



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

Medicine Bow-Routt National Forests and Thunder Basin National Grassland

December 2023

Hahns Peak/Bears Ears Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland

**Response to Objections on the Mad Rabbit Trails
Project, Hahns Peak/Bears Ears Ranger District,
Medicine Bow-Routt National Forests and Thunder
Basin National Grassland**

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Objectors

Objector Names and Assigned Objection Letter Number

A total of eighty-nine (89) objections were received for the proposed project. Of the total objections received, thirty-eight (38) were determined to be eligible for review. Fifty-one (51) objections were set aside from review per 36 CFR 218.10 because the individual or entity did not submit comments during a previous opportunity for public comment or the letters did not contain specific objections. A listing of eligible objectors, with their assigned objection letter number, is as follows:

Ellen Hollinshead (1)	Alan Keeffe (52)
Mark Elliott (5)	Rocky Smith (54)
Rocky Mountain Elk Foundation; submitted by Karie Decker; Director of Wildlife and Habitat (6)	Colorado Wildlife Conservation Project; submitted by Gaspar Perricone; Chair (61)
Routt County Riders; submitted by Loraine Martin; Executive Director (7)	Luke Weidel (63)
Marshall Lenth (10)	Colorado Wildlife Federation, Inc.; submitted by Suzanne O'Neill; Executive Director (64)
Lynne Koehler (14)	Mariane Sasak (66)
John Spezia (18)	Northwest Colorado Chapter, Great Old Broads for Wilderness; submitted by Diane Miller; Co-Leader (68)
Rich Tucciarone (19)	Eric Meyer (69)
A. Williams (20)	Aryeh Copa (71)
Garrett Johnston (22)	Rocky Mountain Wild; submitted by Megan Mueller; Conservation Biologist - Leadership Team (73)
Kathie Cuomo (23)	Keep Routt Wild; submitted by Bob Randall; Attorney (75)
Greg Breslau (24)	Will Carlton (81)
Dona Steele (31)	Bridget and Paul Ferguson (82)
Diane Brower (33)	Harriet Freiberger (83)
Dan Elliott (36)	John Robinson (84)
Tanya Weiss (38)	Timberline Trailriders, Inc.; submitted by Robert Stickler (85)
Daniel Smilkstein (41)	Tom Kilinski (89)
Anne Reed (43)	
State of Colorado, Department of Natural Resources; submitted by Dan Gibbs (45)	
Cedar Beauregard (48)	
Marilyn and Mark McCaulley (51)	

Organization of Responses

Objection issues have been consolidated for response in accordance with 36 CFR 218.11. Russel Bacon, Forest Supervisor, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, served as the Reviewing Officer for all objection issues.

Concerns Related to National Environmental Policy Act, National Forest Management Act, and Colorado Roadless Rule Compliance

Issue 1: Effects Analysis for Colorado Roadless Areas is Inadequate and Violates the Colorado Roadless Rule, NEPA, and the Forest Plan.

Objectors raise concerns that proposed trails would be located within Colorado Roadless Areas (CRAs) and hold that the density and type of trail development proposed to occur in these CRAs would equate to a mountain bike park. They assert that this action would set precedence for development within a CRA and significantly alter the undeveloped character of the CRAs, particularly the Long Park CRA, thereby violating the Colorado Roadless Rule and requiring the preparation of an environmental impact statement (EIS) per the National Environmental Policy Act (NEPA). Objectors further hold that the associated increase in use would be significant and exceed the designated semi-primitive, non-motorized Recreational Opportunity Spectrum (ROS) areas identified in the 1998 Routt National Forest Land and Resource Management Plan (Forest Plan) and Colorado Roadless Rule.

Objectors additionally raise concerns regarding potential impacts to CRA characteristics, including high quality or undisturbed soil, water, or air resources; diversity of plant and animal communities; habitat for threatened, endangered, and sensitive species, and species dependent on large undisturbed areas of land; primitive and semi-primitive classes of recreation; reference landscapes for research study or interpretation; and natural appearing landscapes with high scenic quality. Objectors assert that the construction and use of trails would result in an altered and unnatural appearance, disturbance and compaction of soils (and that there is no adaptive maintenance plan to protect soil and water resources), fragmentation and reduction of wildlife habitat, significant effects to elk and elk habitat, user encounters in excess of the allowance for the semi-primitive ROS class, and loss of the Long Park CRA as a reference area.

Objectors further highlight that the removal of trails would occur in the Mad Creek CRA, while the building of new trails would occur in the Long Park CRA, and assert that the analysis must consider each CRA independently rather than collectively as they are in the

EA. Similarly, objectors hold that the analysis includes benefits to CRAs due to a potential reduction in use in nearby Wilderness Areas (Mount Zirkel, Flattops, and Sarvis Creek), but that benefits to Wilderness Areas cannot be used to constitute benefits to CRAs. Further concerns include inadequate cumulative impacts analysis related to CRAs. One objector holds that the Forest Service should mitigate CRA impacts by “adding the affected acreage to other Roadless Areas in Colorado.”

Response

The Colorado Roadless Rule (Rule) prohibits road construction, road reconstruction, and creation of linear construction zones within CRAs with limited exceptions (36 CFR 294.40). However, the Rule intentionally did not limit future trail construction, deferring instead to site-specific evaluation such as this proposed project, stating “decisions concerning the management or status of motorized and non-motorized trails within Colorado Roadless Areas under this subpart shall be made during the applicable forest travel management processes” (36 CFR 294.46(e)). Tree-cutting is also generally prohibited within CRAs; however, it is allowed when “incidental to the implementation of a management activity not otherwise prohibited” (36 CFR 294.42(c)(5)). Since trail construction is not a prohibited activity under the Rule, associated tree-cutting to build new trails is allowed. The Rule does not limit trail density or type of trail use.

The Mad Rabbit Trails Project Environmental Assessment (EA) identifies consistency with the Rule as one of the key issues as an outgrowth of extensive public and cooperator involvement (EA pg. 67). One important aspect of this project is recognizing the unmet need of opportunities for adaptive users needing specific types of trails to enjoy recreating in CRAs (EA pg. 26). The Civil Rights Impact Analysis for the Colorado Roadless Rule (USDA, CRIA 2012) highlights a need to “design travel management planning and public involvement opportunities that consider access concerns from minorities, women, persons with disabilities, and low-income populations” when implementing the Rule (USDA, CRIA, pg. 16). The No-Action Alternative provides no added trail classes (class 3 or 4) for adaptive users (EA pg. 27), where the proposed action increases this access with Routes 22 and 25 providing a backcountry experience for these users in the Long Park CRA.

The Rule describes nine roadless characteristics that were used in the identification and designation of CRAs: 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 non-motorized 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 9) Other locally identified unique characteristics. Impacts to CRAs was identified as a key issue (EA pg. 67) and the EA provides a detailed description of direct and indirect effects of the proposed action for each roadless characteristic (pg. 70-72) in addition to the overall nature of effects.

Impacts to primitive and semi-primitive classes of recreation are evaluated throughout the EA (EA pgs. 21-37, 67-72), and describes how some alternatives were dismissed from detailed analyses because of concerns to recreational opportunity settings and a desire to manage for more primitive and semi-primitive experiences (EA pg. 8-9). For example, the development of a gravity fed downhill bike park alternative in the Ferndale area was dismissed citing "...for the Ferndale area and decided to modify the proposal to include a diverse set of trails managed for a semi-primitive recreation experience..." (EA pg. 9). Specific Rule context of primitive and semi-primitive classes is also described, noting the strong public desire for these settings and that the project maintains or improves semi-primitive non-motorized opportunities in each CRA. For example, the public will have better access to semi-primitive experiences in Long Park CRA but doing so in a way consistent with the Rule (EA pg. 71).

The EA also considers impacts to scenery, natural appearing landscapes and reference landscapes. The proposed action has evolved through public participation to reduce trail miles and overall trail impacts (EA pg. 6), which benefits scenery and natural settings. Trail placement is designed to minimize resource impacts, allowing "all three Colorado Roadless Areas to be maintained as reference landscapes" (EA pg. 71). Similarly, impacts have been minimized to keep natural appearing landscapes and high scenic quality. The EA correctly discusses the positive impacts that closing and rehabilitating user-created trails will have on these two roadless characteristics, showing "...minor improvements to each Colorado Roadless Area from restoring non system routes which are causing resource impacts" (EA pg. 71).

Impacts to CRA characteristics for the diversity of plant and animal species and habitat are similarly addressed within the EA. One of the main goals and objectives of the proposed project is to maximize habitat connectivity by concentrating trails near open roads and existing developed use areas to protect large, undisturbed areas in the Long Park CRA, an important elk production and summer concentration area (EA, pgs. 56, 60). The EA identifies that adjustments were made to proposed trail locations and design elements established specifically to minimize impacts to sensitive areas (wetlands, critical habitat, and large undeveloped areas) and maintain stable populations of plant and animal communities (pgs. 70-71). Adjustments include the avoidance of trail placement within the larger undeveloped area of the Long Park CRA and the removal of non-system routes from the mostly undeveloped area of the Mad Creek CRA rather than adopting them as systemized routes (pg. 71). The removal and restoration of non-system routes which are currently causing resource impacts would result in some positive effects to these CRA characteristics (pgs. 70-71).

The EA also contains specific considerations of cumulative effects to CRAs (pg. 72). The EA correctly identifies that the description of the environmental baseline condition includes impacts from projects prior to the promulgation of the Colorado Roadless Rule in 2012. The cumulative effects section describes projects since 2012 that could collectively impact roadless area characteristics, citing the 2015 Steamboat Front Hazardous Fuels Reduction Project and the 2016 Buffalo Pass Trails EA, and concludes

that, when combined with the proposed action, the nine CRA Characteristics would result in either stable or improving trends over time. The decision to close and rehabilitate approximately 36 miles of unauthorized trails will decrease fragmentation and improve characteristics in these areas.

Impacts to CRAs were considered both individually and collectively. Specific effects of project activities are described in detail in the roadless area characteristic worksheet, which is part of the project record. The worksheet table details all nine roadless characteristics, describes if there is an effect to each, and the current trends in terms of improving, stable, or downward. The final column describes effects in more detail. This table also summarizes the impacts of the project collectively across the three CRAs. Additional narratives in the worksheet appendices also describe impacts individually and collectively for each characteristic. Table 2 provides information specific to each roadless area to better portray impacts individually. For example, the Long Creek CRA is 42,100 acres in total and the proposed action will construct 30.4 miles of new trail, impacting .018 percent of the roadless area. Cumulative totals are also provided as a summary of each of the three CRAs (Worksheet Roadless Area Characteristics, pg. 13).

The National Environmental Policy Act (NEPA) requires federal agencies to take a hard look at the consequences of their proposed actions and explain why a project's impacts are not significant. The intent is to require agencies to inform the public and ensure agency consideration of the environmental impacts of its actions. The Forest Service engaged in extensive public involvement throughout the process to refine the proposal and identify key issues for analysis. In 2018, the District Ranger initiated scoping with tribes, government agencies, and the public on two different approaches for the project (EA pg. 5). Based on comments received, the agency modified the proposal and reengaged the public in 2019. The legal notice initiating a formal 30-day comment period occurred in October of 2022, from which meaningful changes were made in the proposed alternative, mainly reducing the number of trails and trail density in response to public concern over resource values. Significant collaboration with the State of Colorado occurred throughout the process as Colorado Parks and Wildlife was a formal cooperating agency, attending planning team meetings and providing input and review on the proposal (EA pg. 6).

