



August 21, 2017

Derek Padilla, District Ranger
Deborah Kill, NEPA Coordinator
Dolores Public Lands Office
29211 Hwy 184
Dolores, CO 81323

Submitted electronically to: dkill@fs.fed.us

Re: WildEarth Guardians Comment on Rico West Dolores Roads and Trails Project SDEIS

Dear District Ranger Padilla and Ms. Kill:

WildEarth Guardians respectfully submits these comments to the U.S. Forest Service concerning the agency's Supplement to the Draft Environmental Impact Statement (SDEIS) for the Rico West Dolores Roads and Trails (Travel Management) Project, proposed for 244,544 acres of Forest Service land on the Dolores District of the San Juan National Forest.

WildEarth Guardians is a nonprofit conservation organization with an office in Colorado and five other states. WildEarth Guardians has more than 184,000 members and supporters across the United States and the world. Guardians' mission is to protect and restore wildlife, wild places, wild rivers, and the health of the American West. WildEarth Guardians has organizational interests in the proper and lawful management of motorized use and its associated impacts on the San Juan National Forest's wildlife and wild places. Guardians submitted comments on the DEIS on June 20, 2016, and incorporate those comments, including Attachments A-C, by reference. On August 18, 2017, we submitted a letter in response to this SDEIS notice period on behalf of 5,398 citizens supporting the Forest Service's efforts to identify a resilient future road system. The following comments represent WildEarth Guardians' organizational concerns.

1. We support the Forest Service's efforts to create a resilient future road network.

We applaud the Forest Service's efforts to address resource concerns and create an environmentally and economically sustainable system of roads and OHV trails in the project area. Specifically, we strongly support the agency's decision to revise its analysis to clarify that it intends to include identification of the minimum road system for the Rico West Dolores project area in its decision. This is consistent with recent guidance from the Forest Service's Region 2 office.¹ We are very encouraged to see the Forest Service considering the Dolores Ranger District's road system on a landscape scale. We strongly support the agency's thoughtful, strategic approach to improving public

¹ Memorandum from Brian Ferebee, Regional Forester, to Forest and Grassland Supervisors, *Travel Management Rule (TMR) Implementation* (March 17, 2017) (Attachment A).

² See Rico-West Dolores Roads and Trails (Travel Management) Project SDEIS (hereafter, SDEIS), page 13.

access to the forest, reducing negative impacts from forest roads to water quality and aquatic habitats, and improving watersheds and forest resiliency.

Identifying a resilient future road network is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliable recreational access, and operate within budgetary constraints. And it is a win-win-win approach: (1) it's a win for the Forest Service's budget, closing the gap between large maintenance needs and drastically declining funding through congressional appropriations; (2) it's a win for wildlife and natural resources because it reduces negative impacts from the forest road system; and (3) it's a win for the public because removing unneeded roads from the landscape allows the agency to focus its limited resources on the roads we all use, *improving* public access across the forest and helping ensure roads withstand strong storms.

Consider Travel Analysis Report & Identify Minimum Road System

We are happy to see the Forest Service considering the Dolores District Travel Analysis Report, including the risk and benefit assessment and recommendations for needed and un-needed roads.² And while we are happy to see the Forest Service update its analysis to address effects to the minimum road system, Guardians is concerned that the agency does not address the factors defining a minimum road system in its own regulations. Consistent with 36 C.F.R. § 212.5(b)(1), the Forest Service should identify the minimum road system by considering whether each road segment is needed to:

- (1) Meet resource and other management objectives adopted in the relevant land and resource management plan;
- (2) Meet applicable statutory and regulatory requirements;
- (3) Reflect long-term funding expectations; and
- (4) Ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

Instead, here the Forest Service states that it considered in detail:

- Road access for current and future forest health management activities
- Road access for wood product gathering
- Cost of road maintenance and availability of road maintenance funds
- Road access for range management

SDEIS at 21. As noted below, the Forest Service did not follow some of the recommendations from its travel analysis report, but did not explain why it was changing its road treatment approach.

Prioritize Unneeded Roads for Decommissioning, Not Converting to Motorized Trails

We are happy to see the Forest Service considered its travel analysis report and conducted additional in-depth review of its road system to identify 39.8 miles of ML1 roads and 7.28 miles of open system roads for decommissioning. SDEIS at 248. We strongly support this aspect of the proposal.

