Risk Key is going to be effective, it must provide for a scenario where a project is denied because the risk for disease spread is too high.

Both of the studies referenced above were included in our May 2012 scoping comments, yet the DEIS fails to respond or address the information provided to agency planners.

POC is a major shade tree and large wood source for serpentine streams. Risking PL infestation violates Aquatic Conservation Strategy and Clean Water Act due to increased stream temps. This impact is irreversible and significant.

The agency’s proposal to encourage, codify, map, and sign user-created routes into Hole and the Ground Mine and Elk Camp Ridge will greatly increase the likelihood of PL spread. Such proposals ignore the values and preferences of most forest visitors and may preclude the ability of future generations to experience and enjoy healthy Port Orford Cedar forest stands.

In A Field Guide to Serpentine Plant Associations and Sensitive Plants in Northwestern California (USDA, Pacific Southwest Region R5-ECOL-TP006) Forest Service scientists write that:

*Port Orford cedar is commonly found in association with many rare species. The L.E. Horton Research Natural Area Ecological Survey (Keeler-Wolf 1986) and results of rare plant surveys in bogs commonly found surrounded by Port Orford cedar plant communities...revealed Siskiyou Indian Paintbrush (*Castilleja miniata*) California pitcher plan (*Darlingtonia californica*), Waldo gentia (*Gentiana setigera*), great burned (*Sanguisorba officianalis*) and western bog violet growing in association with one another. Loss of Port Orford cedar, as the primary associating conifer, could lead to the cumulative loss of the rare species associated with wetland communities.*

The distinctiveness of serpentine environments and the high concentration of rare flora warrant special management considerations.

Please note that the contention on page 417 that the project does not involve an irreversible or irretrievable commitment of resources is incorrect. In fact, the decision to encourage motorized use on high risk routes has “the potential to have a relatively large impact to Port Orford Cedar plant communities based on plant community composition or the potential to infect currently uninfected watersheds.” (DEIS 218).

Despite the clear mandates from the LRMP and Smith River NRA Act to protect POC resources and the stated project purpose to implement the findings of the Travel Analysis Process (TAP) the Forest Service appears irreversibly committed to implementing Alternative 6 such that 50 high risk UARs are added to the NFTS providing additional motorized access to uninfected POC watersheds in order to maximize the recreational preferences of a small minority of forest visitors.

The Proposed Botanical Resources Monitoring Plan Does Not Qualify as a Monitoring and Species/Habitat Management Guide

Ten Forest Service Sensitive CNPS-listed plants are known to occur in the project area (Sensitive Plant Biological Evaluation, December 8, 2006). According to the initial Sensitive Plant Biological Evaluation (BE) the project may affect individuals but is not likely to result in a trend toward Federal listing or loss of viability for *Eriogonum pendulum*, *Gentiana setigera*, *Lewisia oppositifolia*, *Silene serpentinicola*, *Streptanthus howellii*, or *Viola primulifolia ssp. occidentalis*.

The determination of “may affect individuals but will not cause trend toward listing” was based on an incomplete analysis, incomplete information, and anecdotal supposition. As stated on page 155 of the DEIS “because data was not collected at the occurrence level a rigorous qualitative analysis and ranking of the scope and severity of threats to specific occurrences cannot be performed.” NEPA does not allow an agency to rely on the conclusions and opinions of its staff, without providing both supporting analysis and data. Idaho Sporting Congress v. Thomas, 137 F.3d at 1150. The Six Rivers National Forest (SRNF) must conduct population trend monitoring, population viability analyses, or science-based research on the reasons for rarity of these species, all of which are necessary to make a determination on the significance of potential impacts.

Streptanthus howellii (Howell’s jewelflower, “STHO”) is confined to dry, brushy serpentine exposures in the Siskiyou Mountains of Josephine and Curry counties, Oregon and Del Norte County in California. The California Native Plant Society rates it as List 1B.2 - Rare, Threatened, or Endangered in California and elsewhere. It is a Forest Service Region 5 and Region 6 Sensitive Species and is included on the BLM Oregon State Office Sensitive Species List. According to the initial Sensitive Plant Biological Evaluation (BE), “[i]t is the rarest in terms of number of individuals of all Sensitive plants documented in this analysis and, hence, the most at risk” (page 11).

The fact that this rare species is confined to serpentine exposures increases its susceptibility to damage from off-road vehicle use adjacent to designated ORV routes contained in the proposed action. All of the California occurrences of the species are located within the Smith River National Recreation Area. Of these, 387 plants or approximately 60% were found on the surface of routes proposed for designation in the proposed action.

Silene serpentinicola (serpentine catchfly, “SISE”) is a rare herbaceous perennial known only from Del Norte County, California. There are 11 known occurrences, all of which occur on the Smith River National Recreation Area. Sensitive plant surveys for the Smith River are RMRD project found *Silene serpentinicola* growing either on or adjacent to the travel surface of routes proposed for designation. Of these, 1806 plants or 54% were found near routes proposed for designation.

According to the Resource Specific Monitoring Program section of the LRMP, the threshold of concern for sensitive plants is to the 20% decline in the number of individuals over a five-year period (H-2). If 50 to 60% of all known individuals of these two sensitive species are found within the routes proposed for designation in the

proposed action, it would appear that the threshold of concern of a 20% decline is likely to occur as a result of the proposed action.

According to the initial Sensitive Plant Biological Evaluation (BE),

Streptanthus howellii and Silene serpentinicola do exhibit a tolerance to disturbance by virtue of their presence in disturbed settings, including road beds, but there is a threshold beyond which plants are negatively affected. This is evidenced by the relatively fewer number of plants found on the segment of non-system roads proximal to a system road compared to distal road segments, which presumably receive less disturbance... While Streptanthus howellii and Silene serpentinicola do occur on some route segments experiencing use, it is not possible to state emphatically that the current level of use is not affecting plants. Nor is it possible to state with any certainty that closing these routes will either benefit the species by removing traffic or negatively affect the species by shrub encroachment. It is conceivable that designating routes with Streptanthus howellii and Silene serpentinicola occurring on travel surfaces would have both negative and beneficial effects to these species and that the beneficial effects would serve to moderate the negative effects.

