

ACCESS TO PUBLIC LANDS: THE EFFECTS OF FOREST SERVICE ROAD CLOSURES

HEARING

BEFORE THE

SUBCOMMITTEE ON

THE INTERIOR, ENERGY, AND ENVIRONMENT

OF THE

COMMITTEE ON OVERSIGHT

AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

JUNE 26, 2018

Serial No. 115–89

Printed for the use of the Committee on Oversight and Government Reform



Available via the World Wide Web: <http://www.fdsys.gov>
<http://oversight.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

31–275 PDF

WASHINGTON : 2018

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

Trey Gowdy, South Carolina, *Chairman*

John J. Duncan, Jr., Tennessee	Elijah E. Cummings, Maryland, <i>Ranking</i>
Darrell E. Issa, California	<i>Minority Member</i>
Jim Jordan, Ohio	Carolyn B. Maloney, New York
Mark Sanford, South Carolina	Eleanor Holmes Norton, District of Columbia
Justin Amash, Michigan	Wm. Lacy Clay, Missouri
Paul A. Gosar, Arizona	Stephen F. Lynch, Massachusetts
Scott DesJarlais, Tennessee	Jim Cooper, Tennessee
Virginia Foxx, North Carolina	Gerald E. Connolly, Virginia
Thomas Massie, Kentucky	Robin L. Kelly, Illinois
Mark Meadows, North Carolina	Brenda L. Lawrence, Michigan
Ron DeSantis, Florida	Bonnie Watson Coleman, New Jersey
Dennis A. Ross, Florida	Raja Krishnamoorthi, Illinois
Mark Walker, North Carolina	Jamie Raskin, Maryland
Rod Blum, Iowa	Jimmy Gomez, Maryland
Jody B. Hice, Georgia	Peter Welch, Vermont
Steve Russell, Oklahoma	Matt Cartwright, Pennsylvania
Glenn Grothman, Wisconsin	Mark DeSaulnier, California
Will Hurd, Texas	Stacey E. Plaskett, Virgin Islands
Gary J. Palmer, Alabama	John P. Sarbanes, Maryland
James Comer, Kentucky	
Paul Mitchell, Michigan	
Greg Gianforte, Montana	

SHERIA CLARKE, *Staff Director*

WILLIAM MCKENNA, *General Counsel*

BECCA BROWN, *Counsel*

KILEY BIDELMAN, *Clerk*

DAVID RAPALLO, *Minority Staff Director*

SUBCOMMITTEE ON THE INTERIOR, ENERGY AND ENVIRONMENT

GREG GIANFORTE, MONTANA *Chairman*

Paul A. Gosar, Arizona, <i>Vice Chair</i>	Stacey E. Plaskett, Virgin Islands, <i>Ranking</i>
Dennis Ross, Florida	<i>Minority Member</i>
Gary J. Palmer, Alabama	Jamie Raskin, Maryland
James Comer, Kentucky	Jimmy Gomez, California
Michael Cloud, Texas	(Vacancy)

CONTENTS

Hearing held on June 26, 2018	Page 1
WITNESSES	
Mr. Bill Harvey, Commission Chair, Baker County, Oregon	
Oral Statement	4
Written Statement	7
Ms. Amy Granat, Managing Director, California Off-Road Vehicle Association	
Oral Statement	12
Written Statement	14
Mr. Jim Furnish, Consulting Forester, Former Deputy Chief for National Forest Systems, U.S. Forest Service	
Oral Statement	25
Written Statement	27
The Honorable Kerry White, Representative, Montana House of Representatives	
Oral Statement	30
Written Statement	32

ACCESS TO PUBLIC LANDS: THE EFFECTS OF FOREST SERVICE ROAD CLOSURES

Tuesday, June 26, 2018

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE INTERIOR, ENERGY AND
ENVIRONMENT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:00 p.m., in Room 2154, Rayburn House Office Building, Hon. Greg Gianforte [chairman of the subcommittee] presiding.

Present: Representatives Gianforte, Gosar, Palmer, and Plaskett.

