



**BEFORE THE SECRETARY OF THE UNITED STATES DEPARTMENT OF
AGRICULTURE, THE CHIEF OF THE UNITED STATES FOREST SERVICE AND
THE FOREST SUPERVISOR OF SEQUOIA NATIONAL FOREST**

STEWARDS OF THE SEQUOIA,

Petitioners,

and

**SECRETARY OF THE UNITED STATES
DEPARTMENT OF AGRICULTURE,
CHIEF OF THE UNITED STATES FOREST
SERVICE, AND FOREST SUPERVISOR OF
SEQUOIA NATIONAL FOREST,**

Responsible Officials.

**ADMINISTRATIVE PETITION SEEKING IMPLEMENTATION OF 2005 TRAVEL
MANAGEMENT RULE IN THE PIUTE MOUNTAINS OF SEQUOIA NATIONAL
FOREST BY PUBLICATION OF A DRAFT ENVIRONMENTAL IMPACT
STATEMENT, FINAL ENVIRONMENTAL IMPACT STATEMENT, RECORD OF
DECISION AND MOTOR VEHICLE USE MAP**

I. Introduction

Pursuant to the Right to Petition Government Clause of the First Amendment of the United States Constitution¹ and the Administrative Procedures Act (“APA”)², Stewards of the Sequoia (“Petitioner”) hereby petitions the Secretary of the United States Department of Agriculture (“USDA”), the Chief of the United States Forest Service (“USFS” or, alternatively, “Forest Service” or “Service”), and the Forest Supervisor of the Sequoia National Forest (“Forest Supervisor”) to implement the 2005 Travel Management Rule in the Piute Mountains by finalizing the Piute Mountains Travel Management Plan and bringing it to completion. The USFS should not utilize the process of revising the Sequoia National Forest Land and Resource Management Plan (“LRMP” or alternatively “LMP”) to close or eliminate any existing inventoried routes from their rightful process of consideration per the 2005 Travel Management Rule.

A fundamental principle of federal law is that a federal agency must follow its own rules. *Morton v. Ruiz*, 415 U.S. 199, 233-35 (1974) (“[W]here the rights of individuals are affected, it is incumbent on agencies to follow their own procedures.”). A violation by an agency of its own regulations constitutes a violation of the APA in that the agency's action is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Contrary to the expressed intention of the Forest Supervisor, it is not procedurally proper for the USFS to

¹ “Congress shall make no law . . . abridging . . . the right of the people . . . to petition Government for a redress of grievances.” U.S. Const. amend. I. The right to petition for redress of grievances is among the most precious of liberties safeguarded by the Bill of Rights. *United Mine Workers of America, Dist. 12 v. Illinois State Bar Association*, 389 U.S. 217, 222 (1967). It shares the “preferred place” accorded in our system of government to the First Amendment freedoms and has a sanctity and sanction not permitting dubious intrusions. *Thomas v. Collins*, 323 U.S. 516, 530 (1945). “Any attempt to restrict those First Amendment liberties must be justified by clear public interest, threatened not doubtful or remote, but by clear and present danger.” *Id.* The Supreme Court has recognized that the right to petition is logically implicit in, and fundamental to, the very idea of a republican form of government. *United States v. Cruikshank*, 92 U.S. (2 Otto) 542, 552 (1875).

² 5 U.S.C. Section 553(e)

use the LRMP to close individual roads and trails or eliminate any existing inventoried Piute routes from consideration per the 2005 Travel Management Rule within the Sequoia National Forest. The Piute Mountains Travel Management Plan is the proper mechanism for addressing the extent to which roads and trails in the Piute Mountains should be authorized for motor vehicle use, including the extent to which motor vehicles may cross the Pacific Crest Trail (“PCT”) in the Piute Mountains. The USFS should complete the Piute Mountains Travel Management Plan by issuing a Draft Environmental Impact Statement considering all existing inventoried Piutes trails for possible designation as system trails, as shown in the Piute Proposed Action Map 2011, allowing for public notice and comment, issuing a Final Environmental Impact Statement and Record of Decision, and publishing a motor vehicle use map for the Piute Mountains, which was proposed on March 7, 2011. It is impermissible for the Service to include travel management decisions affecting the Piute Mountains in the LRMP without first complying with the 2005 Travel Management Rule for that area.

II. Interest of the Petitioner

Stewards of the Sequoia, established in 2004, is a nonprofit charitable organization dedicated to promoting responsible recreation, environmental stewardship, and the preservation of National Forest System roads and trails for multiple uses. Its members care deeply about public lands, wildlife, and national forests. It has sponsored tree plantings to aid recovery of the Sequoia National Forest after the destruction sown by forest fires encompassing 150,000 acres of land. Its members have volunteered thousands of hours of their time to perform over 3300 miles of trail maintenance in the Sequoia National Forest, keeping the trails safe and accessible, and the surrounding forest healthy. Stewards of the Sequoia members include people who enjoy engaging

in many types of recreation, including riding off-road vehicles, mountain biking, horseback riding, hiking, hunting, fishing, camping, windsurfing, boating, and rock-climbing.