The final EA provides a detailed summary of the changes made in response to public and cooperator involvement. These changes include removal of several proposed trail additions, while adding in some additional segments that were consistent with the purpose and need of the project. Seasonal closures were also added to protect important wildlife areas (EA pg. 7). To better display a range of effects to resources, the proposed action was compared to the no-action alternative in detailed analyses. Further consideration was given to seven alternatives considered but dismissed from detailed analysis.

No precedent is set with the proposed Mad Rabbit Trails Project. This project is confined to the scope of analysis and can only authorize activities described in the decision notice. NEPA directs federal officials to assess the environmental effects of proposed actions prior to making site-specific land management decisions. Similar developments would be proposed and evaluated on their own merits and subject to public engagement as appropriate. Additionally, all activities proposed in the Mad Rabbit Trails Project are consistent with the Rule, and there is no basis to mitigate impacts by adding new CRAs or adding acres to existing ones. The Chief of the Forest Service can modify the boundaries of any identified CRA based on changed circumstances (36 CFR 294.47), but that is beyond the scope of this project.

The Rule also does not direct any level of NEPA for projects within CRAs. This issue was addressed in the Colorado Roadless Rule Final EIS response to public comment, “The proposed Colorado Roadless Rule does not require an EIS for projects within CRAs. An EIS would be prepared if significant effects are anticipated. NEPA requirements and Council on Environmental Quality (CEQ) regulations apply to projects within CRAs in the same manner as applied to projects outside of CRAs.” (USDA, Rulemaking for Colorado Roadless Areas Final Environmental Impact Statement Volume III: Appendix H). The Mad Rabbit Trails Project Final EA considered key issues and significance of the proposed action on resources identified (pgs. 18-90) which led to a finding of no significant impacts (FONSI), as documented in the draft decision notice (draft DN).

Conclusion

I have reviewed objection issues related to the Colorado Roadless Rule and find no violation of law, regulation, or policy. The agency took a hard look at the project’s impacts to multiple resource issues identified by the interdisciplinary team, cooperators, and the public.

Instruction

Given the high interest in potential impacts to CRAs, I instruct the Responsible Official include the Colorado Roadless Rule in the Decision Notice under the Findings Required by Other Laws and Regulations section and include a narrative on how the project is consistent with the Colorado Roadless Rule.

I also instruct the Responsible Official to provide additional explanation related to two roadless characteristics:

1. How design elements will ensure consistency with the primitive and semi-primitive roadless characteristic, as defined by the Forest Plan guideline; and
2. How the undeveloped character of CRAs will not be significantly altered, including impacts to wildlife dependent on large tracts of undisturbed land.

Issue 2: Improper Segmentation and Inadequate Analysis of Cumulative Effects.

Objectors hold that the proposed Mad Rabbit Trails project is the second phase of the Steamboat Springs Trails Alliance (SSTA) proposal for a comprehensive trails system, following the Buffalo Pass Trails Project, and that the Forest Service has intentionally and inappropriately segmented the proposed project in order to circumvent the preparation of an EIS and avoid conducting an inclusive cumulative effects analysis in violation of NEPA. Objectors reference a Trails Master Plan updated by the Forest Service in 2015 to guide overall development of trails in the Hahns Peak/Bears Ears Ranger District in response to 2A ballot measure funding. Objectors further highlight several Forest Service references to the proposed Mad Rabbit Project as the second phase of larger comprehensive trail planning effort by the district.

Objectors believe the cumulative impacts analysis for the proposed Mad Rabbit Trails project fails to adequately address the effects of bike trail projects in the Steamboat Ski Resort, Emerald Mountain, Spring Creek, and Buffalo Pass, as well as the expansion of parking on Rabbit Ears for snowmobile use. Objectors also highlight a lack of analysis regarding the Muddy Pass gap reroute being developed by the Continental Divide Trail Coalition, which would connect with the Continental Divide Trail (CDT) near Trail 7.

Objectors further hold that rather than providing a meaningful discussion on the incremental effects of the proposed action, the EA inappropriately uses current conditions of the project area as a proxy for the impacts of past actions. Objectors additionally highlight a failure of the EA to adequately consider cumulative effects on wildlife and wildlife habitat, particularly cumulative impacts to elk within the Severe Winter Zone designated by Colorado Parks and Wildlife, and a failure to consider the effects of increased traffic in combination with other trail projects.

Response

Per 40 CFR 1508.25, the scope of the environmental analysis “consists of the range of actions, alternatives, and impacts to be considered...” and agencies should consider whether actions are connected, have cumulatively significant impacts, and the effects of reasonably foreseeable or proposed similar actions when determining scope. Forest Service regulations at 36 CFR 220.3 define reasonably foreseeable future actions as “Those Federal or non-Federal activities not yet undertaken, for which there are existing decisions, funding, or identified proposals”. Regulations at 36 CFR 220.4(a)(1) describe identified proposals as those for which: “The Forest Service has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated”.

Suggestions for projects from outside groups, such as the Steamboat Spring Trail Alliance and Continental Divide Trail Coalition, would not be considered reasonably foreseeable future actions if they are not specific proposals the Forest Service is actively considering. Similarly, while the 2015 Master Trails Plan (MTP), prepared by the Hahns Peak/Bears

Ears Ranger District and referenced by objectors, was an overarching guidance document for long-term planning, management, and maintenance of trails within the District, this document itself did not include a NEPA decision or analysis and would not be considered a proposal per 36 CFR 220.4. Provided there are no other existing decisions, funding, or identified proposals, the scope of the analysis is appropriately limited to the Mad Rabbit Trails project.

NEPA regulations define cumulative impacts as an “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 CFR 1508.7).

Past, present, and reasonably foreseeable future actions or projects relevant to the proposal were identified for the proposed project and are presented in Appendix C of the EA (pgs. 111-120). The table highlights projects approved as early as 1996 through projects currently under consideration. Projects are described by name and in terms of miles, acres, and permits approved, depending on the types of projects, and include projects referenced by objectors, including Steamboat Ski Resort, Emerald Mountain, Spring Creek, and Buffalo Pass, among others. The Muddy Pass gap reroute project is not identified in Appendix C and the status of this project is unclear.

As identified in the EA (pg. 18), cumulative impacts of the proposed action were considered by the interdisciplinary team in conjunction with the projects or actions identified in Appendix C, including how they may have contributed to existing conditions and trends. 36 CFR 220.4(f), repeated in FSH 1909.15(15.1), provides that cumulative effects of past actions can be considered by looking at present effects:

“...The analysis of cumulative effects begins with consideration of the direct and indirect effects on the environment that are expected or likely to result from the alternative proposals for agency action. Agencies then look for present effects of past actions that are, in the judgment of the agency, relevant and useful because they have a significant cause-and-effect relationship with the direct and indirect effects of the proposal for agency action and its alternatives. CEQ regulations do not require the consideration of the individual effects of all past actions to determine the present effects of past actions. Once the agency has identified those present effects of past actions that warrant consideration, the agency assesses the extent that the effects of the proposal for agency action or its alternatives will add to, modify, or mitigate those effects. ... The CEQ regulations, however, do not require agencies to catalogue or exhaustively list and analyze all individual past actions. Simply because information about past actions may be available or obtained with reasonable effort

does not mean that it is relevant and necessary to inform decision making”

The EA at page 37 clarifies that, in accordance with the regulations above, “The current condition of the project area serves as a proxy for the impacts of past actions in understanding the contribution of past actions to the cumulative effects analysis for this project. As past actions are considered in the existing conditions used as a baseline for comparison of the alternative, only ongoing and proposed actions are considered in analysis of cumulative effects”.

Cumulative impacts were considered for the proposed action on page 37 of the EA, which states that “The actions of ongoing projects, along with the Mad Rabbit trails proposed action, have positive cumulative effects to recreation and would move the Routt National Forest toward sustainable trails system over the next 10 years that manages for an increasing population...and managing the increased potential for use conflicts”. Cumulative impacts were also considered individually for each resource type and can be found within individual specialist reports, and were also summarized within the EA for the American pika (pg. 42), Canada lynx (pg. 47), hoary bat (49), Pacific marten (pg. 52), pygmy shrew (pg. 55), Rocky Mountain elk (pgs. 60-61), Brewer’s sparrow (pg. 63), northern goshawk (pg. 66), CRAs (pg. 72), botany (pgs. 80-81), soils (pg. 85), hydrologic function and water quality and sediment delivery (pg. 88), wetland and riparian areas (pg. 90). Cumulative effects were not analyzed for aquatic species because there would be no effect of the proposed action on known populations or habitat (EA, pgs. 72-77).

Cumulative impacts to elk during the winter are included in the EA (pgs. 58, 60-61) and can also be found in the Terrestrial Biological Evaluation and Wildlife Specialist Report (pgs. 40 & 43-44, in the project record). The EA also addresses concerns regarding increases in traffic, noting “There are small increases in traffic along US Highway 40 expected, specifically during busy times and near trailheads, with implementation of the trails and trailheads in this proposal compared to overall traffic volumes along US Highway 40 identified in the East Steamboat Springs US 40 Highway Access Study and in coordination with Colorado Department of Transportation (CDOT) but there would be no substantial changes in overall traffic volume” (pg. 20). The 2016 East Steamboat Springs US 40 Highway Access Study and communications with CDOT are included in the project record.

Based on the analysis provided in the project record, the Responsible Official evaluated the context and intensity of impacts of the proposed action and found no significant effects to the quality of the human environment, individually or cumulatively (pg. 4), and no significant cumulative effects for any resources when combined with the effects of past and reasonably foreseeable future projects or the effects from natural changes taking place in the environment (draft DN, pg. 6). If plans for future trail development are proposed, the Forest Service would be required to analyze the cumulative effects of the Mad Rabbit Trails project in conjunction with the effects of the future action. If the cumulative effects of the Mad Rabbit Trails project, together with any future trails, would be significant, an EIS would be required.

Conclusion

I find that the Responsible Official appropriately limited the scope of the decision and associated analysis of effects to the proposed Mad Rabbit Trails project and adequately considered cumulative impacts of the proposed action.

Instruction

I instruct the Responsible Official to confirm that the Mad Rabbit Trails project would provide use and enjoyment regardless of the implementation of any future trail proposals. In addition, clarify how the proposed action relates to the Steamboat Springs Trail Alliance proposal for a comprehensive trails system as well as how the 2015 Master Trails Plan is related to the Mad Rabbit Trails project and whether any of the other trails identified in that document should be included in the cumulative effects analyses.

I instruct the Responsible Official to clarify if the Muddy Pass gap reroute project being developed by the Continental Divide Trail Coalition is a reasonably foreseeable future action. If the Muddy Pass gap reroute project constitutes a reasonably foreseeable future action, ensure it is considered as part of the cumulative effects for the proposed Mad Rabbit Trails Project.

Issue 3: The Forest Service Failed to Consider and Evaluate a Reasonable Range of Alternatives.

