

Comments on the DEIS for the Tonto National Forest Travel Management Plan

Submitted September 15, 2014
via Electronic Mail and Certified Mail
#7014-0150-0001-2587-0812

On Behalf of:
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The Wilderness Society
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I. Introduction

Thank you for providing the opportunity to comment on the Draft Environmental Impact Statement (“DEIS”) for the Tonto National Forest’s (“TNF”) ongoing travel management planning process. We appreciate the TNF’s commitment to ensuring public input throughout this process. The following comments are submitted on behalf of all members of our collective organizations who care deeply about our National Forests and are concerned about management of motorized vehicles on these forests.

The following organizations endorse and support these comments:

For the past thirty years, **Archaeology Southwest**, a non-profit organization based in Tucson, has been dedicated to exploring and protecting the places of the past. Archaeology Southwest has practiced a holistic, conservation-based approach that we call Preservation Archaeology. By exploring what makes a place special, sharing this knowledge in innovative ways, and enacting flexible site protection strategies, we foster meaningful connections to the past and respectfully safeguard irreplaceable cultural resources.

The **Center for Biological Diversity** is a non-profit public service organization with more than 775,000 members and online activists dedicated to conservation and recovery of at-risk fauna and flora, including those occurring on the Tonto National Forest. It has long-standing interests in travel management on forest lands throughout the Southwest, especially as that management affects wildlife species and habitat.

The **Sierra Club** is one of the oldest and most influential grassroots environmental organizations in the country. The Sierra Club’s mission is “to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.” The Grand Canyon (Arizona) Chapter has more than 35,000 members and supporters in the State of Arizona who value quiet recreation and protection of the wildlife, plants, water, and soils of the Tonto National Forest. Our members enjoy hiking, camping, backpacking, bird watching, photography, botanizing, bicycling, horseback riding, and exploring archaeological sites in the Forest.

The Wilderness Society is a national, not-for-profit conservation organization with over 350,000 members. Founded in 1935 by Robert Marshall, Aldo Leopold, and Benton MacKaye, we provide scientific, economic, legal, and policy guidance to land managers, communities, local conservation groups, and state and federal decisionmakers. In doing so, we hope to ensure the best management of our public lands for recreation, wildlife conservation, water quality, and the ability to enjoy public lands for inspiration and spiritual renewal.

WildEarth Guardians is a non-profit corporation, incorporated in New Mexico, with 44,000 members nationwide. WildEarth Guardians’ primary goals include protection and restoration of endangered species and riparian and other sensitive ecosystems in the southwestern United States that have been impaired as a result of public and private actions and projects, including excessive off-road vehicle use and other harmful recreational activities. Many members and staff of WildEarth Guardians live and/or recreate in Arizona and frequently use and enjoy, and intend to continue using and enjoying, the Tonto for recreational, aesthetic, and scientific activities.

II. Federal Regulation of Travel Management

The need for travel management actions, such as the one addressed by this DEIS, arose over 40 years ago with the signing of an executive order by President Richard Nixon. In 1972, the President recognized that

widespread use of off-highway vehicles (“OHVs”) on public lands was “in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity.” Exec. Order No. 11,644, 37 Fed. Reg. 2877 (Feb. 8, 1972), as amended by Exec. Order 11989 (May 27, 1977).). Importantly, these conflicts “demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands, “resulting in regulations “based upon the protection of resources of the public lands, promotion of safety of all users of those lands, and minimization of conflicts among the various users of those lands.” *Id.* This executive order also required federal agencies, including the Forest Service, to designate OHV roads and trails in such a manner as to minimize “damage to soil, watershed, vegetation, or other resources,” “harassment of wildlife or significant disruption of wildlife habitats,” and conflicts between users. *Id.* These minimization criteria were codified in the Travel Management Rule (“TMR”). 36 C.F.R. § 212.55(b).

Federal courts that have addressed this issue have determined that the Forest Service must explain how the minimization criteria have been applied in route designation decisions. *E.g.*, *Idaho Conservation League v. Guzman*, 766 F. Supp. 2d 1056, 1074 (D. Idaho 2011); *Wildlands CPR, Inc. v. U.S. Forest Serv.*, 872 F. Supp. 2d 1064, 1082 (D. Mont. 2012).

The TNF’s travel management action is being undertaken pursuant to both the TMR and executive orders requiring elimination of general cross-country motorized travel and designation of motorized routes and areas that minimize resource impacts and user conflict. Therefore, within both the final travel management plan and the final environmental impact statement, the TNF must address how it applied the minimization criteria outlined in the TMR to determine the appropriate designated route system for this forest.

III. Impacts from Year Round Motorized Use Must be Analyzed

One of the baseline considerations when thinking about the TNF is that the forest never gets any long term rest from recreational use. The low desert areas get used year round, even during the hot summer months. Upper elevations rarely get enough snow to close them for long periods of time. The TNF is never snowed-in, as is the case for National Forests in Montana and Idaho, allowing for continued and pervasive proliferation of user-created routes that are used year-round. This is an important reason why resource protection must be a top priority on the TNF – the implementation of a travel management plan that is created with the goal of minimizing resource impacts is the only way that we can give sensitive areas on the TNF the “rest,” and certainly the protection, that they so desperately need.

Some of the sensitive areas that we have previously highlighted in our comments during this project include: the Sierra Ancha Experimental Forest; Picket Post, Bush Highway, Upper Forks Park Creek, Buckhorn Mountain and Hauffer Research Natural Areas; Sycamore Creek and Blue Point Cottonwood Natural Areas; Wild and Scenic segments of the Verde River, as well as several eligible segments of the Salt, Upper Tonto, Pinto Creek, and East Verde. These areas have significant cultural, historical, and ecological value. They are home to numerous threatened and endangered species. Collectively, these areas represent an important part of Arizona’s ecological heritage, which is continually threatened by development, drought, and human exploitation, especially in areas not managed by the Forest Service. The TNF is in a unique position to protect these areas for current and future generations, and indeed must do so under its congressional mandate. Part of this protection must be from unauthorized, illegal, and excessive use of motorized vehicles.

The impacts of motorized use on the TNF have been documented by the public, the Forest Service, and our organizations. The impacts that occur on the TNF are best summarized by current literature and scientific studies that have documented the impacts of motorized travel on forest ecosystems throughout the country. A comprehensive review of the many impacts associated with OHV use on public lands is attached as Appendix A to these comments. Impacts to specific forest resources are discussed in more detail throughout our comments.

IV. The Forest Service's Preferred Alternative

One of our major concerns with the DEIS is the selection of Alternative C as the preferred alternative. Alternative C does not adequately protect our public land resources. There is an inherent conflict between user access and resource protection under current management that would not be resolved under Alternative C. Alternative C is also too heavily biased in favor of motorized use at the expense of forest/public resources. The basic, overarching mission of the TNF is to protect forest resources for current and future generations. Moreover, the TNF has numerous legal obligations for protection of specific resources, such as Wilderness areas, Wild and Scenic Rivers, Inventoried Roadless Areas (“IRAs”), and threatened and endangered species. Under Alternative C, the Forest Service would designate a travel management plan for the TNF that fails to protect forest resources for future generations and also fails to meet its legal obligations for protection of various areas and resources under federal law.

With an ever expanding urban area located adjacent to the TNF and an ever shrinking Forest Service budget, we understand that protecting forest resources is not easy. We understand that, from a management standpoint, it is sometimes easier to simply allow OHV users into certain areas at the expense of resource protection. We shall be primarily focusing our comments on Alternatives B and C. Alternative A maintains the status quo, which does not meet the requirements of the TMR, and Alternative D proposes excessive motorized use and similarly fails to meet the intent and legal requirements of the TMR. We support some components of Alternative B, but find that it also is room for improvement from a reasonable access and natural resource protection perspective.

V. Desired Conditions for Travel Management

The introduction and framing of this action by the TNF in the DEIS does not acknowledge the need for minimization outlined above, nor the current damage being caused by poorly managed OHV use. The statement on the existing condition of travel management does not mention current unacceptable resource damage, conflicts between users, or how current management conflicts with federal law. *See* DEIS at 6-7. Nor does the desired condition statement address resource improvement, protection of forest resources, or better accommodation of non-motorized users. *See* DEIS at 8.

The TNF has a responsibility to frame this action appropriately to communicate to the public and interested stakeholders the goals of this action, the requirements that must be met under federal law, and the negative impacts that have resulted from the current management situation. Instead, as currently worded, the DEIS and the alternatives considered therein focus on how new management will limit or restrict access or impact motorized opportunities. The DEIS is fundamentally skewed toward highlighting the benefits of motorized use and ensuring that the TNF makes a decision that's primary purpose is to satisfy motorized users.

Additionally, we are concerned that TNF may be framing this action to imply that if a route is decommissioned then the general public is in some way losing something. This should be modified so

that it is acknowledged that route closures and decommissioning also result in better resource protection, improved water quality, better non-motorized and quiet recreation opportunities, cleaner air, increased likelihood of species recovery, and numerous other benefits. The benefits of travel management planning are not sufficiently disclosed in the DEIS.

Recommendation:

The TNF must accurately characterize the need for this action, the problems with current management, and the existing and desired conditions to take into account the requirements of executive orders 11644 and 11989 and the TMR as they relate to the reasons for travel management and the objectives for this action. Language should be added that addresses the need to eliminate cross-country travel, the current and past resource damage that has occurred due to unregulated OHV use, the lack of adequate enforcement, and continuing user conflicts between motorized and non-motorized users. Disclosing these realities will help to better align the outcome of this process with the actual needs and purpose of this action and the requirements and intent of federal law.

VI. Purpose and Need Statements

A. Purpose

The TNF currently defines this action's purpose as "to comply with the Travel Management Rule by providing a system of roads, trails, and areas designated for motor vehicle use." DEIS at 8. There is also a reference to the two executive orders pertaining to motor vehicle use, *id.*, but no mention of what both executive orders require, which is improved management of motorized use. The TNF has defined the purpose of this action too narrowly. In fact, as stated in EO 11644, which prompted the development of the TMR, the purpose of this action should be "to protect the resources of [the TNF], to promote the safety of all users of [the TNF], and to minimize conflicts among the various uses of [the TNF]."

Recommendation:

The TNF must redefine the purpose of this action to include this direction or a similar statement, to ensure that the travel management planning process and final travel management plan is consistent with the intent of the executive orders.

B. Need

The TNF defines the needs for this action as follows (*see* DEIS at 8):

- "to determine which, if any, authorized National Forest System roads currently open should be closed to motorized travel."
- "to determine which, if any, authorized roads currently closed should be open to motorized travel."
- "to identify any restrictions on allowed uses, classes of vehicles, and/or seasons of use for specific routes."
- "to determine which, if any, unauthorized routes should be added to National Forest System as trails or roads open for motorized access."

- “to determine if, when, where, and how far motor vehicles may be driven off designated roads for the sole purpose of motorized dispersed camping, motorized big game retrieval, and collection of forest products.”
- “to amend the Forest Plan, in part, to prohibit motor vehicle use off designated National Forest System roads, trails, and areas except as shown on the motor vehicle use map and to revise wording for consistency regarding definition to comply with Travel Management Rule.”

This list fails to capture other equally important and relevant needs for this travel management action. One of the key components of the TMR is a mandate to minimize effects on forest resources and conflicts between motorized users and other forest uses. 36 C.F.R. § 212.55(b) (2013). Additionally, under the TMR, the Forest Service is **required** to eliminate cross-country travel except in limited circumstances. The TNF fails to capture important and necessary parts of the TMR process that should influence decision making.

Recommendation:

The TNF should acknowledge the following additional needs for this project, which will further clarify the necessity of this action and the constraints on the Forest Service’s final decision:

- The need to identify a route system that minimizes damages to natural and cultural resources on the Tonto National Forest.
- The need to prohibit motor vehicle use off the system of designated roads, trails, and areas, thereby eliminating cross-country travel except in designated areas, consistent with the Travel Management Rule (36 C.F.R § 261.13).
- The need to minimize conflict between motorized and non-motorized forest users.

VII. Baseline Determination

The TNF states that there are currently **2,952 miles** of roads designated as “open to the public” based on the TNF’s own database. DEIS at 6. This official open route network should be the **only** system considered as the baseline open route system for this project.

The TNF, however, has also included in its baseline calculation of routes open to the public 1,739 miles of ML1 roads (officially “closed to vehicular use”) and 267 miles of “decommissioned” routes. *Id.* By incorporating these routes, the TNF has established the current baseline system of “open to motor vehicle use” routes as consisting of approximately **5,000 miles**. DEIS at 7. This analysis is fundamentally flawed.

As the TNF states, the travel management process “begins with an analysis of the transportation system, which is then carried into a NEPA analysis for proposed changes to the system.” DEIS at 3. The travel management process baseline should be determined based on the best information available, and with full disclosure as to the failings of that information, as described below, and not on past use or the mere fact that a route exists on the ground. Disclosure of the number and location of unauthorized routes, as well as the impacts associated with use of those routes, is a necessary component of the no-action alternative, but is separate and distinct from the identification of the baseline open route system.

The current system of TNF roads includes “those identified with a road maintenance level in the Forest’s road management records (call [sic] the Infrastructure or “Infra” database).” DEIS at 57. The TNF states

that the Infra database “does not reflect the current condition to such a magnitude that it cannot be used as the existing condition.” DEIS at 57. The TNF bases this conclusion on the fact that the database does not include “roads not receiving maintenance by the Forest Service” and “all motorized trails.” DEIS at 57. However, such roads are in fact not part of the official TNF open route system, and therefore would not have been included in the Infra database in any case. Additionally, while the Infra database may not reflect current **use** on the TNF, it does reflect a version, however incongruous with current use, of current authorized management, classification, and maintenance of roads. Regardless of whether the Forest Service chooses to add, change, or decommission roads from this database at the conclusion of this travel management process, it cannot ignore the information in the database simply because forest users have disregarded official TNF road guidelines in the past. The legal system of motorized routes officially designated as “open to the public” should be, at a minimum, included as an alternative in the final decision for comparison purposes.

The 1985 forest management plan, which is still in effect, “listed road system miles by road maintenance levels,” which included a total 3,203 miles of road classified as ML 1 to ML 5. DEIS at 57-58. 2,961 of those miles were open to public use. *Id.* In 1990, the TNF, after completing “an intensive analysis of all inventoried roads on the forest,” released the RATM decision, which identified a total of 4,676 total miles of road, 2,757 miles of which were classified as open to public use. *Id.* at 58. After both of these decisions were complete, the TNF went through various technological changes in how the database was managed. *Id.* The current TNF route databases contain errors and may misclassify routes. However, instead of throwing out all previous forest decisions and route system data, the Forest Service should use that data to the extent possible to develop a baseline rooted in previous NEPA decision making and designations made through official Forest Service action – our suggestions for how to determine this baseline are included in our recommendations below.

The TNF relies on the fact that “implementation of road management objectives previously assigned to roads from the RATM process was never fully implemented,” to conclude that the information from the TNF roads databases should be discarded and “not used to generate any of the action alternatives.” DEIS at 58-59. The leap from lack of implementation of past forest decisions, which were based on “intensive analysis” and collaboration of Forest Service staff, to the need to disregard all information contained therein in many instances based on anecdotal information on current use, is significant and not warranted or appropriate in this case. Even if, as the TNF argues, many roads that were designated closed, never formally designated, or decommissioned were subject to continued unauthorized use, these past official decisions are still valid and must be accounted for. Because the Forest Service has not yet implemented a previous decision, due to budget and staffing issues, is not a valid rationale for ignoring these past decisions. If the Forest Service determines that these roads previously closed or decommissioned should be “part of the desired road network,” DEIS at 59, during this travel management process, then such roads should be designated through site-specific NEPA analysis in this process and monitoring and enforcement of the designations should occur moving forward. Otherwise, the prior NEPA analysis and decisions that relied upon those roads as being closed and/or decommissioned must also be revisited and the environmental impacts from those roads remaining open and on the system fully disclosed and analyzed. The TNF cannot summarily dismiss previous decisions on official system routes because it is inconvenient or would create additional on-the-ground work for the Forest Service at some later point.

Additionally, the TNF’s formulation of the baseline and “no-action” conditions for this project lead to a number of problems with the DEIS and any final decision that is reached by relying on this DEIS. First, roads that are not currently authorized for motor vehicle use under the Forest Service’s own regulations and guidelines cannot be arbitrarily reclassified as “open to motor vehicle use” merely because unauthorized or illegal use of those roads may be occurring. Second, including routes in the baseline that

are currently officially designated as closed to motor vehicle use leads to a fundamental mischaracterization of the “no-action” alternative, as well as all other alternatives. Third, under the Region 3 *First Amended Programmatic Agreement (PA) Regarding Historic Property Protection and Responsibilities*, requires that formal consultation with the State Historic Preservation Office occur if roads or trails are designated open that are not currently system roads. The decision to consider all roads open regardless of their status as system roads becomes a defacto end around the National Historic Preservation Act Section 106 process and violates the intent and purposes of the Standard Consultation Protocol for Travel Management Route Designation specified as Appendix I in the aforementioned PA. Fourth, by concluding that these roads are in fact open to motor vehicle use, the TNF ensures that the NEPA analysis will fail to distinguish between impacts associated with legal use of the road system vs. impacts associated with unauthorized use. Each of these problems is discussed in turn below.

A. The Forest Service cannot arbitrarily reclassify roads as “open to motor vehicle use” in the baseline.

The TNF’s baseline argument assumes that it is acceptable to draw no distinction between use of routes and classification of those routes – within this DEIS routes that have been or are currently being used by motor vehicles are classified as “open to motor vehicle use” regardless of their official designation. The decision to assess the current route system in this way is flawed and violates basic TMR and NEPA principles.

Under Forest Service guidelines, the baseline system for travel management planning should “consolidate existing direction on travel management for the area under consideration into a single location. This step should not create new direction.” FSM 7709.55_11.1 (January 8, 2009). The TMR defines designated roads, trails, and areas as a road, trail, or area that is “designated for motor vehicle use.” 36 C.F.R. § 212.1. Therefore, for the purpose of this action, the TNF must use only those routes officially designated as open to motor vehicle use as the baseline open route system – which represent the existing direction for travel management for this forest.

Including routes that have been officially designated as “closed to motor vehicle use” or classified as “decommissioned” as “open” routes essentially allows the TNF to reclassify routes without undertaking any NEPA analysis.

Recommendation:

Baseline Determination: The appropriate baseline of existing “open” system routes consists of those routes which have been documented in relevant NEPA analysis. Any routes lacking documentation should be analyzed as new unauthorized routes, in recognition that there is no record of administrative decision or analysis addressing the environmental impacts of motor vehicle use on these routes, and that the Forest Service is unsure as to origin of some routes. Although we recognize the challenges associated with locating adequate supportive documentation given a past history of poor recordkeeping, we fundamentally reject the position that the baseline should be based entirely on a best guess by the Forest Service, rejecting prior NEPA analysis.

To address this issue, we strongly recommend that the Forest Service develop a “documentation” spreadsheet which would supplement the description of the no-action alternative, and would eventually accompany the MVUM. This spreadsheet would summarize the NEPA decisions, together with other relevant documentation (e.g., formal adoption of road/trail objectives for the route; information establishing consistent maintenance expenditures over time, etc.) supporting the inclusion of each route on the authorized system. We have included a sample spreadsheet to serve as an example. *See Appendix*

B. Such documentation would include NEPA analysis and decision documents and reasons why the route satisfies route designation criteria (*see* section 3 of Executive Order 11644; 36 C.F.R. § 212.55). Routes lacking such documentation should be marked accordingly, and if the Forest Service proposes to designate the route in the action alternatives, it must include site-specific analysis of that route in this process.

We request consideration of an additional, separate alternative limited to documented routes as described above in a supplemental DEIS. We further request that the agency compare proposed route additions to our “limited to open system routes” alternative and baseline as it will provide a much more accurate picture of ongoing impacts related to motorized recreation and allows for a true analysis of the impacts of the proposed alternatives.

B. Classification of all closed or decommissioned routes as “open to motor vehicle use” leads to mischaracterization of the impacts of the considered alternatives.

i. Alternative A

Alternative A is the “no-action” alternative for this project. Under NEPA regulations, the “no-action” alternative for travel management planning is merely no change in current management. The “no-action” alternative presented in this DEIS does not meet this definition and is currently in violation of NEPA regulations.

The TNF’s current “no-action” alternative, as presented in the DEIS, equates motorized use on the TNF with management of motorized use on the TNF. If actually implemented, Alternative A would create a much larger open route system than is currently authorized As opposed to being limited to the 2,952 miles of legally open routes, the public would instead have almost 5,000 miles of routes added to the official system as open to continued and officially condoned motorized use. Alternative A is in fact an alternative that would result in a significant increase in designated open motorized routes, without any NEPA analysis of the impacts of continued use on over 2,000 miles of forest roads. It is important for the Forest Service to correctly identify the current routes on the TNF and properly classify them, so that current use, previous Forest Service decisions, and the impacts associated with different types of routes are all captured within the DEIS for the no-action alternative.

A correct description of the “no-action” alternative for this project would be:

- Total Motorized Routes Open to the Public = 2,952 miles
- Total Routes Closed to the Public = 2,006.20 miles
- Total User-Created Routes = 672.34 miles

This is a more accurate reflection of the current system. Note that it does not rely on “use” for classification purposes, but rather on official Forest Service designation, as intended by NEPA and the TMR.

The no-action alternative should disclose that there is significant use of these non-system, closed, or decommissioned routes is not consistent with current regulations. It should also disclose the acreage of the TNF that remains open to cross-country travel, which would not change if no action is taken. This more accurately describes the current situation and highlights the very real problems with implementation, maintenance, and enforcement under existing management. Taken together, this revised description illuminates the true “no-action” alternative and provides a clear understanding of what would

happen if TNF did not undertake travel management planning, as well as what the other alternatives should be compared against.

ii. Alternative B

The DEIS states that Alternative B would provide “less motorized access than the existing condition” and was developed to address a number of issues identified in scoping, including “impacts to water and soil resources,” “impacts to wildlife habitat,” and “impacts to cultural resources,” to name a few. DEIS at 28. This is a highly misleading characterization of this alternative, which is in fact not the minimized alternative that the TNF would like readers to believe.

Table 6 outlining Alternative B in the DEIS shows a route system that would appear to significantly reduce the number of roads open to public use, especially those for “high-clearance” vehicles under Alternative B. However, closer examination reveals that what the TNF has done under this alternative is merely reclassify a majority of those roads to general motorized “trails.” DEIS at 36, Tbl. 6. This alternative would also **add** administrative routes and single-track trails, neither of which are presently designated in the current system. *Id.* Comparing the “Total Motorized Routes Open to the Public” column in the tables presented for Alternatives A and B would lead a reader to believe that under Alternative B, routes open to the public on the forest would be reduced by **2,399.01** miles. However, as established above, there are not actually 4,958.58 miles of routes currently designated as open to public motorized use on the TNF, there are in fact only 2,952 miles of designated open routes. This means that Alternative B would actually reduce routes legally open to the public by only **392.43** miles. This is a very significant difference and the current discrepancy may inadvertently lead many people to believe the legal, open route system on the forest would be severely reduced under Alternative B, which is incorrect.