Proper motorized travel management in the Sequoia National Forest is critical to the Stewards of the Sequoia and the members for which it advocates. Stewards of the Sequoia has a direct interest in whether the USFS is properly designating roads and trails as open for motor vehicle use, and ensuring that visitors to the Sequoia National Forest may enjoy multiple recreational uses of the land. Stewards of the Sequoia has worked with USFS officials for the past twelve years and has repeatedly urged the Forest Service to complete the Piute Mountains Travel Management Plan, which was first published in the Federal Register in 2005. Stewards of the Sequoia submits this Administrative Petition for Rulemaking to redress the continuing failure of the USFS to comply with the 2005 Travel Management Rule and finalize the Piute Mountains Travel Management Plan and its associated motor vehicle use map.

III. Historical Background and Legal Authority for Land Management in National Forests

The National Forest Management Act (“NFMA”) of 1976, 16 U.S.C. §§1600 *et seq.*, governs how USFS manages the national forests. A “land and resource management plan” or “forest plan” provides the day-to-day management standards for national forests. *Id.* at §1604(a). Forest plan revisions require an environmental impact statement (“EIS”) as well as public notice and comment. *Id.* at §1604(g)(1); §1604(d). Forest plans must be revised at least once every fifteen years. *Id.* at §1604(d); 36 C.F.R. 219.7(a).

The NFMA requires the USFS to develop land management plans to guide management of each of the national forests in the United States. 16 U.S.C. §1604. The NFMA requires the Secretary of Agriculture to develop a planning rule under the principles of the Multiple-Use Sustained-Yield Act of 1960 that sets out the process for the development and revision of the land

management plans, and the guidelines and standards. 16 U.S.C. §1604(g). The current National Forest System Planning Rule was promulgated in 2012.

A plan revision creates a new plan for the entire plan area, whether the plan revision differs from the prior plan to a small or large extent. 36 C.F.R. 219.7(a). The NFMA also provides that forest plans may be amended in any manner whatsoever. 16 U.S.C. §1604(f)(4). Plan amendments incrementally change forest plans. 77 Fed. Reg. 21161, 21237 (April 9, 2012). In contrast to a plan revision, a plan amendment does not create a new plan; it results in an amended plan, with the underlying plan retained except where changed by the amendment. *Id.*

When revising a forest plan, USFS must follow the same rulemaking procedures required for the creation of the original forest plan, including notice, opportunity for comment, and preparation of an EIS. 36 C.F.R. 219.9. The 2012 Planning Rule does not require an EIS for every amendment. Rather, it states that the appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects. 36 C.F.R. 219.13(b)(3). The responsible official must decide which substantive requirements within 36 C.F.R. 219.8 through 36 C.F.R. 219.11 are being added, modified or removed by the amendment and apply those requirements to the amendment. 36 C.F.R. 219.17(b)(2).

The history of national forest management dates back to the Creative Act of 1891, which gave the President the authority to “set apart and reserve...public lands wholly or in part covered with timber or undergrowth...as public reservations.” Charles F. Wilkinson & H. Michael Anderson, *Land and Resource Planning in the National Forests*, 64 Or. L. Rev. 1, 17-18 (1985) (quoting Act of March 3, 1891, ch. 561, 26 Stat. 1095, 1103, *repealed by* 90 Stat. 2792 (1976)). Through two additional statutes, the Organic Administration Act of 1897 (16 U.S.C. §§473-482,

551) and the Multiple Use Sustained Yield Act of 1960 (“MUSYA”) (16 U.S.C. §§528-31), Congress determined that the purpose for which national forests are to be administered is the multiple use and sustained yield of the products and services in the forest, including outdoor recreation, range, timber, watershed, and wildlife and fish purposes. *See* 16 U.S.C. §475; 16 U.S.C. §528.

To facilitate forest management for these purposes, Congress passed the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §§1600-1614), which included a provision requiring the Secretary of Agriculture to “develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System...” 16 U.S.C. §1604(a). This general directive was expanded by the NFMA in 1976, which required the Secretary to promulgate regulations for the development of forest plans that conform not only to the MUSYA but also to the more detailed procedural and substantive guidelines set forth in the NFMA itself. 16 U.S.C. §1604. Authority for forest plan revisions and amendments has been administratively delegated to the Forest Supervisor of each national forest. Under the National Forest Management Act, project-level decisions, including designation of routes for motor vehicle use, must be consistent with the applicable land management plan. 70 Fed. Reg. 68264-01, 68,268-69 (November 9, 2005). However, the 2005 Travel Management Rule governs the process of designating individual roads and trails as open to motor vehicle use. A Forest Plan revision is prohibited from effecting individual roads and trails without first going through the travel management rule planning requirements. It is a thirty-thousand foot document that does not include specific projects.

IV. Historical Background and Legal Authority for National Forest System Recreation and Scenic Trails

The National Trails System Act of 1968 (“NTSA”), 16 U.S.C. §§1241 *et seq.*, was created “to provide for the ever-increasing outdoor recreation needs of an expanding population...in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation.” 16 U.S.C. §1241(a). The NTSA provides for the creation of three basic types of trails: national recreation trails, national scenic trails, and national historic trails. *Id.* at §1242. National scenic trails may only be authorized and designated by Act of Congress. 16 U.S.C. §1244(a).