² See Rico-West Dolores Roads and Trails (Travel Management) Project SDEIS (hereafter, SDEIS), page 13.

However, each of the action alternatives would only reduce the system road miles to 323.92. SDEIS at 42. Compared to 374.6 miles of total system roads on the landscape (ML1-ML5), that amounts to a 13 percent reduction in system road miles for every action alternative.

The Forest Service does not explain some of its decisions regarding roads. *See* SDEIS, Appendix D (Attachment B) (highlighting in red road decisions that we have concerns about). To the extent that the final decision in this project differs from what is recommended in the travel analysis report, the Forest Service must provide an explanation for that inconsistency. *See, e.g., Smiley v. Citibank*, 517 U.S. 735 (1996) (“Sudden and unexplained change . . . or change that does not take account of legitimate reliance on prior interpretation . . . may be ‘arbitrary, capricious [or] an abuse of discretion’”) (internal citations omitted). For example, Forest Road Rio Lado (208) is recommended to not be part of the minimum road system under the travel analysis report, is rated as a medium risk and low benefit road, but is proposed to be part of the minimum road system under all action alternatives.

We do not support the Forest Service’s proposal to convert some roads to motorized trails. SDEIS at 42. The Forest Service should prioritize unneeded roads that pose the greatest risk to public safety or environmental degradation for decommissioning, regardless of maintenance level status. The agency proposes to convert the following roads to motorized trails: Lone Cone J (543), Lone Cone J2 (534.J2), Tin Can Basin (578.B), and Tin Can Basin Spur (578.B1). SDEIS, Appendix D. This, despite rating these roads as a medium or high risk under the travel analysis report and recommending they do not become part of the minimum road system. For roads recommended for decommissioning in the travel analysis report based on low benefit and high risk to resources, but proposed to remain part of the road system or be converted to a motorized trail, the Forest Service must identify a compelling administrative or public need for the road or motorized trail in the long-term, or modify its decision to decommission the road segment.

Road decommissioning can temporarily increase sediment to streams but has dramatic reductions in the long run. The Forest Service’s Rocky Mountain Research Station has spent over a decade monitoring the effectiveness of road treatments. A 2012 report evaluating pre and post treatment of roads showed an 80% reduction in sediment delivery to streams when roads were decommissioned.³ In addition, the 20-year monitoring report of the Northwest Forest Plan confirmed that watersheds that showed the most improvement in condition were those that completed road decommissioning.⁴ Decommissioning road miles is consistent with the Forest Service’s long-standing policy to “manag[e] access within the capability of the land.”⁵ Converting unneeded roads to motorized trails, instead of decommissioning them, is a missed opportunity to more fully protect the landscape.

As forest road users and conservationists, we understand that a strategic reduction in road miles does not necessarily equate to a loss of access. Some roads are already functionally closed, either due

³ Nelson N., Black T., Luce C. and R. Cissel, U.S. Forest Service Rocky Mountain Research Station, LRT Monitoring Project Update 2012.

⁴ Northwest Forest Plan—The First 20 Years (1994-2013): Watershed Condition Status and Trend (Draft, May 2015), pages 3, 5, 66, 68, available at https://re0.gov/monitoring/reports/20yr-report/GTR_AREMP_DRAFT_MAY_2015.pdf (last accessed April 14, 2017) (noting the “decommissioning of roads in riparian areas has multiple benefits according to our model by improving both the riparian scores and typically the sedimentation scores.”).

⁵ 66 Fed. Reg. at 3208, 3215 (highlighting in 2001 that the Forest Service was “shifting from developing new roads” and increasing “emphasis on maintaining existing roads and improving access in other areas.”)

to washouts, lack of use, or natural vegetation growth. Other roads receive limited use and are costly to maintain. Resources can be better spent on roads providing significant access than to spread resources thinly to all roads. This is why we urge a more probing analysis of roads and a revised decision that would decommission more of the roads the forest has identified as unneeded.