We also note that elimination of cross-country travel on the Payson and Pleasant Valley Ranger Districts is not sufficiently analyzed within the DEIS in the comparison of alternatives, rather, the Forest Service focuses only on changes to the route system, creating an inherently flawed analysis.

iii. Alternative C

Alternative C is the TNF’s designated “preferred” alternative. As with the characterization of Alternative B in the DEIS, the TNF again gives the impression that this alternative would decrease the number of legally “open” routes on the forest by **1,389.06** miles. Again, this is incorrect. Relying on the TNF’s number of official “open” routes on the forest, this alternative would **increase** the number of total miles of routes open to public motorized use by **617.52** miles.

iv. Alternative D

Alternative D is the maximum motorized recreation access alternative for this project. Under Alternative D the number of routes open to public use would be 4,859.34 miles. Because of the way the TNF has characterized the no action alternative here, it would seem at first glance that even though this alternative was developed to provide “more motorized access than the existing system,” this alternative actually would decrease the mileage open to the public. Comparing the TNF’s misleading “routes open to public use” mileage in Alternative A to that proposed here, this alternative would apparently decrease the number of open public routes by **99.24** miles. The reality is that it would increase open routes by **1,907** miles from the existing designated open route system. As demonstrated here, because the no action alternative has been arbitrarily created, the TNF’s own statement about the increase in motorized access under this alternative does not fit the information provided in this DEIS. While the TNF is correct that

this alternative would increase motorized access, in significant ways, from the existing condition, this DEIS does not accurately reflect that reality.

Recommendation:

The TNF should describe the baseline system as outlined above, limiting routes described as “open to public use” to those that are actually officially open to public use (ML 2-5), as shown in Table 2. It should then discuss the alternatives appropriately, so that the real impact of the alternatives and the proposed changes from the baseline open route system is clear and fully disclosed to the public. Failure to do so creates a fatal flaw in the EIS and any decision that is based upon that lack of disclosure and analysis.

- C. Failure to distinguish between official system routes and other routes is in violation of the Standard Consultation Protocol for Travel Management Route Designation Developed Pursuant to Stipulation IV.A. of the Region 3 First Amended Programmatic Agreement Regarding Historic Property Protection and Responsibilities.

The Protocol was developed specifically to provide the USFS with some latitude regarding consultation requirements by exempting “official” roads and trails from the formal consultation requirement. These roads and trails are defined in the Protocol “as those identified as “National Forest System Roads” and “National Forest System Trails” in the FS corporate database system (INFRA), as defined in the Region 3 *Travel Management Rule Implementation Guidelines*, dated 06/12/2006. These roads and trails have Forest Service numbers, usually appear on current visitor and travel management maps, and are reported on in the FS Annual Roads Accomplishment Report and similar accomplishment reports.” The current TNF decision regarding the baseline road system is many respects an “end around” the Protocol and a clear violation of the National Historic Preservation Act. The Protocol is clear that any decision by the USFS to designate the following as open to motorized use **requires** consultation:

- previously closed roads and trails not open to motor vehicle use
- non-system roads and trails, such as unauthorized user-created roads, old temporary roads, and other unclassified roads and trails
- non-system fixed routes or spurs and their associated features to access dispersed camp sites or areas, including the dispersed camp sites and areas themselves
- fixed-distance corridors along certain roads, including exempt roads, that will be designated for dispersed camping
- areas open to cross-country motorized travel
- roads or trails that are considered to be historic properties
- proposed new construction, reroutes, and realignments

Recommendation:

TNF should describe the baseline system as we recommend above. For those roads or trails that meet the aforementioned criteria undertake the necessary historic properties survey requirements and consultation with Arizona State Historic Preservation Office as outlined in the Protocol. Based on the INFRA database, Alternative C proposes an additional 2000 miles of roads that would need to be assessed for historic resources based on the Protocol requirements before these routes could be designated or appear on an MVUM.

- D. Failure to distinguish between official system routes and other routes present on the ground prevents environmental impacts from being fully disclosed or discussed within the DEIS.

In the DEIS, the TNF states that NEPA analysis is not required “to continue use of the National Forest Transportation System . . . as currently designated and managed under the “no-action” alternative. These decisions were made previously.” DEIS at 72. This statement would be correct if the TNF was actually using the currently designated system of ML 2-5 routes as the no-action alternative. However, since the TNF has decided to arbitrarily abandon all internal route system databases in favor of an estimate of route usage as its baseline, this statement does not apply to the no-action alternative here. Instead, because many of the routes included in the baseline system were previously supposed to be managed as closed, decommissioned, or may in fact have been created by users without any NEPA analysis, the Forest Service must discuss the impacts of continued use of these roads within this DEIS.

Because the Forest Service is relying on past and current use to provide the baseline for this action, it is altogether unclear whether roads that were slated to be closed or decommissioned were reopened or continued to be used because such work was never completed or because forest users disregarded or removed signs, barriers, revegetated areas, and other Forest Service work. We find it doubtful that the TNF has adequate information to determine how or why many of the routes that should have been managed as closed were in fact being used.

The most significant problem from the standpoint of effects analysis in the DEIS is that roads that were supposed to be managed as closed or decommissioned are now being treated as though they were open and had been analyzed under NEPA to be open. The decision to close or decommission roads was made for a reason, likely due to unacceptable resource damage or to mitigate other open routes or new construction. When the TNF assumes these roads were part of the forest system and therefore continuing impacts do not need to be analyzed for these routes, it is neglecting to analyze potentially serious impacts associated with unmaintained and improperly managed routes. Many of these routes may have been or still may be contributing to runoff into streams, destruction of species habitat, negative impacts to archeological resources, degradation of air quality, and other environmental impacts.

This environmental harm must be accounted for and disclosed to the public and remedies to the problem addressed in the ROD for this decision to be compliant with NEPA requirements. See *S. Fork Band of W. Shoshone of Nev. v. U.S. Dept. of Interior*, 588 F.3d 718, 726 (9th Cir. 2009) (NEPA document must consider all environmental impacts unless prior NEPA document explicitly considered the environmental impacts, including future impacts); see also *Id. Conservation League v. U.S. Forest Serv.*, 2012 WL 3758161 (D.Id. Aug. 29, 2012) (same); *Wilderness Soc’y v. U.S. Forest Serv.*, 850 F.Supp.2d 1144, 1157-58 (D.Id. 2012) (including existing unauthorized routes, and other non-new routes, in designated route system “does not absolve [the Forest Service] of the need to take a ‘hard look’ at the impact of these roads before making them a part of the designated route system in the area”).

Recommendation:

The Forest Service has a responsibility to analyze and discuss the impacts associated with reclassification of roads, especially when that reclassification and mapping will result in significantly more use and need for maintenance. The TNF’s assumption that it need not analyze impacts from closed or decommissioned routes because it has taken improperly included them in the official open route system is baseless and in violation of both the intent and requirements of NEPA.

VIII. Discarding the Travel Analysis Process Report is Arbitrary and Capricious

The TNF conducted a travel analysis process, outlined in 36 C.F.R. § 212.5(b), in 2006 and there exists a Travel Analysis Process Report dated 2011.¹ DEIS at 3. As part of this process, each national forest must “identify the minimum road system [“MRS”] needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.” 36 C.F.R. § 212.5(b). The minimum system must not only meet the needs for resource and management objectives, it also must “reflect long-term funding expectations,” and minimize environmental impacts caused by road construction, decommissioning, and maintenance. *Id.*

As part of its Travel Analysis Process report (TAP) the TNF “recommended a minimum road system” and presented these recommendations to the public in 2009. We carefully reviewed the TAP and provided extensive comments on this document in our scoping comments for the current project. Our concerns regarding the TAP have not been addressed and unfortunately, appear to have been compounded. Rather than appropriately utilize the information in the TAPs,² it appears that the TNF has discarded the TAPs entirely. DEIS at 60. The information, conclusions, and recommendations contained in these TAPs is relevant to the current decision-making process. Absent the TNF providing a rational basis or demonstrating a reason for disregarding the 2006 and 2011 TAPs, disregarding the TAPs is arbitrary and capricious.

The risk-benefit analysis detailed in the 2006 and 2011 TAPs is a requirement of Forest Service Handbook 7709.55, 21.4. This information is key to developing proposals for Travel Management. This information is also the only place in most project records where the Forest Service can demonstrate a route-by-route assessment of its current motorized route system.

The TNF TAPs documented significant problems in the TNF regarding maintenance of motorized routes and, therefore, a significant problem protecting natural resources and access to public lands. As the TNF is aware, unmaintained routes are often eroded, rutted and impassable. The TNF acknowledges that to “avoid incremental deterioration of roadway infrastructure” and thereby prevent harm to natural resources and public access, the TNF must make changes to the route system or budgets must change. 2011 TAP. The DEIS states that user-created roads “are not kept in the Forest Service roads inventory, and do not receive maintenance to ensure environmental impacts are minimized.” DEIS at 7. By this statement, the TNF acknowledges that lack of maintenance results in a failure to minimize impacts from roads. This is true for all routes, not only user-created routes.

The information about the number of miles of routes in INFRA database at the time the TAP was developed indicated that the TNF had 4,533 miles of system routes, including closed ML1 routes. Forest Service 2011, TAP at 29. This number has mysteriously and without rational explanation jumped to 4,958 miles in the DEIS. DEIS at 7. This discrepancy must be explained and NEPA decisions provided to support the inclusion of these routes on the system.

¹ It is not clear if there is a single TAP from 2006 that has been reprinted and dated 2011 or if a new TAP was developed. We ask for clarification on this point.

² Travel Analysis should “form the basis for the proposed actions and purpose and need statements in the subsequent NEPA process.” Forest Service Manual 7712.3(2). Also see Forest Service Manual 7712: Travel analysis assesses the current forest transportation system and identifies issues and assesses benefits, problems, and risks to inform decisions related to identification of the minimum road system per 36 CFR Part 212.5(b)(1) and designation of roads, trails and areas for motor vehicle use per 36 CFR Part 212.51. “

In the TNF, the annual costs of maintaining the Forest Service system routes is \$6.9 million according to the 2011 TAP Appendix D, page 3, and \$9.7 million according to the DEIS at page 80. The majority of this cost, over \$4.2 or perhaps \$4.4 million is related to ML 2 routes. *Id.* Unfortunately, the Forest Service budget for the TNF is just over \$2.3 million, resulting in a \$7.4 million **annual** shortfall. DEIS at 80. Information in the TAP indicates that just over 400 miles of routes can be maintained in the TNF each year, while in the DEIS at page 76 the TNF indicates that, on average since 2009 fewer than 700 miles are maintained annually. Using either document indicates the TNF is leaving more than 4,000 miles of routes unmaintained and therefore, more than 4,000 miles of routes where negative environmental impacts are not only *not minimized*, but are very likely increasing. The impact from the lack of maintenance of these routes and steps that will be taken to minimize these impacts have not been fully analyzed or disclosed to the public.

The mitigation measures identified in the TAP and in the DEIS Implementation Specialist Report rely heavily on route construction and maintenance, for which the TNF has acknowledged it has insufficient funding. DEIS at 75 (“the Tonto National Forest road system has accrued a substantial amount of deferred maintenance.”); DEIS Implementation Specialist Report at 11, 15, 16, 24, 26, 40, 41, page 5 of Appendix D,³; 2011 TAP at 174. For the proposed OHV “permit areas,” maintenance costs are key features for enforcement. Reliance on maintenance as a mitigation measure in any analysis of route or permit area impacts is ill-placed and is clearly arbitrary and capricious given the drastic shortfall in funding for maintenance of existing routes.

The failure to utilize the TAPs in the development of the Proposed Action and alternatives has resulted in an inappropriate baseline determination, an excessively high number of proposed additions to the current route system, and the failure to identify and close roads that are causing resource damage.

The TNF has discarded either the 2006 or 2011 TAP (or both) because it “does not have the sufficient information to inform travel management decisions, and a recent review of the current road system exposed errors.” DEIS at 60. There is no explanation given as to why or how the data is incomplete or why those errors created fatal flaws, making the information already gathered about road impacts and needs useless. The only explanation put forth by the TNF is that information obtained from district personnel and other persons during the initial phase of this travel management process indicated that the road system identified through TAP and in other forest databases did not match the use on the ground. DEIS at 60. This is not a valid reason to throw out the entire analysis process.

The route system identified as the MRS by TAP is based on what the Forest Service determines to be needed for administration and use of the forest, with consideration also given to what the forest can afford to maintain and negative impacts occurring from the road system. Therefore, it does not matter whether the route classifications determined by TAP or other databases match use on the ground. All factors analyzed in the report, and the recommendations from personnel based on it, should be used to develop alternatives to the current system during travel management and determination of roads necessary for the minimum road system based upon actual need. Deviations from these recommendations must be fully explained. The decision to disregard all data obtained through TAP is nonsensical and contradicts previous statements without adequate explanation. Discarding the data because the INFRA database has data errors also contradicts statements and assumptions found elsewhere in the DEIS, for example at page 89.

According to the TNF, “[e]ach motorized route and cross-country area proposed in the alternatives has been reviewed by resource specialists” during this travel management process. DEIS at 71. However, we

³ “Each trail requires a recurring interval for routine maintenance tasks in order to keep the trail functional, stable and useable.”

are unable to find any documentation of this new route-by-route analysis; the only route-by-route analysis in the record is that in the two TAPs, which has been discredited and disregarded as inaccurate. This information must be provided to the public and input allowed before a final decision is made.

As an example of how the failure to complete or provide a route-by-route analysis has impacted the development of the proposed route designations, alternative development and ability of the public to comment upon those alternatives, we refer you to a chart at page 124 of the TAP. This chart indicated the TNF planned to open a large number of currently closed ML1 routes identified as high risk, low benefit. This information is not included in the DEIS. It is unclear which of these routes are included in the DEIS alternatives as proposed open routes in any alternative. The designation of high risk, low benefit routes in the face of staggering road maintenance budget shortfalls flies in the face of good land management practices and the Forest Service's own recommendations for route consideration found elsewhere in the TAP. Unfortunately, this key information has inexplicably disappeared from the analysis for this project. The TNF is identifying an existing route system based on illegal motorized use on administratively closed routes and user-created routes. This simply makes no sense and is perhaps the very definition of arbitrary and capricious agency decision-making. We therefore ask for an explanation as to how the TNF determined the existing TAP errors, what those errors were, why they could not be fixed, why those errors ruined the validity of the entire TAP report, and why decisions were made that contradict the recommendations for roads that were not found to be in error.

We have repeatedly asked the TNF to analyze impacts to ecological and cultural resources across the entire transportation system as a critical factor in determining the "minimum road system" as envisioned by 36 C.F.R. § 212.5(b)(1) and the recent draft directives and guidance for implementing the Travel Management Rule. The TNF is disregarding the only document within the project record that attempts to do just that, in violation of NEPA and the APA. The only remedy to this critical flaw in the analysis is to identify, disclose and allow public comment upon the costs and benefits (environmental, fiscal, and social) of every single road planned for designation as any type of system route in this decision, whether existing, currently identified as an open system route or closed system route, user-created, administrative, or any other classification the TNF may come up with.

Recommendation:

- The TNF should provide a rational explanation for dismissing the entire TAP (or TAPs) and previously identified MRS.
- The TNF should provide a route-by-route analysis of the existing and proposed designated system for all alternatives that identifies the risks and benefits of each route. The rationale for including any High Risk/Low Benefit route must be provided. In light of extreme budget constraints and excessive route densities on the ground, the rationale for including any user-created route must be provided.
- The TNF should provide an analysis of the fiscal consequences of each alternative, including a description of how many routes are likely to receive inadequate maintenance and management and the impacts to the environment, public health, and access that might ensue.
- The TNF should provide documentation of the route by route analysis alleged at page 71 of the DEIS.
- Given the following statement in the DEIS, please explain what documents were used for the development of the proposed designated route system in 2013. "As part of the process in

complying with the final travel management regulations, the Tonto National Forest conducted a forestwide travel analysis process in 2006, reviewing the entire current road system. The intent of this process was to identify needed changes to the existing road and motorized trail systems. In early 2013, with the development of an environmental impact statement to analyze the effects of implementing the travel management rule, forest staff reviewed and refined the proposed designated road and motorized trail system to ensure protection, while providing for administration and utilization, of National Forest System lands (36 CFR 212.5(b)).”

- Additionally, if the proposed designated route system was developed utilizing the TAP from 2006, please provide a rational basis for now completely discarding the TAP.

IX. Route Evaluation Tree

We remain very concerned about the use of the Route Evaluation Tree to develop the 2009 and 2013 proposed actions for the TNF. A court decision has questioned the use of the Route Evaluation Tree. We have commented on our concern about the use of the Route Evaluation Tree in scoping comments and comments to the 2012 Draft EA, however our comments and concerns were never addressed.

To date, after more than four years of requests, we have not received a satisfactory response to our questions regarding the use of the Route Evaluation Tree.

In other travel planning processes in which we have been involved, the Route Evaluation Tree (or Decision Tree) was used to evaluate routes and develop recommendations for route designations. However, the Route Evaluation Tree did not include an inquiry as to how *each* proposed route would be consistent with and contribute to the protection of natural resources. In addition, the Route Evaluation Tree did not weigh the protection of natural resources above other considerations, such as preserving opportunities for motorized recreation. The use of the Route Evaluation Tree inevitably limits the impacts considered when designating routes and does so in a manner that not only fails to take into consideration mandatory legal requirements, but also improperly limits the range of management alternatives. The sequence of questions and limited content of the questions imply that the information gained from answering each question is of equal importance. However, the Forest Service is required by certain laws to prioritize protection of certain resources over other uses, including motorized access. By not making the relevant inquiries or clarifying the legal limitations on the standards for making determinations on routes, the Route Evaluation Tree can lead to the generation of straw man alternatives that cannot be chosen instead of a true range of legal, acceptable alternatives.

The decision in *Center for Biological Diversity et al., v. U.S. Bureau of Land Management*, No. C -6-4884 SI 26 (N.D. Cal. Sept. 28, 2009), discusses how a very similar process, known as the “Decision Tree” failed to consider the “minimization criteria” found at 43 C.F.R § 8342.1, the BLM’s regulations implementing Executive Order 11644, when the BLM was considering route designations in the West Mojave Desert Off Road Vehicle Designation Project in California (September 28, 2009). A key issue raised by the Center and recognized by the court was that there was no record regarding the application of the minimization criteria to routes designated using the decision tree. Also, the BLM could not demonstrate that each route was individually considered for designation.

We **again specifically request** the Forest Service to provide to us the route evaluation forms and any other information on the Route Evaluation Tree that would inform the public on what criteria were used for route designation decisions, how those criteria were weighted, and how the Route Evaluation Tree was applied *to each route*.

Recommendation:

Route designations, including use of the Route Evaluation Tree, must reflect adherence to the minimization criteria found in the Executive Orders and Subpart B of the TMR. Moreover, the record must reflect that each route designation complies with these requirements.

X. **Alternative Analysis**

A. “CBD” Alternative

We made a specific recommendation (included as Appendix C) in previous comments pertaining to the proposed action, that asked the Forest Service to consider an alternative that would remove unnecessary routes, reduce overall route density, include criteria for protecting the environment and expanding quiet-use recreational opportunities. **PLEASE NOTE, we did not ask for each route with a resource impact to be considered for closure, but rather asked the TNF to demonstrate how route designations would minimize these impacts.** This was not done. We again ask the TNF to consider both our general recommendations and specific recommendations and comments in crafting a proper range of alternatives. Appendix C identifies routes proposed as open that also intersect with resources of particular importance to the signatories of this letter. We **again** ask that the Forest Service analyze our recommendations and how the travel management designations minimize impacts to natural resources that we have identified for each route. The Forest Service cannot reject our alternative based on an incorrect assumption that we asked for each route we analyzed to be closed. DEIS at 60. We note here also that the TNF never contacted the Center for Biological Diversity nor any other signer to the scoping comments for clarification or explanation prior to completing the DEIS, despite our request that this be done if there were questions or concerns about our proposed alternative analysis.

One rationale provided at page 61 of the DEIS for rejecting our alternative was that:

The area between the northern boundary of the Tonto National Forest along the Mogollon Rim and the town of Payson, which includes Forest Service Road 64, also known as the Control Road, developed and named because of its strategic location in controlling and preventing wildland fires.

This incorrectly assumes that Forest Service Road 64, a.k.a, the Control Road, could not be designated for Administrative Uses and completely ignored the provision in the Travel Management Rule that *specifically provides* for motorized uses to prevent or fight forest fires. The need to provide access to private lands cited at page 62 of the DEIS would indicate a need to carefully consider our resource recommendations on a route-by-route basis, rather than complete disregard for our analysis. Analysis of Alternative B does not capture the resource concerns we have raised and fails to comply with NEPA’s requirements to analyze a reasonable range of alternatives.

As we stated in our scoping comments, we developed a map and Excel spreadsheet that includes analysis of routes that have one or more resources impacted by the route designation. This is included as Appendix C. This information includes routes that are currently system routes. As you will note, many of the routes with multiple impacts are very high value routes, such as FR 205, 203 or SR-88. **We are not asking the Forest Service to close all these routes.** However, we *are* asking the Forest Service to mitigate high impact routes and high route densities by closing other, less critical routes that are clearly redundant or unnecessary and to keep all user-created routes out of the designated system unless those routes are used to re-route a currently open system route around a sensitive resource area. Given the fiscal realities the

Forest Service faces, these recommendations are completely reasonable and in line with the purpose and need for this project.

We again ask that if the Forest Service has any questions or needs clarification on our route analysis and recommendations that we are contacted directly so that we may assist in the Forest Service's analysis of the citizen's alternative we are proposing.

To the degree that our description of a “no-action” alternative limited to documented routes differed from the Forest Service's conception of “no-action,” we requested consideration of an additional, separate alternative limited to existing, designated routes as described above. This was not done and there is no adequate rationale for why such a “system route” alternative was not analyzed.

B. Need for Additional Alternatives

The TNF presents three viable alternatives (the no-action alternative is not viable) for consideration by the public and upon which the eventual final decision will be based. While the three alternatives do present some differences in mileage and a few differences in how cross-country areas or other access may be designated, they do not provide a sufficient range of options for how those areas would be designated, how the route system would be enforced, or provide a “minimum” route system to be considered.

i. A Minimum Route System Alternative

As part of TAP, each national forest must “identify the minimum road system [“MRS”] needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.” 36 C.F.R. § 212.5(b). The minimum system must not only meet the needs for resource and management objectives, it also must “reflect long-term funding expectations,” and minimize environmental impacts caused by road construction, decommissioning, and maintenance.

