Greg Mumm, Executive Director
Comments for consideration by:
House Resources Committee
Subcommittee on National Forest, Parks, and Public Lands
Hearing on:
Forest Service Regulatory Roadblocks to Productive Land Use and Recreation: Proposed Planning Rule, Special Use Permits, and Travel Management
November 15, 2011

Dear Chairman Bishop and Members of the Subcommittee,

The BlueRibbon Coalition (BRC) would like to thank you for the invitation to testify regarding our concerns about management of the National Forest System.

BRC is an Idaho nonprofit corporation with individual, business, and organizational members in all 50 states. As a national recreation group that champions responsible recreation and encourages individual environmental stewardship, BRC focuses on enthusiast involvement through membership, outreach, education and collaboration among recreationists.

BRC members use motorized and non-motorized means, including off-highway vehicles, snowmobiles, horses, mountain bikes, personal watercraft, hiking and other means to access state and federally managed lands and waters throughout the United States, including those throughout the National Forest System. BRC has a longstanding interest in the protection of the values and natural resources found on those lands and waters, which it advances by (1) working with land managers to provide recreation opportunities, preserve resources, and promote cooperation between public land visitors; (2) communicating with administrative officials, elected officials, policymakers, the media and the public, consistent with its nonprofit status; and (3) protecting and advancing its members' interests in the courtroom on specific matters implicating public lands and waters access issues.

EXECUTIVE SUMMARY

We appreciate the Subcommittee providing oversight on regulatory roadblocks to land use and recreation. If the reform of the National Environmental Policy Act or the Endangered Species Act could be described as ambitious giant steps toward more efficient regulatory framework for the management of Public Lands and National Forests, then revision of the U.S. Forest Service

Planning Regulations would be a reasonable baby step. A rational and workable planning policy is absolutely essential for the future of our National Forest System.

The U.S. Forest Service (USFS) freely admits that its current planning regulations are costly, complex and procedurally burdensome. Sadly, the USFS has proposed new planning regulations that only make the situation worse. The new "Proposed Planning Rule" threatens to create a situation that will exacerbate, not resolve, the planning gridlock accelerating through the agency.

At a time when federally managed lands should be contributing to the economic vitality of our nation, it is unacceptable that the recreation permit process as it is currently implemented on U.S. Forest Service lands is overly bureaucratic, expensive for both agencies and the public and often applied in an unfair and arbitrary manner. The current process no longer serves the public interest nor does it support the goals and objectives of land use planning. Oversight, and perhaps ultimately legislation, is necessary to encourage the agency to modify and streamline the permit process.

The organized motorized recreation community supported the 2005 Travel Management Rule (TMR) based on the growing importance of recreation on Forest Service lands, a need for clearer management guidance and the recognition that effectively managed motorized recreation is a legitimate use of the National Forest System.

Motorized recreation is not a single faceted end product, but a means to nearly every form of recreation on National Forests. Virtually any recreationist relies on vehicular transport from their place of residence and along the Forest transportation network, even for activities some would label "non-motorized" such as hiking, backpacking, photography or nature study. The true economic impact of the motorized transportation network on the National Forests is immense but not properly quantified.

A primary impetus for the 2005 TMR was to eliminate "open" designations and to inventory and regulate the associated network of "user created" or "unauthorized" routes. Unfortunately, the TMR has been incorrectly interpreted by many preservationist interests within and beyond the Forest Service to justify landscape level closures of not only "user created" routes but well established, mapped routes historically part of local transportation systems. In some areas this flawed approach has resulted in significant reduction in available public recreation resources and strained relationships with state and local governments.

SUMMARY OF CONCERNS WITH THE PROPOSED PLANNING RULE

From its outset BRC has been extensively involved in the Planning Rule revision process. We have provided the consistent message of concern that in this current effort to develop a new Planning Rule, the Forest Service has strayed far from the core purpose for revisiting the agency's planning regulations. In fact, the Proposed Rule threatens to create new, undefined goals and criteria which will exacerbate, not resolve, the planning gridlock accelerating through

the agency. It is ironic that the agency continues to be mired in a decades long effort to promulgate valid rules intended to make more streamlined the content of Forest Plans and more efficient the process by which they are created. At the risk of belaboring the obvious, it should not take a Forest 10, 8 or even 5 years to revise Forest Plans, which are supposedly obsolete in 10 years. The Proposed Rule does not attempt to build on the lessons learned in prior efforts, but instead threatens a new vision fraught with uncertainty.

BRC has consistently urged the Forest Service to steer this effort back to its necessary focus to- (1) fill the current regulatory void; and (2) create efficiency and expediency in the Forest planning process.

There have been repeated requests by organizations (including BRC), retired Forest Service personnel, local government entities, individuals, and even members of Congress to take the time to collect all the necessary information to properly inform the process and get this right this time. Getting it right will require detailed analysis of the wave of public input and changes to the current product. The Forest Service has not heeded these diverse requests, but continues to push for completion in 2012, conspicuously before the upcoming general election. We cannot help but question whether this rush is politically motivated. If so, we emphatically state that proper management of our public lands and their resources is most certainly not the place to garner political favor.

Sadly, the Forest Service appears singularly focused on this defined path with little change in the determined direction. In spite of input from experts, local entities and citizens who are most connected to and affected by the outcome, by all indication, the Forest Service is resolved to inexorably adopt something very close to the current Proposed Rule. If its fundamental underpinnings were correct, BRC would be the first to back such a rule. However, this Proposed Rule does not carry the broad support from the spectrum of those affected because a long history demonstrates it will make things worse.