Do Not Add Unauthorized Roads to the Road System

The Forest Service proposes to add 1.73 miles of unauthorized roads to its road system. SDEIS at 247-248. The Forest Service justifies the addition by stating they are offset by the reduction in ML1 roads achieved through decommissioning. *Id.*

The Forest Service should not add unauthorized roads to its system because it is contrary to the agency's overarching roads policy focused on right-sizing an already unaffordable road network. Forest Service policy directs the agency to carefully consider and document the road management objectives, environmental impacts, and social and economic benefits associated with any proposed addition before adding roads to the system. *See* Forest Service Handbook 7703.26(1). It also directs the agency to consider long-term road funding opportunities and obligations as part of any decision to add road miles to the system. *Id.* 7703.26(2). *See also* FSM 7715.03(7) (noting that "Ranger Districts should avoid adding routes to the Forest transportation system unless there is adequate provision for their maintenance"). All of the unauthorized road segments considered for adding to the system have a "low" benefit rating, and the Forest Service notes that adding them to the system would move the forest further away from the San Juan Forest Plan's guidelines to limit new roads in riparian areas. Plus authorizing user-created routes suggests to the public that they can be legitimized. This creates the wrong incentive for future actions on the forest.

2. We support the Forest Service's revisions to clearly articulate the statement of purpose and need.

Guardians' DEIS comments urged the Forest Service to incorporate identification and implementation of the minimum road system in the statement of purpose and need for this project. We strongly support the agency's revisions in the SDEIS to include identification of the minimum road system in the statement of purpose and need and in its explanation of the decision framework. SDEIS at 14-15. The agency is ensuring meaningful public comment on this point by accurately framing its proposed actions and legal duties to the public and interested stakeholders.

3. No reasonable range of alternatives.

The alternatives analysis is the "heart" of NEPA, and therefore "an agency must *on its own initiative* study all alternatives that appear reasonable and appropriate for study at the time, and must also look into other significant alternatives that are called to its attention by other agencies, or by the public during the comment period afforded for that purpose." *Dubois v. Dep't of Agriculture*, 102 F.3d 1273, 1291 (1st Cir. 1996), *quoting Seacoast Anti-Pollution League, v. Nuclear Reg. Comm'n*, 598 F.2d 1221, 1231 (1st Cir. 1979) (emphasis from *Dubois* court) (internal citations omitted).

Here, Alternative A, the no action alternative, would continue existing regulations and would have no timing restrictions. The proposed action Alternative B would make minor changes to the road system and add seasonal restrictions on motor vehicle use of trails. Alternative C would reestablish motorcycle use on some of the trails that would be closed under Alternative B. It also proposes new

motorcycle trails to create connections and adds more 62-inch trails than Alternative B. Timing restrictions would be less restrictive than those under Alternative B. Alternative D would provide a motorcycle trail system similar to Alternative C's, except in the Bear Creek drainage where semiprimitive motorized recreation settings would be emphasized. Timing restrictions would mirror the less restrictive ones proposed under Alternative C. Finally, Alternative E would provide a semiprimitive nonmotorized setting in the entire Bear Creek drainage and create nonmotorized settings on North Calico Trail and connecting trails, and in the East Fork Trail area. Timing restrictions would mirror the less restrictive ones proposed under Alternative C.

We applaud the Forest Service for comparing the travel analysis report by alternative. *See* SDEIS, Appendix D. However, the analysis in the SDEIS lacks a reasonable range of alternatives for several of the main activities proposed. This results in a largely meaningless comparison.

For example, the proposed minimum road system is the same across all four action alternatives. Ample room for variation among alternatives while still meeting the statement of purpose and need exists. The Forest Service should at least consider one alternative that would establish the road system recommended under the travel analysis report. *See* Attachment B (highlighting roads that arguably deserve different treatments, based on medium or high risks to natural resources and low benefits). Another example is the proposed decommissioning activities, which is the same across all action alternatives. And the number of road miles open to all motorized vehicles is the same across all action alternatives. This lack of alternatives fails to provide a distinction to better understand the various impacts, ultimately preventing meaningful public comment. Finally, Alternative E is the only alternative that closes some of the critical trails in Colorado Roadless Areas to motorized use. The Forest Service should provide alternatives that create more variety among the impacts while still achieving the stated purpose and need.