Objectors hold that the Forest Service failed to fully consider a reasonable range of alternatives to minimize effects of the proposed action. Objectors highlight a failure to fully analyze alternative locations for biking trails that would occur outside of Colorado Roadless Areas (CRAs), outside of elk calving areas and summer range, or to the south side of Highway 40, or to fully consider a “compromise proposal” previously submitted by one objector.

Response

Forest Service NEPA regulations at 36 CFR 220.7(b)(2) specify that “The EA shall briefly describe the proposed action and alternative(s) that meet the need for action. No specific number of alternatives is required or prescribed”. Additional direction regarding the range of alternatives is provided in FSH 1909.15, Chapter 10, Section 14.4, which states: “The range of alternatives considered by the responsible official includes all reasonable alternatives to the proposed action that are analyzed in the document, as well as other alternatives eliminated from detailed study. Alternatives not considered in detail may include, but not limited to, those that fail to meet the purpose and need, are technologically infeasible or illegal, or would result in unreasonable environmental harm. Because alternatives eliminated from detailed study are considered part of the range of alternatives, the project or case file should contain descriptions of the alternatives and the reasons for their elimination from study.”

The purpose and need statement defines the range of reasonable alternatives. The purpose and need of the proposed project, as identified in the EA (pg. 2), is to “provide designated

and sustainable trail-based recreation opportunities in consideration of other resources.” The EA also identifies that the proposed project is needed to meet current and anticipated recreation trail use adjacent to the community of Steamboat Springs and accommodate a wide range of user abilities, to reduce resource damage caused by non-system trails, and to provide an implementing mechanism to prevent off-trail bicycle travel in the project area (EA, pgs. 2-5).

In accordance with 36 CFR 220.7(b)(2) and FSH 1909.15, the EA identifies and provides discussion of nine total alternatives for the proposed project: the proposed action, no action, and seven alternatives that were considered but dismissed from analysis (including alternatives suggested by objectors) because they did not meet the purpose and need (EA, pgs. 8-11). The “Development of All Mountain Bike Trails at the Steamboat Ski Resort” alternative would not “fully meet the recreation needs of the public or provide enough opportunities for a wide range of abilities and experiences.” The alternative to “Eliminate Proposed Trails from Ferndale and Relocate South of U.S. Highway 40” was dismissed due to “safety concerns [of potential trailhead] entrance and exit location on U.S. Highway 40 identified through coordination with the Colorado Department of Transportation.” An alternative to “Decommission All Non-System Routes and Do Not Add New Trails” was also identified and ultimately dismissed because it would not meet the purpose and need for “managed, sustainable trail system on National Forest System lands to prevent and reduce damage from unmanaged recreation.” A list of alternatives considered but not included in the analysis are also provided in the draft DN (pgs. 2-3).

One objector, Keep Routt Wild, reference a “compromise proposal” that was previously submitted during the comment period that was not afforded detailed consideration to a reasonable range of alternatives. The Forest Service referred to this proposal in the Response to Comments (see pp. 100-101). A point by point response was not provided (pg. 86) and the proposal was not considered as a standalone alternative in the EA.

Although the above alternatives were eliminated from detailed study, the proposed action was modified over time to incorporate information and ideas received from partner engagement and public involvement (EA, pg. 6). This is consistent with 36 CFR 220.7 (b)(2)(iii), which allows that “the description of the proposal and alternative(s) may include a brief description of modifications and incremental design features developed through the analysis process...”, and FSH 1909.15, Chapter 10, Section 14.3, that “modifications and incremental changes to the alternatives maybe considered as part of the range of alternatives”. These changes are described in the “Changes Made to the Proposed Action” section of the EA (pgs. 6-7) and also identified in the “Proposed Actions (2018 or 2019) as Scoped to the Public” alternative (pg. 8). Incremental changes made to minimize the effects of the proposed action include avoiding wetlands and sensitive wildlife areas, additional seasonal trail closures to protect elk calving, removal of certain trails to maximize habitat connectivity in CRAs, and consolidation of new trail construction in already disturbed areas in response to public comments and concerns of project impacts to elk (EA p. 6-7).

The proposed action and no action alternatives were analyzed in full within the EA in compliance with 36 CFR 220.7 (b)(2)(i), which states that an EA may document consideration of a non-action alternative by contrasting the impacts of the proposed action with the current condition and expected future condition if the proposed action were not implemented.

Conclusion

Based on my review, I find that the Responsible Official considered a reasonable range of alternatives for the proposed Mad Rabbit Trail Project, consistent with the Forest Service's NEPA requirements at 36 CFR 220.7 and guidance in the FSH 1909.15. I find no violation of law, regulation, or policy.

Instruction

I instruct the Responsible Official to clarify how the “compromise proposal” submitted by Keep Route Wild relates to the current alternatives included in the EA and provide rationale for why this proposal wasn't considered as a standalone alternative.

I also instruct the Responsible Official to provide additional discussion within the Decision Notice, to include clear rationale and justification, for the dismissal of alternatives considered but not carried through into analysis.

Issue 4: The Forest Service Reached a FONSI Based on Analysis from an Outdated Forest Plan.

Objectors raise concerns that the 1998 Routt National Forest Land and Resource Management Plan (Forest Plan) is outdated, citing National Forest Management Act (NFMA) requirements for revisions of Forest Plans to occur at least every 15 years. Given the 25-year age of the current Forest Plan, the planning and analytic framework, management area direction, and plan components guiding the proposed Mad Rabbit Trails Project do not accurately reflect current conditions within the area and do not provide a framework to adequately address cumulative effects. Objectors assert that consistency with the Forest Plan is insufficient for determining whether to prepare an EIS or FONSI for the proposed project. The Forest Service should either defer a decision until a Forest Plan Revision - incorporating the best available science - has been completed or conduct an EIS to provide greater detail on the impacts and context of the proposed action.

Response

While the National Forest Management Act (NFMA) states that plans shall be revised “at least every fifteen years” (16 U.S.C. 1604(f)(5)(A)), Congress continues to provide relief that the Secretary of Agriculture shall not be in violation of this requirement. Per the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, div. G, title IV, §407, Dec. 27, 2020, 134 Stat. 1536):

"The Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. ... Provided, that if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis."

Although some objectors have suggested that the Forest Plan should be revised before pursuing this project, revision of the Forest Plan is not required and doing so is beyond the scope of this project. 36 CFR Part 219.17(c) states in part that:

"Existing plans will remain in effect until revised. This part does not compel a change to any existing plan, except as required in § 219.12(c)(1). None of the requirements of this part apply to projects or activities on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects or activities on such units must comply with the consistency requirement of § 219.15 with respect to any amendments that are developed and approved pursuant to this part."

Therefore, if a subsequent decision is made to revise the Plan during the implementation of this project, the revised plan will evaluate existing projects to determine if they need to be modified to comply with aspects of the new plan, or if they will continue to be implemented under the existing plan. This requirement is defined in 16 U.S.C.A. 1604(i):

"When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable."

New information, including contemporary research not identified in the Forest Plan or the Forest Plan EIS, was used to inform project design and the environmental analysis (RTC p. 108). Per NEPA regulations at 40 CFR 1500.1(a), agencies have an obligation to consider relevant environmental information. The references cited and used by the specialists for analyses contain literature and guidance that is more recent information than what was used for the Forest Plan, as shown in the references lists in the EA (p.92), the project record, and specialist reports (see botany (p.17-21), hydrology (p.9), recreation (p.21-22), roadless (p. 9 & 10), aquatics (p.11-12), BA (p.18), and BE (p. 51-56)). A review of the project record shows a thorough review of relevant scientific information; a consideration of responsible opposing views; and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. The project was also designed to comply with the Northwest Colorado Greater Sage-Grouse Land Use Plan Amendment and the Southern Rockies Lynx Amendment (Draft DN p.8).

As described in the EA (App. E) and Draft Decision Notice (p.7-8), the project is consistent with the existing Forest Plan. In addition to reviewing the project for Forest Plan consistency (EA, Appendix E), the interdisciplinary team identified design elements

(EA, Appendix A) for implementation as part of the proposed action to avoid or minimize unintended impacts to resources. These design elements supplement Forest Plan standards and guidelines, best management practices, and other environmental measures required by law, regulation, and policy (Response to Comments p.113, in the project record).

The Responsible Official reviewed the analysis, EA, and project record and determined that the proposed project would not significantly alter the quality of the human environment based on the CEQ's criteria for significance, including the context and intensity of impacts (40 CFR 1508.27) (Draft DN/FONSI, p. 4-7). Because a FONSI was reached for the proposed action, an EIS is not required.

Conclusion

My review of the project record indicates no violation of law, regulation, or policy. Revision of the Forest Plan is outside the scope of this project. The decision is consistent with NFMA and utilized the best available science. I find that the FONSI is supported, and the preparation of an EIS for the proposed action is not required.

Issue 5: The Forest Service Needs to Provide Clarification on Project Design Changes Elements and Allow for Future Public Engagement Opportunities if Total Trail Miles are Exceeded.

The objector raises concerns that project design elements create uncertainty for total trail miles and locations. Objectors seek additional explanation and clarification for "criteria" 39. Specifically, "how the '20 percent' figure was determined and clarification as to what public engagement opportunities would be available if completed trail miles includes an additional 20 percent." Objectors also contend that the Forest Service should offer additional public review and comment for any proposed alternate lines and that "criteria" 40 is not adequate.

Response

Recreation Design Element #39 (EA, Appendix A, pg. 104) states that: "Total miles of completed trail (primary routes and alternate lines) should not be 20 percent greater than the total miles of trail included in the project's decision unless extenuating circumstances require longer than anticipated trails." Based on the proposed 49 miles of completed trails, the 20% measure identified in this design element could result in an increase of 9.8 miles or more of additional trail.

While the objectors raise concerns that the additional trail miles could result in additional and/or unanalyzed impacts to resources, the design element does appropriately clarify that "Supplemental information reports may be prepared by resource specialists to ensure compliance will all laws, regulations, and policies if the percentage may be exceeded." Although believed to be inadequate by objectors, Design Element 40 for Recreation also directs that "Resource specialists will be consulted before implementation of proposed alternate lines on trails" (EA, Appendix A, pg. 104), further

ensuring that any potential effects to resources resulting from alternate trail lines would be considered to verify NEPA adequacy and ensure compliance with all applicable law, regulation, and policy.

Additional direction regarding trail locations is provided in Design Element 3 for All Resources, which states that, “All trail locations will be laid out by Forest Service recreation staff or contractors and then reviewed by resource specialists before ground disturbance occurs. Concerns will be discussed and resolved to best meet project objectives and forest plan components and other laws, regulations, and policies.” (EA, Appendix A, pg. 99).

The public was provided comment opportunities on the proposed action and design elements, consistent with regulations at 40 CFR 1506.6 and 36 CFR 218 Subparts A and B. There would be no need for additional public comment periods, as suggested by objectors, when final trail alignments are implemented if the level of change does not rise to the level of needing a supplementation or revision of the EA. The responsible official must consider NEPA regulations and Forest Service Guidance (see section 18, Forest Service Handbook (FSH) 1909.15, chapter 10) in determining whether changes made to the proposed action following a NEPA decision are within the scope of the existing analysis, or not, and if a supplemental or revised EA is necessary.

The EA does not provide information regarding how the 20% measure was determined, or clarification as to why the additional trail miles may be necessary.