The Pacific Crest National Scenic Trail (“PCT”) is a national scenic trail, administered by the Secretary of Agriculture through the USFS, in consultation with the Secretary of the Interior. *Id.* at §1244(a)(2); 36 C.F.R. §212.21. Upon the creation of the PCT, the USFS directed each National Forest Supervisor and agency head, where the PCT crossed into other jurisdictions, to develop a management plan for their respective portions of the PCT. 1981 Plan, p.1, § I. In compliance with this directive, the 1981 management plan for the portion of the PCT running through Sequoia National Forest was developed. The 1981 Sequoia Pacific Crest Trail Management Plan set out forest-wide directions and goals, policies, and objectives, as well as providing specific direction for their execution. Topics covered include PCT carrying capacity, provisions for water, marking and signing standards, and trail and facility construction targets.

In accordance with the 1978 amendment to the NTSA, the Secretary of Agriculture, through the USFS, produced the 1982 Comprehensive Management Plan for the Pacific Crest National Scenic Trail, in consultation with the Pacific Crest Trail Advisory Council, the governors of affected states, the Bureau of Land Management, and the National Park Service. Of the PCT Comprehensive Management Plan, Congress said:

“The Committee does not intend that this requirement produce a major general development plan such as has been the case for traditional national parks, but that, in consultation with the appropriate state official, the Secretaries [Secretary of Agriculture and Secretary of the Interior] fully apprise the Committee of the progress in the unique management situations which these trails represent. Such a report will assist the Committee in fulfilling their oversight responsibilities, etc.”

House of Representatives Report. No. 95-734, October 21, 1977. In describing the purpose of the Comprehensive Plan, the USFS stated that it intended the Plan to be “a fully coordinated document that provides overall guidance and objectives for development and management of the trail. More specific planning will be accomplished at the Bureau of Land Management District, National Park, and National Forest level and will deal with the specific issues and opportunities for that portion of the trail.” 1982 PCT Comprehensive Plan at i.

The PCT Comprehensive Plan directs that “[e]ach National Park, Bureau of Land Management District, and National Forest will integrate the direction and guidance provided by the Comprehensive Plan into their respective land management planning processes. It is intended that these processes will produce a second level of planning for the trail that is responsive to specific issues, concerns, opportunities, and problems unique to each administrative unit.” 1982 PCT Comprehensive Plan at 18. That second level of PCT planning was already performed in the Sequoia-specific 1981 Sequoia PCT Management Plan, even before it was required by the 1982 PCT Comprehensive Plan.

In March 2012, the USFS published the Pacific Crest National Scenic Trail Optimal Location Review Process Guidelines. This document outlines the format, process, and considerations reached for an Optimal Location Review (“OLR”) of the PCT, done to ensure that the “trail is located in the setting that best meets the congressional intent for location, outstanding recreation opportunities, and scenic resources.” In short, the OLR determines whether changes should be made to the current route of the PCT. It appears that the proposal to create a PCT trail

corridor up to half a mile on each side of the center of the trail as it travels through the Sequoia National Forest was initially raised in the OLR of the PCT begun in 2012. Petitioners believe that it is being incorporated into the LRMP revision process for the Sequoia National Forest, which will preclude the 13 miles of inventoried trails that cross the PCT from being considered for designation as open to motor vehicle use in accordance with the Piute Mountains Travel Management Plan.

V. Historical Background and Legal Authority Governing Travel Management and Motorized Access to Forest System Trails in National Forests

The 2005 Travel Management Rule became effective December 9, 2005 (“Travel Management Rule”). It required the designation of those roads, trails, and areas in the National Forest System that are open to motor vehicle use. 36 C.F.R. §212.50. It prohibits the use of motor vehicles (including off-highway vehicles) off the designated system. 36 C.F.R. §261.13. The Travel Management Rule codified parts of certain executive orders dating back to 1972. In 1972, President Nixon issued Executive Order 11,644, which recognized the potential for conflict between the use of off-highway vehicles and other land management goals. To limit these conflicts, Executive Order 11,644 directed federal land management agencies, including USFS, to adopt regulations providing for administrative designations of areas and trails open and closed to motor vehicle use. Exec. Order No. 11,644 §§1, 3; 37 Fed. Reg. 2877 (April 9, 1972). The executive order was amended in 1977 to further direct land management agencies to immediately close areas or trails that caused considerable adverse effects upon protected resources. Exec. Order No. 11,989 §2; 42 Fed. Reg. 26,959-01 (May 25, 1977).

The Travel Management Rule provides a national framework under which designations are made at the local level. 70 Fed. Reg. 68,264-01 (Nov. 9, 2005). Motor vehicle use on National Forest System roads, on National Forest System trails, and in areas on National Forest System

lands shall be designated by vehicle class and, if appropriate, by time of year by the responsible official on administrative units or Ranger Districts of the National Forest System. 36 C.F.R. § 212.51(a). Travel management planning may take place at the national forest level, or at the ranger district level. All existing non-system trails were to be inventoried by the Forest Service and considered for designation as system trails during the Travel Management Process.