The following information comparing alternatives is compiled from pages 7 and 42 of the SDEIS:

	Alt A	Alt B	Alt C	Alt D	Alt E
ML1	169.16	125.5	125.5	125.5	125.5
ML2	108.32	99	99	99	99
ML2 Administrative	0	7.53	7.53	7.53	7.53
ML3	92.74	91.89	91.89	91.89	91.89
ML4	4.5	0	0	0	0
Total system roads	374.72	323.92	323.92	323.92	323.92
Road miles open to all motor vehicles	205.5	198.42	198.42	198.42	198.42
Miles identified to decommission	0	47.08 (7.28 miles previously open & 39.8 miles ML1)	47.08 (7.28 miles previously open & 39.8 miles ML1)	47.08 (7.28 miles previously open & 39.8 miles ML1)	47.08 (7.28 miles previously open & 39.8 miles ML1)
Motorized trail miles	114	86	100	88	65

open					
------	--	--	--	--	--

Of the alternatives considered, we support Alternative E, but with modifications suggested by Robert Marion:

- Place seasonal restrictions on motorized use from July 1 to September 8 (as in Alt B); and
- Designate certain trails as nonmotorized: (1) Burnett Creek, (2) Eagle Peak, (3) East Twin Springs, (4) Calico from the northern trailhead to the junction with Priest Gulch trail, and (5) Rough Canyon.

In the very least, the Forest Service should consider this modified Alternative E as one of the alternatives considered in detail.

4. Do not grandfather motorized use, including single-track trails.

The Forest Service explains that its decision may include whether to include motor vehicle areas, which roads currently open should be closed, and which roads currently closed should be opened. SDEIS at 14-15. In considering these designations, the Forest Service must be careful to identify the appropriate baseline, consistent with the overarching agency policy to apply a “closed unless designated open” management regime. Our DEIS comments urged the Forest Service to identify an accurate baseline. The baseline should not include decommissioned routes or unauthorized routes. Identifying an accurate baseline is related to the following comments, which urge the agency to ensure any existing motorized use designations comply with all applicable laws before grandfathering those decisions. At least 14 trails that exist in the project area have never been subject to a NEPA analysis. For example, Priest Gulch, Eagle Peak, and Willow Divide trails were never designated in a public process under NEPA. Based on information available to us, in the past the agency has changed trail designations with no public input.

Verify Existing Motorized Designations Comply with All Laws, Including Minimization Criteria

First, the agency may not rely on previous NEPA decisions to affirm existing motorized trails unless it verifies those prior decisions satisfied the minimization criteria and NEPA. Subpart B of the Forest Service’s regulations allows the agency to incorporate previous travel management decisions made under other authorities. 36 C.F.R. § 212.50(b). But reliance on this portion of the regulation cannot excuse compliance with other applicable laws and regulations. Any previous decisions must have been subject to the executive order requirement that areas and trails designated for OHV use be located to minimize resource damage and conflicts with other recreational uses. Thus, prior to adopting any existing travel management decisions on a motor vehicle use map (MVUM), the Forest Service must ensure that those decisions were subject to the executive order minimization criteria and NEPA analysis.

NEPA provides that “[a]ny environmental document *in compliance with NEPA* may be combined with any other agency document to reduce duplication and paperwork.” 40 C.F.R. § 1506.4 (emphasis added). If relying on previous travel management decisions the agency must explain where we, as interested persons, can get information or status reports on environmental analyses relied on in this current process. 40 C.F.R. § 1506.6. If the prior decisions to designate motorized use on the forest did not demonstrate compliance with NEPA or the executive orders and Travel

Management Rule, the Forest Service must now consider the minimization criteria and locate all motorized designations with the objective of minimizing impacts to natural resources, harassment of wildlife, harm to wildlife habitat, and conflicts among uses.

Here, the agency must verify that any existing designations on its current MVUM reflect decisions that complied with all applicable laws, including the minimization criteria. It states that a 2010 temporary Forest Order prohibited all travel off of Forest Development Roads and Trails, but the Order expired in 2015. SDEIS at 12-13. And the analysis in the SDEIS never explains where or how the designation of Forest Development Roads and Trails in the temporary Order were made. Plus, the expired order did not even cover some of the unauthorized routes that exist on the forest landscape. It is very unlikely that these routes were located consistent with the minimization criteria.

Re-assess Existing Motorized Designations in Light of Significant New Information

Second, significant new information requires a re-analysis of all prior motor vehicle designations. To the extent that the agency's understanding of the executive orders and how to implement its own Travel Management Rule has been clarified by more recent case law, this is significant new information. Under NEPA, the Forest Service has a duty to reconsider its previous decision in light of this new information.