The TNF failed to create an MRS that met the requirements outlined by the TMP during its previous TAP. However, this action creates another opportunity for the TNF to develop such a system and present it as a viable alternative for travel management. Given the level of apparent data collection and analysis that went into the creation of the three viable alternatives discussed within the DEIS, the Forest Service has the information needed to develop an MRS alternative and cannot rely on inadequacy of data or lack of time to develop such an alternative.

ii. Motorized Big Game Retrieval

Other forests in Region 3 have evaluated a number of alternatives for travel management in reaching their final decisions. One of the travel management designations that has been presented in various forms throughout the alternatives considered by other forests include motorized big game retrieval. Alternatives considered and adopted include 300 feet off designated roads for elk and deer in the Gila National Forest, 150 feet off designated roads in the Santa Fe National Forest, and no corridors, both considered in this process and designated in the Coconino National Forest and the Cibola National Forest. In almost all of these cases, the extent and potential options for motorized big game retrieval have been more extensive than those analyzed by the TNF. Given the level of controversy surrounding this type of designation, as well as the need to explore all viable alternatives, the TNF needs to supplement the DEIS by including more viable and limited alternatives for motorized big game retrieval and thoroughly analyzing them.

iii. Enforcement Strategies and Planning

Another significant issue that is not adequately addressed within the alternatives is that of enforcement. No alternative presents a comprehensive plan for enforcement of any newly designated route system. Alternatives that should be considered for enforcement include educational programs, increase in enforcement staff, better design of barriers and closures, increase in patrols in particularly heavily-used areas, etc. None of the alternatives attempts to address the current enforcement problem, and the public has not been provided any alternatives for enforcement to consider or comment on during this process.

Recommendation:

The TNF should develop additional alternatives that present a greater range of options that respond to key issues, such as appropriate motorized big game retrieval corridors, enforcement approaches and planning, and a minimal route system that would meet the purpose and needs for this project. While the development and presentation of these alternatives may add additional time to complete this project, it is necessary for compliance with NEPA and to ensure the final result adequately responds to public input and comment.

XI. Permit Zones

As an initial matter, we support the use and designation of permit zones within the Tonto National Forest as a tool to remedy resource destruction due to the volume of damaging activity. However, we question whether the current system is adequate to ensure enforcement in these areas and are especially concerned that the inclusion of “OHV areas” into the final travel management plan could reduce the effectiveness of permit zones and lead to abuse of this system.

According to the DEIS, permit zones “are unique to the Tonto National Forest and are a discrete area where effects from OHV use are negatively impacting resources, but complete exclusion to the area by OHV use is not desirable.” DEIS at 14. The only current permit area is the Bulldog Canyon Permit Area.

Permit zones on the TNF can be accessed through locked gates, as barriers have been constructed to prevent unauthorized access. DEIS at 14. There are no limits to the number of permits that are issued for these areas, and the permits are valid for six months. *Id.* Along with the permit, an OHV user obtains the combination to the lock for the gates. *Id.* According to the TNF, the average monthly use for the current permit area is 750 users, or about 9,000 a year. *Id.* During the high-season in winter, there may be as many as 30-50 permits issued per day. *Id.*

While the Forest Service believes that gaining a permit encourages compliance with forest regulations, including the prohibition of cross-country recreation, the Law Enforcement Report for this project identifies compliance and enforcement issues associated with the permit zones. DEIS at 94. Unfortunately, within this DEIS, there are no additional suggestions or proposals for managing these permit zones. If the Forest Service intends to make greater use of permit zones, as Alternative B and C would suggest, then the TNF needs to concurrently develop a better permit system and better enforcement of these areas to minimize environmental impacts and ensure compliance with the new travel management plan. This is especially important given the current nature of many of the areas proposed for this type of use, which have become a haven for OHV users seeking a cross-country experience and who therefore may be confused by or unaccustomed to staying on a designated trail system.

Permit zones should not be designed as sacrifice zones where resource damage is acceptable and not mitigated. Rather, use and the number of permits issued for these areas should be tied to resource conditions within them. The Forest Service must maintain and enforce travel management regulations

within permit zones just as it does outside of them. We again reiterate that the Forest Service must design travel management on the TNF to mitigate the impacts on forest resources, even in areas specifically designed for OHV use.

The TNF needs to provide more explanation as to what the official classification of routes within the permit zones would be, including how these routes would be maintained. Additionally, more analysis as to the impact of the designation of permit zones on use of OHVs in other forest areas needs to be included.

One area that we find should not be designated as a permit zone is the Sycamore area. According to the DEIS, “controlling access into that area would be especially difficult as the terrain does not lend itself well to providing any natural barriers.” DEIS at 239. At present this area “is very seriously degraded and many of the trails are ‘braided’ to the point of being difficult to differentiate between the original route and unauthorized routes.” *Id.* We note that the TNF has the authority and responsibility via 36 C.F.R. 212.52(b)(2) to immediately close areas where significant adverse effects are documented:

Temporary, emergency closures based on a determination of considerable adverse effects. If the responsible official determines that motor vehicle use on a National Forest System road or National Forest System trail or in an area on National Forest System lands is directly causing or will directly cause considerable adverse effects on public safety or soil, vegetation, wildlife, wildlife habitat, or cultural resources associated with that road, trail, or area, the responsible official **shall immediately close that road, trail, or area to motor vehicle use** until the official determines that such adverse effects have been mitigated or eliminated and that measures have been implemented to prevent future recurrence. The responsible official shall provide public notice of the closure pursuant to 36 CFR 261.51, including reasons for the closure and the estimated duration of the closure, as soon as practicable following the closure. (emphasis added).

The inability to properly enforce a permit zone, as determined by Forest Service specialists, opens the door to continuing and worsening environmental damage in these areas if they are designated on an MVUM as open to motorized use. For areas like this, we recommend that the Forest Service close them, using signs and barriers that also include information as to why they are closed, allowing the Forest Service and other interested organizations to rehabilitate the areas and potentially leave open the possibility that they could be designated as a permit zone at some point in the future.

Recommendation:

- The TNF should **NOT** include the Sycamore area as a permit zone for the purposes of this travel management decision. Rather, this area should be designated as closed and be the focus of a rehabilitation effort.
- The TNF should provide more information about how the routes included within permit zones will be classified, maintained, and enforced.
- The TNF should incorporate the following management guidelines into the planning for any designated permit zone and into the final travel management plan:
 - Establish regular patrols for these areas to ensure access infrastructure is maintained and in place and that unauthorized use is not occurring.

- Provide posted signs at each site showing the designated trail system (similar to those used for hiking trail systems) and reminding riders that off-trail use is prohibited.
 - Close areas when trail system is wet and soil resource specialists concur that resource damage due to wet conditions would occur.
 - Establish regular resource monitoring schedules for these areas to identify and prevent significant resource damage.
 - Establish an upper limit of users per day that may use the permit area.
 - Permanently or temporarily revoke access to users that are found to be in violation of the permit zone rules and regulations.
 - Prevent any access to riparian areas within permit zones.
- The TNF should include the following statement as part of the ROD: “Motorized designations in the _____ Permit area will be monitored annually after this Decision is implemented. If users continue to use non-designated routes and create new routes, destroy gates and signage, or violate road closures, then a closure to all over-the-ground motorized vehicle use in this area will be put into effect.” This could also apply to other areas where enforcement is particularly problematic, where closures are implemented, or where sensitive resources exist.

XII. Cross-Country “OHV Areas”

The intent of the TMR was to generally restrict cross-country use of motorized vehicles, and instead designate specific routes that are to be used for motorized travel and, more rarely, to designate limited, small in size, areas for cross-country use if they are determined to be necessary and environmentally benign. The Forest Service’s discretion to designate areas open to cross-country travel should be used sparingly. When the Forest Service does decide to include areas open to cross-country motorized use, the agency must follow specific minimization criteria included within the TMR. 36 C.F.R. § 212.55 (b). These criteria include requirements to minimize impacts to soils, watersheds, and vegetation, as well as harassment of wildlife. With this background in mind, we do not support the designation of areas within the forest for general cross-country motorized vehicle access.

First, all proposed OHV areas are located on the Cave Creek, Globe, Tonto Basin, or Mesa ranger districts. All of these districts were previously closed to cross-country use, either through Closure Orders, direction in the 1985 Tonto forest plan, or other designations. DEIS at iii. Therefore, designation of any of these areas within these districts would legitimize past illegal use and encourage the unauthorized creation of other such areas on the forest by users that hope to have additional areas included in future decisions.

Second, these areas are already highly degraded and have become de-vegetated and denuded landscapes, and continued cross-country use will further exacerbate these conditions. The Forest Service has a mandate to “sustain the multiple use of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land.” 36 C.F.R. § 219.1(b). Allowing for multiple uses does not mean creating sacrifice zones within the forest where otherwise illegal or unauthorized activity is permitted to satisfy one segment of the population. Further, management of national forest lands must be “ecologically sustainable.” *Id.* § 219.1(c). Allowing and condoning continued unsustainable use within the proposed

OHV areas would not meet the minimization requirements included in the TMR. The creation of OHV areas on the TNF ignores the many regulations that guide Forest Service management decisions.

The creation of “tot lots” where cross-country use is allowed and encouraged makes even less sense. While we recognize that younger OHV riders need to have a place to learn how to safely and properly use large and potentially-dangerous OHVs, such zones should be designed to mimic the conditions for motorized use on the rest of the forest, where cross-country driving is not allowed. As stated by the TNF, the goal is to “allow educational efforts to be more focused on those areas with the hope of increasing safety and compliance for the generations to come.” DEIS at 241. Much like beginner drivers, young OHV riders should be encouraged to learn the laws of the land, how to navigate their OHVs responsibly and at safe speeds within the designated route system, and why cross-country travel has been prohibited. Allowing cross-country riding for these young riders gives the impression that such use is acceptable and will make it more likely that they will violate forest rules in other areas later. Designing “tot-lots” in this manner would teach them practices that would lead to violation of forest regulations and result in further harm to forest resources, which directly contradicts the TMR. Additionally, if the intent is to keep adult riders out of these areas, they should be managed to ensure that the only people accessing them are children with their guardians. Therefore, any lots designated as “tot lots” should be structured and managed like other permit zones – cross-country travel should not be allowed, users should be required to first get access from the Forest Service, and the areas should be enforced and maintained appropriately.

Finally, cross-country OHV areas should not be designated in riparian habitat, as proposed for Bartlett Lake and Roosevelt Lake OHV areas. Even though motorized use would be restricted to below the high-water mark, the likely result of this designation will be motorized use both in the lakes and in any vegetation surrounding them. Allowing such access will also have the likely effect of promoting motorized uses in and around the rivers and streams that feed into these lakes, especially in situations when the water level drops or rises suddenly or dramatically or the presence of people forces motorized users to find new areas to travel. The riparian habitat surrounding these waters is a critical component of maintaining biodiversity, especially in populations of animals that have been stressed due to drought, lack of flooding activity, and the introduction of non-native riparian plant species.

Both of these areas contain habitat for the southwestern willow flycatcher and other sensitive riparian species. The flycatcher has been listed as endangered since 1995. 70 Fed. Reg. 60886 (October 19, 2005). Even though not designated as critical habitat, the banks of Roosevelt Lake have also historically hosted nesting sites for the flycatcher. Additionally, both the Bartlett and Roosevelt Lakes are managed by the Salt River Project under Habitat Conservation Plans with a goal of minimizing effects to flycatcher in the surrounding riparian areas.⁴ It does not make sense for the TNF to authorize cross-country travel along the banks of these lakes. Moreover, there does not appear to be any reason for doing so except to conform to prior use patterns and make enforcement easier. Prior use patterns should not govern the creation of a comprehensive travel management plan, especially where such use was causing significant environmental impacts and user conflicts. Beach areas should be maintained for pedestrian and non-motorized camping and picnicking uses. If the TNF needs to reevaluate the location of pedestrian access points or parking facilities, it should do so through another action.

⁴ Salt River Project, *Roosevelt Habitat Conservation Plan, Gila and Maricopa Counties, Arizona* (December 2002), https://www.fws.gov/southwest/es/arizona/Documents/HCPs/Roosevelt_HCP/Vol2_HCP.pdf; USFWS, *Record of Decision: Horseshoe and Bartlett Reservoirs Habitat Conservation Plan, Final Environmental Impact Statement, Maricopa and Yavapai Counties, Arizona* (May 23, 2008), <http://www.fws.gov/southwest/es/arizona/Documents/HCPs/Horseshoe/Final%20ROD%20signed%2005.23.08.pdf>.

Recommendations:

- The TNF should not designate “OHV areas.”
- The designation of “tot lots” where cross-country use is allowed should also not be included in the final decision. If any tot lot is designated, it should be as a permit zone with clear direction to stay on designated routes.
- Motorized access should not be permitted between the high and low water mark on Bartlett and Roosevelt Lake due to the potential for negative impacts to riparian vegetation and threatened and endangered species habitat.

XIII. Motorized Big Game Retrieval

Under the TMR, the Forest Service is authorized to designate “the **limited use** of motor vehicles within a specified distance of certain designated routes, and if appropriate within specified time periods” solely for retrieval of downed game that has been legally killed. 36 C.F.R. § 212.51(b) (emphasis added). The TNF’s approach to motorized big game retrieval (“MBGR”) within this action exceeds the Forest Service’s authority because it is not limited in nature. Instead, the TNF presents very few options for the public to consider related to MBGR, and those few options would not create limited use for motor vehicles, rather they would allow widespread and potentially damaging use throughout much of the TNF.

The only alternatives presented for motorized big game retrieval (“MBGR”) areas within the DEIS are (1) no corridors, (2) a one mile corridor on some roads in areas where elk and bear are hunted, and (3) a one mile corridor on roads throughout the TNF for elk, bear, and deer (doubling the acreage affected by this use). The last two options would open **1,293,178 acres** and **2,068,208 acres** to cross-country motorized access, respectively. These are not sufficient alternatives to allow the Forest Service or the public to review and decide between possible alternatives that would provide limited use of MBGR that could be designated under this action. As currently conceived, MBGR would allow hunters to use OHVs in rivers, potentially unknowingly in Wilderness areas, because the boundaries are not physically distinguished, and in designated critical habitat for Mexican spotted owl, southwestern willow flycatcher, Chiricahua leopard frog, and other species. There is no reason why such areas should be accessible by motorized vehicles and restrictions must be put in place to protect resources from MBGR.

We note that reducing OHV use and road densities in elk, deer, and bear habitat is beneficial for hunters because it will improve population abundance and dispersal of animals throughout the TNF. For instance, elk generally disperse away from roads, even primitive roads, which can result the movement of elk onto private lands, inaccessible to hunting, or into clumps that make hunting by a range of users more difficult (Rumble, et al. 2005). Limiting the use of OHVs for hunting will decrease the potential for habitat fragmentation and the potential for noise pollution that can disrupt other hunters. Additionally, hunters that prefer to hunt in backcountry areas will experience better hunt quality and fewer user-conflicts associated with motorized vehicles if key hunting areas are closed to motorized vehicle use.

There is not enough information provided within this DEIS to determine why hunters require motorized access to retrieve game, especially when that game is deer. To our knowledge, many hunters pack out their kills, and those that use motorized means to do so primarily are doing so for convenience, not necessity. We do not believe that the fact that game must be carried out would be a significant deterrent for the majority of those that hunt on the TNF. In fact, the TNF provides no support for its assertion of this fact. We also note that there are a number of alternative means to remove game, including hand carts developed specifically for that purpose, by hand, and through the use of horses or mules.

At present, only the Payson and Pleasant Valley ranger districts are open to cross-country travel to retrieve game. DEIS at 21. The Forest Service provides no explanation or justification for the need to allow MBGR on other ranger districts. The TNF seems to rely on the fact that hunting occurs in “August, September, and October when ambient temperatures on the Tonto National Forest are relatively warm (70 to 80 degrees Fahrenheit) which may contribute to spoilage of meat” as a justification for the MBGR corridors. DEIS at 226. However, other forests in the Southwest that experience similar conditions, such as the Gila National Forest, have designated significantly smaller corridors of 300 feet or less. The Coronado National Forest has not allowed MBGR for more than 20 years and game meat spoilage is not a problem, nor are hunters avoiding the forest because they must use traditional means to retrieve downed game. Moreover, we find it unrealistic that a hunter would choose to shoot an animal with the knowledge that he or she would be unable to carry it out, primarily because doing so is illegal under state law. If MBGR corridors are adopted in the final decision, these corridors should be much smaller than one mile, which is excessive and unreasonable and certainly not “limited” or “sparing” as required by the TMR.

The TNF acknowledges in Table 10 of the DEIS that those game management units (“GMUs”) that are used for hunters of elk and deer are not all likely to be used for motorized access, even if it was made available. For instance, it appears that elk would only be retrieved on 4 of 6 GMUs and bear on only 3 of 6. DEIS at 43. Such limited use calls for an equally limited approach to MGBR.

Moreover, the continuing introduction and spread of invasive and non-native species in the TNF should give the Forest Service pause about continuing to allow cross-country use through large areas of the forest. It has been well-established that cross-country use off roads and through water, vegetation, and soils is particularly likely to facilitate the movement of non-native and invasive pollen, vegetation, and other matter into new areas where it can become established. MBGR is likely to facilitate further degradation of native ecosystems if allowed on the TNF.

Finally, the TNF needs to provide more information as to how the MBGR areas would be managed. For example, in the Williams Ranger District travel management plan decision, MBGR is subject to the following restrictions:

- Only one vehicle (one trip in and one trip out) would be allowed for Motorized Big Game Retrieval (MBGR) per harvested animal.
- Hunters will be required to use the most direct and least ground disturbing route in and out of the area to accomplish the retrieval.
- MBGR would not be allowed in existing off road travel restricted areas, or when conditions are such that travel would cause damage to natural and/or cultural resources.
- Motorized vehicles would not be permitted to cross riparian areas, streams and rivers except at hardened crossings or crossings with existing culverts.

Forest Service 2009: Williams Ranger District Travel Management Project DN. We are not suggesting that this designation for MBGR or these limitations are the best available or will prevent all resource impacts or make MBGR an acceptable forest use. However, if the TNF includes MBGR in any form in the final travel management plan, it should likewise identify how these MBGR areas would be managed and how any environmental impacts would be minimized.

Recommendation:

The TNF should not designate MBGR areas. The TNF should also analyze alternatives that limit MBGR corridors much more than those alternatives analyzed in the DEIS. The TNF should limit the roads on which MBGR, if adopted, would apply to avoid continued resource damage in rivers, Wilderness areas, IRAs, designated and potential Wild and Scenic river corridors, critical habitat zones, and other sensitive areas. Additionally, if MBGR areas are designated, mitigation measures should be clearly identified and adopted.

XIV. Motorized Dispersed Camping

As within MBGR, the Forest Service has the authority to designate “the **limited use** of motor vehicles within a specified distance of certain designated routes, and if appropriate within specified time periods” for motorized dispersed camping. 36 C.F.R. § 212.51(b) (emphasis added). We strongly recommend elimination of the camping corridor concept.

We support the limited designation of dispersed motorized camping sites, as in Alternative B, but we believe that parking at such sites should be limited to within a car-length from the road. We remain unconvinced that limiting motorized dispersed sites as proposed in Alternative B would limit the opportunities for camping on the forest. As the TNF acknowledges, most dispersed campsites “are within 300 feet of an existing road, including sites on the four districts where cross-country travel is currently prohibited.” DEIS at 23. Parking immediately off the road and walking a few hundred feet to the actual campsite will neither discourage camping, nor prevent camping access.

Dispersed camping sites that allow the use of motorized vehicles have a significant negative impact on forest resources. The recent closure of the Washington Park area to dispersed motorized camping due to impacts on the Chiricahua leopard frog highlight the TNF’s awareness of this ongoing problem. Moreover, concurrent with this project, the Payson ranger district is undertaking NEPA analysis for a proposed buffer zone for dispersed camping around many riparian areas due to the continued impacts, which include trampling of habitat, motorized use inside and along rivers, introduction of invasive and non-native species, significant trash accumulation, and repeated conflicts between users looking for a quiet place to camp vs. those that would rather drive OHVs and other vehicles into campsites.

These issues are present in many popular dispersed camping areas within in the forest. The TNF should acknowledge the ongoing problems with motorized dispersed camping and recognize the need to limit such use to only those areas where it can occur without unacceptable resource damage. We ask for further clarification from the Forest Service as to where the sites presented in Alternative B are located, and reiterate that such sites should not occur within riparian areas, designated critical habitat, near archaeological sites, or other sensitive areas. Limiting motorized dispersed camping will increase the amount of secluded camping spots, which are much sought after by many forest users.

Recommendation:

The TNF should adopt the concept of motorized dispersed camping site as outlined in Alternative B, but with the modification that parking can only occur within one car-length from an open route. Any sites that are located in riparian areas, near archaeological resources, critical habitat, or other sensitive areas should not be designated under this action. Eliminating the corridor camping concept in favor of “camping sites” will provide more than enough area for motorized dispersed camping and will best alleviate significant and ongoing problems with resource degradation and user conflict.

XV. Designation of Unauthorized Routes

The TNF is riddled with unauthorized routes that have become part of the travel network of this forest, due both to continuing cross-country motorized access on the Payson and Pleasant Valley Ranger Districts, as well as lack of enforcement of use of unauthorized routes and cross-country travel on the Cave Creek, Globe, Tonto Basin, and Mesa Ranger Districts. While the TNF has classified only 672.34 miles of routes as “unauthorized (user created)” under current conditions in this DEIS, this figure vastly underestimates the number of unauthorized routes actually present on the forest. The TNF has noted its inability to accurately track or identify all routes on the forest at other points in this DEIS, *see* DEIS at 57-59, and should likewise acknowledge its limited data regarding the actual presence or mileage of unauthorized routes.

As noted by the TNF, “[u]nauthorized routes have generally developed without agency authorization, environmental analysis, or public involvement.” DEIS at 3. Until route densities are reduced within acceptable limits, the TNF should not incorporate unauthorized routes, currently closed routes, or new routes. Instead, the TNF must take action to reduce route densities to within the one mile per square mile road density standard. In demonstrating compliance, the TNF should calculate route density using all routes designated open to motorized use – whether classified as a road or trail – and include ML 1 routes. ML 1 routes and unauthorized routes that are not designated for motorized use should only be excluded from route density calculations once they are decommissioned *and* obliterated. Until that point, these routes are still relevant to route density calculations and the impacts from these routes, whether designated as open for motorized use or not, need to be evaluated and disclosed.

Unauthorized routes are very rarely, if ever, constructed to any engineering standard or utilizing best management practices and are also very rarely needed for resource development. Rather, these renegade routes are shortcuts or thrill-routes for motorized users who fail to respect closure orders, restrictions to stay on trails, or other forest users. These routes pose the greatest threat to public safety and contribute the most to environmental degradation because they were not designed or constructed to any acceptable standards. Therefore, the TNF must, prior to designating any unauthorized routes on the MVUM, demonstrate the *need* for user-created routes as well as demonstrate that the unauthorized route is constructed to engineering standards and/or using best management practices appropriate to the area. The TNF must also ensure that it has taken a hard look at the direct, indirect, and cumulative environmental impacts of unauthorized routes. *See Wilderness Soc’y v. U.S. Forest Serv.*, 850 F.Supp.2d 1144, 1157-58 (D.Id. 2012) (including existing unauthorized routes, and other non-new routes, in designated route system “does not absolve [the Forest Service] of the need to take a ‘hard look’ at the impact of these roads before making them a part of the designated route system in the area”).

