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September 6, 2007

Transmitted via U.S. Mail and Facsimile to 530-621-5297

Ramiro Villalvazo, Forest Supervisor
Eldorado National Forest
100 Forni Road
Placerville, CA 95667

RE: Further Request for Eldorado Travel Planning Supplemental Analysis

Dear Supervisor Villalvazo:

We are writing to follow up on our letter to you and Team Leader Jason Nedlo dated August 2, 2007 addressing the Eldorado National Forest Public Wheeled Motorized Travel Management Draft EIS and associated planning (the "Travel Planning Process"). As before, these concerns are presented on behalf of our clients the BlueRibbon Coalition, California Association of 4 Wheel Drive Clubs, California Enduro Riders Association, Friends of the Rubicon and other interested organizations and individuals. Subsequent to our August 2nd letter, to which we have not received a response, the Forest Service entered a stipulation in Case No 02-325-LKK (E.D.Cal.) with Plaintiffs Sierra Nevada Conservation et al and obtained an order extending the due date for completion of the Travel Planning Process from December 31, 2007 to April 2, 2008. As you are likely aware, we declined to enter that stipulation on behalf of our clients, based largely on the concerns that the requested extension does not fully allow for the expansion of management options beyond those outlined in the DEIS that our clients believe is necessary to achieve an acceptable outcome to the Travel Planning Process. This letter is intended to amplify the need to for supplemental analysis beyond that currently outlined by the Forest and to clarify procedures by which the Forest can perform the necessary supplemental analysis.

We will not restate the legal risks outlined in our August 2nd letter. We simply urge the Forest, with the advice of agency and trial counsel and agency leadership to honestly assess the risk that certain assumptions about fundamental planning requirements apparent from the DEIS might change at a critical point during this decision-making process. We believe, regardless of one's personal perspective on the Travel Planning Process or larger organizational/legal issues,

that such risk is very real and threatens the integrity of and ability to defend a very expensive and time consuming agency effort.

Our clients and other members of the public have hopefully made it clear to you and your staff that none of the DEIS alternatives are acceptable to the mechanized recreation community. We cannot adequately stress the need to expand the range of alternatives to allow for greater, more diverse and more actively-managed mechanized recreation opportunities. The alternative ("A") presently offering the greatest access opportunity provides for virtually the same route network as that allowed, without serious opposition or hesitation, by the Court as an "interim" prescription notwithstanding the Court's finding that the Forest had essentially failed to comply with NEPA for more than a decade in authorizing the majority of (if not all) vehicle access to the Forest. Nothing in the Court's rulings limits the agency's discretion in evaluating viable alternatives for action, and both logic and the law should compel the agency to consider alternatives allowing for more than the interim "band-aid" travel system. Even Alternative A represents closure of more than 20 percent of the routes existing and regularly traveled by the public prior to 2005. The "Proposed Action" (Alt C) proposes a staggering 73 percent closure, which is exceeded by the "Preferred Alternative" (Alt D) which would close 77 percent of the current system. Most of these routes now slated for closure have existed for decades and are firmly and solidly established in both the ecosystem and local culture of the Forest. We are not advocating the inclusion of redundant "wildcat" routes or routes creating inappropriate or unmanageable resource impacts, but a basic backbone transportation and recreation infrastructure which the Forest itself has not only acknowledged but helped to create and maintain over an extended time period.

Our clients have previously identified the specific alternative(s) and additional routes that must be formally analyzed in detail in the Travel Planning Process. Specifically, BlueRibbon Western Representative Don Amador presented the Forest with "Alternative R" on November 28, 2005. We here reiterate the request to include that proposal as a stand-alone alternative or to integrate the route network outlined in that proposal into a fully-analyzed action alternative. If there are any questions about this proposal or if the Forest needs further detail, data or different formatting please contact our office or Mr. Amador immediately.