The final product of the travel management planning process, to be conducted by official responsible for each national forest, is a published motor vehicle use map, which designates the trails, roads, and areas that are open to motor vehicle use in a national forest or ranger district. The responsible official may incorporate previous administrative decisions regarding travel management made under other authorities (including those made under land management plans), including designations and prohibitions of motor vehicle use, in designating National Forest System roads, National Forest System trails, and areas on National Forest System lands for motor vehicle use. 36 C.F.R. § 212.50(b). Generally, the publication of motor vehicle use maps is accompanied by environmental impact statements and records of decision.

At the time the Travel Management Rule was enacted, all national forests had a system of NFS roads open to motor vehicle use, and many also had a system of NFS trails managed for motor vehicle use. 70 Fed. Reg. 68,264-01, 68,268 (Nov. 9, 2005). Existing decisions remained authoritative until publication of the motor vehicle use map.

VI. Implementation of the 2005 Travel Management Rule in Sequoia National Forest; Piute Mountains Travel Management Plan

In 2007, the USFS developed a Draft Travel Management Plan encompassing the entire Sequoia National Forest in compliance with the requirements of the 2005 Travel Management Rule. However, in 2008 a fire burned 37,000 acres of the Piute Mountains area within the forest. Therefore, the forest was analyzed for motor vehicle use excluding the Piute Mountains region

that had been damaged by forest fires. USFS officials determined the best course of action was to remove the Piute Mountain area from the ongoing travel management rule analysis and designation process and analyze it separately after the impact of the fire could be assessed. *See* Ex. 1. Motor vehicle use maps have been published for the Hume Lake Ranger District, Western Divide Ranger District, Kern Plateau area of the Kern River Ranger District (two maps), and Lake Isabella area of the Kern River Ranger District (two maps). The Piute Mountains area is located in the Lake Isabella area of the Kern River Ranger District; however, the Piute area was not yet analyzed at the time of publication of those maps due to the fire.

After the Piute Mountains were analyzed to move forward with the process of adding roads and trails to a motor vehicle use map for the area, the USFS proposed to finish mapping the region in 2010. Stewards of the Sequoia wishes for the USFS to publish the March 7, 2011 proposed action motor vehicle use map for the Piute Mountains as the official designation required by the Travel Management Rule. Given the fact that the fire occurred eight years ago, there is no discernable reason for the USFS's lack of action on the Piute Mountains Travel Management Plan and draft environmental impact statement. In any event, it is impermissible for the Forest Service to make travel management decisions for the Piute Mountains through amendments to the LRMP without first fully complying with the 2005 Travel Management Rule for the Piute Mountains.

VII. The Sequoia National Forest Land and Resource Management Plan Revision and Its Impermissible Effects on Travel Management

There are three levels of planning and decision-making that determine how the USFS manages National Forest System lands like the Sequoia National Forest. The highest level is the overarching USDA Forest Service Strategic Plan, a five-year plan that furthers the goal of public transparency of the USFS's goals, objectives, and accomplishments. The second level of planning are the forest plans developed by the USFS administrative units at the national forest level. The

third level of planning includes local projects and activities designed to accomplish the objectives set forth in the forest plans. *See Citizens for Better Forestry v. U.S. Dep't of Agric.*, 632 F.Supp.2d 968, 970 (N.D. Cal. 2009) (pursuant to NFMA, USFS regulates land and resources of national forests through “a three-tier regulatory approach to forest management, with different tiers existing at the national, regional, and local levels.”).³

Forest plans must include components, including standards or guidelines, to provide for (1) sustainable recreation; (2) protection of cultural and historic resources; (3) management of areas of tribal importance; (4) protection of congressionally designated wilderness areas and areas recommended for wilderness designation; (5) protection of designated and qualifying wild and scenic rivers; and (6) appropriate management of other designated areas or recommended designated areas. 36 C.F.R. §219.10(b)(1)(i)-(vi). These components, which consist of site-specific projects, may not go forward unless consistent with the forest plan that was developed pursuant to the Strategic Plan, *see* 16 U.S.C. §1604(i), and each project must also undergo the appropriate level of environmental review and public participation under NEPA and other applicable laws. *See, e.g., Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1511-12 (9th Cir. 1992).

The 2016 Draft Revised LRMP for the Sequoia National Forest proposes to reconstruct or relocate portions of the PCT as needed to “enhance the recreation experience and protect resources,” as well as to “[i]mplement visitor use management strategies to minimize impacts to desired conditions for national resources and visitor experiences,” which appears to mean limiting

³ “Once the Forest Service decides to authorize a project pursuant to those three planning stages, the agency’s decision is subject to judicial review pursuant to the Administrative Procedure Act, 5 U.S.C. §§701-706. *See Ohio Forestry Ass’n, Inc. v. Sierra Club*, 523 U.S. 726, 728 (1998) (holding that without site-specific, on-the-ground activities, forest plans are not ripe for review.” *Federal Forest Resource Coalition v. Vilsack*, 100 F.Supp.3d 21, 28 (D.D.C. April 28, 2015).