Recommendations:

- The TNF should not designate any user-created, unauthorized routes through this action.
- We again reiterate the requirements of the TMR and the Executive Orders from which the TMR was derived to *minimize* the impacts of the transportation system, not simply prevent *significant* harm. For any unauthorized routes that are designated under this action, the Forest Service **MUST** demonstrate how the minimization criteria of the TMR were applied to specific routes.

XVI. Enforcement

Exponential population growth and the consequent loss of State Trust Land open to OHV use are but two of the factors that have led to a severe OHV problem on TNF, as noted in the Law Enforcement Report. As the Phoenix metropolitan area population has increased dramatically, the Forest Service budget to

adequately manage an ever increasing number of OHV users on our public land has decreased dramatically. All of these factors have led to an increasingly problematic and unsustainable level of use on the TNF, which is exacerbated by failed strategies to ensure enforcement throughout the TNF. Acknowledging this failure, however, is not enough for the present action. Instead, a comprehensive review of past and current law enforcement practices, as well as the development of alternative strategies aligned with a new travel management plan, is required for this action.

Unfortunately, within this DEIS, the Forest Service's analysis of the alternatives for "general enforcement" relies exclusively on the alternatives' likelihood for inspiring voluntary compliance, even though past use has shown the ineffectiveness of reliance on such compliance. DEIS at 66. This is an unacceptable way to view the need for enforcement and the treatment of the topic of enforcement in alternative development.

Four ranger districts (Cave Creek, Globe, Mesa, and Tonto Basin) are currently closed to cross-country use due to TNF closure orders. DEIS at iii. However, this has not stopped cross-country use in these areas. The TNF admits that "unauthorized routes have been created in areas where cross-country travel was not permitted but existing prohibitions or enforcement of such prohibitions were not adequate." DEIS at 7. Enforcement of the current forest route system has been exceedingly difficult and the failure of this enforcement effort has resulted in significant soil erosion, motorized use in streambeds and riparian areas, destruction of vegetation, habitat fragmentation, the creation of thousands of miles of routes without any environmental analysis, and the general perception that any area of the forest is open to motorized use, regardless of how it is officially designated.

Within the DEIS, the TNF identifies a number of problems related to enforcement:

- Removal of the signs and physical barriers that have allowed new unauthorized access points. DEIS at 234.
- The inability of state resource agency employees to enforce most travel regulations on the TNF due to passage of HB 2551 in 2013. DEIS at 234.
- General inconsistencies regarding cross-country use restrictions and access.

Unfortunately, even after identifying a number of problems with current enforcement strategies, the TNF does not identify or propose any changes to those strategies within the DEIS. Alternatives and ideas for enforcement of the travel management plan should be identified during the travel management process so that they can be reviewed by forest users likely to be affected by them and benefit from the opportunity for collaboration and public input. Planning for travel management must include comprehensive planning for enforcement activities - a key component of proper management.

The TNF has practically ensured that enforcement will be ineffective moving forward. There is no adequate enforcement, education, or funding plan, ensuring the MVUM will be nothing more than a piece of paper with restrictions on motorized recreation without any real meaning for forest users.

We have asked the TNF to assess the following when analyzing the enforcement and maintenance needs for the TNF through the NEPA process:

- A. Enforcement capability
 - a. Acres per LEO available to enforce travel rules

- b. Acres per Ranger available to enforce travel rules
- c. Future predicted LEO and Ranger availability
- d. Hours available for education and outreach
- B. Monitoring capability
 - a. FTEs available to monitor landscape condition as it relates to transportation
- C. Access
 - a. Future predicted monitoring capability
- D. Maintenance capability
 - a. Equipment and people hours available for road and trail maintenance
 - b. Funds for maintenance material
 - c. Future predicted maintenance equipment, material, and FTEs

This analysis was not completed and explanation for why such analysis was not completed was not provided.

Recommendations:

- We again recommend that the TNF utilize Wildland CPR’s *Six Strategies for Enforcement*, attached as Appendix D, in developing an enforceable route system. This was not done and no explanation for why our recommendation was rejected has been provided.
- The TNF should propose and analyze alternatives for enforcement strategies within this project. Within a final decision, the TNF should outline changes to its current enforcement model which will address the current problems experienced due to lack of adequate enforcement.
- The TNF should develop and incorporate into travel management planning a user education strategy designed to make forest users aware of the new travel management plan and encourage voluntary compliance with new restrictions.

XVII. Transportation Facilities - Maintenance

While the discussion of maintenance needs and budget shortfalls within the DEIS is enlightening, and highlights the need to identify a minimum route system, we fail to see how the information included in the DEIS achieves greater clarity as to the actual goals and plans for maintenance of the Forest Service under any of the alternatives. The TNF needs to supplement this discussion to be more informative and useful for the purposes of this project.

Based on the DEIS, under Alternative A, which is the “no change” alternative for this action, ML 2 roads would be scheduled for maintenance on a 5.9 year cycle, while ML 3-5 roads would be scheduled for a 2.1 year cycle. DEIS at 64, Tbl. 15. The other proposed alternatives call for a much different maintenance schedule: either 1.4 or 1.8 year cycles for ML 2 roads and either 1.2, 2, or 7.2 year cycles for ML 3-5 roads. *Id.* The TNF, however, provides no rationale for the length of these maintenance cycles, all of which are unachievable under current budget conditions, making this entire exercise a theoretical one. Greater clarification as to foreseeable and actual maintenance plans and cycles would be helpful.

Additionally, the TNF has an obligation to discuss how funding for trail maintenance specifically might be impacted by the incorporation of “motorized trails” into the final travel management plan.⁵ The TNF

⁵ We note that while the discussion of trail maintenance is currently included in the “Recreation Resources” section, it would be more appropriate to discuss the funding and coordination of trail maintenance in the same place as road maintenance, within the “Transportation Facilities” maintenance section, so that funding of all maintenance projects

states that trail maintenance budget “has been historically used to maintain non-motorized trails.” DEIS at 94. Under Alternative C, the TNF would designate a number of motorized routes as “motorized trails,” which would shift the funding source for these routes. Instead of relying on road maintenance funds, and the associated maintenance scheduling, motorized trails would either be funded through trail maintenance funds or by the use of volunteers. According to the TNF, the motorized trails that would be designated under Alternative C would require \$1,338,000 to maintain annually. DEIS at 113. However, the TNF provides no information on how this would impact the maintenance of non-motorized trails and associated user experience.

Technical Errors:

- Table 17 – Alternative B has 1,039 miles of roads that need to be maintained, not 1,507 as stated in the table. DEIS at 77.
- Mileage totals in Tables 23-26 are incorrect. DEIS at 80-82.

Recommendations:

- The TNF should identify priority areas for maintenance, or at least a process to be used to identify such areas. The discussion should also identify what type of work is included as “maintenance,” how deferred maintenance projects will be addressed in the future, and how lack of maintenance funding may impact any of the proposals included in the DEIS.
- Greater clarity should be provided as to the actual expected maintenance schedule over the lifetime of the travel management plan.
- The TNF should disclose how shifts in funding for motorized trails will impact maintenance of non-motorized trails and the accompanying user experience on those non-motorized trails.
- The TNF should disclose any plans or ideas it is considering to involve outside participants, including city and county agencies, public organizations, or specific user groups, to assist in general maintenance. If the Forest Service has not identified any opportunities to involve other groups in maintenance activities, it should at least highlight the possibility of such collaboration and include it as a component of the final travel management plan.

XVIII. User Conflict and Recreation Opportunities

User conflict on the TNF is, unfortunately, a serious and worsening problem. The primary drivers of user conflict are the ability (though often in contravention of current regulations) of motorized users to reach areas that were originally designed for non-motorized use and the behavior of some motorized users within areas designated for motorized use and, more problematically, areas designated for more primitive, non-motorized uses.

A key component of this problem is that Semi-Primitive Non-Motorized Recreation Opportunity Spectrum (“ROS”) areas on the TNF, originally designated in 1985 Forest Plan (Figure 19, DEIS at 88), have not been managed in such a way as to preserve their original classifications. Instead, as demonstrated by Figure 21 and Table 28, DEIS at 89-90, the actual quality of these areas has shifted significantly in favor of semi-primitive motorized. In fact, ROS where motorized use occurs in some form

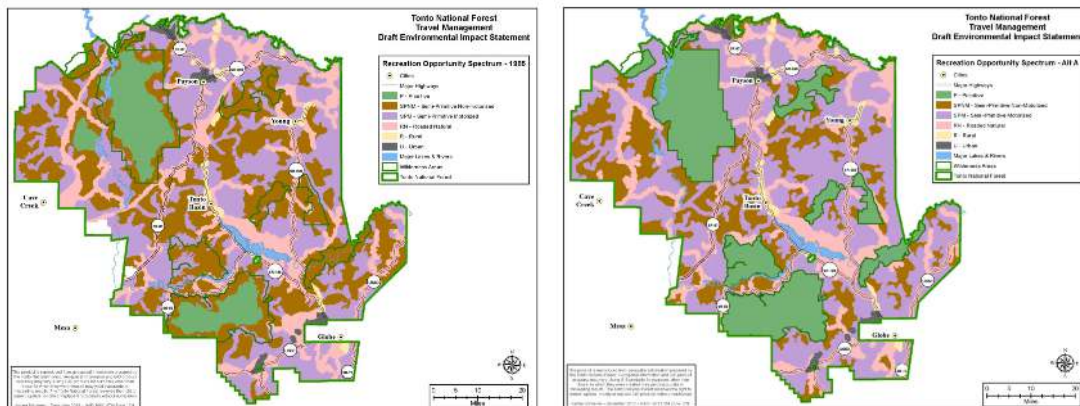
and the impacts of shifts in spending and the complete maintenance budget can be more easily understood and identified.

now account for 63 percent of forest lands. And this does not take into account the numerous and documented areas where motorized use would be prohibited, such as designated wilderness, shown as primitive ROS on the map, but where motorized use is known to occur. This demonstrates the lack of opportunity for non-motorized users to find space for their own activities free from the potential interference or disturbance from motorized uses. This is especially troubling for many non-motorized users that seek out the solace of nature in forest settings outside of wilderness, such as the many campgrounds on the TNF, but instead find frequent and unexpected intrusions by motorized users. The continued and significant degradation and reduction of semi-primitive non-motorized settings is concerning and can and should be addressed through this planning process.

The TNF, however, frames the issue of user conflicts much differently, as evidenced by the discussion of user conflicts under Alternative B. The Forest Service frames the primary problem as “Forest recreation managers’ [sic] report many motorized users are feeling disenfranchised and frustrated that they keep ‘losing trails and areas’ to ride.” DEIS at 104. And that “Conflict for motorized users may stem from off-site interactions when other user groups seek to restrict motorized access and issue complaints about OHV use.” *Id.* These views are worth noting, but the TNF does not attempt to analyze the potential impacts of Alternative B on any other type of user conflict. As noted above, the primary source of user conflict on the TNF is from interactions on the forest between motorized and non-motorized users, with primary effects being felt by non-motorized users. Further, we note that general dissatisfaction about regulation of an activity across the country should not be a reason to limit regulation of excessive and out-of-control use on the TNF.

Finally, as noted above, the shift in ROS proposed under the various alternatives would require a forest plan amendment. *See* DEIS at 111. The route designations made in the Travel Management Planning process cannot change ROS classifications and must not violate those classifications. Travel Management route designations must comply with the current ROS classifications, regardless of current conditions on the ground. We do not support any decrease in existing ROS classification acres for primitive or semi-primitive non-motorized. We support the Forest Service’s intention in Alternative B to designate more areas as non-motorized, however, we would like more explanation as to how changes in those categories would affect actual management on the ground. A more robust discussion of how amending the ROS through this action would impact other forest resources is also needed to comply with NEPA requirements for Forest Plan amendments.

We provide the proposed “changes” to the ROS classes, as shown in the DEIS for this project below:



These two maps, at pages 88 and 90 of the DEIS, clearly indicate a significant change in the Semi-Primitive Non-Motorized ROS class (the brown color) that has apparently, and inappropriately, occurred

during the Travel Management planning process. The charts associated with these maps indicate a 48% reduction in the amount of Semi-Primitive Non-Motorized ROS class in violation of NEPA and NFMA. The TNF cannot, with the wave of a pen (or stroke of a keyboard) eliminate, greatly reduce or change ROS classes. Please note that the increases in the Primitive ROS class since 1985 is the apparently the result of Wilderness designations, which are accomplished through acts of Congress and the boundaries of which CANNOT be changed via any U.S. Forest Service process.

The explanation in the DEIS, at page 89, that ROS boundaries have been modified for purposes of this project because the old technology used to map ROS areas didn't match up with existing conditions is a clear indication that the TNF is not compliant with the 1985 Forest Plan for the forest. Using the current routes in the INFRA database and buffering those routes to determine where the Semi-Primitive Non-Motorized ROS classes are located is inappropriate and a violation of NEPA and NFMA. The DEIS claims the information used to reassign ROS classes in this project are based on INFRA, which is described in this section as the "best available data," yet refuses to use this "best available data" in the determination of the baseline of system roads. DEIS at 60. In fact the TNF eliminated an alternative based on the INFRA baseline because "use of data in the Infra database as the current, existing condition would not provide a representative baseline from which to analyze because of actions that were taken, or often not taken, in tracking the current road system[.]" DEIS at 58. The DEIS also states, unequivocally, that "[t]he Infra database for the Tonto National Forest does not reflect the current condition to such a magnitude that it cannot be used as the existing condition." DEIS at 58. Please clarify why the TNF is using the INFRA database as the best available data for one section of the DEIS and specifically disregarding it in other sections because it is not the best available data. We are unable to hypothesize a rational, non-arbitrary and capricious reason for these decisions.

Recommendations:

- The TNF needs to identify and better analyze the problem of user conflict as it actually occurs on the forest. This is especially important in the context of the executive order's mandate to minimize user conflict through travel management planning. The alternatives presented should provide options for better addressing user conflict, through the use of educational programs, volunteer activities, reduction in allowable motorized use, preservation of non-motorized opportunities, and better community engagement.
- The TNF should retain existing ROS classifications.

XIX. Wildlife and Plant Impacts

The TNF has determined that the effects to southwestern willow flycatcher and Mexican spotted owl under Alternative C and D are "may affect the species and is likely to adversely affect the species or its habitat." DEIS at 67. Both alternatives are also "likely to result in destruction or adverse modification of designated critical habitat" for both species. *Id.* Additionally, Alternatives C and D are likely to adversely affect the Arizona hedgehog cactus.

The TNF acknowledges that the forest "plays a vital role in Arizona by supporting crucial wildlife habitat and maintaining Arizona's wildlife heritage as well as providing significant opportunities for wildlife related recreation and associated economic effects." DEIS at 245. However, the Forest Service's preferred alternative for this action has a high likelihood of directly resulting in loss of individuals and habitat for listed species. This is unacceptable as a management strategy and creates the potential for violations of the Forest Service's legal duties to protect species, assist in species recovery, and provide sustainable management for the National Forest System.

A. Riparian Habitat

The streams and lakes located within the TNF are a valuable and rare resource. These riparian habitats support a greater diversity of plants and animals than upland habitats. A significant percentage of all wildlife in the Southwest use riparian habitat (Thomas *et al.*, 1979). Wetlands and riparian ecosystems comprise less than 1 percent of the TNF and are “heavily impacted by livestock grazing and recreational users.” Forest Service 2007 at 4. “Present levels of integration of wildlife habitat management prescriptions have failed to provide the basic needs, *especially in riparian habitat*, where conflicts with other resource needs are amplified.” Forest Service 2007 at 6. The TNF failed to adequately protect the rare, fragile, and biodiverse riparian areas in the TNF in any alternatives presented in the DEIS.

Threatened, endangered and sensitive species utilizing riparian habitat include: Gila topminnow, lowland leopard frog, Chiricahua leopard frog, bald eagle, western yellow-billed cuckoo, Bell’s vireo, Yuma clapper rail, and the southwestern willow flycatcher.

Wildlife commonly follow riparian habitat, both wet and dry drainages, as corridors for movement. Riparian corridors must be maintained in order to promote safe travel by land from one habitat to another. It has been noted that the width of riparian areas designated for water quality and fisheries needs may not meet the habitat requirements of terrestrial wildlife. Most researchers advocate preserving as wide an area as possible, including the floodplain and an additional upland area on at least one side of the stream channel for corridors. Review of existing literature indicates that while narrow riparian areas provide suitable habitat for some species, wider areas are required to support a greater diversity of species including those dependent on interior habitat types (e.g., those species requiring a significantly wider forested area). Seth Wenger of the University of Georgia recommends a conservative riparian area width of approximately 300 feet from the edge of the stream channel on each side of the stream to facilitate wildlife movement.

Riparian areas were mapped on TNF in 2011 as part of the Regional Riparian Mapping Project (*see* Forest Service 2013 at 458; *see also* the Watershed Report, Appendix A for list of impaired/unstable banks.) Watersheds were analyzed at 6th HUC scale. In these documents and the DEIS, the Forest Service lays the groundwork for analyzing the impacts of roads and route density, but then proceeds to ignore it by selecting Alternative C as the preferred alternative and not identifying and analyzing any alternative that would improve management of these areas. There is excellent information at page 462 of the DEIS regarding the impacts of cross-country motorized travel. Unfortunately, the analysis of impacts to riparian areas is weak.

Recommendation:

We ask the TNF to look at the Watershed Condition Framework (a U.S. Forest Service product) plan and analysis for more information and assistance with the analysis of the impacts of motorized routes to the TNF. Further, we ask the TNF to decommission routes that cause or contribute to riparian degradation.

B. Road Density

A significant concern for this action is the lack of any stated goal or strategy to reduce the road density within all habitat types throughout the forest. As stated within the DEIS, road density is a good indicator for the potential impact to perennial streams and watershed condition. The impacts of roads on wildlife are also well known, including facilitating the spread and introduction of invasive, exotic competitors, disruption of habitat corridors, direct mortality from vehicle collisions, and degradation of road-side and

surrounding habitat through pollution and vegetation damage (Coffin 2006). Studies have also found that regardless of habitat or animal behavior, clustering roads and leaving large areas protected from road construction or use, is beneficial to animal communities (Jaeger et al. 2005: 160-61). This approach is contrary to the current road distribution model on the Tonto, which is largely unplanned and has resulted in miles of crisscrossing and dispersed user created and official roads, often dissecting habitat in many areas and across large spaces. The TNF should aim for a road density rating of “good” for watershed, defined as “less than 1 mile per square mile.” DEIS at 250. According to the DEIS, a “good” rating is possible for many habitat components under various alternatives. *See* Table 56, DEIS at 251-54. We support reducing this road density to the greatest extent possible in all habitats.

For this specific action, we are most concerned about those habitat types that have a much higher road density under all Alternatives, effectively ensuring negative impacts on watersheds, species habitats, and water quality. Specifically, even under Alternative B, road density for Ponderosa Pine would be 2.35, for Mixed Conifer with Aspen – 1.68, Cottonwood Willow Riparian Forest – 3.26, Mixed Broadleaf Deciduous Riparian Forest – 6.35. *Id.* These levels, especially in habitat components that support the greatest diversity of plant and animal life, are inappropriate and unsustainable. Riparian habitat, as discussed above, is essential and rare within the arid Southwest. Current and proposed travel management presents serious problems with ensuring continued viability of wildlife within these habitats. The Forest Service has a responsibility to protect species, one aspect of which is to protect and restore habitat. As currently conceived, all proposed alternatives fail to meet goals and guidelines for proper management of forest habitat.

Another especially concerning feature of the alternatives presented is the presence of road density within water habitat. *See* Table 56. “Water” habitat includes “reservoirs and large rivers,” the boundaries of which fluctuate, potentially exposing dry land at some periods throughout the year. Regardless of the presence of water, however, this habitat is hugely important for many wildlife species, including native fish, which are under extreme threat throughout the TNF. The following species will be impacted by the travel management plan, and we support elimination of all routes within their habitat in order to promote recovery of these species: head water chub, round tail chub, Colorado pikeminnow, spikedace, loachminnow, desert pupfish, razorback sucker, and Gila topminnow. Additionally, water habitat quality has a direct impact on drinking water quality for residents of Arizona.

Recommendations:

- The Forest Service should move as many habitat types as possible toward a “good” watershed rating by reducing road density. However, we note that all motorized routes, regardless of classification, should be taken into account when measuring road density. Therefore, if the Forest Service intends to reduce road density through this action, it must take the final step of obliterating routes on the ground before such an achievement will be valid.
- The Forest Service should eliminate roads and trails within water habitat within any final travel management plan.

C. Threatened and Endangered Species

The TNF has a responsibility to maintain and promote the viability of threatened, endangered, and sensitive species under the National Forest Management Act (“NFMA”), the Endangered Species Act (“ESA”), and Forest Service regulations.

The 1982 NFMA implementing regulations, which governed the creation of the current Forest Plan, provide for the persistence of fish and wildlife on national forest lands. They require the Forest Service to manage fish and wildlife habitat to maintain viable populations of existing species. *See* 36 C.F.R. § 219.19 (1982). In order to ensure viable populations, the agency must provide for a minimum number of reproductive individuals and the habitat required for well distributed individuals to interact with others in the planning area. *Id.* Additional protection is provided to threatened and endangered species and their habitat in order to both “prevent the destruction or adverse modification of such habitat” and “provide for, where possible, their removal from listing.” *Id.* at § 219.19(a)(7).

Under the ESA, the Forest Service must ensure that this travel management planning action “is not likely to jeopardize the continued existence of any . . . threatened species or result in the destruction or adverse modification of [critical] habitat of such species.” 16 U.S.C. § 1536(a)(2) (2012). Consultation with the Fish and Wildlife Service (“FWS”) is required for all threatened and endangered species and their critical habitat that exist on the TNF. The Forest Service’s biological assessments and any consultation documents, including the final biological opinion, should be included as attachments and posted on the project website for public viewing when the final EIS is released.

The ESA places an affirmative duty on federal agencies to protect threatened and endangered species and their habitat. The TNF’s Forest Plan specifically identifies goals, standards, and guidelines for endangered and threatened species that should guide this action. A listed goal for the TNF is to “Prevent destruction or adverse modification of critical habitats for Threatened and Endangered species and manage for a goal of increasing population levels that will remove them from the lists.” LRMP at Replacement Page 20-1. The following standards and guidelines are included in the Forest Plan and must guide this project:

- “Identify management conflicts and enhancement opportunities [for all Federally-listed species].” Forest Plan at Replacement Page 40-1.
- “New additions of listed, proposed, or candidate species by the US Fish and Wildlife Service will be protected.” *Id.*

As an initial matter, the effects analysis for threatened, endangered, and proposed species is woefully inadequate. Cumulative effects for these species are discussed only summarily and without the level of specificity necessary to meet NEPA requirements. Although the threatened and endangered species found within the TNF are dispersed throughout numerous habitat types and have distinct viability and habitat requirements, cumulative impacts are framed so as to be applicable to all threatened and endangered species. *See* DEIS at 255-56. This is not a legally sufficient analysis, especially when the likely impacts to these species critical habitat and overall viability have been determined by the Forest Service to be different. The Forest Service needs to provide an assessment of the cumulative effects to specific threatened and endangered species from this action, which it has failed to do.