Conclusion

Based on my review of the project record, I find that scoping, comment periods, and community involvement was adequately carried out in accordance with the requirements of 40 CFR 1501.9 and 36 CFR 218 Subparts A and B. I also find that the Design Elements 3, 39, and 40, adequately direct additional review and consideration of resource impacts provided that changes to trail lines occur. However, clarity is needed regarding how the 20% exceedance measure identified in Design Element 39 was determined and why this measure would be necessary.

Instruction

I instruct the Responsible Official to ensure that no trail lines are placed outside of the trail disturbance areas analyzed in the effects analyses for this project. I further instruct the Responsible Official to remove the 20% exceedance measure from Design Element 39.

Issue 6: Improper Use of Unauthorized Trail Rehabilitation as Mitigation for Constructing New Trails

Objectors raise concerns that the rehabilitation of non-system trails is used in the EA and FONSI to justify the development on new trails associated with the proposed action. Objectors hold that the EA inappropriately excludes the rehabilitation of non-system

trails from the No Action Alternative, asserting that trail closure and rehabilitation could be completed in the absence of the development of new trails and that not doing so violates Forest Plan standards and guidelines. Objectors also raise concerns that the EA and FONSI consider the rehabilitation of non-system trails as a means to mitigate or offset impacts of the proposed trail development, which is arbitrary and inappropriate. They argue that closure and rehabilitation are not exclusively tied to the development of new trails, and usage would vary between rarely used non-system trails and the new trails intended for high-volume tourism, which would result in greater human disturbance to wildlife. Also, objectors state that the proposed mitigation actions would not actually mitigate impacts and would force wildlife from high priority habitat into less desirable areas. Some objectors believe that failing to close unauthorized non-system trails would incentivize unauthorized trail builders. Objectors request that trail rehabilitation or closure of non-system trails are removed from the Purpose and Need and NEPA analysis, and that a new analysis or EIS is prepared for the proposed project.

Response

Closure of non-system trails (and prohibiting off-trail use by bikes) is not identified in the EA or DN as mitigation for building new trails. Rather, it is identified as a part of the Proposed Action in order to meet the Purpose and Need of the proposed project, which includes providing a sustainable trail system [the desired condition] and addressing negative impacts resulting from existing non-system trails [existing condition] (EA p.2).

A Decommission All Non-System Routes and Do Not Add New Trails alternative was included in the EA, but dismissed from further consideration since removing decommissioning non-system trails from the Proposed Action would no longer meet the Purpose and Need (EA p.9). Per Forest Service Handbook (FSH) 1909.1, differences between desired conditions and existing conditions are proposed to be remedied by Proposed Actions:

“The need for action discusses the relationship between the desired condition and the existing condition in order to answer the question, “why consider taking any action?”” (Ch.11.21).

Impacts of the non-system trails are appropriately considered as part of the existing condition (or the no action alternative). This is not justification for development of new trails, it is documenting the current condition, which recognizes the fact that use of non-system trails is occurring and will continue to occur unless a decision is made that prohibits it. Current estimates of the amount of usage, or trail counter numbers, is not necessary to analyze impacts, because these types of impacts are well-known and the impacts of particular trails to particular resources are included in resource specialist analyses.

Although suggested by objectors, the decommissioning of unauthorized trails is *not* an already-authorized activity. While certain enforcement actions can be taken without a written NEPA decision document under 7 CFR 1b.3(a)(5), on-the-ground disturbance actions must be authorized in a written NEPA decision, especially for a large-scale effort

such as proposed in this EA. This project meets all the requirements for needing NEPA decision in FSH 1909.15, 01:

“A Forest Service proposal is subject to the NEPA requirements when all of the following apply:

(1) The Forest Service has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated

(2) The proposed action is subject to Forest Service control and responsibility

(3) The proposed action would cause effects on the natural and physical environment and the relationship of people with that environment that can be meaningfully evaluated, and

(4) The proposed action is not statutorily exempt from the requirements of section”

Decommissioning activities may be authorized under Categorical Exclusion (CE) Category 36 CFR 220.6(e)(20):

“Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, National Forest System roads and National Forest System trails, to a more natural condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage-ways, or other activities that would restore site productivity and reduce environmental impacts.”

However, the use of a CE to decommission trails would still require a NEPA decision document. While a separate NEPA effort for decommissioning-only could be done, it makes more sense to combine decommissioning into this EA, for a more efficient and cumulative approach, particularly given that some non-system trails are being considered for adoption into the trail system in order to meet the Purpose and Need.

Conclusion

The EA and the project record show that proper NEPA procedures were followed in including unauthorized trail closure and rehabilitation as part of the Proposed Action. I find no violation of law, regulation, or policy.

Concerns Related to Wildlife and Wildlife Habitat

Issue 7: Impacts to Elk and Elk Habitat.

Objectors hold that the proposed project used outdated elk population data in its analysis and failed to account for recent severe winters that have negatively impacted survivorship of elk herds in the project area. Objectors hold that more recent monitoring data indicates a “decrease in elk productivity over the past 10 years in the project area”. Objectors ask for the agency to incorporate more recent and available data on elk in the project area into the environmental assessment for the project.

Several objectors state that the proposed trail project is not in alignment with recommendations in “Colorado’s Guide for Building Trails with Wildlife in Mind” because the densities in elk production areas exceed one linear mile of trail per square mile (mi/sq. mi) and/or the project fails to include mandatory seasonal closures for all users. Objectors further holds that “the trail network density exceeds what is allowed in the 1998 Routt National Forest Plan.”

Objectors are also expressly concerned with several proposed trails and their impact on elk calving areas and designated “High Priority Habitat” elk areas. (Specifically, trails in the Ferndale area and along Highway 40, including trail segments 7, 14, 19, 20-22, 23-25, 27, and 30 are mentioned). Some objectors call for mandatory seasonal closure of these trail segments for all users, while others call for a redesign to ensure for total avoidance of elk calving areas/elk production areas. Objectors question the decision to not impose closures on trail segments experiencing over 12 inches of snow.

Objectors call on the forest service to complete an EIS to fully analyze and disclose potential impacts on elk, as well as to account for more completely account for cumulative effects. Objectors are concerned by the size of the project area and the significance of its impact to elk and disagree with the agency’s draft Finding of No Significant Impact (FONSI) owing to the presence of “ecological critical areas” noting that Colorado Parks and Wildlife (CPW) has designated parts of the project areas as “High Priority Habitat” for elk.

Response

The Terrestrial Biological Evaluation and Wildlife Specialist Report document for the proposed Mad Rabbit Trails project “combines the requirements of a biological evaluation (BE) and the wildlife specialist report into one document” (pg. 4). A biological evaluation ensures actions do not contribute to a loss of viability of Forest Service sensitive species and their habitat and require an effects determination per FSM 2670.5. The wildlife specialist report analyzes potential impacts on species of local or conservation concern, as identified by the Forest Service wildlife biologist. Elk were analyzed within the document as a species of local or conservation concern, and no determination was made because they are not a Region 2 sensitive species (EA, pgs. 58, 61, and BE, pgs. 41, 44). For ease of reference, the combined document will be referred to within this response simply as the BE.

Direct, indirect, and cumulative effects to elk (including elk calving areas) were analyzed and discussed throughout the BE and are further disclosed in the EA (pgs. 56-61). The analysis utilized recent, post-hunt population data from 2018 (Cooley et al. 2020) and 2020 (Colorado Parks and Wildlife 2021). The maps used for the identification of elk calving areas, winter range, summer concentration areas and others similarly were based on the most recent data available (2020) at the time of writing (BE, Appendix 4 and 5). Both the BE and EA disclose that the population data shows an overall increase in the Bear's Ears elk herd (DAU E-2), but a decreasing trend in the number of elk and calf:cow ratios specific to the Steamboat sub-herd for game management units 14, which overlaps most of the project area. This trend documents the current, existing conditions for the project area, which includes unmanaged and unauthorized use of non-system routes in elk calving areas. The direct and indirect effects of non-system routes would continue under the no action alternative.

The proposed action took into consideration best management practices described in *Planning Trails with Wildlife in Mind* (Colorado Trails Taskforce 2021) to minimize impacts to and identify trail locations and layout that would also provide for a diversity of recreational trail experiences (EA, pgs. 21, 29, 38, 39 and BE, pg. 14). Specifically, the BE and EA identify that the following three strategies were followed:

1. Consolidate high density trail networks and recreation facilities in less sensitive or already disturbed habitats.
2. Limit route densities within high priority habitats to an average of 1 linear mile of road or trail per total square mile.
3. Restrictions may also be needed, such as seasonal trail closures or dog limitations.

In accordance with the first strategy, the proposed action was developed in collaboration with CPW and modified to conserve large tracts of wildlife habitat in CRAs and consolidate proposed trails in existing disturbed areas to minimize impacts (EA, pgs. 5-7; Response to Comments, pg. 84, in the project record). The BE also emphasizes that trails were designed to consolidate recreational use in order to maintain functional and connected habitats, reduce overall impact on wildlife, and protect areas with biological significance (BE, pgs. 13-15). Ninety-three percent of the proposed trails (or 41 miles) are located within one mile of an open road and half are located within one-quarter mile of an open road (EA, pg. 39).

However, the BE also recognizes that in concentrating proposed trails near open roads, such as Hwy 40, the trail and road networks exceed the recommended 1 mile of road or trail per total square mile within mapped elk production areas (pg. 14), conflicting with the second strategy identified from the Colorado Trails Taskforce. While Forest Plan Wildlife Guideline 2 for Management Area (MA) 5.41, Big Game Winter Range, does similarly direct that the Forest Service should limit densities of unrestricted travelways to 1 mile per square mile or less in non-forested areas, as identified by objectors, unrestricted travelway density within MA 5.41 would not be changed by the proposed

action (0.17 miles per square mile) and this Guideline is met (BE, pgs. 9, and 16-17). The majority of the trails concentrated along Hwy 40 and occurring in mapped elk production areas (BE, pg. 62) are located in MAs 4.2, 4.3, and 1.32, managed for scenery, dispersed recreation, and backcountry recreation non-motorized use with limited motorized use in winter, respectively (EA, pg. 128). Consistency with other applicable Forest Plan Standards and Guidelines is addressed in the BE (pgs. 6-10).

Restrictions are included in the proposed action. To minimize effects during calving season, seasonal closures are proposed specifically for elk production areas within the Ferndale area. Project Design Element 44 for Wildlife (EA, pg. 104) directs that:

“There may be seasonal restrictions on proposed trails and/or segments of proposed trails to protect elk production (calving) habitat. There will be a mandatory closure from May 15 through June 30 on the route 14 area and in the Ferndale area on segments 23, 25, and 27 based on current information. If winter conditions exist (12” or more average snowpack depth) in the closure area the closure may not start until winter conditions no longer exist to maintain existing winter recreation access in higher snow years. If adjustments to seasonal restrictions are needed, it will be determined on a case-by-case basis in coordination with Colorado Parks and Wildlife.”