or controlling how many and what kind of uses are allowed adjacent to the PCT through the Sequoia National Forest wilderness zones. 2016 Draft Revised LRMP at 65. Outside Sequoia National Forest wilderness zones, the 2016 plan proposes limits to the use of roads and trails applicable to Stewards of the Sequoia members, including:

- New recreation events such as foot races or horseback endurance events and fundraising events should be limited to designated crossings only. Existing recreation events may be allowed to continue at current levels.
- Existing roads and trails within the PCT management area that are available for public motorized travel and are designated on the forest motor vehicle use map may remain open for public motor vehicle use. Other federal, state, county or other public roads within the management area available for public motor vehicle use may remain open for motorized travel.
- All new road and trail crossings of the PCT will be evaluated and planned to minimize impacts to the scenic, natural, and experiential values of the trail. New temporary roads and new motorized and mechanized transport trails within the PCT management area should be designed to minimize the visual, aural and resource impacts to the PCT. Exemptions may be allowed if required by law to provide access to private lands or documented as the only prudent and feasible alternative.
- New permanent roads are not permitted within the management area unless required by law to provide access to private lands or documented as the only prudent and feasible alternative.

The 2016 Draft Revised LRMP posits accomplishing these goals through trail relocation or reconstruction, and limiting the numbers and types of visitors to these portions of the trail. *Id.*

at 68. The second point in the aforementioned list essentially incorporates the travel management planning rule into the LRMP. Petitioner is particularly concerned with any proposal to create or widen the PCT trail corridor, because doing so would preclude motor vehicle use on existing trails crossing the 13 miles of the PCT in the Piute Mountains. Any such decision outside of the context of completing the implementation of the 2005 Travel Management Rule for the Piute Mountains would be impermissible.

VIII. Bringing the Piute Mountains Travel Management Plan to Completion Will Bring the USFS into Compliance with the 2005 Travel Management Rule and the Administrative Procedures Act, and Provide Clarity to Petitioner and All Visitors to the Sequoia National Forest.

Under the APA, agency actions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” are impermissible, and federal courts are authorized and instructed to set aside such actions. 5 U.S.C. § 706(2)(A). A decision is arbitrary and capricious if the agency has relied on factors which Congress did not intend it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *O’Keeffe’s, Inc. v. U.S. Consumer Product Safety Comm’n*, 92 F.3d 940, 942 (9th Cir. 1996). An agency action is also arbitrary and capricious if the agency fails to articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made. *Id.* Finally, an agency must set forth clearly the grounds on which it acted. See *Atchison T. & S.F. Ry. v. Wichita Bd. of Trade*, 412 U.S. 800, 807 (1973).

There is no clear reason for the USFS’s failure to complete the Piute Mountains Travel Management Plan and publish the proposed motor vehicle use map. USFS officials have repeatedly told Petitioner that they will complete the process. The last action taken towards

completion of the project was in 2011 with the publication of the Piute Proposed Action and map, and the project has been on hold since then. The USFS has acted in an arbitrary and capricious manner by failing to articulate any explanation – much less a satisfactory explanation – for its inaction. It has not demonstrated a rational connection between the facts found – that 125 miles of inventoried trails in the Piute Mountains area should be added to the National Trail System and designated as open for motor vehicle use – and the choice it has made not to finalize and promulgate the map.

Finalizing the plan will bring clarity to Petitioner and all visitors to the Sequoia National Forest regarding permissible recreational uses of the land, and bring the USFS into compliance with the procedures required by statute and its own travel management regulations. Designating the trails crossing along 13 miles of the PCT as open to motor vehicle use is not inconsistent with either the current LRMP or the 1981 Sequoia PCT Plan or 1982 Comprehensive PCT Plan. These documents contemplate that existing trail crossings will remain open, consistent with the multiple-use objectives and recreational opportunities provided for by statute. However, allowing only designated trails to cross the PCT would preclude the existing non system trails from further consideration under the in-process 2011 Piute Travel Plan.

IX. The USFS Proposed Travel Management Action for the Piute Mountains

A notice of intent to prepare a draft environmental impact statement for the Piute Mountains Travel Management Plan was published by the USDA and USFS in the Federal Register on February 18, 2011. 76 Fed. Reg. 9537 (February 18, 2011). The proposed action would:

1. Add approximately 121 miles of existing non-system routes to the National Forest Transportation System (NFTS) as trails open to motorcycles only;

2. Add approximately 3 miles of existing non-system routes to the NFTS as trails open to all public vehicles;
3. Add approximately 0.1 miles of existing non-system route to the NFTS as road open to all public vehicles.
4. Change the status of approximately 3 miles of closed NFTS road to NFTS trail open to all public vehicles.
5. Change the status of approximately 1 mile of closed NFTS road to NFTS trail open to motorcycles only.
6. Change approximately 10 miles NFTS roads closed to public vehicles to NFTS roads open to all public vehicles.
7. Change approximately 0.5 miles NFTS road open to all to NFTS road closed to all public vehicles.
8. Change approximately 0.7 miles NFTS road open to all to NFTS road open to highway legal vehicles only.
9. Change approximately 0.4 miles of NFTS road open to highway legal vehicles only to NFTS road open to all public vehicles.
10. Change approximately 2.1 miles of NFTS trail open to motorcycles only to NFTS trail open to all public vehicles.
11. Change approximately 4.5 miles NFTS trail open to motorcycles only to NFTS trail closed to all public vehicles.
12. Add non-system route U00125, approximately 0.5 miles in length, and located in the Greenhorn Mountains, as a NFTS road.