Additionally, the analysis of direct and indirect effects included for each species for various components of the travel management plan for each alternative is also insufficient. The Forest Service repeatedly refers to the “current level of impact” and the relative difference from that current impact to discuss potential impacts to species for each alternative and for each component of the travel management plan. *See, e.g.,* DEIS at 257 (“The current level of impact is expected to continue if Alternative A is implemented.”). However, that “current level of impact,” or what impacts the Forest Service is referring to, is never disclosed nor assessed for any of the species. This type of impacts analysis does not meet NEPA requirements and renders the DEIS inadequate.

a. *Southwestern Willow Flycatcher and Critical Habitat*

The southwestern willow flycatcher has been listed as endangered since 1995. 70 Fed. Reg. 60886 (October 19, 2005). Critical habitat for the species was not designated until 2013, but includes Tonto Creek and the Salt River. 78 Fed. Reg. 344 (January 3, 2013). This critical habitat is spread throughout the Cave Creek, Globe, Payson, and Tonto Basin ranger districts. DEIS at 265. Further, the flycatcher is found in all ranger districts, and breeds in Cave Creek, Globe, Payson, and Tonto Basin ranger districts. *Id.*

Flycatchers are sensitive to OHV use and recreation in riparian areas because such use can directly result in clearing of riparian vegetation and reductions in abundance and diversity of bird assemblages, and indirectly in the accumulation of trash and food that can attract predators or cowbirds, the primary parasite for this species (Finch 1999: 282). The cumulative impacts from human activities in riparian areas, which has degraded flycatcher habitat, led to listing of this species and can prevent recovery. This action will have both direct and indirect effects on flycatcher, and under Alternatives A, C, and D, is likely to affect the species and have an adverse impact on the species and its critical habitat. DEIS at 67. Such impacts to an endangered species due to a Forest Service action are unacceptable, and the Forest Service's preference for an alternative that would adversely impact a listed species demonstrates the TNF's failure to design management to fulfill its responsibility to the American public. We support the elimination of motorized routes, trails, and designated areas from flycatcher habitat. Appendix E, attached, includes a list of all routes and trails within flycatcher critical habitat, along with recommended designations to support the recovery of the flycatcher.

b. *Mexican Spotted Owl and Critical Habitat*

In 1996, the TNF specifically amended its Forest Plan to include standards and guidelines designed to assist in the recovery of the Mexican spotted owl ("MSO"). The following standard and guideline must be met in the final travel management plan:

- "Limit human activity in protected activity centers [{"PACs"}] during the breeding season." Forest Plan at Replacement Page 40-2.

MSOs are found in the Globe, Mesa, Payson, Pleasant Valley, and Tonto Basin ranger districts. DEIS at 271. Critical habitat for the MSO is designated in all ranger districts. *Id.* Portions of two recovery units occur within Tonto National Forest: the Upper Gila Mountain Recovery Unit and the Basin and Range-West Recovery Unit. *Id.*

Shockingly, even though the TNF was required to incorporate standards and guidelines into its forest plan specifically to protect the MSO and help assist in the recovery of this species, every alternative proposed for this action is "likely to result in destruction or adverse modification of designated critical habitat." DEIS at 68. This is unacceptable. Based on our analysis, we find that nearly 1,600 roads and trails currently exist in MSO critical habitat, and around 750 of these roads and trails will be designated and maintained for motorized access under the Forest Service's preferred alternative. Under current planning, each alternative would also designate roads and trails within PACs: Alternative A – 74.01 miles, Alternative B – 7.48 miles, Alternative C – 43.08 miles, Alternative D – 71.28. Due to climate conditions motorized use takes place year-round on the TNF. Therefore, the designation of routes in MSO PACs open to use in all seasons directly violates the Forest Plan's guideline to limit activity within these areas during breeding season.

MSO is particularly sensitive to the noise impacts associated with OHV use. The Forest Service is obviously aware of the negative impacts from motorized use on MSO, as demonstrated by its adverse impact finding. As discussed previously, there is no period of time when the TNF is protected from OHV use – MSO habitat is impacted during breeding and nesting season, as well as all other seasons. Previous studies on the impact of noise and human recreation to MSO indicate that any human activity in MSO habitat leads to decreased prey handling, interruptions of owl social interactions, and increased vocalization (Swarthout 1999; Swarthout & Steidl 2003). Any disruption in behavior, especially among female MSO during breeding and nesting season, can have a negative impact on the success of juvenile MSO, population size, continued occupation of territory, and the overall viability of the endangered population within Arizona.

Preservation of PACs and critical habitat, especially in light of the numerous other threats to this species from other Forest Service activities must be a priority for the TNF and should guide all management decisions. Wildfire impacts, one of the primary threats to this species, can be difficult to control and contain. However, managing motorized vehicle use is directly within the powers and authority of the Forest Service. The Forest Service also has a responsibility to manage forest resources to protect wildlife, especially those at constant threat of extinction.

Recommendations:

- No unauthorized routes should be designated for use within MSO critical habitat – there are numerous other areas for motorized users to recreate, and MSO habitat constitutes a small percentage of the TNF. Additionally, much of this critical habitat is in relatively steep areas, where erosion of roads and trails is more severe.
- ML1 roads, regardless of current use, should be decommissioned if located within MSO critical habitat. Many of the roads slated for administrative use under the preferred alternative would be decommissioned under other alternatives. If these roads are not absolutely necessary for Forest Service purposes, they should be decommissioned. The Forest Service knows that administrative roads will remain in use by the public and should plan accordingly.
- ML2-ML5 roads in MSO habitat should likewise be decommissioned unless they are providing the only access to designated non-motorized trailheads, wilderness areas, etc. or provide the only means of safe travel through forest areas. As stated above, for those wishing to explore the TNF via car or OHV, there are numerous areas outside of MSO critical habitat that would be more suitable.

c. Northern Mexican and Narrow-headed Gartersnakes

On July 8, 2014, the Fish and Wildlife Service (“FWS”) officially designated the northern Mexican and narrow-headed gartersnakes as threatened. 79 Fed. Reg. 38677, 38746. This listing was completed after the TNF had completed its biological assessment and review for this project. Therefore, the TNF must revise the wildlife report, biological assessment, and DEIS accordingly, taking into account any new information that was included in the final listing. Consultation with FWS for this species is now also required.

The TNF is home to one of the last remaining viable populations of northern Mexican gartersnake species. Both the northern Mexican and narrow-headed gartersnake face a number of threats, most of which are due to human development and activities in and around riparian areas and streams throughout

the Southwest. The lower Tonto Creek is home to one of only five northern Mexican gartersnake populations believed to still be viable. *Id.* at 38681. While historically present in many of the streams and rivers along the Mogollon Rim, the narrow-headed gartersnake is not known to have any viable populations remaining on the TNF. *Id.* at 38686-87. However, this should not be a reason to allow this snake to go unprotected. Critical habitat for these species may be designated within the TNF, including Tonto Creek, Haigler Creek, Canyon Creek, Houston Creek, and the East Verde River. *See* 78 Fed. Reg. 41549, 41608 (July 10, 2013). These proposed areas should be made priority areas for reduction in road density and elimination of open route designations.

One threat to these species is “present or threatened destruction, modification, or curtailment of its habitat and range,” which includes the TNF. *Id.* at 38687. Introduction and spread of nonnative fish and amphibian species has been the primary factor leading to reduced viability and success of these snake species, however, motorized damage to gartersnake habitat exacerbates the effects of nonnative predation and decreases the likelihood of survival and recovery. *Id.* at 38702. Direct impacts from human intrusion into riparian areas has also been documented: “trampling of near-shore vegetation, which reduces cover for gartersnakes, especially newborns,” “potential for adverse human interactions with gartersnakes, which frequently leads to the capture, injury, or death of the snake,” “increased danger of fire starts,” and “increased siltation of streams, which can result in lower recruitment rates of native fish and, therefore, negatively affect the prey base.” *Id.* at 38708. Other research suggest that there are many other direct and indirect impacts on snakes from motorized recreation and roads, including increased desiccation associated with loss of ground cover, mortality from vehicle crushing, and changes in behavior (Andrews et al. 2008).

Recommendations:

- The TNF should incorporate new and pertinent information from the recent listing into the EIS and wildlife report. Consultation documents related to the gartersnakes should be released along with any final decision.
- Roads and trails should avoid streams, rivers, wetlands, and riparian areas. Unauthorized routes within these areas should not be designated as system routes and should be obliterated, ML1 routes should also be closed and decommissioned. Any routes for which the Forest Service has suggested administrative use should be allowed should be thoroughly analyzed for impacts to gartersnake species and critical habitat, as well as the reason for administrative use need.
- ML2-ML5 roads that remain in gartersnake habitat should be designed and maintained to reduce erosion and sedimentation, minimize impacts to gartersnake habitat, and should remain a monitoring and maintenance priority.

d. *Arizona Hedgehog Cactus*

The TNF apparently has very little information as to where Arizona hedgehog cactus are found on the forest, however, it is present and threatened by numerous human activities. *See* DEIS at 337. Motorized use is a primary threat to this cactus, as it facilitates human intrusion into its habitat and near individual cactus.

Recommendation:

Because of the lack of information as to the status, spread, or location of these cacti, the TNF should include within the final travel management plan direction to locate individual hedgehog cacti during maintenance and monitoring activities. In the future, when a cactus is identified near a motorized route,

protections for that cactus should be implemented. If motorized routes become a known source of intrusion into hedgehog habitat, or are located in an areas where a cacti has been damaged or destroyed, that motorized use should be curtailed through route closure and enforcement.

e. *Mexican Wolf*

The Mexican gray wolf or Mexican wolf has been designated an experimental, non-essential species under Section 10(j) of the ESA. Under the ESA, any species deemed to be an experimental, non-essential species shall be treated for purposes of consultation and other ESA requirements as a species that is proposed for listing. 16 U.S.C. § 1539 (j)(2)(C)(i). The Forest Service is required to consult with the USFWS under Section 7 for any species that is proposed to be listed on any action which may jeopardize the continued existence of that species. 16 U.S.C. § 1536 (a)(4).

Neither the DEIS, nor the Final Biological Evaluation analyzes potential impacts to the Mexican wolf from this action or makes an initial determination as to whether the proposed action has the potential to jeopardize this species. Currently, releases of Mexican wolf have occurred only in the Gila National Forest and the Apache-Sitgreaves National Forests. However, suitable habitat for the Mexican wolf exists in the TNF, and it is foreseeable that during the time this travel management plan is in effect, Mexican wolves may become established or move through the TNF. The recent proposal from FWS to expand the Mexican Wolf Experimental Population Area (MWEPA) to include the TNF supports this assertion. 79 Fed. Reg. 43358 (July 25, 2014). Under the proposal, the Payson, Pleasant Valley, and Tonto Basin ranger districts of the TNF would be used for release and reestablishment of the Mexican wolf population in Arizona. For these reasons, the Forest Service must analyze potential impacts to the Mexican gray wolf from this proposed travel management action.

Mexican wolves remain one of the most endangered animals in North America, and, pursuant to the (ESA, the Forest Service, as a federal agency, has a responsibility to work with USFWS to recover them.

Recommendations:

The Forest Service should review the Draft Environmental Impact Statement for the Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf (*Canis lupus baileyi*) and consider the impacts of the proposed travel management plan on this highly endangered animal and on the prey species on which this top predator depends.

f. *Ocelot*

The TNF relies on a finding that suitable habitat does not exist on the TNF for the ocelot to avoid analyzing potential impacts from this action on the species. Based on observations by our members, parts of Devils Canyon, around the Oak Flat Campground, and south of Top of the World would seem to qualify as suitable habitat for ocelot. We encourage the TNF to review potential suitable habitat for the ocelot, as well as the newly documented discovery that an ocelot has been found in Southern Arizona, within the FEIS. Impacts to this species must be taken seriously and fully analyzed in light of the potential presence and establishment of this species on the forest.

g. *Morafka's Desert Tortoise*

The Sonoran Desert or Morafka's desert tortoise is a candidate for listing under the Endangered Species Act and that studies have shown that habitat fragmentation and development are chief threats.⁶ The Forest Service should assess and specifically protect tortoise habitat that contains the highest density of tortoises from OHV use. Destruction and degradation of this habitat thus endangers the viability of that population of tortoises, further threatening the species. The Forest Service must be cognizant of this fact and work to preserve habitat areas such as this and limit OHV use.

Roads and cross-country travel allowed by the plan also have the potential to further exacerbate other threats to this species, including disease, exotic plant species and the associated fires, illegal collection, predation, and the effects of increased recreation access and especially off-road vehicles, among other issues. These impacts have the potential to cause direct mortality and a reduction in the effective population size, as well as further alter habitat.⁷

Recommendations:

The Forest Service should further limit roads and eliminate cross-country travel in desert tortoise habitat.

XX. Wilderness Areas

All routes that are located within designated wilderness boundaries should be closed and prioritized for decommissioning. *See* section 4(c) of the Wilderness Act, 16 U.S.C. 1131-1136: there shall be no...permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

The roads listed in Table 1 of the Special Areas specialist report at page 10 and 11 (and pasted below) must all be closed, decommissioned and not considered for designation as motorized routes in any alternative. To designate any of these routes as system routes would, as the Forest Service is well aware, violate the Wilderness Act as there cannot be any permanent roads in designated Wilderness Areas.

⁶ See Federal Register Notice

http://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/SonoranTort/SDT_90day_FR.pdf

⁷ See Federal Register Notice

http://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/SonoranTort/SDT_90day_FR.pdf

Table 1: Motorized Routes in Wilderness by Alternative

Route Number	Miles	Alternative A	Alternative B	Alternative C	Alternative D
Superstition Wilderness					
28	0.09	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
Mazatzal Wilderness					
393	0.64	ML 2 Road	Decommissioned	Admin Use Only	ML 2 Road
406B	3.65	Road Permit Use Only	Admin Use Only	Admin Use Only	Admin Use Only
567B	3.38	Road Permit Use Only	Decommissioned	Admin Use Only	Admin Use Only
Sierra Ancha					
203B	10.05	ML2/3 Road	Decommissioned	ML 2 Road	ML 2 Road
487A	0.14	ML 2 Road	Decommissioned	Admin Use Only	ML 2 Road
487B	0.87	ML 2 Road	Decommissioned	Admin Use Only	ML 2 Road
2814	0.19	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
2886	0.59	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
Hellsgate Wilderness					
1625A	0.28	ML 2 Road	Decommissioned	Decommissioned	ML 2 Road
Unautho rized Route	0.24	Unauthorized	Decommissioned	Decommissioned	Decommissioned
Salome Wilderness					

1765	0.06	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
Salt River Canyon					
368A	0.26	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
644A	0.80	Open to public-Unknown ML	Decommissioned	Decommissioned	ML 2
1790	0.52	Open to public-Unknown ML	Decommissioned	Decommissioned	ML 2
Four Peaks Wilderness					
3741	0.35	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
3742	0.29	Open to public-Unknown ML	Decommissioned	Decommissioned	Decommissioned
Total Miles Open		22.40	3.65	18.73	20.33

Table 2 displays the effects on wilderness character that would result from the proposed changes to motorized access and recreation opportunities on the wilderness areas located on the Tonto National Forest.

For FR 393 in the table above, we note that the maps in the DEIS show this route, along with FR 2138 and FR 2143 intruding into the designated Wilderness area. The Special Areas Specialist Report states that the road (FR 393) and associated uses for a powerline and ranching pre-date the Wilderness designation. However, the Forest Service can and should decommission these routes as described in Alternative B. If access is needed for powerline maintenance, the issue should be specifically explained along with the anticipated amount of use these routes will experience for specially permitted uses.

FR 406B (3.65 miles) and 567B (3.38 miles) are both located within the designated Wilderness. DEIS Special Areas Specialist Report at 7. Both routes allegedly provide access to private inholdings, however such inholdings are not identified on any of the maps for this project. These routes should not be designated as open to the public and should be considered for decommissioning if the existing property owner supports such designations.

For FR 487A and FR 487B, the Special Areas Specialist report states that these routes provide access to a private inholding however this private inholding is not located within the Sierra Ancha Wilderness Area and it appears as if FR 2848 could provide the necessary access to this property.

In the Salt River Canyon Wilderness Area FR 644A appears to intrude into the designated Wilderness area. For this route and all other routes that intrude into, rather than form the boundary of the Salt River Canyon Wilderness area, the TNF must decommission and obliterate these routes.

The analysis of the action alternatives (all of which allow designation of motorized routes in designated Wilderness) found in Table 2 of the Special Areas specialist report states that *reducing* the number of miles of roads in Wilderness “would have the potential to reduce effects” but should, for every alternative, state only that “designating any motorized route in designated Wilderness will violate the Wilderness Act and cannot be permitted.” This is true for all alternatives and all resources analyzed.

The assumption that “enforcement” will reduce the impacts of motorized uses on Wilderness areas (DEIS at 127) is a false assumption because the lack of enforcement is well documented in the DEIS through the identification of hundreds of miles of illegal motorized routes throughout the TNF. All analysis based on this assumption should be revised to reflect the documented fact that motorized vehicle uses do not follow motor vehicle use designations, even in wilderness areas, and the TNF has limited enforcement capability.

There is no cumulative effects analysis of the impacts to quiet recreation in Wilderness. The TNF should consider the impacts to visitor use patterns from activities elsewhere on the TNF and nearby National Forests. The TNF should also consider other activities—approved and unapproved—which occur or are likely to occur in the TNF and which would impact recreational users. For example, occasional or temporary motorized uses in Wilderness areas may be authorized through MRDG, EA, or EIS processes. The potential impact of such uses on recreational users should be considered within the cumulative impacts section of the EIS. We highlight the need for a thorough cumulative impacts analysis in part because a quiet recreation or other Wilderness recreation experience is an in-demand and constrained resource on the TNF. Travel management planning should proceed in a manner that addresses the scarcity of the quiet recreation resource.

Illegal motorized trespass is known to occur into the Mazatzal and Salt River Wilderness Areas. DEIS at 129, Table 37. However, there is no information on how the effects of past illegal motorized intrusions have effected or degraded Wilderness areas or experiences.

Motorized big game retrieval and motorized dispersed camping corridors cannot be permitted within designated Wilderness areas. As the Forest Service notes, “[b]y allowing the corridors for motorized big game retrieval and motorized dispersed camping, motorized users could unknowingly drive into a wilderness area” DEIS at 130, Table 37.

A. Cherry Creek

The Sierra Ancha Wilderness became a part of the wilderness preservation system with passage of the *Wilderness Act in 1964*. Forest Roads 203B, 2886, and 2814 inappropriately and unlawfully run in and out of the northeast wilderness boundaries in the Cherry Creek drainage, totaling 10.83 miles within the Wilderness. An additional 1.01 miles of Forest Roads 487A and 487B are inappropriately and unlawfully located within the wilderness boundary in the southwestern corner. This road provides access to a private land inholding within the TNF. The private property within the forest and access road predate the *Wilderness Act*. DEIS at 125. However, because the Wilderness boundary was approved by an act of Congress and the Forest Roads in question were not specifically allowed by or cherry-stemmed out of the Wilderness designation, the TNF must remove these routes from the motorized system.

A complete assessment of the historical and current state of motorized use in and near Cherry Creek, and the associated impact from such use, is included as Appendix F. We ask that the Forest Service review this Appendix for additional information and recommendations specific to the Cherry Creek area.

Recommendations for Wilderness Areas:

We have the following additional route specific recommendations:

Payson Ranger District

- FR 154, 1885, 507, 1661, W005, and 3044 are located within an IRA. These routes should be closed. If the TNF proceeds with designating these routes as open, we ask for an explanation of the rationale for opening these roads.
- FR 1625 lies within an IRA. This route should be closed. If the TNF proceeds with designating this route as open, we ask for an explanation of the rationale for opening this road.

Pleasant Valley Ranger District

- FR 487A, 203B, and other roads lead into Sierra Ancha Wilderness. No motorized roads are allowed in wilderness areas. Both routes are also located within MSO critical habitat. These routes should be decommissioned and closed.
- FR 235. Portions of this route are located within an IRA and MSO critical habitat. This route should be closed. If the TNF proceeds with designating this route as open, we ask for an explanation of the rationale for opening this road.

XXI. **Wild and Scenic Rivers**

A. Legal Requirements

Currently, there are two designated Wild and Scenic Rivers on the Tonto National Forest: the Verde Wild and Scenic River Corridor and the Fossil Creek Wild and Scenic River Corridor. (Figure 29, DEIS at 133). Keeping motorized users out of riparian corridors, especially those designated as Wild and Scenic, should be a management priority of this travel management planning action. As an initial matter, a statement of the TNF's legal responsibility for its eligible Wild and Scenic rivers would be beneficial to include within the discussion of Wild and Scenic Rivers for this project.

Forest Service policy at FSH 1909.12, Chapter 8.12 states that management prescriptions for eligible rivers should provide the following protection:

1. "...free flowing characteristics cannot be modified."
2. "Outstandingly remarkable values (ORV's) must be protected, and to the extent practicable, enhanced."
3. "Management and development of the river and its corridor cannot be modified to the degree that eligibility or classification would be affected."

The first problem we identify with the TNF's treatment of Wild and Scenic Rivers in this DEIS is the identification of the length and boundaries of corridors. On page 24 (Cumulative Effects) of the Special Areas Report, and within the DEIS, it is stated that there is a 300 foot total width corridor for Wild and Scenic rivers. In reading "The National Wild and Scenic Rivers System Act of 1968" (Public Law 90-542: 16 U.S.C. 1271 et seq.) it is stated that there shall be "*on average a one quarter mile corridor on either bank in the lower 48 states or an average of not more than 320 acres per mile on both sides of the river.*" If one assumes a one quarter mile corridor on one side of a given river then that computes out to be a 1,320 ft. wide corridor. This is a serious error that must be corrected by the Forest Service.

B. Verde Wild and Scenic River

The Wild and Scenic Corridor of the Verde River is of particular concern and should be protected under this planning action. Currently, there are about 2.0 miles of ML 2 road located within the corridor. DEIS at 135. While every action alternative proposes maintaining this road mileage within the corridor, there is no discussion as to which roads are within the corridor, what impacts these roads are having on the wild and scenic attributes of this river, whether these roads have led additional motorized use in the corridor, or how this management action will preserve the protected attributes of this section of the Verde River. Additionally, while the TNF states that there are two instances of motor vehicle crossings of the river in this corridor, there is no information provided as to what type of crossings these are. DEIS at 134-35.