The previous Sensitive Plant Biological Evaluation (BE) acknowledges,

It is important to emphasize that surveys associated with this project were not conducted at the occurrence level. If surveys had been performed at the occurrence level, extending beyond proposed routes, the ratio of plants on routes to plants off routes would likely have been lower. Casual observations made on Pine Flat Mountain indicate a number of plants exist outside the surveyed area. There are undoubtedly more plants on High Plateau than is currently known. Consequently, the numbers of plants provided in the following tables do not present a complete picture of the population size of the occurrences, but rather what is known based on limited surveys. [page 11]

This statement indicates that the impacts analysis contained in the prior NEPA document was based in large part on speculation rather than factual information. To suppose that "a number of plants exist outside the surveyed area" without any definition of "number"—not to mention the lack of demographic data such as trend monitoring—is unacceptable as a basis for assessing the potential impacts of the proposed action.

The Forest Service is required to conduct a botanical investigation and prepare “Species Management Guides” for sensitive species in order to accurately analyze the status and the significance of sensitive species populations. Development of these guides shall be prioritized based on threats due to Forest Service management activities, and also if the species known range occurs almost entirely within National Forest System lands. Therefore botanical investigations in compliance with Forest Service Manual 2670.22 and 2672.4 are required for these species before impacts of the proposed action can be accurately assessed. The proposed Botanical Resources Monitoring Plan does not qualify as a Species Management Guide.

Requirements of the Six Rivers National Forest LRMP

The Six Rivers National Forest (SRNF) Land and Resource Management Plan (LRMP) requires demographic monitoring on an annual basis using permanent quadrants for species most at risk in order to gather baseline information (LRMP H-2). For Sensitive Plants, the management guidelines in place since 1995 also include development of “Species/Habitat Management Guides” (LRMP IV-83). In spite of this requirement, no botanical investigations or species management guides have been prepared for the 10 species in the project area that have the potential to be affected by the proposed action. It is difficult to understand how the agency can conclude that the impacts of the proposed action will not contribute to a trend towards federal listing for these plants without having conducted any investigations into the species existence and welfare in the planning area. Without substantive monitoring and biological investigations, the Forest Service is simply guessing.

There is no factual basis upon which to assess either the conclusion or the effectiveness of the proposed mitigation as there are no supporting data, viability studies, or botanical investigations, for any of the sensitive plants harmed by this proposal. Mitigation measures must be supported by analytical data Idaho Sporting Congress v. Thomas, 137 F.3d 1146, 1151 (9th Cir. 1998). Site-specific projects such as the proposed action must be adopted using procedures required by the forest plan Friends of Southeast’s Future v. Morrison 153 F.3d 1059 (9th Cir. 1998)

The Forest Service cannot go forward with potential negative impacts to these species “until such time as the significance of the involved populations as related to total distribution and endangerment can be assessed” (see FSM 2672.4 and FSH 1.21(a) (6). Further, FSM 2670.32 (4) requires the agency to “...analyze the significance of adverse effects on the population or its habitat within the planning area of concern and on the species as a whole” and “It is essential to establish population viability objectives when making decisions that would reduce sensitive species numbers” (FSM 2672.1).

Please Address Significant Road Maintenance Issues

The initial EA assumed that, “NFS System roads are constructed or maintained to specific Forest Service standards.” However, there are miles of old, eroding user-created routes in the planning area not constructed to Forest Service standards, which have been inventoried as “NFS system roads.” One example is the Diamond Creek road 18N09. The route known as the McGrew Trail is another. Such roads are potentially hazardous to the outstanding resource values of the Smith River National Recreation Area and to forest visitors.

In addition, routes under consideration cross administrative boundaries into the Rogue River-Siskiyou National Forest (RR-SNF). NEPA analysis of the project’s impacts should not stop at the Six Rivers National Forest (SRNF) boundary. Proliferating use on the SRNF will increase use and impacts on the adjacent RR-SNF.

Of special mention are roads 16N19 (plus spurs) and 405.103 which present a serious

habitat fragmentation problem. These roads have very high maintenance requirements. This system duplicates a cut across route along 17N07.

Please note that 16N23 has a high risk of PL and moderate for both wildlife and fisheries. This loop should exclude vehicle access for resource protection.

Please document and analyze the multitude of necessary culverts and road repairs needed to bring user-created routes up to NFTS standards. The agency has acknowledged that if these mitigations do not occur, the risks to resources are significant and unacceptable.

We believe that the Forest Service may be incapable of accomplishing the needed mitigations and law enforcement necessary to protect resources from significant impacts that are the direct result of keeping so many proposed roads open to vehicles. Please provide budget and timetable that illustrate what work is anticipated and will in fact occur in the near future. Please provide documentation regarding the capability for adequate law enforcement.

Please Do Not Adopt a Road and Motorized Trail System That the Forest Service Cannot Afford to Maintain

Can the Forest Service afford to maintain the road system in the proposed action to prescribed agency standards? The Smith River NRA Roads Analysis (RAP) indicates that the Forest Service cannot afford to maintain the existing system to standard. According to the RAP:

- “Road maintenance funding has declined in the last decade and is expected to continue to decline. Maintenance funding allotted to the NRA varies from year to year based on projects on other Districts on the Forest. For example, in 2003 the NRA received \$58,000, and in 2004 received \$87,000. This funding covers all road levels, but the majority is spent on Levels 3, 4, and 5 to meet maintenance standards. The NRA receives less than 10% of annual maintenance funding needed. Limited amounts of funding can be spent on Level 1 and 2, and is usually focused on safety and resource repair needs.” (SR NRA RAP at P.5)
- “The disparity between the amount of maintenance funds needed for the current road system and the amount available is expected to continue. Therefore, the Forest Service is looking for opportunities to reduce road maintenance costs through the elimination of unneeded roads, reduction in maintenance levels to appropriate minimums, and reduction of maintenance requirements.” (SR RAP at P.5).

The 2005 RAP identified the minimum road system and produced risk/need assessments which provide a rational basis for determining the size of the NFTS in relation to the agency’s maintenance obligations. Yet this information was not utilized in developing the preferred alternative. Instead the Forest Service insists on adding high risk-high-maintenance-low use motorized trails in some of the most sensitive botanical, roadless and POC watersheds in the Recreation Area. Such an approach is arbitrary and capricious.

Page 384 of the DEIS indicates that the annual cost to adequately maintain the Smith River NRA NFTS is \$709,000 and that the District has been allocated \$50,000 total for FY 14 resulting in a \$659,000 road maintenance shortfall.

Hence the proposal to implement Alternative 6 and add an additional \$27,000 in annual maintenance obligations is unwise. In contrast, implementation of Alternative 5 would *decrease* the NRA's maintenance obligation by \$44,700 a year. (DEIS page 384). Given that page 4 of the DEIS indicates that part of the project purpose and need is to reduce NFTS maintenance costs, the agency must implement Alternative 5. To further increase the agency's road maintenance backlog will frustrate attainment of the very purpose of this planning effort.