13. Establish consistency with ROS settings and between the use of the Long Canyon/Dry Meadow Trail 34E31 and the 1990 Mediated Settlement Agreement by changing the ROS classification on 7,175 acres of semi-primitive non-motorized land west of trail No. 34E31 to semi-primitive motorized. This would allow the continued motor vehicle use of NFTS trails 34E31, 34E41, and 34E52, and non-system trail U0013. This proposed action would require an amendment to the Sequoia National Forest Land and Resource Management Plan.

The proposed motor vehicle use map for the Piute Mountains was published on March 7, 2011. *See* Ex. 2. USFS officials have not taken further action since then to implement the 2005 Travel Management Rule in the Piute Mountains. Unless and until the Forest Service finalizes the Piute Mountains Travel Management Plan, as required by the 2005 Travel Management Rule, the Service may not make travel management decisions for the Piute Mountains through the LRMP or any other mechanism. If the Forest Service includes changes to the Sequoia-specific PCT management plan in the Sequoia Forest Plan LRMP revision, such as PCT corridor or trails crossing the PCT no closer than 5 miles or a PCT viewshed, doing so will impermissibly eliminate any existing inventoried Piute routes from consideration as system trails.

X. CONCLUSION

For the foregoing reasons, Stewards of the Sequoia hereby petition the Secretary of the United States Department of Agriculture, the Chief of the United States Forest Service, and the Forest Supervisor of the Sequoia National Forest to refrain from their current plan to circumvent the requirements of the 2005 Travel Management Rule by impermissibly amending the LRMP to include travel management decisions for the Piute Mountains. Compliance with the 2005 Travel Management Rule for the Piute Mountains requires the issuance of a draft environmental impact statement, final environmental impact statement, and record of decision, including publication of

a legally-binding final map showing the authorized routes in the Piute Mountains of Sequoia National Forest consistent with the proposal of March 7, 2011. The travel management decisions made for the Piute Mountains in connection with that process may then, and only then, be permissibly added as amendments to the LRMP.

DATED: October 15, 2018

Respectfully submitted,

Theodore Hadzi-Antich
Munera Al-Fuhaid
TEXAS PUBLIC POLICY FOUNDATION
901 Congress Avenue
Austin, Texas 78701
Telephone: (512) 472-2700
Facsimile: (512) 472-2728

By:



Theodore Hadzi-Antich
tha@texaspolicy.com

Attorneys for Stewards of the Sequoia

EXHIBIT 1



United States
Department of
Agriculture

Forest
Service

Sequoia National Forest
Giant Sequoia National
Monument

1839 South Newcomb Street
Porterville, CA 93257-9353
(559) 784-1500
(559) 781-6650 TDD

File Code: 1950-3

Date: January 30, 2009

**Sequoia National Forest Motorized Travel Management
Draft Environmental Impact Statement
60-Day Comment Period Begins**

Enclosed is a copy of the Sequoia National Forest Motorized Travel Management Draft Environmental Impact Statement (DEIS) for your review and comment. To be most useful, please send your comments no later than March 31, 2009.

Five alternatives are considered in this DEIS. These alternatives were developed in response to issues raised by the public:

1. Alternative 1 is the Proposed Action. It includes the prohibition of cross-country motorized travel, changes to the existing NFTS, and additions to the NFTS, as described in the Notice of Intent (NOI) published on July 15, 2007 (Federal Register, Volume 72, Number 115). It also includes minor amendments to the Forest Plan for specific routes within condor roosting areas.
2. Alternative 2 is the No Action alternative. Current management plans would continue to guide management of the project area. No changes would be made to the current NFTS. The Travel Management Rule would not be implemented and no Motor Vehicle Use Map (MVUM) would be produced. Motor vehicle travel by the public would not be limited to designated routes.
3. Alternative 3 addresses the concerns regarding access and motorized recreation opportunities by incorporating many of the publics' suggestions for additional routes and alternative routes that would provide better access and recreation opportunities.
4. Alternative 4 responds to concerns regarding inventoried roadless areas (IRAs), natural resource impacts, and maintenance costs. This alternative does not add motorized routes to existing IRAs. It also limits the addition of routes where resource concerns were raised.
5. Alternative 5 addresses concerns regarding natural resource impacts by prohibiting cross-country travel and by not adding any routes to the NFTS. This alternative, in addition to Alternative 2, provides a baseline for comparing the impacts of other alternatives that propose changes to the NFTS. None of the currently unauthorized roads, trails, or areas would be added to the NFTS.

Alternative 3 is the preferred alternative.