Existing motorized use allocations also do not take into account significant new information regarding impacts or the level of motorized use. In assessing whether previous decisions satisfy the minimization criteria and other relevant legal obligations, the Forest Service must ensure that those decisions reflect current circumstances and information. Older decisions generally do not account for the increased speed, power, and other capabilities of current OHV technology. Older decisions also may not account for new scientific information on sensitive wildlife and other forest resources and how they are affected by OHV use. They may not account for current recreational use trends, including conflicts between motorized and nonmotorized use, known trespass or incursions into wilderness and other restricted areas, and increased noise or air quality concerns in high-use areas. And they may not account for the current and predicted impacts of climate change, which, among other things, is increasing the vulnerability of wildlife and other resources to OHV-related impacts. Reliance on previous motorized use designations improperly allows the agency to ignore current circumstances and the latest science, precluding the ability to minimize impacts.

5. Meaningfully apply the minimization criteria.

Our DEIS comments urge the Forest Service to not just *consider* the effects of its proposal on the minimization criteria, but to *locate* motorized trails and areas with the objective of minimizing (1) damage to natural resources, (2) harassment of wildlife, and (3) conflicts among uses. *See* 36 C.F.R. § 212.55(b). We noted there, and reiterate here, that the agency fails to show how it located its motorized use designations with the aim of minimizing environmental damage and conflicts and therefore the analysis falls short of what is required by the Travel Management Rule and executive orders.

The Forest Service states that the resource analysis includes a review of the impacts of the existing condition and the impacts that may occur as a result of maintaining or changing the designation of motorized use. SDEIS at 59. That demonstrates the agency considered impacts of its route designations on the criteria listed in the Travel Management Rule. But no where does the agency

explain how it located motorized trails and areas so as to minimize those impacts. It states the “analysis assumes the RWD project will be implemented using the methods and practices described in the handbooks” to minimize resource impacts. SDEIS at 63. The Forest Service needs to demonstrate in the record how it *located the trails*, not just maintained them, to minimize impacts on the Travel Management Rule criteria.

Locate Trails to Minimize Damage to Natural Resources

The Forest Service proposes to locate motorized trails cutting directly through roadless areas, and under some alternatives locate motorized routes up to the border with Lizard Head Wilderness on the North. It is unclear to Guardians how the Forest Service located these routes with the aim of minimizing impacts to natural areas. As we noted in our comments on the DEIS, motorized use is especially inappropriate in backcountry areas with alpine tundra, wetlands, meadows, streams, and other pristine features. When designating motorized trails, the Forest Service should not authorize motorized use in Colorado Roadless Areas. Not only would locating motorized trails in these areas increase adverse impacts to natural resources, wildlife, and other quiet uses, but motorized use is inappropriate for backcountry roadless areas.

Locate Trails to Minimize Harassment of Wildlife

This record fails to demonstrate how the Forest Service located motorized trails and areas with the objective of minimizing harassment of wildlife and disruption of wildlife habitat. For example, the motorized designations fail to minimize impacts to Canada lynx, big game including elk, and their habitat. Adverse impacts from motorized use on imperiled Canada lynx is well documented in scientific literature. Motorized use by OHVs threatens lynx directly by reducing their ability to hunt, increasing lynx stress responses, and increasing harmful interactions between lynx and humans (e.g. trapping and shooting). *See, e.g.,* Ruggiero, et al, eds. *Ecology and conservation of lynx in the United States*, Rocky Mountain Research Station Gen. Tech. Rpt. RMRS-GTR-30WWW (Oct. 1999) (Attachment D). The Forest Service provides little to no detail regarding the location of lynx habitat or sightings on the forest in comparison to the proposed motorized trail designations. It fails to explain how it located motorized routes with the objective of minimizing impacts on lynx or its habitat.

Research has found that increased motorized access decreases elk habitat and security. *See* Switalski, T.A. and A. Jones, *Off-road vehicle best management practices for forestlands: A review of scientific literature and guidance for managers*, Journal of Cons. Planning Vol. 8 (2012) (Attachment C), page 18. Science cited by the Forest Service as a resource for elk focuses on the impact of hunting access on elk and elk habitat security. The Forest Service must consider best available science regarding the impacts of OHV and motorcycle use on elk and elk security habitat. It then must demonstrate how it located motorized use with the objective of minimizing harassment of elk and disruption of elk habitat, in light of the best scientific information.