As acknowledged on page 384 of the DEIS "adding new facilities to the NFTS will increase the amount of deferred maintenance and increase the maintenance cycle." Page 388 of the DEIS reveals that "motorized trails may require considerable hand work and more time to maintain than the equivalent mile of road." Yet the Forest Service is proposing to add 8 out of 9 highly controversial motorized trails through botanical hotspots and Inventoried Roadless Areas.

36 CFR 212.55 clearly requires consideration of the need for maintenance and administration of the designated NFTS. Yet here it appears that the agency is committed to increasing its maintenance backlog regardless of the consequences to natural resources or visitor safety.

Page 402 of the DEIS indicates that implementation of Alternative 5 best achieves the project objectives of "public safety" and "transportation system affordability." Consequently, choosing Alternative 5 would be preferable to Alternative 6.

Page 401 of the DEIS reveals that annual maintenance of motorized trails alone under Alternative 6 would cost approximately \$42,800. This is over 80% of the NRA's total maintenance budget, and would leave less than \$8,000 maintenance dollars to maintain the NFTS roads that are actually needed for administrative and public access rather than just for the motorized play desires of a small segment of forest visitors.

Since the DEIS proposes a road and motorized trail system that is not likely to be maintained to standard, we must ask what the consequences for the environment and for human/forest user safety are likely to result from this project.

Please note that page 3 of the DEIS indicates that UARs can only be added when they don't have resource concerns that cannot be "readily mitigated." The Smith River NRA cannot "readily mitigate" the resource concerns on the existing NFTS given the \$113,000,000 deferred maintenance backlog on the Six Rivers National Forest. Therefore, it is arbitrary and capricious to assume that the agency will have the funding necessary to "readily mitigate" damage from additional NFTS motorized trails. Page 47 of the DEIS acknowledges as much: "the risks roads pose to water quality is increased by

the fact that road maintenance funding has been declining while the road maintenance needs of our road system continues to increase.” Consequently “there is a need to restructure our current level of road miles to a more affordable level to better maintain and protect water quality and fish habitat.” Please note that these statements directly undermine the incorrect contention on page 6 of the Scoping Report that economic feasibility of road maintenance is not a significant issue for this project.

Page 246 of the DEIS states that “most routes being evaluated to be added to the NFTS are likely in need of upgrading to NFTS as well as maintenance.” The very next page acknowledges that “lack of maintenance also leads to plugging of culverts, ditch lines with sediment or vegetation debris leading to washouts.” Yet the Forest Service wants to add 40 miles of UARs to the NFTS that “have a high hazard risk rating...with increased risk of soil erosion and potential for sedimentation.” Simple economics prohibit this dangerous approach to forest management. The agency must follow the requirements of the Six Rivers LRMP and “manage soil and water resources to protect and enhance long-term productivity of the forest, water quality, associated beneficial uses and aquatic ecosystems.”

We conclude from the preponderance of empirical research and from experience on the ground that the proposal to adopt a system that cannot be maintained to standard (due to the disparity between available and likely funding and the system’s maintenance needs) will result in sediment mobilization and delivery to streams. Furthermore, adoption of the system will result in significant human safety risks and injury resulting directly and indirectly from the failure to maintain the system to standard.

The proposal to adopt an inadequately maintained system will result in significant environmental and human safety risks and violates the following legal requirements:

- **The Proposed Action violates the Clean Water Act and the Northcoast Basin Plan:** Specifically the Basin Plan, State and Federal Anti-degradation policies each and all require that “whenever existing water quality is better than the water quality objectives established herein, such existing (water) quality shall be maintained” (Northcoast Basin Plan at 3-2.00 and Appendix 6 and 6B). Because inadequate maintenance is an inevitable consequence of the proposed action and because inadequate maintenance will lead to sediment delivery to streams, the proposed action will not maintain the existing high quality of the Smith River and its tributaries.
- **The Proposed Action violates the Wild & Scenic Rivers Act (WSRA):** The intentional retention of a system that can not be adequately maintained can reasonably be expected to result in degradation of the values for which the Smith River and its tributaries were declared to be part of the federal Wild & Scenic Rivers System. The primary designation value is anadromous fisheries; there is no scientific controversy concerning the negative impact of system related sediment on

anadromous fisheries.¹ Because the proposed action can be reasonably expected to degrade the anadromous fisheries through chronic delivery of fine sediment to the Smith River and its tributaries, it violates the WSRA.

- **The Proposed Action violates the Administrative Procedure Act:** The purpose of the project is to establish “a system of roads and designated routes that: is safe and responsive to public needs and desires; is more affordable and efficient to manage; has minimal negative ecological effects on the land; is in compliance with the Smith River NRA Act.” The proposal to adopt a road and motorized trail system where there is zero likelihood it can be maintained to standard does not meet the purpose and need for the following reasons:
 - a. The system has zero likelihood of being maintained to standard and this will result in significant risks to the safety of the public/system users.
 - b. Failure to maintain the system to standard will not minimize ecological effects on the land.

Foreseeable Impacts to Listed and Candidate Fish Species

The National Marine Fisheries Service (NMFS) initially found that the Project was “likely to adversely impact listed species” (DN at P.12). That document must be included as part of the project Administrative Record. However, the FS was subsequently able to convince NMFS to alter that finding.

The previous Decision provided two post-hoc justifications supporting the altered NMFS finding: “Distance to Critical and essential Fish Habitat” and “the reduction of sediment overall from current levels” (DN at P.12). Careful review of that analysis, however, indicates that the conclusion that sediment will be reduced overall is based on unsupported assumptions, i.e. 1) that the road system adopted by the agency would be maintained to standard; and 2) that the funding necessary to complete “improvements” would be forthcoming. But as noted above, the RAP itself admits that maintenance is currently funded at 10% of need and that more funding for maintenance is not expected. When information from the RAP and proposed action are integrated it becomes clear that what the Forest Service is essentially saying in these documents is that the agency currently has the funds to maintain 35.5 miles of OLM 1, OLM 2 roads and motorized trails, and that this funding level is not likely to change substantially anytime soon.

We believe that if NMFS had been informed of these facts – and if they had been supplied Forest Service and other research on road related sediment impacts, NMFS would have held fast to the initial, correct, Likely to Adversely Impact finding.

¹ See, for example, “Channel Suspended Sediment and Fisheries: A Synthesis for Quantitative Analysis of Risk and Impact, NA Journal of Fisheries Management, Vol.16, No.4, Nov. 1996.