On Saturday, June 28, 2008, the Piute Fire ignited and burned into the project area in the Piute Mountains, consuming over 37,000 acres. A majority of the trails (including unauthorized routes) within the fire burn area were designated for motorized use. A series of heavy rain events also hit this area, causing excessive runoff and flash flooding. Early evaluations indicate that erosion was intense in much of the burned area. After review and consultation with the interdisciplinary team, I decided to remove all of the changes to the NFTS in the Piute Mountains area from the Proposed Action and other action alternatives (including the addition of unauthorized routes and the changes to the vehicle class). Only the prohibition of cross-country travel is being considered in the Piute area.



If your enclosed copy of the DEIS is on a compact disk (CD), the documents can be read by opening your internet browser, by starting Adobe Acrobat Reader, or installing the copy of Adobe Acrobat Reader that is contained on the CD. Links to the maps and charts are embedded in the text; each map, table, or chart will open in a new window. The DEIS, both on the CD and on the web, has been formatted to meet accessibility standards for electronic and information technology, required in Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

Reviewers of the DEIS should provide the Forest Service with their comments during the 60-day review period. This will enable the Forest Service to analyze and respond to the comments at one time and to use this acquired information in the preparation of the Final Environmental Impact Statement (FEIS), thus avoiding undue delay in the decision-making process.

I remind you that reviewers have an obligation to structure their participation in the National Environmental Policy Act process so that it is meaningful and alerts the agency to the reviewer,s position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the FEIS. *City of Angoon v. Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc. V. Harris*, 490 F. supp. 1334, 1338 (E.D. Wis. 1980). Comments on the DEIS should be specific and should address the adequacy of the statement and the merits of the alternatives discussed. Specifically, I am looking for comments regarding the adequacy of the preferred alternative (Alternative 3). In addressing these points, reviewers may wish to refer to the Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.

Your comments are important in making this decision. Please address your written comments regarding this DEIS and the preferred alternative to:

Chris Sanders, Team Leader
Travel Management Project
1839 South Newcomb Street
Porterville, CA 93257

Comments may also be sent via e-mail to comments-pacificsouthwest-sequoia or by facsimile to 559-781-4744, subject: **Travel Management**. The full DEIS is also available for review at http://www.fs.fed.us/r5/sequoia/projects/ohv_route_designation_strategy/index.html.

Public meetings to discuss the DEIS are scheduled as follows:

Sequoia Travel Management Meetings	Date	Time
Kerr-McGee Center/ Fossil Falls Room 100 W. California Ave., Ridgecrest, CA	Tuesday, February 17, 2009	6:00 pm – 8:00 pm
Forest Supervisors Office 1839 S. Newcomb, Porterville, CA	Saturday, February 21, 2009	9:30 am - 11:30 am
Clarion Hotel 3540 Rosedale Highway, Bakersfield, CA	Saturday, February 21, 2009	2:30 pm - 4:30 pm
Lake Isabella Location To Be Announced later.	Saturday, February 28, 2009	9:30 am - 11:30 am
Clarion Hotel 3540 Rosedale Highway, Bakersfield, CA	Saturday, February 28, 2009	2:30 pm - 4:30 pm

Again, to be considered, your comments must be postmarked or otherwise received by **March 31, 2009**. Comments received, including the names and addresses of those who comment, will be considered part of the public record for this project and will be available for public inspection. For additional information, please contact Chris Sanders at (559) 784-1500, extension 1131. Thank you for your interest in the travel management project on the Sequoia National Forest.

Sincerely,

/s/ Tina J. Terrell

TINA J. TERRELL
Forest Supervisor

Enclosures

EXHIBIT 2

35°22'30"N 35°25'0"N 35°27'30"N 35°30'0"N 35°32'30"N 35°35'0"N 35°37'30"N

United States Department of Agriculture
Forest Service
Sequoia National Forest
Pine Mountains Travel Management
PROPOSED ACTION
Roads and Motorized Trails
KERN RIVER RANGER DISTRICT