Locate Trails to Minimize Damage to Water Quality & Harassment of Fish

The SDEIS notes that Forest Service roads 534, 533, 578, 149, 578B and sections of Winter, North Calico, Spring Creek and East Fork Trails have adverse impacts on wetlands, and that multiple tracks cross streams and meadows near the headwaters of Fish Creek. The Forest Service fails to show how it located these motorized trails with the objective of minimizing damage to water quality.

As for impacts to greenback lineage cutthroat trout streams, the Forest Service explains it minimized impacts because fish are not typically found at the crossing locations and the trails have light use by motorcycles. SDEIS at 102. This is an analysis of the impacts of the motorized trails, located to ford through streams. It fails to show that these ford locations were located with the objective of minimizing impacts to fish. And because there is no limit on the amount of motorized use, there is nothing in the project design to ensure the use will in fact be light and thereby result in less impact. In fact, an alternative that did not require fords and either re-routed the motorized trail or included bridges would be an option that minimizes impacts to aquatic life. By failing to even begin the discussion about how to locate the motorized route so as to minimize harassment of fish, however, the Forest Service skips over this type of viable alternative that would better achieve the Travel Management Rule's criteria and still meet the stated purpose and need.

The Forest Service states that it will minimize impacts through best management practices. SDEIS at 102. Applying BMPs is great, but in the first instance the Forest Service has a duty to locate the motorized trails with the objective of minimizing harassment of wildlife like greenback lineage cutthroat trout and disruption of the fish's habitat. As we explained in our comments on the DEIS, identifying motorized trail locations with the object of minimizing impacts is distinct from mitigating the impacts of those trails once they are located. The Travel Management Rule requires the Forest Service to do the former. The agency fails to demonstrate that it did so in this record.

Locate Trails to Minimize Conflicts Among Uses

The Forest Service makes little no mention of how it located the motorized trails and areas with the objective of minimizing conflicts among uses. It notes that communities in Rico value quiet, especially when considering trails originating on town streets and roads that pass by houses. It notes that homeowners along Horse Creek trail and Morrison trail value quiet. And that private landowners along West Dolores Road, in particular Winter trail and Johnny Bull trail, also value quiet. Motorized trails in or near these areas will allow motorized use, which is certain to disrupt one's quiet enjoyment of the same area. The agency fails to explain or show how it located the proposed motorized trails with the objective of minimizing conflicts of uses.

Another trail with documented conflicts of use and documented environmental damage is the Calico Trail. It runs above tree line, through alpine terrain. Motorists cause major natural resource damage on this trail. Motorized use of the trail disrupts quiet enjoyment of anyone in the vicinity. The record does not show how the Forest Service located this trail with the objective of minimizing impacts and conflicts among uses.

6. Protect Colorado Roadless Area characteristics.

There are 129,865 acres of Colorado Roadless Area within the project area. SDEIS at 6. This includes Storm Peak, Ryman, Black Hawk Mountain, and portions of San Miguel and Hermosa. SDEIS at 9. We appreciate the addition of Map 13, which shows the Colorado Roadless Areas within the project area. SDEIS, Map 13. However, the Forest Service proposes to continue use of single track motorized trails that cut through the middle of each these Areas.

Road construction is generally prohibited in Colorado Roadless Areas, with some exceptions, some of which require Regional Forester approval. *See* Colorado Roadless Rule at 36 C.F.R. § 294.43(c).

Motorized trails are allowed in roadless areas under the Colorado Roadless Rule, but the rule makes it difficult to add motorized trails if they didn't already exist. *Id.* § 294.43(e), (f). Furthermore, under 2.13.13, the San Juan Forest Plan instructs the agency to maintain the character of roadless areas to preserve large expanses of undeveloped lands that can be managed for wildlife habitat, scenic quality, and recreation. Together with the objectives set forth under the minimization criteria, this establishes a priority to protect roadless area characteristics in favor of wildlife habitat, scenic quality, and quiet recreation.