The Not Likely to Adversely Affect (NLAA) finding is based on inaccurate Forest Service assumptions and contentions concerning the management situation with respect to maintenance needs and sediment delivery impacts which are likely to result from failure to adequately maintain roads and motorized trails.

Please Acknowledge and Disclose All the Impacts of Road Use

KS Wild's scoping comments of August 1, 2006 contained a peer-reviewed article by Trombulack and Frissell detailing some of the negative impacts of road density and use on terrestrial and aquatic ecosystems. In those scoping comments we requested that the agency consider options to mitigate or reduce many of the negative effects of roads detailed in the study.

The abstract for the article reads as follows:

Roads are a widespread and increasing feature of most landscapes. We reviewed the scientific literature on the ecological effects of roads and found support for the general conclusion that they are associated with negative effects on biotic integrity in both terrestrial and aquatic ecosystems. Roads of all kinds have seven general effects: mortality from road construction, mortality from collision with vehicles, modification of animal behavior, alteration of the physical environment, alteration of the chemical environment, spread of exotics, and increased use of areas by humans. Road construction kills sessile and slow-moving organisms, injures organisms adjacent to a road, and alters physical conditions beneath a road. Vehicle collisions affect the demography of many species, both vertebrates and invertebrates; mitigation measures to reduce roadkill have been only partly successful. Roads alter animal behavior by causing changes in home ranges, movement, reproductive success, escape response, and physiological state. Roads change soil density, temperature, soil water content, light levels, dust, surface waters, patterns of runoff, and sedimentation, as well as adding heavy metals (especially lead), salts, organic molecules, ozone, and nutrients to roadside environments. Roads promote the dispersal of exotic species by altering habitats, stressing native species, and providing movement corridors. Roads also promote increased hunting, fishing, passive harassment of animals, and landscape modifications. Not all species and ecosystems are equally affected by roads, but overall the presence of roads is highly correlated with changes in species composition, population sizes, and hydrologic and geomorphic processes that shape aquatic and riparian systems. More experimental research is needed to complement post-hoc correlative studies. Our review underscores the importance to conservation of avoiding construction of new roads in roadless or sparsely roaded areas and of removal or restoration of existing roads to benefit both terrestrial and aquatic biota.

-Trombulack, S.C. and C.A. Frissell. 2000. Review of ecological effects of roads on terrestrial and aquatic communities. *Conservation Biology* 14(1): 18-30.

Unfortunately, the DEIS largely ignores many of the negative impacts of motorized road use. The impacts of road *use* (as opposed to road construction) delineated in the Trombulack paper are not fully disclosed and analyzed in the DEIS.

Northern Spotted Owls

Previously in this planning process the Six Rivers National Forest contended (without citation or analysis) that “[t]he effects to suitable and Critical habitat [from roads and routes] have already occurred.” (EA Appendix C page 40.) This statement completely ignores significant research that attributes motorized impacts to wildlife, including but not limited to, direct harassment, noise disturbance, dust production and increased erosion that are known to result from road and route use through critical and suitable habitat.

On August 12, 2002 our organizations provided a copy of the Hayward et al. paper (mentioned on page 131 of the DEIS) to the Forest Supervisor and the District Ranger. We pointed out that the paper concluded that “routine traffic exposure may decrease NSO reproductive success over time” and asked that the Forest Service analyze and codify the impacts of user created routes proposed for addition to the NFTS in Late Successional Reserves and NSO critical habitat. The agency elected not to provide such analysis or codification and continues to largely ignore the peer reviewed findings of the Hayward paper by contending that owls are “habituated” to ORV noise from rarely used UARs and that the “noise associated with motorized use of these routes is considered ambient.” (DEIS page 131).

Management Indicator Species (MIS) and Survey and Manage Species

“Most native terrestrial species located on the forest are adversely affected by road associated factors that can degrade habitat or increase mortality.” –DEIS page 118.

In our May 2012 scoping comments we urged the Forest Service to address the 9th Circuit opinion in Native Ecosystem Council v. Tidwell, 599 F 3d. 926 (9th Cir 2010) in which that court held that the agency’s “proxy on proxy” MIS approach does not provide an assurance of species viability when: 1) population trend monitoring as per 1982 NFMA regulation hasn’t been performed, and 2) MIS surveys in the project area fail to locate key MIS species. We can find no acknowledgement of this caselaw in the DEIS or in the agency’s treatment of MIS species.

We pointed out that the forthcoming NEPA documents must analyze and disclose the potential impacts of the project on Management Indicator Species (MIS) as defined by the Six Rivers LRMP. At a minimum the Forest Service must address the effects of proposed motorized use on MIS “individual species” such as the NSO, pileated woodpecker, black bear, American Marten, Fisher and Black-tailed deer as well as the Snag Assemblage, the Down Woody Material Assemblage and the Black Oak/White Oak Assemblage. See the LRMP page 97. The Forest Service elected not to disclose, analyze, monitor or codify impacts to any of these species and instead rests on the contention that “the Six Rivers Forest Plan does not require population monitoring or surveys at the project level.”

Instead of addressing the effects of increasing the size of the NFTS by adding high risk UARs to the maintenance backlog, the analysis contained in the DEIS consists primarily

of acknowledging the lack of information about sensitive and indicator species while reaffirming a disinterest in gathering information or data that would allow for meaningful analysis of project impacts on such species.

“There is little information available on wildlife species diversity, abundance and distribution in the Smith River Watershed.” DEIS page 116.

“Determining the actual amount of preferred habitat for each species assemblage would require more detailed habitat data than the models and current databases provide. Updating and refining the habitat suitability models (including field research to determine species habitat requirements) and tailoring vegetative data collection is required. No estimates of population size, distribution or diversity were made based on the estimates of potential habitat from these model runs.” DEIS page 116.

The role of management indicator species in National Forest planning is described in the 1982 implementing regulations for the National Forest Management Act (NFMA) of 1976:

*“In order to estimate the effects of each [Forest Plan] alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. **These species shall be selected because their population changes are believed to indicate the effects of management activities.** In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and Threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished or trapped; non-game species of special interest; and **additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality.** [36 CFR 219.19 (a)(1)].” (emphasis added)*

Here the Forest Service has refused to provide information describing population numbers, locations, and trends for key wildlife species, and monitoring data to determine that the proposed action would maintain numbers and distribution of these species sufficient to ensure long-term viability.