Mr. GIANFORTE. The Subcommittee for Interior, Energy, and Environment will come to order.

Without objection, the chair is authorized to declare a recess at any time. Oh, and I see our last witness has arrived. Welcome.

So I'll begin with my opening statement. Welcome and thank you for all for joining us this afternoon. The subcommittee on Interior, Energy, and Environment is meeting today to discuss the importance of access to our public lands managed by the Forest Service.

The Forest Service manages about 200 million acres of land, more than 370,000 miles of roads and more than 158,000 miles of recreational trails across the United States, land that should be open and accessible for use and enjoyment of all Americans.

Unfortunately, the Forest Service seems to be moving away from its original multiple-use mission. Although Congress has directed the Forest Service to manage land for grazing, recreation, and wildlife habitat, among other things, the Forest Service has locked up our public lands instead.

My home State of Montana is a perfect example. According to a report by the Montana State Legislature's Environmental Quality Council, the Forest Service has closed more than 21,000 miles of roads in Montana since the mid-1990s. That's nearly one-third of all the Forest Service roads in the State. Kerry White, the Montana State Representative who introduced the resolution to commission the report, is here today to discuss this important topic.

Access to public lands is not a problem just in Montana. We know the Forest Service is closing and decommissioning roads in other States as well. That's why we will also hear from witnesses from California and Oregon who can share the challenges of access to Forest Service land in their communities. Keeping Forest Service land open to the public is important for a number of reasons. First, we need to preserve access for hiking, camping, hunting, fishing,

and other outdoor recreation, the benefits of which speak for themselves.

When the Forest Service blocks off roads and places excessive restrictions on public lands, it prevents people from participating in America's outdoor heritage. Outdoor recreation is also big business. Each year, people spend \$887 billion on outdoor recreation, and the industry creates 7.6 million American jobs. Some of these jobs are with small business that depend on visitors to our public lands, such as guides, outfitters, ski areas, off-road vehicles and snowmobile dealers, even restaurants and gas stations.

Additionally, access to forestlands can help prevent the spread of wildfires. If firefighters cannot quickly reach fires on the ground, more acres burn and more firefighting resources become necessary. Despite the measurable benefits of access to public lands, the Forest Service is under pressure to close and decommission thousands of miles of Forest Service-managed trails and roads. Burdensome regulations, inconsistent policies, lack of proper maintenance, and the constant threat of litigation all contribute to the trend towards road closures.

The witnesses here today can discuss the importance of access to the Forest Service land, why the agency has trended toward road closures in recent years, and what we can do to restore public access to our public lands.

The Forest Service certainly has room for improvement. However, this administration has made it clear that it's absolutely imperative for Federal agencies to work with States and local communities instead of dictating land management decisions from Washington. That's why I hope to see strong accountable leadership at the Forest Service soon.

Finally, I want to say thank you to all the witnesses, some of whom traveled across the country to be here, and I look forward to hearing your testimony.

I now recognize my friend, the ranking member, for her comments.

Ms. PLASKETT. Thank you very much. And good afternoon to everyone.

Thank you, Mr. Chairman, for holding this hearing today. And welcome to the committee. This is going to be wonderful working together.

We can all agree that our national forests, administered by the U.S. Forest Service, are among our Nation's treasures and that they should be enjoyed by all. That is why it has been a long-standing policy for decades by both Republican and Democratic administrations to regulate the use of off-highway vehicles on Forest Service lands and roads. This policy stretches back to President Nixon, who, in 1972, issued an executive order defining off-highway vehicles and directing agencies to manage their use on public lands so as to protect the resources of those lands, promote safety, and minimize conflicts among the various users of those lands.

Still, the use of off-highway vehicles on Forest Service land soared since the 1970s, so much so that Dale Bosworth, President George W. Bush's Chief of U.S. Forest Service, listed unmanaged outdoor recreation as one of the four major threats to the health of the Nation's forests.