The Forest Service should pay special attention to the Verde Wild and Scenic River Comprehensive River Management Plan, adopted and implemented by the Coconino, Prescott, and Tonto National Forests. *See* USDA 2004. Based on this management plan, the TNF has responsibility to "establish forest orders to address motor vehicle cross-country travel restrictions . . . on the river," implement a river patrol program" that includes "a volunteer component . . . that fosters cooperation and communication between management agencies and river users." USDA 2004: 31, 32. Relevant to this travel management action, the TNF also agreed to the following:

- Convert FR 16 to a non-motorized trail at a location approximately one-eighth mile from the river and gate it to prevent motorized access into riverbed and Mazatzal Wilderness. *Id.* at 32-33.
- Utilize signs, press releases, and other forms of communication to inform the public of the standards adopted in the Management Plan. *Id.* at 33. Including installing road and trail signs. *Id.* at 19.
- Decommission all other roads within the Verde Scenic River area except FR 57 and FR 16. *Id.* at 23.

These actions should be carried out through this travel management process, if they have not already been completed.

Dispersed motorized camping should not occur within the Verde River Corridor. We support the elimination of access for motorized dispersed camping in the corridor, as included in Alternative B. Motorized dispersed camping on the TNF, especially in other areas near the Verde River, has resulted in destruction and degradation of numerous other river corridors and riparian areas. The Forest Service has documented trash accumulation, unauthorized motorized use in streams, vegetation removal or destruction, and general overuse and abuse of areas currently open to motorized use near streams. Continuing to allow dispersed motorized camping in this corridor would be in contravention of the Verde Wild and Scenic River Management Plan, the Wild and Scenic Rivers Act, and Forest Service policy, and the TMR.

C. Eligible Wild and Scenic Rivers

In addition to the designated Wild and Scenic Rivers, there are many potential Wild and Scenic Corridors found throughout the TNF. There are currently 141 motorized crossings of these specific rivers, and over 50 miles of designated motorized routes within the corridors. Inclusion of the many unauthorized routes throughout the forest would likely increase both of these numbers. In general, forest users in the Southwest are drawn to riparian settings because they provide an escape from the otherwise hot desert conditions. The result of this use over time has been a significant decrease in riparian quality. A literature review of studies examining threats to riparian areas identified recreation, including camping and motorized recreation, as a key threat to such areas, resulting in “(1) reducing density and diversity of herbaceous plants, (2) lowering tree and shrub vigor, (3) eliminating seedlings and younger trees, (4) increasing tree diseases, (5) shifting plant species diversity in favor of disturbance-adapted species, and (6) increasing the potential for exotic species spread” (Poff *et. al* 2011: 4). The Forest Service also recognizes the threats to riparian areas on the TNF due to motorized access. DEIS at 155. We direct the Forest Service to review Appendix G, in which we address distinct potential Wild and Scenic segments and the motorized routes that affect them individually, with specific recommendations as to designation or closure.

While some areas of riparian access for non-motorized purposes is necessary for recreational opportunities, motorized use in these corridors is unnecessary and creates a legacy of riparian damage that is hard, if not impossible, to adequately remedy. We support eliminating motorized dispersed camping opportunities within all potential wild and scenic river corridors. Alternative B comes closest to this goal. All other alternatives would allow thousands of acres of corridors to be open to motorized uses, ensuring continued destruction. Unfortunately, the current and potential impacts and effects of leaving these areas open to motorized use is not adequately addressed in the DEIS, preventing understanding of the seriousness of the environmental and recreational problems caused by camping in these areas. Cumulative effects that should be disclosed and analyzed include erosion, impacts on continued qualification for Wild and Scenic status, trash and water pollution, streambank collapse, and wildlife impacts, to name a few. The one paragraph cumulative effects analysis for this section is woefully inadequate. *See* DEIS at 141.

Technical Errors:

The table on page 22 of the Special Areas Report has several errors in it:

- Spring Creek has a “wild” section which Tonto National Forest has not listed. This is segment #2.

- Workman Creek has a “wild” section which Tonto National Forest has not listed. This is segment #2.
- The East Verde River has a “scenic” section which Tonto National Forest hasn’t listed. This is segment #3.

Recommendations:

- Identification of properly defined quarter-mile corridors around designated and potential Wild and Scenic rivers, correction of such in the DEIS, and proper analysis of impacts to Wild and Scenic Rivers based on this correction.
- Motorized dispersed camping areas should be eliminated in all Wild and Scenic and potential Wild and Scenic river corridors.
- The TNF should supplement discussion of cumulative effects from travel management planning on designated and potential Wild and Scenic rivers and corridors, including how all alternatives and any final decision will impact future management and potential for designation for all corridors.
- List all Outstanding Recreational Values (“ORVs”) for Wild and Scenic rivers and describe how the TMP will protect, and enhance them, and otherwise generally comply with the requirements of the Wild and Scenic Rivers Act.

XXII. Inventoried Roadless Areas (“IRAs”)

We support the decision not to designate any additional routes or motorized trails within IRAs. Further, we support Alternative B which will limit the number of route miles to 2.7. IRAs should be managed for their roadless qualities, and decommissioning unneeded roads is the first step. Visitor dissatisfaction about potential lack of motorized opportunities in these areas is irrelevant because these areas must be managed to preserve their roadless characteristics.

Approximately 209,762 acres (0.07 percent) of the forest’s land mass is located within 13 individual Inventoried Roadless Areas (Figure 31). DEIS at 142. Currently, there are nearly 70 miles of motorized routes within IRAs, including 9 miles of inventoried unauthorized routes. Fifty-nine miles of these routes are Forest Service Roads that have been identified and tracked in databases. Almost 2 miles of State Highway 87 is also considered inside an IRA on the Tonto National Forest. DEIS at 144.

“The Roadless Area Conservation Final Rule prohibits road construction, reconstruction, and timber harvest, with exceptions, in Inventoried Roadless Areas because they have the greatest likelihood of altering and fragmenting landscapes, resulting in immediate long term loss of roadless area values. Roads and motorized trails can be present within IRAs. The Roadless Rule does not prohibit travel on existing roads or motorized trails.” DEIS at 141. We note that new *roads* are prohibited and for *all* motorized trails the Forest Service must demonstrate that the minimization criteria found in the Executive Orders must have been met. Additionally, site specific NEPA analysis is required for all motorized routes and information on this level of analysis is not provided in the DEIS.

The statement that “enforcement has the potential to prevent expansion of unauthorized routes and allow soil and water conditions associated with these routes to recover over time,” DEIS at 144, contradicts

other statements in the DEIS about a lack of enforcement capability and conflicts with reality as there are hundreds of miles of known user-created routes in the TNF, many within IRAs.

The impacts analysis is also incomplete and cursory at best. Under the no action alternative, watersheds in IRAs “may be impacted by authorized cross-country travel,” “impacts to watershed conditions from unlimited cross-country travel... would be greatest,” where roads and trail exist they “would provide a vector for introduction of non-native invasive species,” for biodiversity and threatened and endangered species “localized areas may be degrading,” and natural appearing landscapes are “becoming less natural.” DEIS at 146-148. Traditional cultural properties, sacred sites, and traditional uses of the land would continue to degrade, be damaged, or disrupted. DEIS at 149. Trespass onto tribal lands from uncontrolled and unclassified routes would continue. DEIS at 149. However, there is no quantification of impacts to any resource and the public is not provided with any examples of actual impacts that have been documented on any specific location. No specific routes, whether system or unauthorized, are identified as problematic. The analysis of the action alternatives is a simple comparison: impacts from B are less than C which is less than D and A. But again, no quantitative information is provided other than the miles of routes to be designated where B has the “fewest” and D has the “most,” other than the no action alternative A. This is not analysis of impacts.

The TNF is required to “minimize conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands.”⁸ By definition, roadless areas afford a type of quiet and primitive recreation that cannot be found near motorized routes. To allow motorized vehicle use in these areas causes disproportionate conflict between quiet recreationists and motorized vehicle users. Given established motorized road and trail densities on the TNF, the remaining roadless areas possess critical ecological values. In our scoping comments we identified over 60 miles of routes with motorized dispersed camping corridors adjacent to or in IRAs and made recommendations for mitigation and route closures that are located within or are in close proximity to IRAs. We again highlight the routes that will create incursions into IRAs, attached as Appendix H. We urge that dispersed camping corridors not be designated adjacent to IRAs.

Where the TNF decides to pursue the designation of motorized dispersed camping corridors adjacent to or into IRAs, or allow motorized big game retrieval within IRAs, the Forest Service should have identified and analyzed how allowing such motorized use impacts roadless characteristics and the likelihood that these uses in IRAs will result in the creation of roads. The Forest Service should also have disclosed how a lack of enforcement has resulted in the creation of illegal motorized routes in IRAs.

Roadless area characteristics are defined as “[r]esources or features that are often present in and characterize inventoried roadless areas, including:

- (1) High quality or undisturbed soil, water, and air;
- (2) Sources of public drinking water;
- (3) Diversity of plant and animal communities;
- (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
- (5) Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation;
- (6) Reference landscapes;
- (7) Natural appearing landscapes with high scenic quality;
- (8) Traditional cultural properties and sacred sites; and

⁸ 36 C.F.R. § 212.55.

(9) Other locally identified unique characteristics.

36 C.F.R. 294.11. The Forest Service failed to identify and specifically analyze sites within IRAs that could be negatively impacted by motorized use including cross-country exemptions for dispersed motorized camping and motorized big game retrieval.

Mesa Ranger District

- The OHV area located on the southwest portion of the forest overlays Goldfield IRA, this area should be eliminated and cross-country travel in the IRA should be prohibited.
- FR 1336, 12, and 1817 are located in the Goldfield IRA. These routes are classified as ML2 roads in the no action alternative. We support the closure of all of these routes as in Alternative B and for the most part Alternative C. However, we strongly object to the arbitrary conversion of Forest Service *road* FR 12 from a “road” to a motorized “trail.”
- FR 3519 is assigned a system number, however, it is classified as “ML unknown” in the no action alternative. It is highly likely this route had been closed and/or decommissioned at same time in the past. Therefore, this route must be treated as a new route, new construction, or reconstruction, all of which are prohibited by the Roadless Rule.

Cave Creek Ranger District

- FR 560 & 603 are within a large roadless area (not inventoried by the Forest Service). This roadless area, informally known as New River Roadless Area, is approximately 58,000 acres. These routes should be closed and decommissioned. Neither of these roads appear on the TNF forest map (revised 2004) and their origin and use is uncertain. In the no action alternative, these routes are labeled as ML2 roads. In Alternative B and C they are arbitrarily reclassified as motorized trails and no explanation is provided as to why this was done.
- The proposed Desert Vista OHV area overlays the southern portion of Lime Creek IRA, this area should be eliminated and cross-country travel in the IRA should be prohibited.

Additional recommendations for route closures or mitigation of impacts associated with OHVs located within Inventoried Roadless Areas are found in Appendix H

XXIII. Special Management Areas

Table 9 on page 36 of the Special Areas Report lists all Designated Special Areas, Designated Research Natural Areas, and Proposed Research Natural Areas. However, no maps are provided in the Special Areas Report for any of the above classifications. No boundaries are shown on any of the four DEIS maps for any of these listed areas except for the Sierra Ancha Experimental Forest. It appears that the Roosevelt Lake Wildlife Area may be a Special Area, however it is not listed on Table 9 on page 36 of the Special Areas Report. Better maps and visual references for these areas would help those reviewing the Special Management Area components of each alternative and any final plan determine the actual impact of proposed designations.

We support the following components of Alternative B: only .05 miles of motorized routes for administrative use only in the Proposed Picket Post Mountain RNA; no motorized routes within the Proposed Upper Forks Parker Creek RNA.

However, we are concerned that beyond a listing in table 9 on page 36 of the Special Area Report, we can find no text reference at all for the Proposed Sycamore Creek and Blue Point Cottonwood RNA. The TNF needs to remedy this problem and explain how proposed RNAs would be impacted by this travel planning action.

XXIV. Water/Hydrological Resources

In order to combat the negative effects of off-road vehicle use on water quality, the Forest Service should close and decommission any OHV trails that cross streams or are near riparian areas where damage to riparian or aquatic ecosystems is occurring or where off-trail use into streambeds, streambanks, or running water is occurring. Moreover, the TNF should include monitoring provisions for aquatic and riparian habitat near motorized routes or trails that could potentially provide unauthorized access to rivers or streams within the forest. Safeguarding these areas is of particular importance to protecting wildlife diversity, drinking water resources, and preventing the establishment of exotic, invasive riparian plants that have become widespread throughout the region.

Recommendations:

- We would like to see all rivers and major streams delineated in some fashion on the DEIS maps. This would more easily facilitate an understanding of the relationship between the road network and the riparian corridors.
- Include monitoring provisions within the final TMP that specifically focus on areas where motorized trails, routes, or areas cross or provide access to streams and rivers.

XXV. Visual Resources

That there is an extreme problem with uncontrolled OHV use on the TNF is no better demonstrated than in the two Google Earth photos of the Pobrecito OHV Staging taken eight years apart in 2002 and 2008 as shown on page 18 of the Visual Resources Report. We note the large number of crisscrossed unauthorized routes that have developed over time from uncontrolled OHV activity. If desired future conditions on the TNF are going to be a reflection of what the majority of forest users expect (a visually attractive and natural appearing landscape, page 4 of the Visual Research Report), then it will be incumbent upon the TNF to limit and curtail OHV activity on a forest-wide level, especially in areas where resource damage similar to that documented in the Google Earth photographs has and continues to occur.

Moreover, given the extreme nature of the impacts from out-of-control motorized use in these photos, which we believe would be generally perceived as negative, we feel that the TNF should better highlight these photos and other documentation of negative impacts within the DEIS to better highlight the need for management of motorized use throughout the forest. It is imperative that the public and interested stakeholders understand the consequences of past use and ineffective management, as well as the potential benefits of a new travel management plan.

Page 16 of the Visual Resource Report states that OHV users look for areas that are prone to adverse impact and actually object to being confined to areas of high use. This OHV mentality is one of the root causes of resource degradation on the TNF. On page 22 of the Visual Resource Report under the section titled "Assumptions Associated With Permit Zones" it is stated that physical barriers such as pipe rail fences and locked gates detract from the natural landscape character. We think that pipe rail fencing and locked gates are far preferable to a resource that is trashed from out of control OHV activity and will better protect plants, animals, and other resources. The Visual Research Report under the section entitled

“Permit Zones” again states that physical barriers would detract from the natural landscape character. First, we note that physical barriers can be designed to blend in with surrounding landscape. Second, even if physical barriers detract from the landscape, it is preferable to OHV damage, which has more significant impacts on visual quality. Finally, it is important for the Forest Service to realize that barriers may be the only way to prevent new or additional degradation of visual quality in areas with high OHV use and no reasonable means of preventing OHV damage should be ruled out.

Recommendation:

The Forest Service should consider installing physical barriers selectively to limit the worst resource damage, protect plants and animals, and limit the continued visual degradation of these areas. The barriers should be designed to blend with the landscape whenever possible. The Forest Service should also consider using natural vegetation, such as cholla cacti, if it will decrease access, to protect these areas from more damage by OHV users.

XXVI. Heritage Resources

We concur with the statement on Page 191 that “Access can be both beneficial and detrimental depending on what aspects of preservation management and use of cultural resources are under discussion.” However, we find fault with some of the assumptions regarding both the benefits and the detriments to historic resources. Most notably is the failure of the programmatic agreement to account for the indirect effects of motorized access which you identify on page 2 second full paragraph. The failure of the programmatic agreement in accounting for indirect effects when determining whether to continue to designate a system road open to motorized access or to designate a currently unauthorized or closed road as open to motorized access does not alleviate the need for the USFS to consider these potential impacts as part of the DEIS. The analysis presented on pages 197 and 198: “Alternative B- Direct and Indirect Effects and Alternative C – Direct and Indirect Effects”, respectively is wholly inadequate as there is no analysis of indirect effects. There is a short reference to indirect effects on page 203 where we are led to believe that motorized access “does not appear to create an impact to cultural resources on the Tonto National Forest” which is in complete contradiction to statement on page 191 that we refer to above. Nonetheless, this part of the assessment does not differentiate effects between any of the alternatives (excepting the no action alternative) based on the observation that all the alternatives reduce the risk of damages to cultural resources from uncontrolled and unauthorized cross-country motorized travel. While this may be the case, it does not alleviate the need to analyze alternatives for both direct and indirect effects.

However inadequate, there is some reference to indirect effects related to looting and vandalism on page 203, last paragraph although this effect is immediately dismissed based on the offsetting value of increasing access that provides for efficient monitoring and law enforcement. At present less than 5% of heritage resources on TNF are monitored by volunteers or staff in any one year and there is insufficient law enforcement personnel to enforce travel restrictions, (*see* DEIS Law Enforcement Specialist Report) yet we are led to believe they are an important aspect of preventing vandalism and looting throughout the Forest and so much so that there is net benefit to cultural resources. We reference again our work on the TNF in 2010 (Hedquist et al., in press) that demonstrates empirically that access facilitates damage to archaeological sites which is in line with numerous other studies on the topic. We would argue that the increased access may play a role in safeguarding sites where motorized traffic is frequent but plays absolutely no role in remote areas of the TNF where many of the routes we recommend for closure are located and visits by law enforcement, TNF staff or volunteers is very occasional or non-existent in the course of year. Nonetheless if roads or trails are that critical to efficient and effective management of cultural resources then an appropriate balance might be to designate more of the roads open to

administrative use but closed to public use. In fact, we would argue that closing roads or trails that provide easy access to vulnerable sites would enhance enforcement capacity as any unauthorized user of the road would be in violation of the law and subject to enforcement action adding an additional layer of protection for vulnerable sites while allowing volunteer monitors and USFS staff access for management purposes.

We are further concerned that the analysis that was done (incomplete as it may be) does not accurately represent the amount of road miles that require survey and formal consultation. This is especially true with respect to Alternative C as Page 198 fifth complete paragraph states “a net increase from the current condition of over 617 miles” which in our estimation would necessitate survey and consultation for an additional 493 miles of roads or trails. On a related note, we do not believe that decisions on the 124 miles of surveyed routes should await further analysis as the availability of this information should inform the current decision-making in the DEIS.

Motorized Vehicle Use for Dispersed Camping relies exclusively on the application of the Protocol in determining the relative effects of each Alternative. As stated previously, the Protocol does not address indirect effects. Therefore, this does not satisfy TNF’s burden to adequately assess the indirect effects of dispersed camping.

Under Plan B (page 19, Areas Designated for Motor Vehicle Use) of the Heritage Resource Report it states: “Any restriction or reduction of uncontrolled off-road travel would reduce impacts to cultural resources.” We couldn’t agree more.

Recommendations:

- As a general guideline, routes that are within 200 meters of a significant heritage, cultural, or archeological site should be closed.
- We recommend that the following routes be closed and decommissioned due to significant and adverse impacts to cultural and archaeological resources that is occurring and will continue to occur if these remain open to public use:

14	568	1618
17	574	1659
81	699	1740
87	1063	1993
97C	U1087	3127
120	1099	3158
312	1103	3165
409	1380	3170
449A	1530	3197
479	1555	3644A
497	1617	

XXVII. Noxious/Invasive Weeds

The analysis included in the DEIS for noxious/invasive weeds only speaks to acres of weeds that would be accessible to OHV use/motorized access. This is not sufficient. The analysis should focus on the likelihood of spread, introduction, removal, effect on eradication efforts, and new/larger areas exposed due to the proposed designation of routes and areas in each alternative. *See* DEIS at 452.

XXVIII. Air Quality

The TNF contains three particulate (PM₁₀) nonattainment areas, one PM₁₀ maintenance area, and one ozone nonattainment area. DEIS at 485. There are also four Class I airsheds within the Tonto. DEIS at 486. Pursuant to Clean Air Act regulations, the Forest Service is prohibited from undertaking any activity in a nonattainment area that does not conform to an applicable state implementation plan (“SIP”). *See* 40 CFR § 93.150(a). Nearly all alternatives, including the No Action alternative, would increase the number of miles of roads, particularly unpaved roads, currently open to the public and there is no time-frame for reclamation of decommissioned roads.⁹ The environmental effects of the unavoidable increases in fugitive dust and other air pollutants that will result were not accurately analyzed, there are no measures to mitigate these impacts in the DEIS, and the TNF incorrectly found that a General Conformity Determination was not required. We explain our concerns more fully below.

A. The Analysis Does Not Comply with NEPA

NEPA requires that the USFS avoid or minimize adverse effects on the human environment (40 C.F.R. § 1500.2(f)) and evaluate reasonable alternatives that will avoid or minimize these effects (40 C.F.R. §§ 1500.2(e), 1502.14). Alternatives are particularly important to remedy unresolved conflicts regarding air pollution in this area. 42 U.S.C. § 4332(2)(E). NEPA also requires that the USFS assess impacts to human health. (*See* 36 C.F.R. § 220.7(b)(3)(iii) and 40 C.F.R. 1508.27(b)(2)). Addressing these impacts is necessary to ensure that there is not a substantial dispute regarding the size, nature, or effect of the proposed action and alternatives—whether at a local or broader, regional level—rendering the agency’s actions highly controversial, and to address serious uncertainties and unknown risks regarding those actions. 40 C.F.R. §§ 1508.27(a), (b)(4), (b)(5).

The National Ambient Air Quality Standards (NAAQS) set maximum allowable levels for six criteria air pollutants in order to protect human health and other secondary values, such as public safety. *See* 42 U.S.C. § 7409(b). Particulate matter with an aerodynamic diameter less than 10 microns (PM₁₀) is a pollutant subject to the NAAQS. *See* 40 C.F.R. § 50.6 (establishing the NAAQS for PM₁₀). Both short-term and long-term exposure to PM₁₀ can lead to increased premature mortality, increased hospital admissions and emergency room visits, and the development of chronic respiratory disease.¹⁰ Fugitive emissions of PM₁₀ from motorized travel on unpaved roads is of particular concern for the TNF.

Under NEPA, the TNF has an obligation to ensure compliance with the health-based NAAQS and to prevent significant deterioration of air quality and adverse impacts on air quality related values, such as visibility. (*See* 36 C.F.R. § 220.7(b)(3)(iii) and 40 C.F.R. § 1508.27(b)(10)). In order to meet its obligations under NEPA, the DEIS should have identified allowable levels of emissions from the

⁹ Given that the DEIS makes clear that decommissioning was not a priority for the routes decommissioned in the 1990 RATM, it is highly unlikely to occur moving forward. DEIS at page 59.