It is very important that the Forest Service maintain roadless area characteristics. *See* 36 C.F.R. § 294.41. These include high quality or undisturbed soil, water, and air; sources of public drinking water; diversity of plant and animal communities; habitat for ESA-listed or candidate species; primitive, semi-primitive non-motorized and semi-primitive motorized recreation; reference landscapes; landscapes with high scenic quality; traditional cultural properties and sacred sites; and locally unique characteristics. *Id.*

In its assessment of effects to the roadless area characteristics, the Forest Service states that none of the alternatives will result in changes to air quality, dismissing localized impacts within the roadless areas. SDEIS at 234. Localized impacts to air quality within roadless areas are *precisely* the type of adverse impacts that the Forest Service is supposed to protect against under the Colorado Roadless Rule. Dismissing the impacts simply because they are localized ignores the special characteristics of these areas and misses the point. Localized impacts to air quality from motorized single-track trails in roadless areas does and will detract from the overall high quality or otherwise undisturbed air quality in the Roadless Areas.

What's more, the Forest Service has documented negative impacts to water quality from existing single-track motorized trails in Roadless Areas. North Calico (208) is a motorized trail in a Colorado Roadless Area that is currently impacting over 11 acres of palustrine wetlands. SDEIS at 91. East Fork Dolores (638) is also a motorized trail in a Roadless Area, impacting up 3.7 acres of palustrine wetlands. *Id.* South Calico (211) is a motorized trail in Roadless Area impacting up to 1.2 acres of palustrine wetlands. *Id.* Given the documented resource damage as a result of motorized single-track use, the Forest Service must consider not designating the trails under each of the alternatives (not just Alternative B) for motorized use to ensure protection of the roadless area characteristics.

In considering impacts to public drinking water, diversity of plant and animal communities, habitat for ESA listed species, etc., the Forest Service notes there would not be a measurable difference between action alternatives for sediment delivery to the stream network. SDEIS at 235. But this is because—as the Forest Service itself notes—that in all of the action alternatives there would still be a *motorized* trail present. SDEIS at 234-235. This is the result of a false baseline (addressed above and in our comments on the DEIS) and a lack of a reasonable range of alternatives. By failing to provide an alternative that would not continue to allow motorized use in these areas, the Forest Service ignores a reasonable alternative, skews the analysis and fails to ensure protection of the roadless area characteristics. This prevents meaningful public analysis.

7. Ensure compliance with NFMA, CWA and ESA.

Under the National Forest Management Act (NFMA), specific projects like this must be consistent with the governing forest plan. 16 U.S.C. § 1604(i). We applaud the Forest Service for identifying potentially applicable forest plan components throughout the effects analysis and in Appendix F. The Forest Service fails to explain, however, how some of the proposed actions are consistent with those plan components. 36 C.F.R. § 219.15(d). For example, some of the San Juan Forest Plan's desired conditions include trails that emphasize the Rico community's quiet-use character. As noted above, 2.13.13 of the San Juan Forest Plan instructs the agency to maintain the character of roadless areas to preserve large expanses of undeveloped lands that can be managed for wildlife habitat, scenic quality, and recreation. For temporary roads, the San Juan Forest Plan states that before any temporary road is constructed there must be a project-specific plan that defines, *inter alia*, "the funding source, a schedule for construction, maintenance and decommissioning, the methods(s) for decommissioning, and post-decommissioning monitoring requirements for determining decommissioning success." San Juan Forest Plan, Standard 2.13.22.

All of the action alternatives propose to amend the San Juan Forest Plan Suitability Map and the Summer Recreation Opportunity Spectrum Map. SDEIS at 25, 48. The Forest Service should assess its proposed Forest Plan amendments to ensure they fit as site-specific amendments. Site-specific amendments are meant to address unique characteristics of a particular forest area, not conditions that are common throughout an entire forest or region. We question the need to amend the forest plan for changing suitability determinations or ROS classifications from motorized to nonmotorized (Alternatives B, D and E). Implementation-level area and route designations must be consistent with suitability determinations and ROS classifications, but all areas suitable for motorized use (based on both legal suitability and practical suitability) are not required to be open to motorized use. In other words, motorized suitability determinations and ROS classifications *do not require* motorized use in those areas. The specific location of motorized use designations should be based on the minimization criteria, outlined in section four above.