Mr. Bosworth specifically mentioned off-highway vehicle users as part of the threat. He said, quote: "Ninety-nine percent of the users are careful to protect the land. But with all of those millions of users, even a tiny percentage of problem use becomes relatively huge. Each year, the national forests and grasslands get hundreds of miles of unauthorized roads and trails due to repeated cross-country use. We're seeing more erosion, water degradation, and habitat destruction. We're seeing more conflicts between users. We have got to improve our management so we get responsible recreational use based on sound outdoor ethics."

Mr. Bosworth made it clear that to enable our national forests to accommodate a variety of uses, we cannot forget that there are costs to certain types of uses, not just benefits. And I'm hopeful that, in this hearing, we'll hear other issues on how we can work together to ensure that those different users and the different constituencies are managed properly.

To address the problem of environmental degradation created by some off-highway vehicle users, the Bush era Forest Service issued the Travel Management Rule. The rule is designed to guide Forest Service managers' decisions by looking to those goals contained in President Nixon's executive order: sustained resource values, provide economic benefits to rural communities, promote safety, and minimize conflict among various users. The rule also explicitly requires public involvement and has a responsive process that is aimed at long-term solutions for the transportation system through a given forest.

While I do not have a national forest in my district, the U.S. Virgin Islands, we do have lands managed by the National Park Service, a tremendous amount of lands and percentages, particularly on the island of St. John. I'm familiar with the issue of public access to our natural resources. I hear far too often and frequently from our constituents who are involved in disputes with the National Park Service concerning what they believe is deliberately blocked roadways and land easement disputes, which are just in some instances to many of those constituents generational.

We have seen an alarming escalation in the amount of residents engaged in real estate boundary and property line challenges with the National Park Service as well. It has been my experience that public access to government-owned lands are best resolved through public engagement and finding a balance between environmental and the communities in which those environments resides' interests. I hope that today's hearing will provide this opportunity.

Finally, as I close, let me say that I'm hopeful that the committee will convene to examine how the Forest Service is handling sexual harassment allegations within the agencies as well.

In December 2016, the committee held a hearing to examine sexual harassment in the U.S. Department of Agriculture, including the Forest Service. During that hearing, the committee heard from whistleblowers, who described not only how they had suffered prolonged harassment, but how they had also suffered retaliation when they reported the harassment. When the Forest Service had established a new process to handle sexual harassment allegations, it was clear that significant challenges remain and that many women are still scared to come forward. A recent PBS NewsHour

investigation of the Forest Service, which was entitled "They Reported Sexual Harassment. Then the Retaliation Began," featured disturbing interviews with several Forest Service veterans who reported not only assaults but also harassment. So I'd love for us to get an update on the committee's hearing from December 16. Thank you so much.

Mr. GIANFORTE. Thank you for that.

I am now very pleased to introduce our witnesses today. Mr. Bill Harvey is commissioner and chair of Baker County, Oregon; Ms. Amy Granat, managing director of the California Off-Road Vehicle Association; Mr. Jim Furnish, consulting forester and former U.S. Forest Service Deputy Chief for the National Forest Systems; and the Honorable Kerry White, representative in the Montana House of Representatives.

Welcome to all of you.

Pursuant to committee rules, all witnesses will be sworn in before we testify. Please remain seated and just raise your right hand, if you would. Do you solemnly swear or affirm the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Let the record reflect that the witnesses have answered in the affirmative.

To allow time for discussion, we're going to ask for each person to limit their comments to 5 minutes. Additional—your entire written testimony will be entered into the record. As a reminder, the clock in front of you shows your remaining time. The light will turn yellow when you have 30 seconds and red when your time is up. Please also remember to press the button. You have to turn your microphone on to speak.

At this time, we'll start with Mr. Harvey, if you would, for your 5 minutes of testimony.

WITNESS TESTIMONIES

TESTIMONY OF BILL HARVEY

Mr. HARVEY. Thank you, Mr. Chairman. I appreciate it.

Ranking Member, committee members, thank you for today. I'm gratefully honored to be here today to speak to this issue in particular.