The Six Rivers LRMP (IV 96) indicates that MIS species “serve as the primary measure of the biological diversity trend on the Forest.” Given this purpose of the MIS designations and the acknowledgment that some “MIS were selected based on concern for their current population status,” it is very difficult to understand how MIS could fulfill their management function if the Forest Service refuses to collect information about population size, distribution, and trend and analyze and disclose that information in site-specific NEPA analysis for this project.

To assert that “[c]ollecting population data is not a requirement” for imperiled species and MIS is, essentially, to say that the agency can legally manage the habitat on public lands on the basis of projections of what might, or ought, to be happening with respect to wildlife populations, without regard to what the facts might actually be. This cannot be

correct. If the purpose of designating MIS is to use their population changes to assess the “effects of management activities,” then the Forest Service must actually attend to those population changes, which cannot be done without “collecting population data.” Therefore, assessing population levels, distribution, and trends is in fact critical to assessing not only the effects of management actions, but also to evaluating the accuracy of the habitat capability models which the agency uses to estimate the relationship between habitat and population levels for imperiled and MIS species.

Fire Suppression

Significant road access is provided to Smith River RNA forests via the Level 3, 4, and 5 roads that are not at issue in this analysis process. Even if existing Level 3, 4, and 5 roads did not provide significant access to these watersheds independent of the status of Level 1 and 2 roads, there is compelling peer-reviewed literature indicating that the agency can and has engaged in effective fire suppression and fire management activities in unroaded landscapes. Attached to our May 2012 scoping comments was a PDF of Volume 2 of the Spring 2001 issue of Fire Management. The peer-reviewed articles in this issue of Fire Management clearly establish that agencies do not need to retain user-created routes in roadless areas in order implement effective fire management strategies.

As stated on page 298 of the DEIS “no major ridgetop or main access roads on the NFTS are proposed to be decommissioned from the NFTS or downgraded.” Hence additional high risk user-created motorized trails are not needed to provide effective fire suppression/exclusion.

We again bring to your attention the conclusions on page 341 of the March 4, 2006 Draft Environmental Impact Statement (DEIS) for Oil and Gas Leasing and Roads Management for the Santa Fe National Forest that calls for significant road decommissioning in that Forest:

The proposed road decommissioning would not create large isolated parcels of land, and an adequate number of open and closed roads would remain available for use when needed. There would continue to be an adequate road density in wildland-urban interface areas surrounding private lands, communities, water systems, and other infrastructure. It is important to note that the majority of the roads targeted for decommissioning are user-created and are not vital access roads. Many of the roads proposed for decommissioning are short spurs, duplicative, in poor condition, or are on steep slopes that would not likely be used by fire crew trucks and engines. Therefore, it would be unlikely that a fire would reach catastrophic proportions due to lack of access under the Proposed Action.

<http://www.fs.fed.us/r3/sfe/projects/projects/oil-gas%20and%20roads/index.html>

Just as with the road decommissioning authorized in the Santa Fe National Forest, the ML 1 and 2 roads in this Planning Area are not vital access roads and are primarily short spurs, duplicative, in poor condition or are on steep slopes and hence are not necessary for fire suppression (or fire management) activities. Thus, we encourage and support

efforts to close these roads, as they are often a source of human-caused ignition, rather than a means for controlling fire events.

Wildfire frequency and seasonality are related to road density; Noss (1995) cites several studies demonstrating that 78% of human-caused fires occur within 265 feet of a road. In his study of the effects of roads on wildfires in national forests in California, Robert F. Johnson concluded that over 52 percent of man-caused fires occurred within 33 feet of a road edge (Johnson, 1963). Other studies showed similar results, reinforcing the correlation between roads and wildfire (Show et al 1941; California Division of Forestry and USDA Forest Service, 1968). Given the importance of roads to the fire suppression campaign, it is surprising that these studies, over 30 years old, are the most recent analyses of the road problem in fire control. Their results, if not conclusive on their own, indicate a possible causal relationship between human-caused wildfire and roads, and support the need for further research on the subject. Analysis of the 2000 wildfire season, for example, noted that all of the fire starts in the Skalkaho Valley Complex were in roaded and developed areas, which accounted for 93% of the total area burned (Morrisson et al 2000). Increased attention to data of this kind is needed to adequately assess the extent of the impact of roads on wildfires.

Please note that page 294 of the DEIS acknowledges that “human ignitions [near roads] have accounted for the largest number of ignitions of wildfire for the past 34 years of fire history on the Smith River National Recreation Area.”

On a more general level, the SNEP Report, the ICBEMP report and the Roadless Area Conservation Rule EIS all indicate that most human-caused fires (the majority of ignition sources in many areas) are located near roads, so roads are places where more fires are started than are stopped.

Previously, the Smith NRA initial EA contended (page 56) that “roads can be an impediment to fire spread at low fire intensity levels by acting as fuel breaks” while failing to acknowledge that the fire-evolved, fire-dependent forests of the Smith NRA are in dire need of “fire spread at low fire intensity levels” and that roads (or fuel breaks in general) are simply not effective against high intensity fires under extreme conditions which are the kind of fires that the Forest Service should in fact be concerned about. Please respond to the peer-reviewed findings contained in the article Fuelbreaks for Wildland Fire Management: A Moat or a Drawbridge for Ecosystem Fire Restoration by Dr. Timothy Ingalsbee.

Key Watersheds and the Aquatic Conservation Strategy

“Roads within the Smith River NRA are a primary threat to water quality as they are the leading source of management-related sediment impacts to streams.”
-DEIS page 47.

“Watershed restoration should focus on removing and upgrading roads”
-Six Rivers LRMP IV-III

“Existing permanent roads not necessary for administrative, recreation, resource protection, commercial or public access should be closed after all project work has been completed.”
- Six Rivers LMRP IV-115

The Six Rivers LRMP states that in Key Watersheds the existing system and non-system road mileages should be reduced (LRMP IV-111). Please note that Key Watersheds serve as refugia crucial for maintaining and recovering habitat for at-risk anadromous salmonids and resident fish species.

Previously the initial EA for this project (page 35) acknowledged that the Middle Fork Smith watershed process has been “moderately altered by disturbance” yet the agency’s Decision rejected the increased removal of sediment fill volume contemplated in Alternative 3 (page 32) in order to stick with the Proposed Action alternative (Alternative 2) with modifications. We urge the agency to reconsider this direction during the current planning process.

The Forest Service’s current (DEIS) proposal to add non-system routes to the permanent road system in at-risk Key watersheds that serve as Essential and Critical fish habitat for Coho and as EFH for Chinook runs afoul of both the Endangered Species Act (ESA) and the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan.