It appears that one problem with the San Juan's approach is that suitability determinations (suitable, unsuitable, or suitable opportunity) in the current Forest Plan directly reflect current motor vehicle designations. SDEIS at 49. But the Forest Service's regulations define "recreation opportunity" as "[a]n opportunity to participate in specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue." 36 C.F.R. § 219.19. And the regulations define "recreation setting" as "[t]he social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities." *Id.* Thus ROS classifications represent *opportunities*, not *requirements*. To the extent the San Juan Forest Plan establishes ROS classifications as standards, this is inconsistent with the agency's own rules. Based on this understanding, only Alternative C would require a Forest Plan amendment to allow motorized use in areas classified as semiprimitive nonmotorized. SDEIS at 199.

The Forest Service must also determine which substantive requirements of the 2012 Planning Rule are directly related to the proposed Forest Plan amendments, and apply those requirements accordingly. The agency is supposed to provide early notification to the public of which substantive requirements are likely to be implicated, thereby facilitating public engagement and enhancing transparency. Any determination of which requirements are directly related must be based on the purpose and effects of the proposed amendment, using best available science, scoping, effects analysis, monitoring data, and other rationale to inform the determination. Where species of conservation concern (SCC) have not been identified and an amendment could have substantial adverse impacts to or substantially lessen protections for a specific species, the responsible official

must determine whether that species is a potential SCC and, if so, must apply the requirements of section 219.9(b) of the 2012 rule to that species as if it were an SCC.

Under the Clean Water Act (CWA), states are responsible for developing water quality standards to protect the desired conditions of each waterway within the state's regulatory jurisdiction. 33 U.S.C. § 1313(c). Water bodies that fail to meet water quality standards are deemed "water quality-limited" and placed on the CWA's § 303(d) list. The CWA requires all federal agencies to comply with water quality standards, including a state's anti-degradation policy. 33 U.S.C. § 1323(a). The Forest Service must ensure all activities in this proposal comply with the CWA. In particular, it must ensure its proposal to designated motorized use routes and trails, and ongoing use, will not cause or contribute to a violation of water quality standards.

Finally, the Forest Service must ensure that its actions comply with the Endangered Species Act (ESA). The project area on the San Juan National Forest provides habitat for species listed under the ESA, including Canada lynx, Mexican spotted owl, bonytail, Colorado pikeminnow, humpback chub, razorback sucker, and greenback lineage cutthroat trout. Section 7 of the ESA imposes a substantive obligation on federal agencies to "insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of" habitat that has been designated as critical for the species. 16 U.S.C. § 1536(a)(2).

Importantly, we encourage the Forest Service to be transparent about the consultation process and affirmatively post all consultation documents, including any Forest Service Biological Evaluations or Assessments, any letters seeking concurrence, and any responses or Biological Opinions from the Fish and Wildlife Service (FWS). Without these records, we are unable to assess the agency's analysis of impacts to wildlife in light of FWS's expert opinion. Providing this information will allow the public to view these critical documents, and other documents in the project record, without the need to submit a formal Freedom of Information Act request. Without this information being publicly available during the notice and comment period, we are unable to meaningfully comment on the agencies' determinations or analysis.

Conclusion

It is crucial that the Forest Service adopt a sensible and sustainable travel management approach that moves the forest towards a balanced motorized road and trail system that provides access to the national forest while protecting and restoring natural resources, including fish and wildlife. Reestablishing a balance between motorized access and other, non-motorized access will result in significant environmental benefits.

Sincerely,

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

Marla Fox, Rewilding Attorney
80 SE Madison Street, Suite 210

Portland, OR 97214
(651) 434-7737
mfox@wildearthguardians.org

List of Attachments

The following attachments are part of this comment and should be included in the project record:

Attachment A: Memorandum from Brian Ferebee, Regional Forester, to Forest and Grassland Supervisors, *Travel Management Rule (TMR) Implementation* (March 17, 2017).

Attachment B: SDEIS, Appendix D (with red highlighting by WildEarth Guardians to show road decisions that we have concerns about).

Attachment C: Switalski, T.A. and A. Jones, *Off-road vehicle best management practices for forestlands: A review of scientific literature and guidance for managers*, Journal of Cons. Planning Vol. 8 (2012).

Attachment D: Ruggiero, et al, eds. *Ecology and conservation of lynx in the United States*, Rocky Mountain Research Station Gen. Tech. Rpt. RMRS-GTR-30WWW (Oct. 1999).