Concerns related to a lack of seasonal closures for trails 14, 19, 20, 21, 22, and 30, were raised previously during the opportunity to comment on the draft EA. Both the response to comments (pg. 192, in the project record) and Design Element 44 (pg. 104) are clear in terms of where closures would occur (trails 14, 23-25, and 27 in the Ferndale area), that they are specific to elk production and not presence, that the project was modified to include route 14 under this closure, and that closures would be implemented pending snow depth (12 or more inches of snowpack) in order to maintain existing winter recreation in the area. As noted in the draft DN (pg. 1), this project does not change over-the-snow use in the project area (i.e., fat tire bikes in winter conditions), and the construction of new summer trails would not affect winter use (EA, pg. 20). Design Element 44 does not distinguish between motorized, non-mechanized, or presence in relation to mandatory seasonal closures.

Areas mapped as elk production areas east of Ferndale and across Rabbit Ears Pass were reviewed for potential closures (BE, pg. 14). However, these areas are managed under the Winter Recreation EA (USDA Forest Service 2005, Appendix 6) and designated for non-motorized winter use when there is sufficient snow. The BE highlights additional challenges to implementing seasonal closures outside of the Ferndale area, stating that, “From a recreation management standpoint, a closure at Ferndale is manageable with discreet closure points with gates in treed areas. Whereas a closure on Rabbit Ears Pass is more challenging due to the wide-open meadows and wetlands” (pg. 42). In addition to closures within the Ferndale area, existing closures within the project area include all elk and deer winter range under MA 5.41 and Spring Creek MA 7.1 (include routes 33 and 34), under an existing mandatory winter closure December 1-April 15 (BE, pgs. 6-10, 14). Voluntary closures exist from December 1 to April 15 for all other MAs 7.1 within

the project area; and a mandatory closure in the elk production area on Buffalo Pass from May 15-June 15.

Although mandatory seasonal closures are not currently proposed for trails 19, 20, 21, 22, and 30, both the response to comments and EA are clear that they may still be implemented based on need and impacts. The response to comments (pg. 61) identifies that, “Education, engineering and enforcement will be used to reduce resource impacts, violations of seasonal closures and user conflicts identified in Design Element 37 and 45 of the EA, Appendix A”, and that, “If sufficient resources aren’t available to implement or sustainably manage the trail system, the Forest Service could consider not constructing or closing constructed trails in this proposal (see Design Element 37).”

Design Element 37 for Recreation (EA, pg. 103) prescribes trail and trailhead management actions that will be used to reduce resource impacts (including impacts to elk) and includes education, engineering (such as the installation of gates and barriers), enforcement (including increased patrols and temporary or permanent closure), partnerships, and trail use adjustments. Project Design Element 45 for Wildlife (EA, pg. 105) further emphasizes the use of management actions specific to seasonal restrictions and additionally states that, “...If increased education, engineering, and enforcement efforts are not successful in curbing violations of seasonal closures, the Forest Service could consider temporary or permanent closures of proposed trails in high priority habitat areas.”

Both the EA (pgs. 59-61) and BE (pgs. 41-44) acknowledge that there would be effects to elk as a result of the proposed action. The proposed action would result in localized, short-term impacts during trail construction, and long-term, negative direct and indirect effects resulting from the high concentration of trails in the area and trail use during elk calving season. The increase in use is expected to result in elk cow avoidance of the area, and habitat loss from trail building and habitat compression. However, the proposed action would also result in improved habitat connectivity for elk due to trail removal within the Rocky Peak, Mad Creek, Gunn Greek areas, improving elk movement from winter range into summer concentration areas of the Mount Zirkel Wilderness.

The cumulative effects analysis for elk considered the effects of past, present, and reasonably foreseeable future actions (identified in Appendix C), and discloses increasingly incremental negative effects from increased recreation in the area, particularly with regard to Buffalo Pass, the Steamboat Ski Resort, and projects proposed on Rabbit Ears Pass (U.S. Highway 40 corridor) that would result in behavioral displacement of elk by humans (EA, pgs. 60-61; BE, pgs. 43-44). However, the analysis also found that condensing recreation and leaving large undisturbed areas may result in positive cumulative effects for elk.

As required by NEPA, the environmental analysis was prepared by an interdisciplinary team of qualified specialists to provide sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact (40 CFR 1508.9). The Responsible Official evaluated the analysis in the EA and information contained in the project record and determined, based on consideration of the CEQ’s criteria for

significance, including the context and intensity of impacts per 40 CFR 1508.27, that a FONSI is appropriate for the proposed action (draft DN, pgs. 4-7). Because the Responsible Official was able to reach a FONSI for the proposed action, an EIS is not required (40 CFR 1508.13).

Conclusion

Based on my review of the project record, I find that direct, indirect, and cumulative effects to elk, including elk calving areas, were analyzed using the best available information at the time of analysis, including applicable information provided in “Colorado’s Guide for Building Trails with Wildlife in Mind” and post-hunt population data. I find that the effects are adequately disclosed within the project record and the Responsible Official complied with 40 CFR 1500-1508 in selecting the appropriate level of NEPA for the proposed project.

Instruction

I instruct the Responsible Official to review and consider the post-hunt elk population data from 2022, and information regarding the severe winter die-off, and identify and incorporate any necessary changes in the effects analysis for elk.

I instruct the Responsible Official to clarify that the seasonal closure per Design Element 44 is specific to human presence and will apply to all user types.

Issue 8: The Forest Service Failed to Consider Effects to Lynx Habitat with Increased Trail Miles and Visitor Use.

Objectors raise concerns that construction of the proposed trails would occur within lynx habitat and believe the potential effects to lynx have not been adequately addressed in the BA, BE, or EA. Squires et al., 2019 finds lynx avoid motorized use areas more than other human use areas and assert bicycle use is similar to motorized use in terms of effects on wildlife, which could result in effects to lynx and cause them to abandon daytime resting areas. Design criteria referenced in the BA (p. 15-16) would reduce impacts to lynx by avoiding quality lynx habitat and areas of dense horizontal cover, but these criteria are not identified in the EA. Trails would be located near high-quality lynx habitat and could potentially be constructed within high-quality habitat "if it was inconvenient to locate them elsewhere." Trails should not be located in the highest quality habitat, and it is unclear if the Forest Service knows where this habitat is located since the BA does not identify it. The Forest Service must conduct surveys to determine the locations of highest quality lynx habitat and ensure trails are not constructed within or result in fragmentation of such habitat.

Response

Potential effects to Canada lynx are discussed in both the BA (pgs. 15-17) and EA (pgs. 43-47). The Southern Rockies Lynx Amendment (SRLA) is the guiding document for Canada lynx management on the Routt NF. The SRLA outlines management direction consisting of goals, objectives, standards, and guidelines (SRLA pg. S-1-2). This project

is consistent with all applicable Objectives, Guidelines, and Standards of the SRLA (BA pgs. 13-15). There are no Standards related to Human Uses (recreation/trails) (SRLA Appendix H pgs. 5-7). The BA discloses that there would be impacts to lynx diurnal security (as well as a decrease of existing disturbances in other areas due to closing non-system routes) (pg. 15). The BA also discusses the indirect effects from human presence in the area on page 16, disclosing that the area where the trails will be concentrated already are disturbed areas due to existing recreation.

A Lynx Analysis Unit (LAU) (an area approximately the size of the home range of an Individual lynx) is the unit for which the effects of a project would be analyzed (SRLA). Table 5 of the BA (pg. 13) and Table 10 of the EA (pg. 45) state that the implementation of the Mad Rabbit project does not have a cumulative change on the percent of lynx habitat for either the Mount Werner or Walton Peak LAUs. Lynx habitat mapping criteria are defined in the SRLA and were incorporated into the most recent effort to update habitat conditions on the Medicine Bow-Routt National Forests (Dressen 2017). As outlined in those documents, lynx habitat mapping is based on vegetation type (Engelmann spruce, subalpine fir etc.) (Dressen 2017 pg. 1-2). “After primary and secondary lynx habitat is identified, the GIS layers for primary and secondary are dissolved into one layer of lynx habitat. More specifically, the MBR will not differentiate between primary or secondary lynx habitat, the habitat will be simply referred to as ‘lynx habitat’ or ‘lynx habitat that is currently unsuitable’.” (Dressen 2017 pg. 3). The modeling does not qualify between “high” and “low” quality habitat nor is it recommended or required to do so per SRLA direction (SRLA Appendix F- Procedures for Lynx habitat and Lynx Analysis Unit Mapping 2008).

In order to determine where “high” quality habitat exists, field assessments are typically required (as asked by the objectors). The BA (pg. 16-17) and the EA (pg. 47) both include the following two statements: “Design elements to protect horizontal cover will protect snowshoe hare habitat.” and “Trails could reduce habitat quality; however, as already stated design elements are in place to avoid spruce-fir habitats with dense horizontal cover.” Design Element 3, under “All Resources” (EA, Appendix A, pgs. 99-105), states:

“All trail locations will be laid out by Forest Service recreation staff or contractors and then reviewed by resource specialists before ground disturbance occurs. Concerns will be discussed and resolved to best meet project objectives and forest plan components and other laws, regulations, and policies.”

Additionally, Design Element 42 (pg. 104) under Threatened, Endangered, Sensitive, or Proposed Species Discovery Clause states:

“All proposed trails will be surveyed by botany, fish, and wildlife prior to implementation.”

Although the design elements above indicate that wildlife surveys will be completed before implementation, it is not clear if or how dense horizontal cover will be included or assessed as part of these surveys.

The Hahns Peak-Bears Ears Ranger District consulted with the U.S. Fish and Wildlife Service (USFWS) on a “may affect, but is not likely to adversely affect” determination for the Canada lynx. The USFWS concurred with the Forest Service’s determination on September 30, 2021. There were no concerns or mitigation measures recommended.

Conclusion

I find that the Responsible Official adequately considered potential effects to lynx and the project is consistent with the SRLA. However, it is not clear if the “design criteria” referenced in the BA to protect high quality lynx habitat (dense horizontal cover) have already been incorporated in the proposed action and will be considered during implementation.

Instruction

I instruct the Responsible Official to clarify how design criteria included in the BA to protect high quality lynx habitat (dense horizontal cover) have been incorporated into the proposed action or decision. Further, I instruct the Responsible Official to clarify the status for lynx-related surveying (consistent with Design Element 42) and how those surveys have or will influence the proposed action.

Issue 9: Failure to Use the Best Available Science to Analyze Impacts to Habitat Effectiveness.

Objectors hold that the Wildlife Report and EA fail to properly evaluate habitat effectiveness for elk, that the EA misinterprets scientific papers cited in the analysis, and the EA does not use the best available science. More specifically, objectors state that the methodology for determining habitat effectiveness for elk is not clearly disclosed in the EA, and it is unclear as to how it was analyzed. Objectors additionally disagree with the reliance on the analysis in the Forest Plan, which references a modified 1983 model to measure elk habitat effectiveness. Objectors assert that this model is severely outdated, does not represent the best available science, and does not include trails in the indexes for hiding cover or open roads. Objectors hold that trail use, in addition to trails themselves, should be considered in the analysis for habitat effectiveness. Objectors also hold that impacts from bicycle use should be considered equivalent to motorized use and that trails should be considered as roads in the determination of habitat effectiveness. Objectors request that the Forest Service provide clarity on the methodology and formula used to calculate habitat effectiveness, in addition to completing a supplemental analysis incorporating more recent science and an impacts assessment of trail construction and usage on habitat effectiveness. Many objectors assert that, given the age of the habitat effectiveness model and Forest Plan, a FONSI is inadequate and an EIS should be prepared to adequately determine habitat effectiveness and analyze the effects of the proposed project.