Also, during the last NEPA process, Appendix C (Response to Comments) of the EA failed to acknowledge or respond to the public concerns regarding the continuing impact of mid-slope erosion from the “18 N” and “16 N” road systems in the Key watershed. Instead of addressing this concern, the Forest Service made vague reference to undocumented and undisclosed “long-term access needs” that in no way addresses the findings of the Watershed Analysis, the goals and objectives of the Aquatic Conservation Strategy, or the goals of the National Recreation Area designation. We are still waiting for the agency to address these impediments to attaining the objectives of the ACS.

Page 295 of the DEIS acknowledges that a primary goal of Congress in creating the Smith River NRA was to “emphasize, protect and enhance” forest resources including “anadromous fisheries and the wild and scenic” values of the Smith River Key Watershed. Page 46 of the DEIS clearly identifies roads in the NRA as a “primary threat to water quality” and page 47 notes that “the risk roads pose to water quality is increased by the fact that road maintenance funding has been declining while the road maintenance needs of our road system continues to increase.” Hence page 47 concludes that “therefore there is a need to restructure our current level of road miles to a more affordable level to better maintain and protect water quality and fish habitat.” Yet the agency’s preferred alternative would not accomplish this. Indeed, Alternative 6 would add 42 miles of UARs to the Forest Service’s NFTS that would further strain the agency’s overtaxed road maintenance budget and increase the maintenance backlog. Those additions include routes with a moderate and/or high risk to water quality and involve 17 road/stream crossings. (DEIS 55). Whereas Alternative 5 “predicts the least impacts to water quality because it proposes more road decommissioning and restoration of unauthorized routes.”

Please note that the claim on page 64 of the DEIS that the preferred alternative would result in “no net gain” in open road miles within the Key Watershed is incorrect. As stated in the abstract, the press statement, and the DEIS that the Forest Service released for this project, the preferred alternative “would result in an overall increase of 16 miles of motorized access.” Please do not increase NFTS road miles (and the subsequent road maintenance backlog) in this Key Watershed for salmon.

Soils

Page 260 of the DEIS indicates that “the potential for impacts to watershed resources associated with adding UARs to the NFTS does exist, especially with respect to those with high erosion hazard ratings.” Page 264 indicates that implementation of Alternative 5 (rather than Alternative 6) “has the least impacts to soil resources.”

Please note that as acknowledged on page 266 the Six Rivers LMP indicates that “the primary management goal is maintenance of long-term soil productivity and high water quality” and that the agency must “manage soil and water resources to protect and enhance long-term productivity of the forest, water quality, associated beneficial uses and aquatic ecosystems.” Alternative 6 would not accomplish these goals as it adds high risk routes to the NFTS with no assurance of maintenance funding and with limited (and unfunded) monitoring requirements.

Please note that page 293 of the DEIS indicates that the agency is aware that it must establish Riparian Reserve protection for routes located in unstable terrain. Addition of such routes to the NFTS threatens violation of the ACS of the Northwest Forest Plan.

Heritage Resources

Implementation of Alternative 6 threatens violation of the National Historic Preservation Act while page 345 of the DEIS indicates that Alternative 5 would put the fewest cultural sites at risk and have the least effect on cultural resources.

Cumulative and Connected Impacts Must Be Considered

To meet its NEPA obligations the Forest Service must adequately document the past, present, and reasonably foreseeable projects that may, in conjunction with the proposed project, have cumulative effects that are significant. The combined effects of these projects must be evaluated as a whole, regardless of what agency or person undertakes these actions (40 C.F.R. § 1508.7; 1508.25 (a)(2); Natural Resources Defense Council v. Hodel, 865 F.2d 288, 299 (D.C. Cir. 1988); Neighbors of Cuddy Mountain v. U.S.F.S. (9th Cir. 1998) 137 F.3d 1372; Blue Mountain Biodiversity Project v. Blackwood (9th Cir. 1998) 161 F.3d 1208).

The agency must analyze what the cumulative impacts of this project will be on sensitive plant species long-term viability, relative to projects and policies on private land, including fire suppression, mining, timber harvest, and land management practices on other ranger districts (40 CFR 1508.7).

The NEPA document must address cumulative effects to sensitive plant occurrences of increased off-highway vehicle use or an increase in illegal off-road vehicle use related to the route designation. According to Appendix D in the previous NEPA analysis, the Cumulative Effects Analysis for the proposed action includes:

...to allow dual use, licensed and unlicensed motorized recreation vehicles, on county roads within the project area. These demographic processes may increase recreation and other resource demands in the NRA. If future use of routes proposed for designation by motorized recreation results in an increase so does the potential for intensity of negative effects to TES plant species growing on the road surface.

NEPA requires the Forest Service to disclose and analyze the environmental impacts of foreseeable increased illegal off-road use as a consequence of the Proposed Action designating routes as “motorized trails.” The NEPA document must adequately analyze and disclose the management implications and impacts to resources from the maintenance backload for ML 1 and 2 roads and for user-created routes.

The Forest Service should not rely on Best Management Practices (BMP) to assure water quality while failing to disclose the cumulative impacts of implementing the proposed BMPs. Please note that on page 587 of the DEIS the agency states that when designating motorized trails it will implement a BMP to “avoid sensitive areas, such as riparian areas, wetlands, stream crossings, inner gorgeous and unstable areas to the extent practicable.” Yet the preferred alternative calls for adding high risk routes (such as 305.118) that impact nearly all of the sensitive areas listed above.

Page 587 of the DEIS states that it will implement a BMP to “close and rehabilitate unauthorized trails that are causing adverse effects on soil, water quality and or riparian reserves.” Actually the agency is proposing to add a number of high risk, high impact unauthorized trails.

Page 588 of the DEIS acknowledges that a BMP is to “design the transportation system to meet long-term Forest or Grassland Plan desired conditions, goals and objectives for access rather than to access individual sites.” The preferred alternative places access to individual sites ahead of the long term maintenance needs, desired conditions, goals and objectives of the Forest Plan.

The prevention of potentially adverse impacts at the project site through BMPs is indeed necessary, but not sufficient to avoid cumulative effects (CEQ 1971). As Reid (1993) states:

The BMP approach is based on the premise that if on-site effects of a project are held to an acceptable level, then the project is acceptable, regardless of activities going on around it.

Interactions between projects are beyond the scope of BMP analysis, and operational controls are applied only to individual projects.