¹⁰ *See* the proposed National Ambient Air Quality Standards for Particulate Matter, 71 FR 2620, 2627-28 (Jan. 17, 2006).

proposed route changes that would not cause or contribute to violations of air quality standards in the ambient air and identify mitigation measures capable of preventing any such violations. The EIS “shall include discussions of: (h) [m]eans to mitigate adverse environmental impacts (if not fully covered under §1502.14(f))” where “[m]itigation includes: (a) avoiding the impact altogether by not taking a certain action or parts of the action; (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation.” (40 C.F.R. § 1508.20). The Council on Environmental Quality (CEQ) further directs that: “[a]ll relevant, reasonable mitigation measures that could improve the project are to be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and thus would not be committed as part of the RODs of these agencies. Sections 1502.16(h), 1505.2(c). This serves to [46 FR 18032] alert agencies or officials who can implement these extra measures, and will encourage them to do so.”¹¹ The DEIS should have identified and analyzed an alternative that includes mitigation measures that clearly demonstrate compliance with NAAQS and Prevention of Serious Deterioration increments and assure there will be no adverse impacts on air quality related values.

B. Cumulative Effects are Not Adequately Analyzed

The DEIS should have included a comprehensive analysis of cumulative effects, including effects of the proposed actions along with all past, present and reasonably foreseeable future actions on the affected environment. (36 C.F.R. § 220.4(f) and 40 C.F.R. §1508.7). The TNF must fully justify any incomplete or unavailable information per the requirements of 40 C.F.R. § 1502.22.

Specifically, the TNF is required to consider impacts from the proposed action along with all other past, present, and reasonable foreseeable future actions on the affected environment. *See* 36 C.F.R. § 220.4(f). The cumulative analysis should be performed in accordance with the requirements of 40 C.F.R. § 1508.7, where:

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. 40 C.F.R. § 1508.7

Even a small, incremental impact can have a cumulatively significant impact. Indeed, that is the very reason NEPA requires agencies to consider cumulative impacts. Failing to conduct this analysis of cumulative impacts by, effectively, considering the incremental impact of the agency’s action, in isolation, precludes the agency’s ability to justify determination that air quality impacts will be reduced under all alternatives.

For the cumulative impact assessment, the TNF must include all of the following existing and reasonably foreseeable sources that impact the same area impacted by motorized travel on the TNF: (1) State- and Federal-permitted sources (including all sources recently permitted or which have recently submitted complete PSD permit applications but which are not yet operating); (2) state Oil and Gas Conservation Commission permitted wells (*e.g.*, Holbrook Basin); and (3) NEPA projects and Resource Management Plans in areas adjacent to the TNF.

The TNF has failed to accomplish this in the DEIS. The DEIS does not include a detailed dispersion modeling assessment of the impacts of the proposed action on compliance with the NAAQS, on whether

¹¹ *See* CEQ, NEPA 40 FAQs, question 19b at <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>.

there will be significant deterioration of air quality and on whether there will be significant visibility impacts, nor is there an acceptable explanation as to why this assessment was not completed.

A cumulative impact analysis will aid in identifying the level of significance of those impacts on a particular resource and the appropriate type and level of mitigation that may be required to offset the current proposals' contribution to these impacts. The TNF should perform a cumulative analysis of impacts, including all existing sources and reasonably foreseeable future sources of emissions that could impact the same area impacted by sources within the travel planning area. At a minimum, the analysis should consider cumulative impacts on the PM₁₀, PM_{2.5} and NO₂ NAAQS and PSD increments. In order to complete a cumulative PSD increment analyses, an evaluation of all increment-consuming emissions from existing sources must be made, which would include all increases in emissions since the applicable minor source baseline date that have occurred at existing sources, as well as all new sources of emissions that came into existence after the applicable minor source baseline date and reasonably foreseeable future sources of emissions.¹² A separate emissions inventory must be developed to reflect those emission changes since the applicable baseline date, and those emissions changes must be modeled in order to demonstrate compliance with the PSD increments. In order to ensure all cumulative impacts are considered, the TNF must also ensure and document that the proposed actions will not result in any adverse impacts to Class I PSD increments or air quality related values, such as visibility, in any potentially impacted Class I areas. The PSD increments are important and legally binding CAA requirements and the TNF must provide for compliance with these requirements in the DEIS.

Any modeling analysis used to determine cumulative far-field impacts should be based on three years of mesoscale meteorological data, pursuant to Section 9.3.1.2.d. of EPA's Guidelines on Air Quality Models at 40 C.F.R. Part 51, Appendix W. Background air monitoring data should be added to the results of the cumulative modeling analysis in determining compliance with the NAAQS. As discussed in EPA's Guideline on Air Quality Models, if the source being modeled is not isolated, as is the case in this modeling assessment, then modeling of existing sources is necessary to determine the potential contribution of background sources. *See* Section 9.2.1 of 40 C.F.R. Part 51, Appendix W. Thus, the TNF cannot use background monitoring data to reflect all existing sources in or affecting the region unless it can demonstrate that the impacts of the existing sources not modeled are reflected in the monitoring data, and show that the monitoring data are reflective of maximum concentrations in the area. The TNF must ensure that sources that may not be reflected in any monitored background concentrations used in the analysis are modeled as part of the cumulative impact assessment.

In addition to the four Class I areas within the TNF that are identified in the DEIS (Pine Mountain Wilderness, Mazatzal Wilderness, Sierra Ancha Wilderness, and Superstition Wilderness), the TNF must also consider any potential air quality impacts from the proposed action and alternatives to air quality related values in the nearby Mount Baldy Wilderness (USFS), Petrified Forest National Park (National Park Service) and Galiuro Wilderness (USFS) Class I areas.

¹² The major source baseline dates are January 6, 1975 for PM₁₀, February 8, 1988 for NO₂ and October 20, 2010 for PM_{2.5} (40 CFR 52.21(b)(14)(i)). The minor source baseline dates in Arizona differ by pollutant and were triggered on the date that a complete PSD permit application was received by the ADEQ. *See* definitions of "major source baseline date" and "minor source baseline date" in the Arizona PSD rules and 40 CFR 52.21(b)(14), included as Appendix I.

C. The Air Quality Specialist Report appears to be rather outdated

The Air Quality Specialist Report is signed and dated March 24, 2014. However, the content of the report appears to pre-date 2013:

By December 31, 2010, the area had again failed to meet air quality standards for PM10 and submitted another plan to EPA, which it later withdrew on January 25, 2011. EPA made a finding of failure to submit the plan and started sanctions clocks on February 14, 2011. EPA must find replacement plans complete or impose the offset sanction by August 14, 2012. EPA must approve the replacement plans by February 14, 2013 or promulgate a Federal Implementation Plan (FIP).

See DEIS Air Quality Specialist Report at 6. See also the Air Quality Specialist Report at page 14, which refers to 2013 as a “future” year for analysis.

D. The Information Used in the Analysis is Inconsistent

The Air Quality Specialist report states the TNF has 5,631 miles of unpaved roads, which includes 672.33 miles classified as unauthorized routes, resulting in 1,801 tons of PM10 emissions per year. DEIS Air Quality Specialist Report at 10. This differs significantly from the number of miles of roads used in the alternatives analysis for the DEIS (4,958 miles including the 672 miles of unauthorized routes). This discrepancy must be explained. Additionally, the proper baseline for analysis, as we explain in section IX above, should indicate 2,952 miles of motorized routes open to public use as this is the legally open motorized route system. The failure to accurately identify the baseline for analysis results in nearly half of the potential motorized routes, 2,679 miles, left out of the analysis for air quality impacts. If the TNF uses an accurate baseline for analysis, the impacts analysis for air quality will indicate that negative effects will increase under all alternatives except Alternative B, which may see a very slight reduction in air quality impacts.

The Air Quality Specialist Report relied on a 2008 study from Arizona State University to determine the number of OHV (OHVs) using the TNF on a daily basis. DEIS Air Quality Specialist Report at 14. That study found that for every 1,100 vehicles entering the TNF, Roosevelt Lake Recreational Area, just 23 of those vehicles were classified as OHVs. This is equivalent to just two percent for forest users. This number was used to extrapolate a 2013 estimate of the number of OHVs using the TNF each day and is estimated at 133 OHVs per day. However, this number of OHV users is significantly different from the information presented in the DEIS and the National Visitor Use Monitoring (NVUM) information which indicates that approximately 11 percent of TNF users are engaging in OHV activities. DEIS at 91. These two very different estimates must be reconciled. Using two percent as the estimated number of OHV users for air quality analysis, but using 11 percent of OHV users for all other analysis is arbitrary and capricious and renders the entire impacts analysis in the DEIS invalid.

There is no analysis of the impacts of motor vehicles that are not classified as OHVs (apparently ATVs and dirtbikes). This ignores approximately 98 percent of the motor vehicle use occurring on the forest. The 2008 NVUM data show that 11 percent of visitors reported OHV use and 17.7 percent of visitors reported motorized trail activity. Based on the 5.7 million visitors reported in 2008 (6,506 vehicles per day based on an average of 2.4 visitors per vehicle), this would translate into over 700 off-highway vehicles per day and over 1,000 motorized trail vehicles per day. This is far more than the 133 OHVs per day. The Vehicle Miles Traveled (VMT) data used to calculate PM₁₀ emissions for the conformity analysis are not only flawed because they underestimate current usage estimates (based on 2008 data) but, more importantly, because they fail to take into account projected growth in VMT.

As described above, the air quality analysis is deeply flawed and such flawed analysis has led to the erroneous determination that there will be a reduction in emissions, including PM₁₀, for each action alternative. DEIS Air Quality Specialist Report at 34. This incorrect determination is then used to incorrectly find that a General Conformity Determination (GCD) is not required. DEIS at 490. Because the baseline for the analysis results in a flawed determination of reduced emissions, the finding that a GCD is not required is also flawed. Thus, the TNF cannot assert that route designations will result in de minimus or reduced emissions.

Therefore the TNF must, after correcting the baseline information used for the air quality analysis, make a GCD and inform the public how the route designations for this project will conform to SIPs. This necessarily requires a significant reduction in the number of motorized routes designated as open to the public. A failure to do so will result in a violation of NAAQS and a violation of the Clean Air Act.

E. Health and Wildlife Impacts Are Not Adequately Analyzed nor Addressed

The violations of NAAQS and the Clean Air Act will have significant impact on human health, and will impair visual quality in the TNF. It will also negatively impact wildlife and vegetation.

The Air Quality analysis underestimates emissions by failing to include tire and brake wear, failing to account for an increase in vehicle miles traveled, failing to use area-specific information on vehicle use, and failing to include vehicle exhaust from 98 percent of the vehicles used in the TNF.

The analysis of fugitive dust is inadequate. In our scoping comments we suggested the TNF address the impact of fugitive dust on vegetation, including the disruption of photosynthetic and respiration processes, leading to reduced plant growth, reproduction, and survivorship. We also asked the TNF to evaluate the impact on species such as desert tortoises. Neither of these issues was addressed in the DEIS.

Fugitive dust suspended in the air has the potential to impact more total area than any other impact of roads (paved or unpaved) and it can have significant effects on ecosystems and wildlife habitat.¹³ Dust is created and raised into the air as motorized vehicles travel on unpaved roads and through proposed dispersed camping and big game retrieval areas and is then carried along traffic created wind currents and dispersed along roadsides. Once soil surfaces within dispersed camping areas and along Forest Service roads are disturbed, wind erosion may increase the amount of debris flow.¹⁴ An example of fugitive dust plumes caused by OHV traffic is documented in 1973 satellite photos. These photos show six dust plumes in the Mojave Desert covering more than 1,700 km² (656.2 mi²). These plumes were attributed to destabilization of soil surfaces resulting from OHV activities.¹⁵ In a study prepared by Walker and Everett, along Alaskan roads heavily traveled by various types of vehicles, they found that dust had buried mosses and very low-statured vegetation in the 10-m-wide area adjacent to each side of the road; dust blankets measured up to 10 cm (3.9 in) deep.¹⁶ Massive dust storms, sometimes called “haboobs,” can reach up to 3,000 feet in height and can be 20 miles wide. Such dust storms are now an annual occurrence in the Phoenix area. The first haboob of 2014 occurred on July 3. Despite the fact that we provided this information to the TNF in our scoping comments, the air quality analysis did not adequately analyze fugitive dust and did not include any information on the proposed motorized dispersed camping and big game retrieval areas.

¹³ Forman et al., 2003; Westec, 1979.

¹⁴ Lovich and Bainbridge 1999.

¹⁵ Nakata et al., 1976; Gill 1996.

¹⁶ Walker and Everett 1987.

In our scoping comments we provided the TNF with information from Dr. Jane Belnap of the United States Geological Survey and a presentation she gave to the Colorado Water Conservancy District.¹⁷ Dr. Belnap's presentation addressed the connection between increased temperature, disturbance, invasive species and dust. This presentation focused much attention on the impacts from OHVs and noted the cycle of increasing temperatures, which increases dust, which is exacerbated by OHVs, which increases the effects of climate change (temperature increases) and the key indicator of these problems being earlier snowmelts. Dr. Belnap also cited dust concerns in her testimony at congressional hearings on June 5, 2008. Of particular concern is the amount of dust that results from motorized routes, which settles upon snow pack and alters the melt rate which, in turn, alters the availability of warm season infusion of water into streams and lakes, when such water is critical to wildlife. We have attached the Senate oversight hearing testimony as Appendix K and again ask that the TNF specifically review pages 3-7, and see also pages 14, 18, 19.

Emissions from OHVs are one of the top five off-road sources of particulate emissions in the Phoenix valley. Excessive OHV use on TNF lands can contribute to the Phoenix area's ability to comply with federal air quality regulations, resulting in federal sanctions and contributing to declining health of area residents.

Laws, ordinances, and policies have been adopted across the Phoenix metropolitan area due to these air quality concerns. See Arizona Department of Game and Fish OHV brochure, attached as Appendix L. We have included other attachments related to Arizona clean air laws in Appendix M. Appendix M includes a map of dust complaints in Maricopa County, the Maricopa County Dust Ordinance, a 2008 dust presentation and a Arizona Department of Environmental Quality press release focused on dust and OHVs. Cities and towns have restricted the operation of motorized vehicles on unpaved roads and some communities have adopted ordinances addressing OHV use on private lands. Closures of State Trust Lands to off-road vehicle recreation has led to the displacement of OHV uses to TNF lands, often illegal and taking place in areas closed to OHV uses. We note that as early as 2008 the TNF was publicly stating it would comply with local laws regarding dust abatement and would consider the impacts of fugitive dust during travel management planning: "Tammy Pike, the forest's off-highway-vehicle and trails coordinator, said Tonto will take municipal dust-abatement rules as well as environmental impacts into account in deciding what trails will remain open." The Arizona Republic, *Off-roaders could be kicked off trust land: Dust issues spur plan to limit use of Valley trails*. July 30, 2008, attached as Appendix N.

The Air Quality Technical Advisory Committee made recommendations on measures to reduce PM₁₀ in the Maricopa County Serious PM₁₀ Nonattainment Area.¹⁸ Included in those recommendations are the following specific measures that may apply to the TNF in areas that impact the PM₁₀ Nonattainment Area:

- Cease dust generation activities during stagnant conditions. This measure would require that dust generation activities be curtailed on days between November 1 and February 15 when Arizona Department of Environmental Quality issues a High Pollution Advisory (HPA) due to stagnant weather conditions.
- Reduce OHV use in areas with high OHV use including impoundment or confiscation of vehicles for repeat violations. This measure would involve development and enforcement of ordinances or

¹⁷ PowerPoint presentation given September 18, 2009 at the Colorado River Water Conservancy District seminar, attached as Appendix J and available online at http://www.crwcd.org/page_305.

¹⁸ MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area, Air Quality Technical Advisory Committee Recommendations on the Suggested List of Measures to Reduce PM-10 Particulate Matter. March 28, 2007, included as Appendix O.

implementation of other actions to prevent or discourage off-road vehicle use in the PM₁₀ nonattainment area.

- Limit speeds to 15 miles per hour on high traffic dirt roads. This measure would require 15 mph speed limit signs to be posted on dirt roads in the PM₁₀ nonattainment area that carry high traffic (e.g., 50-150 vehicles per day).
- Prohibit new dirt roads. This measure would prevent the construction of new dirt roads in the PM₁₀ nonattainment area. The TNF should also refuse to designate illegal or unauthorized dirt roads via the TMP process.
- Pave or stabilize unpaved access to paved roads. This measure would require additional measures to reduce trackout and dragout from vehicles accessing paved public roads via unpaved access points (e.g., require paving of access points onto roads with high traffic, e.g., 5,000 vehicles or 50 heavy duty trucks per average weekday).
- Ban OHV use on high pollution days. This measure would ban OHV use on High Pollution Advisory days in Area A.

In addition, the TNF must address how the air quality rules adopted in Maricopa County will apply to each of the TNF alternatives and, specifically, how the TNF will ensure compliance with: (1) Maricopa County Rule 310.01, which includes fugitive dust mitigation measures applicable to non-traditional sources of fugitive dust;¹⁹ (2) Maricopa County Ordinance P-27 Vehicle Parking and Use on Unstabilized Vacant Lots, which restricts vehicle parking and use in unincorporated sections of Area A in Maricopa County;²⁰ and (3) Maricopa County Ordinance P-28 Off-Road Vehicle Use in Unincorporated Areas of Maricopa County, which restricts operation of vehicles on unpaved property in unincorporated areas of Maricopa County.²¹

When the TNF initially prepared an EA for this project, the ADEQ and MCAQD “requested that Tonto NF management efforts concentrate on routes and areas within nonattainment areas and identify and mitigate dust in the immediate future. Four Peaks Road off Highway 87, Bulldog Canyon, and The Rolls are areas of interest and particular concern for ADEQ and MCAQD.” Further, the cities and counties in the Phoenix metropolitan area are required by ADEQ to limit the recreational use of off-highway vehicles (OHV) on days when a High Pollution Advisory (HPA) is in effect and to restrict parking and use of all vehicles on unpaved or unstabilized vacant lots, except when a dust-control permit has been issued. The Bulldog Canyon and Rolls permit zones on the Mesa Ranger District are included in this area.

The DEIS does not include specific mitigation measures consistent with these requirements for the Maricopa County Serious PM₁₀ Nonattainment Area. The TNF must include a specific, enforceable requirement that the affected routes designated in this project would be restricted on HPA days. The TNF must ensure that route designations fully comply with all other requirements for reducing fugitive dust in the Maricopa County Serious PM₁₀ Nonattainment Area. This is especially important given the fact that the TNF anticipates a higher demand for travel on TNF routes as neighboring cities and land management agencies further restrict OHV use on surrounding lands in an effort to regain compliance with the NAAQS.

¹⁹ Regulation III Control of Air Contaminants, Rule 310.01 – Fugitive Dust from Non-Traditional Sources of Fugitive Dust, adopted 1/27/10.

²⁰ Maricopa County Air Pollution Control Rules and Regulations, Maricopa County Ordinance P-27 Vehicle Parking and Use on Unstabilized Vacant Lots, Adopted 2/20/08, Revised 1/12/11, http://www.maricopa.gov/aq/divisions/planning_analysis/rules/docs/p27-1101.pdf.

²¹ *Id.*

The DEIS should have included detailed plans for dust control considerations for the proposed action that satisfy all SIP requirements for the Maricopa County Serious PM₁₀ Nonattainment Area and should base these plans on the required quantitative modeling analysis of air quality impacts. If the TNF quantitative air quality analysis shows significant, adverse impacts to air quality, then the subsequent DEIS should include specific and detailed mitigation measures to address the impacts, including: (1) modeled demonstrations that the mitigation measures will be effective; and (2) methods for ensuring compliance with any required measures. A significant, adverse impact to air quality may include contribution to predicted violations of a NAAQS. Any mitigation identified and analyzed by the agency should be mandated as part of the final decision to ensure that impacts are constrained within acceptable levels, including with a buffer to ensure that impacts are, in fact, acceptable. If mitigation is speculative, there are insufficient assurances that impacts will, in fact, be constrained within acceptable levels provided by substantive air quality protections or to prevent significant impacts pursuant to NEPA.

In addition to being part of a PM₁₀ nonattainment area, a portion of the TNF also lies within the Phoenix-Mesa Ozone Nonattainment Area. Numerous exceedances of the ozone standards continue to be reported in and around the TNF²². This is with the existing ozone standard. After the new health-based standard is adopted, even more of the TNF will be included and more measures will be required to reach attainment. Due to the ozone nonattainment status in the area and the coming change in the standard, it is critical that the TNF not allow for *any* increase in emissions of ozone precursors (*i.e.*, NOx tailpipe emissions) that would contribute to continued exceedances of the ozone NAAQS. Because a regional-scale photochemical ozone modeling analysis is a significant undertaking, the TNF should consider simply not allowing any increase in ozone precursor emissions in the areas of the TNF that impact the ozone nonattainment area during potentially unhealthy days—*e.g.*, ozone alert days identified by ADEQ as high pollution advisory days for ozone.

F. None of the Alternatives Complies with the TNF LRMP

The TNF must conduct management activities so that air quality “will be equal to or better than that required by applicable federal, State, and local standards or regulations.” TNF 1985 Land and Resource Management Plan (LRMP) at 50. Instead, under the proposed alternatives in the DEIS, air quality will be made much worse. The TNF LRMP, adopted in 1985, sets a goal of meeting “minimum air...quality standards” and expressly requires that “[m]anagement activities will be planned so that air quality will [be] equal to or better than that required by applicable federal, State, and local standards or regulations.” LRMP at 50.5 The LRMP also explicitly requires the USFS to ensure that its forest activities result in less PM₁₀ pollution than the following concentrations: 150 micrograms per cubic meter (µg/m³) over a 24-hour period and 75 µg/m³ over an annual period. *Id.* These LRMP requirements are supported by the provisions of 36 C.F.R. § 219.27 (1982), which were the regulations in place at the time the LRMP was adopted and explicitly required that the TNF maintain “air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.” 36 C.F.R. § 219.27(a)(12). The DEIS does not include a quantitative assessment of air pollutant impacts in order to ensure concentrations do not exceed the Federal CAA requirements (*e.g.*, NAAQS) nor does it ensure PM₁₀ levels are below the 24-hour and annual limits established in the LRMP. Prior to the final determination as to whether or not there will be significant impacts from the proposed alternatives, the TNF must perform a detailed modeling assessment of near-field impacts for all alternatives that demonstrates compliance with the NAAQS and the requirements of the LRMP.

²² According to EPA Air Data (http://www.epa.gov/airquality/airdata/ad_viz_ozcompare.html), there were 18 exceedances of the 8-hour O₃ standard in Maricopa County in 2011.

In addition to the LRMP, the Travel Management Rule requirements for the designation of roads, trails and areas for motor vehicle use call for the USFS to consider, among other things, effects on National Forest System natural resources. *See* 36 C.F.R. § 212.55(a). In addition, when designating trails and areas for motor vehicle use the TNF must also consider—and minimize—the effects of the proposed usage on forest resources taking into account, among other factors, the effect of emissions on existing conditions in populated areas. *See* 36 C.F.R. § 212.55(b)(5).

Specifically, the TNF must demonstrate how it applied the “minimization criteria” set out in Executive Order 11644 and the Travel Management Rule to its designations of motorized trails and areas for use by OHV. In doing so, the TNF must demonstrate how the designations will *minimize* damage to air resources (36 C.F.R. § 212.55(b)(1)) and will *minimize* the impacts of vehicle uses on existing conditions in populated areas by taking into account air emissions (36 C.F.R. § 212.55(b)(5)).