Response

“Habitat Effectiveness”, as referenced in project documents, relates to a specific Forest-wide Plan Standard -TES Standard 10 (Forest-wide Direction Ch. 1, pg. 13); Management Area 5.41 prescription Wildlife Guideline 1 (Forest Plan Ch. 2, Management Prescriptions pg. 40); and Management Area 5.11 prescription Wildlife Guideline 1 (Forest Plan, Ch. 2, Management Prescriptions pg. 32) and states so in the documents. Habitat Effectiveness and the methods for calculating are referenced in the Forest Plan (USDA Forest Service 1997, appendix B – Description of Analysis Process, pg. 48). The EA and BE both state that the Habitat Effectiveness is based on the above reference on EA pages 39-40 and BE pages 15. All three of these documents are transparent in that they state that Habitat Effectiveness for compliance with the Forest Plan is calculated specifically by assessing hiding cover and open road density. Per the Forest Plan, Habitat Effectiveness calculations do not include trail use, type of use on trails, or trails themselves (USDA Forest Service 1997, appendix B – Description of Analysis Process, pg. 48).

“Habitat Effectiveness” is a term that can be defined differently between different user groups. Entities other than the Forest Service may have derived models for calculating “habitat effectiveness” that may be different from how it is outlined in this project. The “Habitat Effectiveness” calculation for this project is specifically tiered to the Forest Plan standards and guidelines and not any other model that may be available elsewhere. The project record is transparent in indicating that guidance set forth in the Forest Plan does not include accounting for trails in the calculation of “habitat effectiveness” and the thresholds to which they are held.

Although there would be no change to the Habitat Effectiveness (as calculated per Forest Plan guidance) due to the proposed project, the project documents do not assert that there would not be impacts or effects to elk. A full disclosure of potential impacts to elk are discussed in both the EA (pgs. 59-61) and BE (pgs. 39-44). The BE (pg. 18) recognizes impacts from non-motorized use, “Certain types of recreation can also be more pervasive in causing impacts. As stated by Larson et al. (2016), “Counter to public perception, non-motorized activities had more evidence for a negative effect of recreation than motorized activities, with effects observed 1.2 times more frequently”. The BE again recognizes negative effects to elk due to increased route densities: CO Trails Taskforce’s Route Density Primer (2021) considered route density as a predictor in reducing habitat effectiveness. As stated in the Primer, “when route densities increase to the point that the predicted behavioral avoidance zone overlaps or intersects with another route, habitat effectiveness is severely reduced or eliminated, and can also result in a barrier to seasonal migrations”. Though the user created summer routes that overlap with existing winter routes on Rabbit Ears Pass will be decommissioned, the high route density proposed (>1 mi./mi.2) in elk production areas will have long term, indirect effects to elk.” (BE pg. 42).

In addition to using guidance set forth in the Forest Plan regarding conservation of big game, additional and newer available science pertaining to elk at the time of analysis was

incorporated, including, but not limited to, the following 16 references in the BA pgs.39-44 and the EA pgs. 56-61:

Cooley et al. 2020; Finley and Grigg, 2008; Colorado Parks and Wildlife, 2021; Dressen et al. 2016; Wisdom et al. 2018; Naylor et al. 2008; Wisdom et al. 2005; Wisdom 2019; Ciuti et al. 2012; Naylor et al. 2008; Creel et al. 2002; Millspaugh et al., 2001; Rogala et al. 2011; Lyon (1983); Conner et al. 2001; and Vieira et al. 2003.

These documents included the most recent Colorado Parks and Wildlife Bear's Ears elk herd management plan (2008), the most recent post-hunt population estimates (2020), and recent publications regarding elk responses to recreation (2018, 2019) at the time of analysis in 2022. The Proposed Action additionally took into consideration the best management practices described in the Planning Trails with Wildlife in Mind (Colorado Trails Taskforce 2021) as stated in the EA at page 21.

The effects analysis is not based on, nor does it discount impacts to elk, solely on the habitat effectiveness calculation. On page 16 of the BE, the analysis further explains how the effectiveness of habitat was maximized despite not including trails in the Habitat Effectiveness calculation. The project was designed to conserve large tracts of wildlife habitat including CRAs and concentrate trails in existing disturbed areas or adjacent to open road networks. For example, as noted in the EA at page 7, several trails were removed from the proposed action in the Fish Creek area and between US Hwy 40 and the Steamboat Ski resort due to concerns about potential fragmentation of habitat in the Long Park Roadless Area. Additionally, the project was planned to concentrate trails within one mile of open roads, Hwy 40 and existing recreation developments, while leaving large, undisturbed areas in the Long Park CRA (BE pg. 16 and EA pg. 56)). For more information, refer to the Changes Made to the Proposed Action and Alternatives Considered but Dismissed from Analysis sections of the EA (pgs. 6-11).

The BE also includes a detailed effects analysis for elk taking into consideration the full range of impacts from all trails, roads, and disturbance (BE, pg. 39-44), and discloses that trail use during calving season, a sensitive and critical period for elk, may lower calf: cow trends further at a localized level (pg. 42). The analysis uses recent data that the E-2 sub herd located in the GMU 14 is declining and indicates that there will be short and long-term negative impacts to the elk herd in GMU 14 (pgs. 42-43). For additional information regarding effects to elk and elk habitat, see the response to Issue 7.

Regarding concerns related to the Forest Service's reference to Wisdom et al. 2018, the EA at page 39 states, "Recommendations from Wisdom et al. (2018) were also followed to keep trail development within one mile of open roads to maintain habitat effectiveness within large, undisturbed blocks including habitats within the Long Park Colorado Roadless Area." Again, on page 56 of the EA, the FS states, "(Wisdom et al. 2018). Wisdom et al. (2018) was a guiding document for the Mad Rabbit trails project to keep the majority of the trail development within one mile of open roads."

The concept of concentrating use near existing disturbance to leave large undisturbed habitat blocks is supported in the cited research, and that research indicates that trail-based recreation mirrors avoidance distances up to 1 mile by elk to open roads. Wisdom and Johnson (2019) found this type of trail planning reduces habitat compression by maximizing large undisturbed areas with high habitat value. Wisdom et al. (2018) documented that the distance response by elk to trail-based recreation mirrored the avoidance distances (0.3 to 1 mile) by elk to open roads (EA pg. 39, and BE pg. 16). However, these cited papers technically do not indicate one mile as a *recommended* concentration distance to use.

Conclusion

I find that there was no violation of law or policy in the calculations of Habitat Effectiveness in relation to Forest Plan Standard TES 1; 5.41 Prescription wildlife guideline 1; or 5.11 Prescription wildlife guideline 1. The calculations of Habitat Effectiveness are in compliance with the Forest Plan and that the BE and EA adequately disclose the methods used in making the calculations. Further, I find that the EA and BE used the best available science at the time of the analysis and is in compliance with law, policy and regulation. No additional analysis is required.

Instruction

I instruct the Responsible Official to provide specific explanation regarding the data used and calculations made regarding Habitat Effectiveness for elk.

I instruct the Responsible Official to clarify the methods used to determine the 1-mile concentration zone for trails as the guiding distance and how the research cited (Wisdom et al. (2018) and Wisdom and Johnson (2019)) supports that determination despite the research not explicitly recommending a one-mile concentration zone.

Issue 10: The Forest Service Failed to Recognize the Need for Wildlife Corridors by not Avoiding or Minimizing Impacts to Migration.

Objectors assert the Forest Service failed to consider the effects of the trail system on winter migration and wildlife corridors. New CEQ guidance issued in March 2023 encourages federal agencies to design projects to conserve, enhance, protect, or restore habitat connectivity and wildlife corridors by avoiding actions that fragment habitat. Further, the project disregards Colorado Executive Order D 2019-011 which directs state agencies to conserve winter range and migration corridors for elk and other big game species.

Response

On March 21, 2023, the CEQ issued a Memorandum for Heads of Federal Departments and Agencies, *Guidance for Federal Departments and Agencies on Ecological Connectivity and Wildlife Corridors*. The Memorandum directs Federal agencies to have new or updated policies recognizing the importance of ecological connectivity and

wildlife corridors ready for implementation by the first quarter of 2024, and to make their policies publicly available. The project was substantially complete when the guidance was issued and there are currently no new policies in place regarding this guidance.

In alignment with the above-referenced guidance, migration corridors were taken into consideration during the planning process and were key to placement of many trails in the proposed project. For example, the BE, page 13 clarifies that the "...project considered adjacent land use planning as best as possible when considering big game migration patterns..." and that the "...project has an objective to reduce recreation pressure [...] in the Hot Springs, Mad Creek, and Red Dirt area to allow for migration of big game from winter range west of Craig to Elk Production and Summer Concentration Areas of the Zirkel Wilderness" (BE, pg. 13). The BE, page 14, further states that, "During the planning process and in cooperation with DNR and Colorado Parks and Wildlife, trail proposals were removed from mapped Elk Migration Corridors and segments within MA 5.41 Deer and Elk Winter Range on Rabbit Ears Pass to protect these important areas." The BE, page, 40, provides further clarification regarding trail removal from migration corridors, stating, "All trails that were proposed in winter range (except segment 33 - 0.2 mile loop extension and segment 34 - existing Mad Creek road) and migration corridors within the project area were removed from the proposal."

In regard to Colorado Executive Order (EO) D2019-011, *Conserving Colorado's Big Game Winter Range and Migration Corridors*, directing state agencies to work together to identify and conserve big game migration corridors, this EO is specific to state agency actions and does not apply to Federal actions. However, the proposed action includes measures, such as those cited in the above paragraphs, which are intended to conserve migration corridors. Therefore, although not required, the project would contribute toward meeting the objectives of the Executive Order.

Conclusion

Based on my review of the project record, I find that the EA and BE are in compliance with applicable law, regulation, and policy regarding big game corridors and migration.

Instruction

I instruct the Responsible Official to provide discussion regarding the applicability of the March 21, 2023, CEQ guidance regarding wildlife corridors to the proposed project.

Concerns Related to Recreation, Use, and Enforcement

Issue 11: Concerns Related to the Decommissioning and Rehabilitation of Existing Trails.

Objectors take issue with the proposed decommissioning of 36 miles of existing trails associated with the proposed action, and state that despite the construction of 40 miles of trail, the removal of trails would not result in the expansion of opportunities of

recreational users and would affect the ability to spread out trail use across the Forest. In addition to trail connectivity issues, objectors claim trail 308 has historical significance, and Old Highway 40 has historically been a designated route that the decision closes without analysis. Objectors specifically request reconsideration of decommissioning, rehabilitation, closure, modification, and/or removal of the following trails:

- *Singletrack, east side of Rabbit Ears Pass, at the end of FS 308P*
- *Trail 24 at Ferndale*
- *Trails in the Mad Creek zone, specifically MRP*
- *Long Lake area*
- *Old HWY 40*
- *Walton Rim Trail*
- *Trail 308*
- *Trail 4*
- *Trail 10 and Trail 13*
- *MRP, Gunn Creek and Walton Rim*

Response

The purpose for the Mad Rabbit trails project is to “provide designated and sustainable trail-based recreation opportunities in consideration of other resources” (EA, pg. 2). The proposed action balances user needs for trail additions against resource concerns including impacts to wildlife, wetlands, and increased use on County roads accessing the area (EA pg. 5-7).