I am a county commission chairman. That means I deal with the on-the-ground everyday issues with people, and land issues is the one thing I work on every single day of my career. This is a career that I've taken on because of the need from the citizens of my county, have emphasized they needed help to accomplish these things.

In your statements, both of you mentioned things about Forest Service management, and I'd like to add to that mismanagement. Also, it's not Forest Service land. They manage it for the public. That's very important to our area especially, and our Forest Service address it that way.

So I'd like to give you a little background on Baker County. That's where I'm from. This is in eastern Oregon. It's a drier climate than what the coast is. So we get about 12 inches of measurable moisture a year. That's in the form of snow and rain.

So road issues. There is little to no erosion in our area because the roads have been there for over 50 years. And the only time you have erosion issues is when the Forest Service comes in and rips them up with a Cat. They say that they have no money for restoration or maintenance or what have you, yet they spend a fortune in tearing roads out, good roads, roads that have been in place and used for vehicle traffic and off-road traffic and what have you.

I'm not sure if Mr. Bush's team ever visited eastern Oregon, but I would have gladly taken them out, either horseback riding, walking, hiking, or motorized travel as well. Motorized travel is very important in Baker County because we have 3,000 square miles in Baker County. That's bigger than the States of Rhode Island and Delaware.

We have 2 million acres of land in Baker County. Half of it, 51.5 percent, is managed by the Federal Government, both by BLM and the Forest Service. Some of the things that we have left in the remaining 48 percent of our land is approximately 950,000 acres plus, is for roads, rivers, towns, and private property.

The citizens of Baker County rely on both public and private land for natural resources, recreation, and the ability to continue our way of life, especially for agriculture, livestock grazing, mining, and timber harvests. Therefore, all of the decisions affecting public lands could potentially affect Baker County's economy, customs, culture, and enjoyment of the land.

When I moved to Baker County in 1972, the county had six timber mills, but we have none now. The forest keeps growing. The reason they did that was more of a philosophy change, not any sound science. No management principles or anything, just a change in philosophy.

Well, our forests haven't changed. They're continuing to grow. They're continuing to die. They're continuing to be overcrowded. As an example, the Baker City watershed, 10,000 acres. In historical measures, in 1900, there actually was pictures of it. There was 50 trees per acre. Today, we currently have 1,000 trees per acre.

This watershed serves a town of 10,000 people. It is in drastic threat every single year. On average, we have four fires in the watershed a year. Miraculously, we throw everything we have at it instantly to take care of that issue, but we're not going to be able to keep it up.

When I took office in 2015, we had historical fires the level that we have never had in any of our county whatsoever or since yet, and I emphasize yet. We had four major forest fires going on at the same time. We had 500 to 600 personnel from the Forest Service and BLM and everybody else there in Baker City trying to manage this fire—emphasize manage fire. We no longer fight fires; we manage them. Unfortunately, we manage them so that it's a big business. We bring a lot of people in clear across the country because they're first on the list to come and fight fires. I have fought very hard to allow our local firefighters to fight these fires immediately so that there's no threat to what the town is.

I'd like to talk about coordination. Coordination is a principle and a way that we could actually make things happen. It is the law; Congress installed it. And I'd like to use that. If you want to have some of the things that work, that would be a great start to begin

with. But the threat to our county economy is also severe when you limit the access that we have to our forests, and we do need those forests to help do that. Thank you very much.

[Prepared statement of Mr. Harvey follows:]



June 26, 2018

Bill Harvey
Commission Chair
bharvey@bakercounty.org

Good afternoon, Mr. Chairman and Honorable Plaskett, Ranking Member and Committee Members. My name is Bill Harvey and I am the Chairman for the Baker County Board of Commissioners.

I am honored and I thank you for asking me to testify today on behalf of Baker County and Eastern Oregon.

Background

Baker County spans over 3,000 square miles and close to two million acres making Baker County larger than the states of Rhode Island or Delaware. Federal agencies manage approximately 51.5% of our land in Baker county, comprising a total of 1,016,511 acres. The remaining 48% of land in the county, approximately 950,382 acres is for roads, rivers, towns and private property.