Recommendation:

After an accurate and correct analysis of air quality is completed, if such information reveals OHV use is contributing or will contribute to air quality problems in the Phoenix area, the Forest Service must reduce the amount of OHV use allowed on the Forest and locate routes on which OHVs can travel in such a way as to minimize contributions to air quality problems.

XXIX. Climate Change

It is not appropriate for the Forest Service to rely on a more than four year old document (from 2010) to support the fact that climate change models have not evolved to the point of being of use on forest-wide management decisions. The Forest Service must quantify and describe the effects of the proposed action on climate change, including use by motorized vehicles on the designated route system. Merely stating that the effects of any single source, when considered on the global scale, do not need to be considered is wrong. The United States Supreme Court has made clear in *Massachusetts v. E.P.A.* that any contributing source, no matter how small, is of importance in the climate change context. As a result, the Forest Service must use its existing data on motorized use of the Forest to quantitatively and qualitatively analyze the effects of a motorized-route system on climate change, including estimates of greenhouse gas emissions, as well as an analysis of the social cost of carbon as a result of that calculation.

XXX. Specific Routes/Areas Recommendations

There are many routes and sites that deserve more careful analysis; we have identified here a subset that represents areas of most significant concern that are also experiencing significant resource damage under current management.

A. Sycamore Creek

The Sycamore OHV Area includes an ephemeral wash that is tributary to Lower Sycamore Creek. Forest Road 403 lies within the wash bottom until it joins Sycamore Creek. Approximately 4.5 miles of the channel of Sycamore Creek, extending upstream from the boundary with Fort McDowell Indian Reservation, are included in the area. DEIS at 468. There have been significant impacts to this wash due to motorized use, including recreational shooting damage, vegetation removal, and trash. The areas just outside of the wash provide important habitat for desert tortoise, making removal of motorized use from this area of high importance.

OHV impacts can also disturb armor layers of channel bottom material that form during periods of high flow making the channel more susceptible to erosion. OHV travel in uplands can remove vegetative ground cover, and cause compaction and rutting of soils. Increased runoff from bared and compacted soils can increase erosion and sediment delivery to stream channels and wash bottoms. *Id.*

FR 3456, 3456A, and 3456B following Log Corral Wash (which drains into Bartlett Reservoir) and then follows Log Corral Canyon (which drains into Sycamore Creek) should all be decommissioned and closed. This closure needs to occur from the west terminus at FR 393 all the way through to the east terminus with SR 87. Log Corral Canyon was once a beautiful riparian area until it was taken over by OHV users and laid to waste. OHV users cleared downed cottonwood trees from the canyon bottom by chaining them to 4WD vehicles. This occurred around 1980. A once beautiful birding/wildlife area was overrun by OHV users. Alternative B shows FR 3456A and FR 3456B as motorized trails. It makes little sense to list FR 3456 as decommissioned and then leave 3456A and 3456B open to motorized travel. Log Corral Canyon is a riparian area and there should be no OHV use permitted here.

B. FR 303A/B

Forest Road (FR) 303A should be completely decommissioned and that section of FR 303B should be decommissioned north of the junction with FR 303A. There is evidence that FR 303A has illegal grazing structures that have been put in place in violation of NEPA. FR 303B should remain open along with that portion of FR 303B that is west of the junction with FR 303A. This will allow for access to Gleason Flat for river runners and also allow an area that is open for dispersed camping along the Salt River.

C. FR 644

FR 644 should be decommissioned north of the junction with FR 223. By closing FR 644 at this point user education and enforcement might better curtail motorized trespass into the Salt River Canyon Wilderness Area. This is what Alternative B recommends. Alternative B would help easily remedy the problem of wilderness trespass and also help the TNF comply with minimization criteria related to user conflicts and OHV use.

D. FR 25

The terminus of FR 25 on the east side of the Mazatzal Wilderness Area has, for many years, been a source of intermittent motorized trespass. At the wilderness boundary FR 25 becomes Trail # 91. We have witnessed destruction of a grazing structure (corral) at the wilderness boundary as well as brush cutting in an attempt to access the wilderness area. A more substantial barricade needs to be constructed at the terminus of FR 25 to solve this problem. Because of the need for trail access here, we would not recommend closing FR 25 in this area, rather creating a more substantial and effective barrier to delineate the wilderness boundary and the beginning of the non-motorized trail.

E. FR 569 and the Verde River Sheep Bridge

We would like to thank Tonto National Forest for recognizing the fact that the Verde River Sheep Bridge is intended for non-motorized use in both Alternative C and B. We are both curious and somewhat amazed that Alternative B shows FR 569 as being recommended for decommissioning. We do not support this classification as FR 569 is actually a well-used road from start to finish. However, there is a need to construct better physical barriers at the west end of the Verde River Sheep Bridge along FR 569. The Verde River Trail # 11 actually starts at the west end of the Verde

River Sheep Bridge. OHV users are also accessing the Verde River Sheep Bridge at the east end and driving motorized vehicles across the bridge. Adequate physical barriers need to be put in place to curtail motorized access to Verde River Trail # 11 at this point and additional enforcement is essential. The Verde River Sheep Bridge is a popular destination for motorized and non-motorized users alike and Tonto National Forest needs to protect the natural and historical resources that exist at this location. See below photo of OHV skid mark on the deck of the Verde River Sheep Bridge.

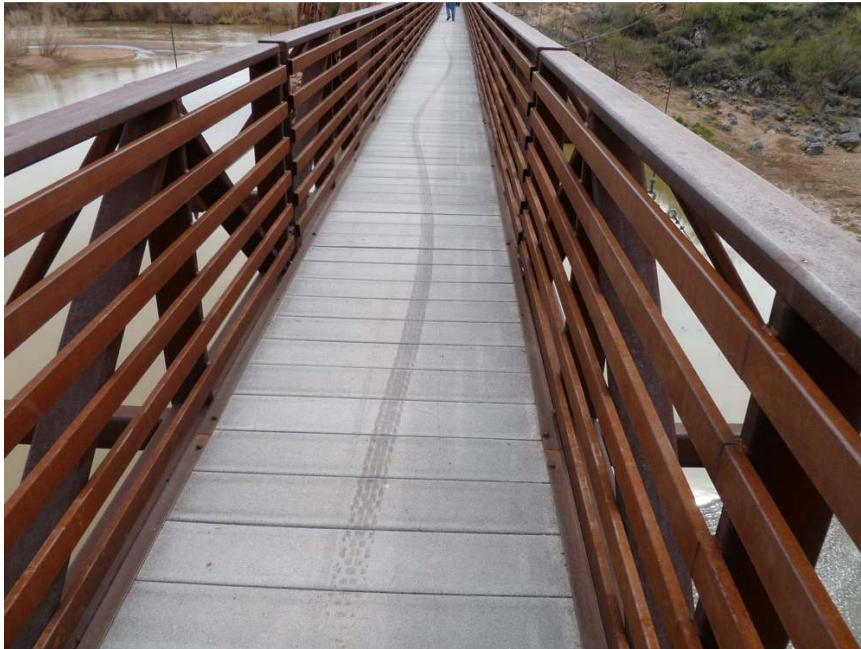


Photo by Jim Vaaler (April 2011)

F. FR 2206 (Fossil Springs Road)

We support the administrative closure of FR 2206 (Fossil Springs Road). We support conversion of this road into a non-motorized system trail as is considered in the Fossil Creek Comprehensive River Management Plan. The TNF should provide additional information to resolve the uncertainty about whether the parking lot at the end of FR 784 is still going to remain open as this is the point where FR 784 becomes non-motorized Trail # 18 (South Mail Trail). We are wondering if the plan to close Trail # 18 will also result in the closing of FR 784 and the obliteration of the parking area. If FR 784 is kept open we believe that better enforcement is necessary on this road to deal with the problem of overflow parking. The travel management plan, in conjunction with the Comprehensive River Management Plan, can help better protect the natural resources that exist in and along Fossil Creek, including the Outstandingly Remarkable Values. All four of the DEIS maps omit the “recreational” section of the designated Wild and Scenic Fossil Creek.

G. FR 1521 (Mine Mountain Road) and FR 143 (Four Peaks Road)

Forest Road 1521 (Mine Mountain route) is a route into the Four Peaks Wilderness Area. Alternative B calls for the decommissioning of this route. We support this designation and believe it will better protect the resources of this wilderness area. Forest Road 143 (Four Peaks Road) is a popular route both for the OHV community and those users wishing to access the Four Peaks Wilderness Area and

the Boulder Inventoried Roadless Area. The area at the junction of FR 1521 and FR 143 has become expanded by OHV use to the point where it is allowing and promoting motorized access into the Four Peaks Wilderness Area. This a user-created area is being trashed and is also subject to littering. The TNF should consider fencing this area with the same type of heavy duty structures that currently exist at the junction of FR 143 and FR 401. This is also an area with significant user conflict.

H. FR 401A

Forest Road 401A (Cane Springs route) is another route into the Four Peaks Wilderness Area. Alternative B calls for the decommissioning of this route, which is an appropriate action that we fully support. FR 401A is the source of many trespass issues into the Four Peaks Wilderness Area and decommissioning it would limit trespass and better protect the wilderness and wilderness values. Based on the personal observations, the western terminus of the Lower Soldier Camp Trail # 84 in Cottonwood Camp along Cottonwood Creek almost routinely has the trail signs knocked down and fence barricades routinely cut and vandalized. There is a need at this location for the type of heavy duty barriers that exist at the junction of FR 143 and FR 401. As one moves east along FR 401A one comes to the east terminus of the Lower Soldier Camp Trail # 84 and the west terminus of the Soldier Camp Trail # 83. Trail signs and wilderness signs at both these locations are difficult to maintain as the signs are repeatedly removed or vandalized. Near the end of FR 401A you come to the Cane Springs Trail # 77. Again, at this location there is no trail sign, no wilderness sign, and no barricade to keep OHVs from trespassing into the Four Peaks Wilderness Area. The TNF has a legal obligation to keep motorized use out of this wilderness and off of this trail. At the end of FR 401A trespass routinely occurs into the Four Peaks Wilderness Area because there is not an adequately constructed wilderness barricade at the west terminus of the Alder Creek Trail # 82. The beginning of the Alder Creek Trail # 82 is an old jeep trail for the first mile or so and we have observed pieces of motorized vehicles littering this trail. At all of these potential wilderness access points, the TNF must provide adequate barriers and signage so as to curtail motorized access into the Four Peaks Wilderness Area and make enforcement more manageable. Perhaps the easiest way for Tonto National Forest to fulfill its legal obligation is to have the status of FR 401A changed to decommissioned. We would also support redesignation of FR 401A as a non-motorized system hiking trail similar to what was done with the old route into Reeves Ranch in the Superstition Wilderness Area.

I. FR 3222 and FR 3224

The TNF and the general public would be better served if these two routes were decommissioned as motorized routes and turned into non-motorized trails for hiking and equestrian use. This would require blocking both routes and partially obliterating them to prevent more resource damage from occurring. Alternative B shows FR 3222 and FR 3224 as being decommissioned, which we support. We agree that the two adjacent routes, FR 3224D and FR 3224A should be left open as motorized routes as they appear to be in a highly disturbed area that contains quite a few decommissioned routes that do not have any numerical designations. However, we would like to see the unauthorized routes in the vicinity closed and decommissioned to restrict use to the FR 3224D and A, as intended. The Pleasant Valley Ranger District contains no “front country,” which is appropriate and should continue.

J. Cienega Springs Trail #145 and McFadden Horse Mountain Trail # 146

We note that the Cienega Springs Trail # 145 and the lower section of the McFadden Horse Mountain Trail # 146 are shown as non-motorized trails in both Alternative B and C. We have observed motorized recreation on these two trails and would like to see steps taken to absolutely eliminate this activity

through the construction of barriers that cannot be easily removed. Rolling cut sections of logs into the trail has proved inadequate in the past. Pipe and rail physical barricades need to be constructed at the start of McFadden Horse Mountain Trail # 146 along the Young Highway and at the start of the Cienega Springs Trail # 145 near Cienega Springs.

K. FR 235

The decommissioned route at the eastern terminus of FR 235 needs to be blocked and obliterated. This route heads north from the end of FR 235 and goes into one of the Sierra Ancha Contiguous IRAs. This route used to have a number and is recommended for decommissioning in both Alternative B and C.

L. Lime Creek IRA

The old map on page 11 of the Recreation Report shows the Lime Creek IRA as having an ROS rated as primitive. The new map on page 13 of the Recreation Report shows the Lime Creek IRA ROS rated as semi-primitive non-motorized. Anyone who has been to the Lime Creek IRA can tell you that it is, in fact, primitive; if for no other reason than the area has no system trails and has not been grazed for a very long time. The TNF cannot arbitrarily change the ROS for this area through this action. Route 1530B which is located just outside of the Lime Creek IRA should be listed as decommissioned, as proposed in Alternative B and C. This route is used by OHV users to access and damage the riparian values that exist within and just outside of this IRA in Lime Creek proper.

M. New Water Mountains/Squaw Creek Area

There is a citizen proposed Uninventoried Roadless Area (URA) located within the Cave Creek Ranger District that is referred to informally as the New Water Mountains/Squaw Creek area. This area qualifies as having an ROS rated at primitive. Much of this area is listed as a “heritage gem” as per the map on page 25 of the Recreation Report. We believe this area was unintentionally passed over in the RARE II process back in the 1970’s and should have been designated as an IRA. Alternative C shows FR 58 as open to motorized access. That section of FR 58 south of the junction with the decommissioned route 3168A should be decommissioned also. FR 58 has as its south terminus a small piece of private property that is called the Six Bar Ranch. However, this is an abandoned site and there is presently no functioning “ranch” at this location. Plan B shows that section of FR 58 that is south of route 3168A as decommissioned, which we support.

N. FR 1704 and FR 3715

Routes 1704 and 3715 should be decommissioned. Route 1704 is a cherry-stemmed route into the Boulder IRA and route 3715 appears to be wholly within the Boulder IRA as depicted on the map for Alternative C. Both of these routes should be decommissioned, as indicated in Alternative B. Just to the north of the Boulder IRA routes 22 (Bushnell Tank Road), 1452, 1451, 3529, 23, 5244, and 1693 should be limited to administrative use only. Alternative C has made the correct determination on the status for these seven routes. If these seven routes are allowed to revert to the status of motorized trails, then this area will simply become another area that will be damaged and overrun by uncontrolled and irresponsible OHV use. The Edge Complex Fire (July 2005, 71,635 acres) originally created the need for these roads to be managed for administrative use only. FR 422 should remain open to the public as shown in Alternative C. Please note that there is a section number confusion in this area between the DEIS maps, USGS topographical maps, and the map for TNF. This should be clarified.

O. Routes Impacted by the May 2012 Sunflower Fire

Routes within the area of the May, 2012 Sunflower Fire, which burned 18,000 acres, should be closed to prevent erosion. We can support FR 3463 designated for administrative purposes only, if it is left open. We would like to see FR 25A, FR 3772, FR 201A, and FR 201B added to that list of routes listed for administrative use only. Under Alternative B, these routes would be listed as motorized trails. Due to the potential for resource damage, we believe these routes should be limited to use for Forest Service administrative purposes only.

P. FRs 477A/B

Alternative B would decommission FR 477A and FR 477B. We support this designation. The crossing of the Verde River by route 477B is hard to locate and motorized vehicles attempting to cross the Verde River at this point will cause serious damage to the riparian resource that exists here. Route 477A needs to be physically blocked where it diverges to the east from FR 479. Allowing motorized access into this area will only encourage motorized trespass into the Mazatzal Wilderness Area and the “Pat’s Shoe” IRA adjacent to the southwest corner of the Mazatzal Wilderness Area. It appears that the ford crossing of the Verde River at route 3258 is being recommended for decommissioning in Alternative C and that motorized recreational traffic will be rerouted across the spillway of Horseshoe Dam. We support this.

Q. Picacho IRA and Ash Creek WSA areas

Currently, there is an illegal route on the ground that is an extension of FR 303B. This illegal route is not shown on any of the DEIS maps. This illegal route penetrates inside of the Picacho IRA. In previous comments submitted in response to other TNF action, we detailed the many NEPA violations that have occurred in this area.

The Ash Creek Wilderness Study Area includes the Ash Creek drainage as it extends out of the original Picacho IRA in a southeasterly direction until it abuts the private property at Chrysotile. We would like to recommend that routes 3127 and 1052 be decommissioned north of their junction in section 24 (section 24 remains in the same location on the Tonto National Forest map). Both Alternatives B and C call for these two routes to remain open as motorized trails. However, we believe that closure of these two routes is necessary to protect the riparian values that exist in the perennially flowing Ash Creek and further the goal of resource protection in this unique area. We support the decommissioning of FR 473A north of the junction with FR 372 located in section 36. We also support the decommissioning of FR 2293 north of the private property located in sections PB 43 and PB 46 (map A shows these routes as FR 382a, FR 2296, and FR 2297).

R. FR 213

FR 213 (Tortilla Ranch/Well) is designated as a motorized trail in Alternative C. We have observed motorized OHV users driving to the end of this route and then following hiking trails into the Superstition Wilderness Area and also following user created trails within the Superstition Wilderness Area. This is illegal and must be remedied. Under Alternative B, FR 213 is classified as a decommissioned – we support this designation.

We recommend that barriers be installed immediately beyond the parking area that is adjacent to State Route 88 (Apache Trail) where access to FR 213 begins. There is no private property that exists at the south terminus of FR 213 and cattle have not been grazed in this area for some time. Reclamation of non-

motorized routes within the Superstition Wilderness in this area will also need to be prioritized to rectify past damage.

S. FR 1827 and U1827A

We would like to recommend that routes 1827 and U1827A within the Black Cross Butte Inventoried Roadless Area (IRA) be classified as decommissioned routes, as called for in Alternative B. Both of these routes appear to be user created and there is no indication that any type of maintenance has ever occurred.

XXXI. Cumulative Effects

A. Payson RD OHV Project

While this travel management planning process has been progressing, the Payson RD has simultaneously been completing the NEPA process for another OHV-project, intended to create additional OHV staging and camping areas on the Payson RD. The project we refer to was originally a plan to convert an equestrian staging area into an OHV staging area which has now been modified due to considerable concern among local residents and users of the equestrian staging area. Because this Payson RD project has a bearing on the management of motorized vehicle use within the Payson RD, which is subject to this project, we insist that the cumulative effects from the OHV staging area project be included in this travel management analysis.

As a reminder, “an agency is required to consider more than one action in a single EIS if they are ‘connected actions,’ ‘cumulative actions,’ or ‘similar actions.’” *Kleppe v. Sierra Club*, 427 U.S. 390, 408 (1976). “[P]roposals for . . . actions that will have cumulative or synergistic environmental impact upon a region . . . pending concurrently before an agency... must be considered together. Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action.” *Kleppe*, 427 U.S. at 410. When preparing an EA or an EIS, an agency must consider all “connected actions,” “cumulative actions,” and “similar actions.” 40 C.F.R. § 1508.25(a).

Actions are “connected” if they trigger other actions, cannot proceed without previous or simultaneous actions, or are “interdependent parts of a larger action and depend on the larger action for their justification.” *Id.* § 1508.25(a)(1). If one project cannot proceed without the other project (i.e., “but for” the other project), or if the first project is not “independent” of the second project, the two projects are considered connected actions and must be reviewed in the same EIS. *Thomas v. Peterson*, 753 F. 2d 754, 758-60 (9th Cir. 1985). “The purpose of this requirement is to prevent an agency from dividing a project into multiple ‘actions,’ each of which individually has an insignificant environmental impact, but which collectively have a substantial impact. . . . The crux of the test is whether each of the two projects would have taken place with or without the other and thus had independent utility.” *Great Basin Mine Watch*, 456 F.3d at 969 (9th Cir. 2006).

Because the Payson project was designed with the ongoing travel management project and proposals for designated routes in mind, the impacts from both projects should be analyzed within a cumulative effects analysis for both actions.

B. Illegal Activities

Another key problem with the way this DEIS deals with enforcement is the insufficiency of the cumulative effects section. Motorized use, especially use that takes place off official forest service routes increases the potential for violations of laws and regulations beyond just those related to travel management. For example, a key problem on the TNF is the unregulated discharge of various kinds of guns onto forest property, which has resulted in user conflict, public safety hazards, destruction of protected plants, such as the Saguaro cactus, and accumulation of empty cartridges and target waste in some areas. Another problem is the violation of forest restrictions on campfires, which can be much harder to enforce in areas outside of designated campsites, beaches, and picnic areas. These and other law enforcement issues are exacerbated when forest users are able to leave designated routes to recreate in areas of the forest where Forest Service personnel are not present or unable to monitor. The impact to general violations of law and regulation, as well as their potential to lead to other resource damage, including wildfire, needs to be examined within the cumulative effects section of the Law Enforcement section in the DEIS.

XXXII. Conclusion

We appreciate the time and energy the TNF has spent on developing this travel management action and seeking out public comment. While we do not support any of the alternatives as currently designed, we hope that our comments and recommendations are used to improve the current proposal. We look forward to continuing to work with the Tonto National Forest to improve travel management on this highly-used and ecologically important forest. Please keep us apprised of any updates or developments related to this process and do not hesitate to contact us with any questions concerning any of the comments included here.

Sincerely,



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Attachments: Digital Copy of Comments; References; Appendices

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APPENDICES

Appendix A: Kassar, C. (Nov. 2005). Motorized Recreation at a Crossroads: Lessons from the Past Converge with Management Practices of the Future: Off-Road Vehicle Use on Public Lands. Friends of the Inyo, Bishop, CA.

Appendix B: Sample Route Evaluation Spreadsheet

Appendix C: Supporting Files for Original Coalition Alternative Route System

Appendix D: Wildlands CPR (2007). Six Strategies for Success: Effective Enforcement of Off-Road Vehicle Use on Public Lands.

Appendix E: Recommended Route Designations for Southwestern willow flycatcher critical habitat

Appendix F: Cherry Creek Route Analysis

Appendix G: Eligible Wild and Scenic Rivers Analysis

Appendix H: Routes with IRA Incursion

Appendix I: 40 C.F.R. 52.21(b)(14).

Appendix J: Dr. Jane Belnap Testimony, September 18, 2009, Colorado River Water Conservancy District Seminar

Appendix K: Dr. Jane Belnap Congressional Testimony, June 5, 2008, Committee on Energy and Natural Resources (United States Senate)

Appendix L: AZ Game and Fish Dept. & AZ State Parks. Arizona Off-highway Vehicle Guide: OHV Laws and Places to Ride.

Appendix M: Arizona Clean Air Law Review

Appendix N: The Arizona Republic, *Off-roaders could be kicked off trust land: Dust issues spur plan to limit use of Valley trails*. July 30, 2008

Appendix O: MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area, Air Quality Technical Advisory Committee Recommendations on the Suggested List of Measures to Reduce PM-10 Particulate Matter. March 28, 2007