In the Alternatives Considered but Dismissed from Analysis section, under the Development of More Trails heading, the EA describes changes and refinement to the total proposed trail miles from the scoping process: “We received comments from the public on the 2019 proposed action, asking for more trails than were proposed. The 2018 proposal sent out for public input proposed between 68 and 79 miles of new trail construction. The 2019 proposal included 51 miles of new trail construction. Through the planning process, we have worked with the public and agency partners, such as Colorado Parks and Wildlife and Colorado Department of Natural Resources, to find the appropriate balance between new trail opportunities and protection of forest resources and wildlife habitat. The responsible official believes the proposed activities presented in this assessment strike a balance between managing increased trail-based recreation and providing areas without trails for other resource benefits and that analyzing an alternative with more trails at this time, would not address the concerns expressed by the public and partners on this project.” (EA pg. 10)

A key point in addressing other resources included, “Minimizing impacts to other resources was an important part of trail location and layout using resources like Forest Service manual 2310 Sustainable Recreation Planning, other resources like Colorado’s

Guide to Planning Trails with Wildlife in Mind (Colorado Trails with Wildlife in Mind Taskforce 2021), feedback provided by a wide range of resource specialists both internally within the Forest Service and from partners such as Colorado Parks and Wildlife and Colorado Department of Natural Resources. (EA pg. 21).”

The EA clarifies that the lack of diversity of opportunities and connectivity “would be abated by the proposed development of 19 new trails totaling approximately 49 miles of new, sustainable, designated trail routes...” (EA pg. 29), and further clarifies that, “Most proposed segments include loops, which would provide diverse user choices to maximize flexibility for the user to achieve a multitude of experiences (based on public scoping and research of desired opportunities). Factors such as physical and technical challenge, length of trail, amount of time spent on a trail, type of user, user experience, connection with the natural world, reducing use conflicts, and others were used to maximize the benefits from each of the proposed action trails to meet a diversity of user interests” (EA pg. 30). Appendix B of the EA (pg. 106-110) describes the designation and construction of each proposed trail, along with the trail purpose, uses, and function the trail serves within the greater trail system.

While the proposed action does not include a comprehensive list of trails that were excluded from authorization (no longer being considered and/or identified to be decommissioned, a summary of the reasons for adding, removing, or modifying specific trails (identified during public scoping and comment periods) are provided in the following EA sections: Proposed Action (pg. 13-15), Changes Made to the Proposed Action (pg. 6), and Alternatives Considered but Dismissed from Analysis (pg. 8-10).

The EA provides specifics as to the removal and addition of trails in the project by area:

- Long Peak Roadless Area: “Removal of several trails between U.S. Highway 40 and the Steamboat Ski Resort due to concerns about potential fragmentation of habitat in the center of the Long Park Roadless Area, where there are relatively few existing trails.” (EA pg. 7)
- Rabbit Ears Pass: “Removal of proposed trails 10 and 13, and improvements at Muddy Creek trailhead due to concerns about the location of proposed trail 10 in areas zoned for summer non-motorized recreation in the Routt Forest Plan, sensitive wildlife habitat, and hydrologically sensitive areas.” (EA pg. 7)
- The project eliminated some trails from the project in the Ferndale Area. As stated in the EA: “The planning team explored potential trail opportunities on both sides of U.S. Highway 40 to meet a diversity of opportunities and ultimately determined that trails using existing infrastructure on the north side of the highway made the most sense as there are several winter trailheads that can be used for summer access. Adding new trails on the south side of U.S. Highway 40 would require developing several new trailheads, and certain potential trailhead locations raised safety concerns due to their entrance and exit location on U.S.

Highway 40 identified through coordination with the Colorado Department of Transportation.” (EA pg. 9)

- Trail Management in the Mad Creek and Rocky Peak Areas “were removed from the current proposed action due to concerns about limited management opportunity for roads and trailheads adjacent to private lands. We also decided that decommissioning the non-system trails in the Mad Creek and Rocky Peak areas would reduce resource impacts (see Botany section) and protect important seasonal habitat for big game (see Wildlife section) through closure of non-system trails that are not part of a Forest Service-managed trail network.” (EA pg. 10)

In addition to those trails removed from the project, the EA leaves an alternative to construct the Long Lake non-system route: “If a sustainable alignment is found along the Long Lake non-system route based on Forest Service field surveys, the agency may reroute the existing Mountain View trail (west of Long Lake) onto this alignment rather than decommissioning it.” (Appendix A, Design Element 5)

The Project Scope and Alternatives section of the Response to Comments (pg. 44-45, in the project record) describes the process that was followed in refining the proposed action to enhance recreation and/or reduce impacts: “Per FSH 1909.15, Chapter 10, the framework for analysis including scope and scale was identified by the interdisciplinary team and responsible official, and the responsible official approved the issues to be analyzed in depth. Additional direction was used in identifying trails in the proposed action including FSM 2310 Sustainable Recreation Planning, FSH 2309.18 Trails Management Handbook and the Routt Forest Plan. Public involvement further refined the proposal as described in the Public Involvement and Coordination and Alternatives sections. The EA identifies potential alternatives considered but dismissed from analysis. Consistent with 36 CFR 220.7(b)(2)(i), only the proposed action and no action alternative were analyzed. The proposed action addresses the purpose and need for the project while also minimizing impacts to other uses and resources. The Routt Forest Plan was used to provide context for recreation (recreation opportunity spectrum settings) and other uses and resources in the project area and across the forest.”

Conclusion

I find that the responsible official has adequately considered trail construction proposals in accordance with the purpose of providing a sustainable trail-based recreation opportunities in consideration of other resources through project design and analysis. I find no violation of law, regulation, or policy.

Instruction

To provide clarity regarding incremental changes made to the proposed project from scoping through the Final EA, I instruct the Responsible Official to identify, in table format, trails that have been added, removed, or modified from the proposed action, along with a concise justification as to the reason for their addition, removal, or modification.

Issue 12: Inclusion of Multi-User Groups and User Group Conflicts.

Objectors raise multiple concerns related to trail use, trail restrictions, and potential user group conflicts. Objectors are specifically concerned that the proposed trail development favors mountain bike users at the expense of other users, and that very few trails would allow for motorized use. One objector is concerned that the trail development along highway 40 would result in user conflicts with current grazing rights holders. Many objectors believe that the proposed new trail system should be inclusive to all user groups and that imposing restrictions would not deter unauthorized use and unauthorized trail construction. Objectors request reconsideration of restrictions and more opportunities for motorized use.

Response

With one exception (Trail 23, see below), all trails in the proposed action will be open to all non-motorized uses: hiker/pedestrian, pack and saddle, and mechanized (i.e., bicycle). Additionally, three trails in the proposed action will be open to motor vehicles 50 inches or less in width in addition to all non-motorized uses (EA, pgs. 106-110). Trail design was intended to lessen the potential for user conflicts and manage the recreation experience, including but not limited to, creating looped trail opportunities which lower the number of encounters on a trail compared to out and back trails, a potential directional bicycle trail (Trail 23) which reduces user conflicts with hiker/equestrian use, and signage and education promoting responsible user etiquette to reduce user conflicts (Response to Comments, pg. 75, in the project record). Forest Service trail design parameters are included in Forest Service Handbook 2309.18 – Trails Management Handbook. Appendices B and C of the EA describe trail design standards (tread, traffic flow, obstacles, constructed features, recreation experience, etc.), which follow these parameters and are consistent with Forest Service Manual (FSM) 2350. Other actions will occur as needed to address user conflicts, visitation trends and recreation experience changes (Design Element 37, EA, Appendix A). (Response to Comments; pgs. 75-76, in the project record).

FSM 2353.14 states that the Forest Service is to “use the ROS in trail planning, development, and operation.” Additionally, FSH 2309.18, Chapter 13 describes the application of the Recreation Opportunity Spectrum (ROS) through land management planning in providing recreation opportunities on National Forest System trails. The ROS is a system by which existing and desired recreation settings are defined, classified, inventoried, and monitored. Recreation settings are divided into six distinct classes. Classifications are based on physical, social, and managerial setting characteristics. The underlying premise of the ROS is that visitors choose a specific setting and activity to derive desired experience(s) and other benefits (FSM 2310.5). ROS is also an element of the Forest Plan (Chapter 2; pgs. 10-11).

As shown in Figure 7 of the EA (pg. 128), the majority of the area north of US 40 within the project area is identified in the Forest Plan as within Management Area (MA) 1.32 - Backcountry Recreation Nonmotorized With Winter Limited Motorized. The desired

condition for this MA is to provide a variety of non-motorized recreational experiences in the summer. Additionally, Recreation Guideline 1 for this MA states, “Manage for a summer ROS class of semi-primitive nonmotorized.” (Forest Plan; Chapter 2; pgs. 10-11).

There are portions of the project area north of US 40 within MAs 3.31, 4.3, and 5.11, each of which allow for motorized uses (Chapter 2).

Like the MAs discussed above, most of the ROS classes in the project area north of US 40 are inconsistent with summer motorized uses. Much of the project area north of US 40 is in the Semi-Primitive Non-Motorized ROS class. Portions of the project area north of US 40 falls within the Roded Natural and Semi-Primitive Motorized ROS classes, which are consistent with summer motorized use. Definitions of these classes can be found in Forest Service Manual 2310.5.

As described in the Response to Comments on page 78, the Forest Service considered motorized trail uses within the project area based on existing opportunities in the project area, input received during partner engagement and public scoping, and ROS setting direction in the Forest Plan for areas where the ROS class is compatible with summer motorized recreation. In accordance with 36 CFR 212.55(b), the Forest has considered the effects of motorized trails on resources and has designed the project to minimize the effects to natural resources (wildlife, soils, watersheds, and other forest resources) and minimize conflicts among uses. Three trails open to motor vehicles less than 50” in width, totaling approximately four miles of trail, are included in the proposal south of US 40 in areas compatible with summer motorized recreation to create looped opportunities with existing roads open to motor vehicles. As described in the EA under the section, “Public Involvement and Coordination,” (pg. 7) the Grizzly/Helena trail (Trail 10) was not included in the proposed action due to inconsistency with the Forest Plan (ROS class is not compatible with summer motorized recreation), as well as concerns with sensitive wildlife habitat and hydrologically sensitive areas (Response to Comments, pg. 78, in the project record).

The EA describes rationale for not including additional motorized trails in the following sections: Changes Made to the Proposed Action and Environmental Analysis (pgs. 6-7), Alternatives Considered but Dismissed from Analysis (pgs. 8-10), Effects of the Proposed Action specific to Motorized Trail Loops (pg. 32).

Regarding user conflict with grazing, FSM 2310.2 states that, in order for recreation settings, opportunities, and benefits to be sustainable, they must be compatible with other uses. The potential for trail development along US 40 to conflict with permitted grazing was considered but not analyzed in detail in the EA as described on page 19, which states, “Forest staff have discussed the project with the grazing permittee and will continue to work with the permittee to reduce detrimental effects to sheep operations, while reducing conflict with recreationists using trails within grazing allotments. These measures are outlined in project design elements. This project will not change the permittees’ ability to graze on the allotments.”