However useful site specific BMPs are in minimizing effects of individual actions, they still do not address the cumulative effects of multiple actions occurring in the watershed which, though individually "minimized" through application of site-specific BMPs, may still be significant, in their totality, and have undesirable consequences for beneficial uses such as salmon populations and salmon habitat.

The argument that applying a BMP while conducting a specific forest practice minimizes site specific effects and thus also minimizes cumulative effects is logically flawed. Every BMP is an action and has an effect ... thus generally, the more the BMPs are applied the greater the cumulative effect. Only by minimizing the number of actions, i.e., the number of individual applications of BMPs, would cumulative effects be minimized. This is precisely why a cumulative effects assessment is needed—to establish the watershed-specific limits and excesses of BMP applications.

-Reid, L.M. 1993, Research and cumulative watershed effects, Berkeley, California, Pacific Southwest Research Station: US Department of Agriculture, Forest Service General Technical Report PSW-GTR-141, 118p.

Besechta et al. (1995) also identified several conditions necessary for accurate analysis of cumulative watershed effects, including: 1) accurate understandings of natural variation in environment; 2) reliable baseline information at the local and regional scale (ideally from "reference" sites); 3) accurate assessments of the probable effects on key resources of past, present and foreseeable future activities; 4) development of reliable models that relate resource conditions within a dynamic spatial framework; and 5) establishment of levels of acceptable change in the environment. The FEIS did not adequately consider and disclose the synergistic effects of the proposed action.

Failure to Analyze and Disclose Impacts of Foreseeable Illegal Off-Road Use

It is essential that the Forest Service analyze and disclose the foreseeable connected action of illegal off-road use that will be facilitated by the Proposed Action as required by NEPA.

The agency has contended that “off road use is illegal on the NRA; therefore it is not a reasonably foreseeable future action that can be analyzed with predictable cumulative effects.” This is a cop-out. Off road use has been prohibited by the Smith NRA Act since 1990, yet it proliferates across the landscape. This is an indisputable fact. Please note that in our Pappus Flat comments (below) we provide specific examples of illegal off-road use that are both foreseeable and predictable.

Pappus Flat

The Forest Service must provide greater protection for the small meadow area called “Pappus Flat” at the end of spur road 17N69 (that immediately forks off of the Gasquet Mt. Road, just above, Gasquet Mt. Road’s junction with Hwy. 199).

Consistent with the Smith River NRA’s stated desire to “define a road system that is economically and ecologically sustainable (reduces both maintenance costs and risk to sensitive resources)...” the gate on this road needs to be permanently locked, with a key provided only to the power line company, private landowners, or private parties (such as tribal members) that are permitted for special events or other members of the public that have a specific reason requiring that they drive all the way in.

Off road vehicle damage to the meadow has been documented by both the public and the Forest Service. Additionally, someone has been inappropriately target shooting, and damaged a mature madrone tree at the edge of this meadow.

The Pappus Flat meadow would be best protected by allowing people to use the existing parking area on the west side of the existing gate, and not trying to further develop this area for more intense public use and even easier motorized access—that will facilitate, and likely increase the present problems. The Forest Service should seek to make this area “a more special place” by describing the area as an approximately one-mile hiking destination.

Trying to provide parking at the meadow will only create foreseeable harmful impacts. Rock barricades will not be effective in stopping dirt bikes, excessive shooting, excessive camp fire building, littering, or dumping of garbage. These concerns were identified in our previous comments on this project and simply ignored by the agency. Improper public use can be better and more effectively restrained by providing a lock on the existing gate. The particular location of this gate also provides a far more effective barrier, while still allowing easily accessible, properly controlled and appropriate public use. Finally, it is inappropriate for vehicles to drive through the small creek just before the Pappus Flat meadow. Doing so only puts more sediment in the creek, and ultimately will likely result in the intentional, or unintentional, destruction of the small, adjacent foot-bridge which crosses this stream.

Barriers need to be placed in areas that don’t impact the very location the agency is trying to protect, and need to be placed at locations where they are most effective. The present gate, with a lock, provides the most effective, most economical, and most ecologically desirable way to protect this special resource. Because the spur road to Pappus Flat is very wide at the gate, no additional ground disturbance is necessary to provide parking opportunities in front of the gate.

Pappus Flat is special, not only due to its cultural and uncharacteristic open meadow habitats. Additional botanical features of the surrounding Pappus Flat area include the native Oregon White Oak grove (on the way in), and at Pappus Flat proper, there are two American chestnut trees.

Furthermore, just above the Smith River, and southwest of Pappus Flat proper, a small population of a native shrub (& small tree) Toyon, *Heteromeles arbutifolia*, was recently discovered. This population is currently being investigated as it is believed to be the most northern distribution of this species in California (and thus anywhere in the northwest.) It was not previously included on a Forest Service plant list for the Gasquet area, and except for a few very specific sites downstream of Pappus Flat, this species is not known elsewhere on the Smith River Recreation Area.

Signs explaining the special, and cultural significance of the area should be placed at the parking area in front of a locked gate. These signs too will do doubt periodically need to be replaced. But the costs of replacing these signs will be far less than the economic and ecological damage that will otherwise result, or continue to occur.

The McGrew Trail

It has been the position of the SRNF that, because the majority of the McGrew Trail is on the adjacent Rogue River-Siskiyou National Forest, the SRNF bears no responsibility for management of the part of the trail within the Smith River NRA (SRNRA). However, while the RR-SNF has initiated a wet season closure and installed a gate on the northern terminus of the trail, the southern terminus on the NRA remains a no-mans land with neither arm of the Forest Service taking responsibility for making decisions and protecting the public's interest regarding the segment. Because the southern terminus remains open to all users in all weather, it essentially makes efforts of the RR-SNF to at least provide some protection for the large watersheds that are not currently infested with the POC root disease ineffective and meaningless.

Our organizations brought this issue up in comments and in meetings with the SRNRA District Ranger and the Forest Supervisor to no avail. The SRNF's excuse for doing nothing is that there's an agreement that the RR-SNF is the lead agency on the trail. However, the RR-SNF cannot come and install a gate on the SRNF end of the trail, nor should they have to. The segment of the trail is clearly on the SRNF and should at the very least be mirroring and complimenting the efforts of the adjacent forest.

In addition, populations of the highly invasive allysum, that's of such great concern on serpentine terrain in Oregon, have been found along the FS Road 4402, which provide access to the northern terminus of the trail. Road 4402 also accesses the SRNRA and North Fork Smith Botanical Area.