We additionally stress the need to adequately analyze and provide for dispersed camping and/or downed big game retrieval in the Travel Planning Process. The Travel Management Rule plainly affords the Forest discretion to address these issues in the Travel Planning Process. 36 CFR § 212.51(b). However, the DEIS unceremoniously refuses to do so, dumping these topics in the bin of "alternatives considered but eliminated from detailed study." DEIS at 31, 32 (items 9 and 12). We urge you to reconsider this decision. There are hundreds of traditional campsites historically used on the Eldorado. The available designated campsites cannot, nor should they be expected to, meet a fraction of visitor demand. Dispersed camping is an appropriate and cherished aspect of the National Forest experience for many. Our members who hunt, fish and engage in associated preparations or similar sporting activities on the Eldorado are particularly

concerned with the Forest's apparent lack of concern in addressing these issues in the Travel Planning Process.

Regardless of the Forest's position on the above-described issues, the DEIS independently fails to even consider meaningful route relocation or creation in order to better meet visitor demand and physical resource issues. This Travel Planning Process presents an unprecedented opportunity in the travel management context to finally "do it right" in which the Eldorado is poised on the brink of miserable failure.

We do not present these concerns as a quixotic exercise in futility. There are tangible mechanisms the Eldorado can implement to address our concerns and improve the Travel Planning Process. Obviously we would prefer the DEIS be withdrawn and a Supplemental EIS be released. We realize there are significant practical, if not legal, impediments to this approach given the need to comply with the constraints, self-imposed or not, of the Court order. Still, we note that if any of the legal plot twists should develop as we predict, there may be ample justification to ask the Court for an additional extension to avoid the release of a final decision with obvious legal flaws.

Barring any opportunity or ability to generate a full-blown SEIS, the Eldorado could create one or more additional alternatives, receive public comment on the same, and still release a final decision within current timetable. Specifically, the Forest could receive and analyze comments to the DEIS, issue a Final EIS, and then receive additional public comments to the FEIS prior to releasing a Record of Decision. There is precedent for such an approach in similar circumstances, including those when parallel litigation creates uncertainty and a court-imposed timetable for decision. See, *Hells Canyon Alliance v. U.S. Forest Service*, 227 F.3d 1170, 1173-1174 (9th Cir. 2000) (involving Wallowa-Whitman NF (Region 6) noting release of FEIS in July followed by ROD in October). We further note application of the same procedural model on the Payette National Forest (Region 4) in its current travel management process, in which an FEIS was released in late May, 2007 and public comment was reopened on the FEIS until July 6, 2007. See, http://www.fs.fed.us/r4/payette/publications/trvl_mgmt/final%20eis/chapter_1.pdf at 1-7, 1-8 (FEIS purpose and need describing procedural history and need for further comment); http://www.fs.fed.us/r4/payette/news/2007/06_11%20travel%20plan%20comment%20extended.dwt (news release announcing extension of "second" comment period). In both of these examples a primary justification for the additional comment period was the inclusion of a new alternative in the FEIS.

Aside from producing a better and more defensible final product, the recently-obtained extension creates additional opportunity to adopt these procedures. Under the original schedule, the 45 day comment period was to close on September 4, 2007 with December 31, 2007 as the final decision date. This is approximately 98 days, including several major holidays in the winter season in which many Americans, including Forest Service employees, typically take vacation. With the extension of the decision deadline and associated Forest action to extend the comment period, public comment on the DEIS will close on October 22, 2007 with April 2, 2008 as the

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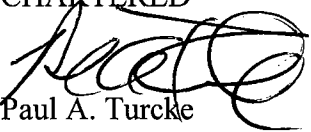
final decision date. This is approximately 162 days, or roughly 60 days additional time. If a 30 day comment period to an FEIS were allowed, the Forest could issue an FEIS early into the new year on January 6, 2008, with comments closing on approximately February 5, 2008. This would allow approximately 25 days to review the additional comments and process a final decision on or before the April 2, 2008 due date.

A reasonable outcome to the Travel Planning Process is a top priority for our clients and other enthusiasts in California and throughout the country. There is much important work to be done toward that end, and if we are to meet our mutual goals none of us can afford to waste a single day.

Thank you for considering this input. Please contact our office or Mr. Amador if you have questions or require additional information.

Sincerely,

MOORE SMITH BUXTON & TURCKE,
CHARTERED



Paul A. Turcke

/PAT

cc: BlueRibbon Coalition