Range Design Element 32 and 33 state the following (EA, Appendix A, pg. 103):

32) There will be public outreach and awareness through signage and education (for example, information on kiosks) on safe recreation practices where livestock grazing occurs.

33) The Forest Service will collaborate with the range permittees on developing strategies for working in an increased recreation use area.

Regarding the statement that imposing restrictions would not deter unauthorized use and trail construction, Appendix A of the Final EA (pgs. 103-104) describes trail and trailhead management, consistent with FSM 2309.18. Specifically, Design Element 37 included actions that may be taken when management of a sustainable trail system does not meet the intent of the purpose and need of the project. Forest Service regulations found at 36 CFR 261 Subpart B allow Forest Supervisors to issue orders which close or restrict the use of described areas within the area over which they have jurisdiction. The implementation of a restricted use area would allow Forest Service staff to enforce these regulations. The ability to do this within the majority of the project area does not currently exist (EA, pg. 15). Additional discussion related to the enforcement of unauthorized use is provided in Issue 14.

Conclusion

I find that the Mad Rabbit Trails Project EA adequately addresses inclusion of user groups, potential conflict with permitted grazing, and included Design Elements to handle unauthorized use and trail construction. The Draft Decision Notice and FONSI is consistent with the Forest Plan, FSM 2310, FSM 2350, and FSH 2309.18. I find no violation of law, regulation, or policy.

Issue 13: Management Plan Concerns Related to Monitoring, Maintenance, and Enforcement of Recreation Settings.

Objectors raise concerns that the EA does not describe how the Forest Service will monitor and manage new trails in addition to the existing illegal trails in the project area, citing impacts to wildlife habitat, plan direction related to the recreation opportunity spectrum, and impacts to Colorado Roadless Area characteristics. Letters cite numerous existing, illegal mountain bike trails as evidence that the Agency cannot manage new mountain bike trails in addition to the existing network, and some commentors urge the Forest Service to create an adaptive management plan tied to thresholds in the Forest Plan. An objector asserts that the EA does not analyze how the Forest Service will adhere to plan direction to maintain primitive and semi-primitive non-motorized recreation opportunity settings and address potential deviations in the number of encounters per day.

Response

Under “Purpose and Need for Action, the EA addresses the need to reduce damage caused by unauthorized non-system trails, including impacts to wildlife, wetlands,

botany, cultural resources, and other resources (EA, 4). The EA addresses this in several ways, namely by providing trail opportunities using FSH 2309.18 design standards (EA, Appendix A, Design Elements 34 and 35), decommissioning trails with resource concerns (EA, Appendix A, Design Elements 5 and 6), and implementing a restricted use order to wheeled vehicles (EA, Appendix A, Design Element 2). The Forest Service proposes to manage new trails through a framework of education, engineering, and enforcement through a variety of partnerships as well as a mechanism to consider trail use adjustments as outlined in Appendix A, Design Element 37 (EA, 103-104).

Some objectors raised concerns that the EA does not describe how the Forest Service will monitor and manage new trails in addition to the existing trails in the project area. Existing unauthorized trails were created without attention to appropriate slopes, soils, and locations, and they do not receive any type of upkeep to mitigate soil degradation. As stated in the project record, the project reduces impacts to resources by rehabilitating and restoring non-system trails according to Forest Service standards (EA, 15). New trails and trail structures will follow FSH 2309.18 standards to minimize maintenance costs through sustainable management and design (e.g., maintain proper drainage, minimize trail structures to reduce costs and maintenance needs) (EA, Appendix A, Design Element 34 and 35). Generally speaking, trails constructed to FSH 2309.18 design standards provide the experience that trail users are seeking, therefore increasing compliance with on-trail use and minimizing the need from users to create new unauthorized routes.

The project creates an enforcement mechanism that addresses the creation of illegal trails (EA Appendix A; Design Element 2). As stated in the EA Purpose for Need and Action, “Without an enforcement mechanism in place to deter the use of unauthorized routes, the only way illegal use can be ticketed is if someone is caught in the act of trail construction (36 CFR 261.10(a)) or causing resource damage (36 CFR 261.9(a))” (EA pgs. 4-5). This project prevents the user re-establishment of unauthorized trails through the implementation of an enforceable closure that makes it illegal for bicycles to travel off designated routes to reduce social trail development. As reported in the Purpose and Need for Action, “The Forest Service has found closure orders to be effective on other parts of the Hahns Peak/Bears Ears district once system trails were expanded and non-system trails were rehabilitated.” (EA pg. 5).

The EA outlines an adaptive management framework that utilizes education, engineering, enforcement, partnerships, and a mechanism for considering trail use adjustments. The closures, education, engineering, and enforcement will be used to reduce resource impacts, implement closures, address violations, and minimize user conflicts, according to the guidelines outlined in FSH 2309.18 (Appendix A, Design Element 37). Additionally, the Forest Service will utilize existing partnerships to assist with trail and trailhead management, including maintenance, education, monitoring, and funding (Design Element 37d). Design Element 37e states “The Forest Service could consider adjusting trail use (such as directional trails, user specific trails, user specific fluctuating times of week) on proposed trails to manage for changing use patterns (such as user conflicts, ROS, CDNST).” (EA, 104)

The EA identifies the proposed action's consistency with the Colorado Roadless Rule as one of the key issues after extensive public and cooperator involvement (EA, pg. 67). For further discussion of this project's alignment with the Colorado Roadless Rule, see response to Issue 1.

FSM 2353.14 states that the Forest Service is to use ROS in trail planning, development, and operation. Additional policy direction is found in FSM 2310 and FSH 2309.18. FSM 2310 contains physical, social, and managerial characteristics for each of the six ROS classes, which includes guidelines for maintaining social settings. Further, the Forest Plan also provides guidelines for managing recreational use to certain capacities and ROS class (Recreation - Dispersed Recreation Guideline 1) and Recreation - Dispersed Recreation Guideline 2 describes management actions that can be taken to address impacts if use exceeds the capacity for a given ROS class (pg. 17). More specifically, Guideline 2 directs the employment of the following management actions, in order, if use is exceeded:

- a. *Inform the public and restore or rehabilitate the site.*
- b. *Regulate use.*
- c. *Restrict the number of users.*
- d. *Close the site.*

Conclusion

Based on my review of the project record, I find that the Mad Rabbit EA adequately addresses management and monitoring of the proposed trails system. The plan is consistent with Forest Plan, FSM, and FSH direction regarding ROS for trail planning and development. I find no violation of law, regulation, or policy. While I do find that the EA adequately addresses management and monitoring of the proposed trails system, I also acknowledge the concerns raised by objectors related to unauthorized trail construction, off-trail use, seasonal closure violations, recreation settings and wildlife impacts.

Instruction

I instruct the Responsible Official to ensure an adaptive management plan is collaboratively developed by the Forest Service and the Colorado Department of Natural Resources prior to Forest Service approval to start construction and implementation, that would address objectors concerns related to unauthorized off-trail use, violations of seasonal closures and recreation setting in addition to impacts on wildlife or habitat, including developing a potential phased approach to trail construction based on this adaptive management plan.

Concerns Related to Socioeconomic Impacts and Public Safety

Issue 14: The Forest Service Failed to Consider Economic Impacts of Increased Tourism and Recreational Use and Tradeoffs with Loss of Wildlife Habitat for Viewing and Hunting Opportunities.

Objectors are concerned that the proposed trail development would lead to a substantial increase in tourism and trail use in the area and question the socioeconomic impacts of the potential loss of wildlife viewing and fishing and hunting opportunities, general enjoyment quality of life, increased tourism and local housing needs, and increased maintenance costs. The EA does not provide sufficient analysis regarding these tradeoffs. There is a lack of local public support for the proposed project even considering potential increases in tourism tax revenue. The value of the area as wildlife habitat outweighs the need for recreational use, particularly for bicycles. Objectors request the cessation of the proposed project and/or a socio-economic assessment that would account for the losses and increased pressures identified above.

Response

The National Environmental Policy Act requires the integrated use of natural and social sciences in planning and decision-making (42 USC 4332). The responsible official determines the scope and complexity of social and economic evaluations needed to make a reasoned decision (FSM 1970). Additionally, 40 CFR § 1502.16 (b) states that “Economic or social effects by themselves do not require preparation of an environmental impact statement.”

The EA reflects the integrated use of natural and social sciences. The EA uses the best available scientific information to document increased recreational use on the forest, with non-motorized trail-based recreation (hiking and biking) the most common activities after downhill skiing (pp. 22-24). Additionally, the EA analyzes the effects of the alternatives on elk as a big game species (pp. 58-61) and appropriately notes the potential tradeoff between hunting and trail-based recreation opportunities (pp. 28-29). The Forest Service is not required to develop a quantitative estimate of economic effects unless it is “essential to a reasoned choice among alternatives” (42 USC 4336).

The purpose of the project is to provide sustainable trail recreation opportunities while reducing resource damage. The EA considered but dismissed from analysis an alternative that would decommission all non-system routes and not add any new trails (p. 9). This alternative was dismissed because it is not consistent with the purpose and need for action.

Conclusion

I find that the responsible official adequately considered the alternatives’ effects on human uses and values and that a separate socioeconomic assessment is not required. I find no violation of law, regulation, or policy.

Issue 15: The Forest Service Failed to Consider Effects to Traffic, Infrastructure, and Public Safety.

Objectors raise concerns that the proposed project would result in increased use, tourism, and traffic in the area which would result in public safety concerns and the need for improvements and maintenance for roads and other infrastructure. Potential impacts are inadequately addressed in the project documents. The Forest Service should address plans and funding for increased parking, facilities, and trailheads, and provide project design elements related to safe ingress and egress of the highway.

Response

The EA addresses concerns regarding public safety and traffic, noting “There are small increases in traffic along US Highway 40 expected, specifically during busy times and near trailheads, with implementation of the trails and trailheads in this proposal compared to overall traffic volumes along US Highway 40 identified in the East Steamboat Springs US Highway 40 Access Study and in coordination with Colorado Department of Transportation (CDOT) but there would be no substantial changes in overall traffic volume” (EA, pg. 20). In addition to coordinating with CDOT throughout the planning and NEPA process, the proposed project incorporates a design element (design element #41) to continue to “coordinate with Forest Service engineers and Colorado Department of Transportation on vehicle access points associated with Forest Service trailheads along US Highway 40 regarding traffic patterns and safety concerns” (EA, Appendix A, pg. 104).

Public safety at trailheads is part of the need for this project (EA, pg. 4). Proposed locations include four existing trailheads, one decommissioned picnic day use area, and two are proposed for construction (EA, pg. 16). All seven trailheads are identified as access points in the 2016 study (US Highway 40 Access Study, pp. 33-34). FSH 2309.13 Planning and Design of Developed Recreation Sites and Facilities will inform trailhead design (Response to Comments, pg. 120, located in the project record).

The project record addresses funding for project implementation and enforcement. The response to comments on the draft EA notes that “trails will be prioritized for implementation based on the criteria outlined in Priorities and Management Requirements of FSH 2309.18” (Response to Comments, pg. 61, located in the project record). The EA includes the rationale for dismissing the funding concern from further analysis and identifies grants, partnerships, and agency funding available for trail construction and maintenance (EA, pg. 20).

Conclusion

I find that the responsible official has adequately considered public safety and infrastructure in project design and analysis. I find no violation of law, regulation, or policy.