Noxious Weeds

The DEIS acknowledges that the spread of noxious weeds is hindering the management objectives of the LRMP and that "noxious weeds are a serious environmental concern [because] they threaten natural diversity, habitat for fish and wildlife and native plants, soil stability and ecosystem process." (DEIS page 223). Hence, the intent of the LRMP,

the Smith River NRA Act and the project purpose and need is best met by implementation of an action alternative that minimizes the impacts of noxious weeds.

Alternative 5 best reduces the threat of noxious weeds on the natural resources the Smith River NRA is charged with protecting because “direct and indirect effects are lowest where the number of miles of open road is less.” (DEIS 235).

Allysum

Allysum has been identified as a high priority by the Forest Service to prevent its spread from the Illinois River watershed. A potential exists for Allysum to be spread by motorized users from Oregon via several routes that cross the state line into the Smith River watershed (18N14, 316, 19N01, 315). The SRNRA must coordinate with RRSNF, county and state governments to prevent the spread of Allysum into the SRNRA. The SRNRA must consider a coordinated closure of roads to prevent the spread of Allysum. The DEIS fails to analyze the dire consequences of the spread of Allysum into the serpentine landscape of the SRNRA and likely significant adverse impacts to native plants.

The two Allysum species were ranked as “A” listed noxious weeds because they have the potential to outcompete native flora on serpentine substrates with a moderate probability of introduction through human activities (Amsberry et al. 2008). In 2008 an *Allysum murale* population was found at the base of the Lone Mt/Wimer Road in 2008 (Amsberry et al 2008:5) (Photo 1). Although the plants were removed “more escaped Alyssum may be going undetected due to lack of surveys and a lack of knowledge of other Alyssum plantings near public land.”



Photo 1. An *Alyssum murale* population found at the base of the Lone Mt./Wimer road (4402) near O'Brien, Oregon in 2008. This population consisted of 198 seedlings and 21 flowering plants—all were removed after documentation. The road is a primary access route onto the Josephine ophiolite shield (one of largest and most botanically unique masses of serpentine bedrock in North America. (Photo by K. French)

In a letter dated December 29, 2009 The California Native Plant Society states:

We [California Native Plant Society] are particularly concerned about the potential spread of these invasive species [Alyssum] to the sensitive serpentine areas of Del Norte County, which known for its botanical uniqueness. The Smith River National Recreation Area is particularly at risk due to the network of dirt roads coursing the Oregon-California border. These roads are regularly used by off-highway vehicle (OHV) drivers who access the Smith River National Recreation Area from area in Oregon where roadside populations of Alyssum have already been documented just miles from the California border. Since the seeds are known to spread on vehicle tires and equipment, as well as by water and wind, the continued uncontrolled expansion of infestations is highly likely. [Amsberry et al. 2008]

Please Account For Changes in Use Patterns and For Impacts From Roads That Were Not Built To USFS Specifications

While it is true that some of the routes proposed for addition to the road system have been in existence for many years, this does not mean their uses, especially the changing use patterns and increasing “extreme” use, will not result in additional significant hydrological and botanical impacts. Many of the routes of concern were established either by repeated travel or by miners with bulldozers for the purpose of mining access, mineral exploration, or for mining claim assessment work. They were not established to Forest Service specifications or standards and were located without consideration of resource protection and values.

Leaving open or designating numerous user created routes in the project area - as either system roads or ORV trails - will exacerbate increasing ORV impacts which must be disclosed and analyzed in NEPA documents, especially as ORVs become more powerful, sophisticated and there is a proliferation of “extreme” off-roading including rock “crawling” (often over Forest Service barriers) and “creeking” in streambeds. Stronger measures are needed to protect the nationally outstanding hydrological, botanical and ecological values, found within the project area.

Conclusion

We submit these DEIS comments with the hope that the agency will recognize that it is inappropriate to harm the significant ecological, recreational and hydrological values that the Smith River NRA is charged with protecting merely in order to maximize the use of unnecessary “motorized trails” by one segment of the public. We remain greatly concerned that our substantive and site-specific comments may not be adequately addressed. We hope that the agency’s preferred action is not pre-ordained and inevitable and that our site specific and technical comments carry as much weight as the recommendations of the collaborative group that was assigned the task of determining how best to add controversial user-created routes to the NFTS.

Our organizations would like to support a travel management decision that:

1. Recognizes and protects the outstanding natural values that most Americans find in non-motorized Inventoried Roadless Areas;
2. Refrains from adding routes and motorized trails to the road system that occur within occupied sensitive plant habitat;
3. Fully analyzes and discloses the potential for increased motorized off-route and off-road damage to serpentine sites due to the addition of non-system roads to the system;
5. Discloses the actual efficacy of agency road gating, blocking and closure mechanisms;
6. Avoids designation of “high risk” user-created routes and emphasizes decommissioning of “high risk” NFTS roads;

7. Contains meaningful and substantive protections for Port Orford Cedar populations across the planning area;

8. Physically closes non-system routes that are not added to the system.

Regards,



George Sexton
Conservation Director
Klamath Siskiyou Wildlands Center
PO Box 102
Ashland, OR 97520
(541) 488-5789

Gary Graham Hughes
Executive Director
Environmental Protection Information Center
145 G Street, Suite A
Arcata, CA 95521

Kimberly Baker
Forest and Wildlife Protection Coordinator
Klamath Forest Alliance
PO Box 21
Orleans, CA 95556

Barbara Ullian
Coordinator
Friends of the Kalmiopsis
1134 S.E. Allenwood Drive
Grants Pass, OR 97527

Sarah Peters
Program Attorney
WildEarth Guardians
PO Box 50104
Eugene, OR 97405

Greg King
President/Executive Director
Siskiyou Land Conservancy
PO Box 4209
Arcata, CA 95518

Stan Van Velsor
The Wilderness Society
Regional Conservation Representative
250 Montgomery Street, Suite 210
San Francisco, CA 94104

Joe Gillespie
Friends of Del Norte
180 Oak Street
Crescent City, 95531

Jennifer Kalt
Conservation Chair
California Native Plant Society
PO Box 1067
Arcata, CA 95518

Additional Attachments

Photo Attachment 12 illustrating a non-functional boulder closure mechanism at Bear Basin.

Photo Attachments 13-14 illustrating rutting, pooling and resource damage the Pine Flat route.

Photo Attachment 15 illustrating off-route damage to open meadow habitat originating from FS Road 17N49.

May 25, 2011 memo to Roy Bergstrom and Brenda Devlin.

August 29, 2013 correspondence to Tyrone Kelley and Mary Kay Vandiver

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