March 7, 2011

Legend

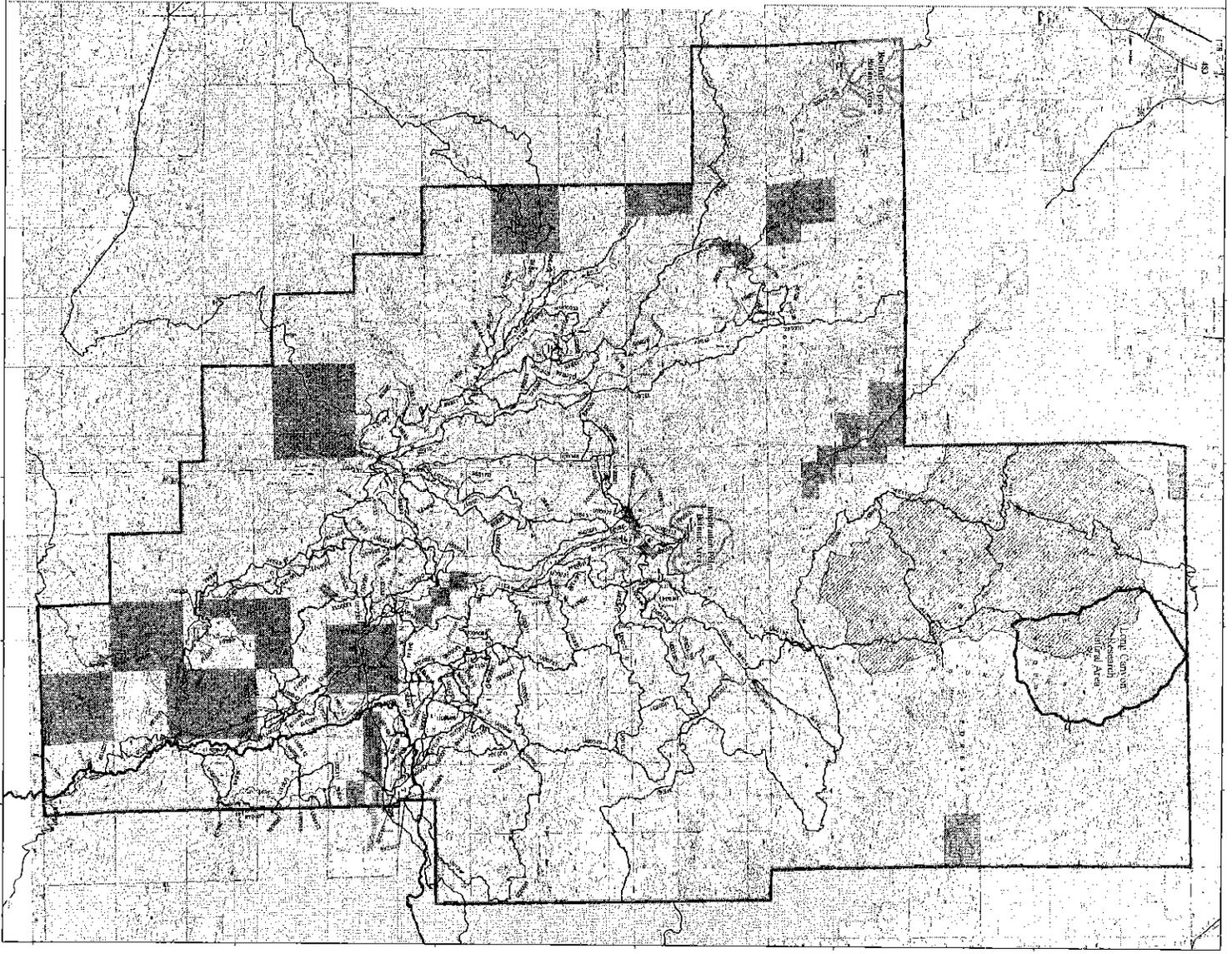
- Road Open to All
- Trail Open to All
- Trail Open to Motorcycles
- Other Roads
- Pacific Crest Trail
- Convert to Semi-Primitive Motorized
- Special Interest Area
- Long Canyon Research Natural Area
- Meadow
- Proclaimed Forest Boundary
- Non-Forest Service
- BLM Wilderness
- BLM Land



0 0.5 1 2 Miles

118°32'30"W 118°30'0"W 118°27'30"W 118°25'0"W 118°22'30"W 118°20'0"W 118°17'30"W

118°32'30"W 118°30'0"W 118°27'30"W 118°25'0"W 118°22'30"W 118°20'0"W 118°17'30"W



35°22'30"N 35°25'0"N 35°27'30"N 35°30'0"N 35°32'30"N 35°35'0"N 35°37'30"N



October 15, 2018

Via Federal Express

Mr. Sonny Perdue
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Ms. Vicki Christiansen
Interim Chief
United States Forest Service
United States Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250-1111

Ms. Teresa Benson
Forest Supervisor, Sequoia National Forest
United States Forest Service
United States Department of Agriculture
1839 South Newcomb Street
Porterville, CA 93257

RE: Administrative Petition of Stewards of the Sequoia to Complete the Piute Mountains Travel Management Plan for Sequoia National Forest

Dear Secretary Perdue, Chief Christiansen, and Supervisor Benson:

Stewards of the Sequoia, a not-for-profit organization of individuals who promote responsible recreation and environmental stewardship of Sequoia National Forest, hereby file the enclosed Administrative Petition seeking to ensure that the United States Forest Service (the "Service") properly complies with the Service's 2005 Travel Management Rule (the "2005 Rule") in connection with designating routes and trails for motorized use in the Piute Mountains of Sequoia National Forest. For the reasons set forth in the petition, current efforts by the Service to amend the Sequoia Land and Resource Management Plan (the "LRMP") by circumventing the 2005 Rule in connection with the Piute Mountain Area are legally impermissible.

October 15, 2018

Page 2

Thank you in advance of your careful consideration of the enclosed Administrative Petition.

Respectfully submitted,



Theodore Hadzi-Antich
Senior Attorney

Munera Al-Fuhaid
Attorney

Center for the American Future
Texas Public Policy Foundation
Counsel for Stewards of the Sequoia

Enclosure

cc: Mr. Chris Horgan
Executive Director
Stewards of the Sequoia
1516 J Street
Wofford Heights, CA 93285

Mr. Bruce Miller
Public Lands Director
Stewards of the Sequoia
1516 J Street
Wofford Heights, CA 93285