To summarize BRC's overarching concerns:

- The proposed Planning Rule continues to stray far from congressional multiple use mandates, including the mandate to provide a wide range of diverse recreation. Simply including references to recreation in the proposed Planning Rule is not sufficient to comply.
- The proposed Rule fails to meet the purpose and need. It fails to make the Forest Planning revision process less costly, burdensome and time consuming.
- The proposed Rule fails to prioritize creating and protecting jobs and providing a wide range of diverse recreational activities.
- The proposed Rule inappropriately emphasizes preservation over multiple use
- The proposed Rule injects "viable population" requirements suspiciously close to provisions in the 1982 Rule which litigants used to hamstring countless agency projects.

- Efforts to address the use of science will not properly insulate agency discretion but provoke improper debate over what/whose "science" is "best" which will delay the process and make agency decisions more vulnerable.
- New terms and concepts and the dilution of established definitions are confusing and create fertile ground for increased litigation.
- "Public engagement" requirements distance the decision making process from the local area and potentially make plans more vulnerable to litigation.
- Monitoring requirements are unrealistic and would eat up budgets for on-the-ground work.
- The Scientists' Review of the Proposed Regulations threatens violation of the Federal Advisory Committee Act,

Note: An expanded version of the above bullet list, along with comments on specific sections of the Proposed Planning Rule can be found in the attached formal BRC Comments on the FS Planning Rule DEIS or found on the web at:

http://www.sharetrails.org/uploads/BRC_Comments_on_FS_Planning_Rule-DEIS_05.16.11_FINAL.pdf

SUMMARY OF CONCERNS WITH TRAVEL MANAGEMENT

The organized motorized recreation community supported the 2005 Travel Management Rule (TMR) based on the growing importance of recreation on Forest Service lands, a need for clearer management guidance and the recognition that effectively managed motorized recreation is a legitimate use of the National Forest System.

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As noted above, the primary impetus for the 2005 TMR was to eliminate "open" designations and to inventory and regulate the associated network of "user created" or "unauthorized" routes that were created by a legacy of "open" designations. Unfortunately, in many Forests the TMR has been incorrectly interpreted by many preservationist interests within and beyond the Forest Service to justify landscape level closures of not only "user created" routes but well established, mapped routes historically part of local transportation systems.

Many units have proceeded from the flawed, if not illegal, assumption that motorized access inherently causes impacts and should be prohibited unless the complete absence of impacts or controversy can be established by continuing use advocates.

Trail based recreation is a complex subject. Effective management requires an understanding of the particular demand, opportunities and user behavior in any given locale. The Forest Service generally lacks personnel with the specialized knowledge to evaluate and implement this understanding. In the rare instances where it exists, recreation specialists' (e.g. Trails Unlimited) input is not followed.

A wave of litigation has predictably followed publications of new Motor Vehicle Use Maps under the TMR. The changes following that litigation are often not predictable but can influence broader agency policy. Examples include preservationist emphasis on the Subpart A minimum road system, Subpart C snowmobile exemption and duty to "minimize" impacts, all of which have created additional means by which to threaten local managers and paralyze effective local management of National Forests.

SUMMARY OF CONCERNS WITH SPECIAL USE PERMITS

Special Recreation Permits (SRP) are supposed to be a tool for managing recreation use; reducing user conflicts; protecting natural and cultural resources; informing users; gathering use information; and obtaining a fair return for commercial and certain other uses of public land.

The recreation permit process as currently implemented on Forest Service managed lands is overly bureaucratic, expensive for the agency and the public, and often applied in an unfair and arbitrary manner. Efforts to encourage the agency to modify and streamline the process have failed, even when those efforts were supported by agency policy. The current process no longer serves the public interest or supports the goals and objectives of land use planning. The recreation permit process must be revised.

The permitting process has become so complicated and costly that most "nonprofit club events" simply cannot comply with the requirements. In addition, historic and popular competitive events that have been occurring without problems have recently been subjected to arbitrary fees. In some areas, the application process to obtain an SRP is being used to prohibit and/or severely restrict otherwise allowable activities. Even where internal solutions are proposed by regulation or individual units, they have been challenged or applied inconsistently. A legislative solution is needed.

BRC and other recreation stakeholders have appealed to legislators to pass legislation that will modify and streamline Special Recreation Permit / Special Use Permit direction to better serve the public interest and support the goals and objectives of land use planning. We believe legislation is necessary to increase efficiency and efficacy of the process to permit various recreation activities on National Forests. While this hearing focuses on the Forest System, virtually identical issues plague lands managed by the Department of Interior. Specifically, this legislation will direct the Secretary of Agriculture and the Secretary of the Interior to make the following changes:

- Historic and regularly permitted events held by non-commercial clubs or organizations that occur on roads, trails and areas designated for public use should be approved based on prior or expedited analysis, so that little or no new analysis is required for the permit process.
- Nonprofit clubs should be recognized as distinctly different from commercial operations, outfitter and guide businesses, ski areas and other private for profit enterprises.
- Recognizing that increased partnering with public lands users will become necessary as budgets tighten, there is a need to leverage the resources available from clubs and organizations that hold events on National Forests and Public Lands. Competitive event SRP applicants should be credited for work performed, such as trail maintenance, and the credit applied towards any "cost recovery" fees.
- Currently, cost recovery is not required if the permit can be authorized with no more than 50 hours of staff time. 49 hours of staff time is free, but 51 hours is billed at 51 hours. The first 50 hours should be free, regardless of the total number of hours.

These are but a few of the examples of the illogic of the existing situation. It is time for change.