The citizens of Baker County rely on both public and private land for natural resources, recreation and the ability to continue our way of life, especially agriculture and livestock grazing, mining and timber harvest; therefore, all decision affecting public lands could potentially affect Baker County's economy, customs, culture and enjoyment of our land.

When I moved to Baker County in 1972, the County had six timber mills, but now we do not have any and yet the forest keeps growing. Forest timber sales have been drastically reduced in the past 20-30 years and yet, our forests are growing at a rate estimated at 80 million board feet for every 400,000 acres. Baker County, from public lands, only produce about 10-15 million board feet a year. It takes about 100 million board feet of timber to keep one mill in operation for a year, creating an average of 200 good family-wage jobs and another 100 unrelated jobs in our area.

Our forests are at great danger from wildfires every year because of overcrowding of the fuel loads from mismanagement of our public lands. This is caused by a change in thinking from timber production to a conservation mentality. This is not based on sound science and is not proper forest management, this is destruction by neglect.

Page 1 of 5

Effects

Of the 1,016,511 acres managed by the federal government by both the US Forest Service and BLM, approximately 200,000 acres (or 20%) of our public lands are already closed to motorized travel. The closed areas are comprised of (2) two wilderness areas, wilderness study areas, areas of critical concern, wild and scenic river areas and designated roadless areas.

Now the Forest Service is proposing another 50,000 to 100,000 acres for closure to the public who use motorized travel within their Blue Mountain Forest Plan revision, which is not warranted or workable for Baker County. The public access roads within Baker county have been in place for over 50 years and have little need for road maintenance, the Forest Service has said repeatedly that they have no funding for road maintenance but they do very little anyway.

When our road accesses are closed, we are hindered in our ability to fight wildfires, do thinning projects, logging sales and recreational activities. Our forests are by Congressional designation through the Multiple Use and Sustainable Yield Act of 1960 to be used for all of these activities. This is what has worked for Baker County for over sixty years.

Conflicts

A major conflict we have with the Forest Service is in regards to our RS 2477 rights-of-ways to our historical accesses on our public lands.

RS 2477 rights-of-ways are a granted right from Congress. First granted to the territories and then to the State at statehood and then to the counties by state law. 43 U.S.C. subsection 932, "The right-of-way for construction of highways over public lands, not reserved for public uses, is hereby granted." The laws was also known as the Mining Act of 1866.

As a point of record, "rights-of-ways" are not a claim, they are a fully granted right by Congress and they also include a number of things besides roads such as carriage-ways, bridle-ways, pedestrian trails, livestock trails, wagon roads, mine-to-market, bridges and waterways.

In 1994, Baker County accepted all historical RS 2477 rights-of-ways by Resolution No. 94-1003 over all public lands within Baker County. Again, by Resolution No. 2000-1026, Baker County established a policy regarding RS 2477 rights-of-ways procedure for listing and mapping of these rights.

There have been many times that the Forest Service has agreed with Baker County that they County does have authority over RS 2477 rights-of-ways when we have presented historical documentation.

This could be resolved through the proper coordination process of government-to-government communication. No access should be closed without the proper process by law. We just don't want our roads closed by mistake by the Forest Service.

We now have an ongoing conflict with the Forest Service over a historical RS 2477 rights-of-ways dating back to the 1880's on our East Eagle Creek within Baker County. The Forest Service is demanding that a steel bridge be removed from crossing the East Eagle Creek. There have been many bridges that have crossed the creek at this location dating back to the 1880's and this is a replacement for an old bridge.

Improvement to a County right-of-way or road becomes the property of the County no matter who makes the improvements and a bridge is an improvement. This bridge serves many people who can safely cross this creek (river) at any time of the year and is badly needed for the health, safety and well-being of our citizens and law enforcement with search and rescue.

We have written many letters in regards to this issue and we are not making any progress. The lack of respect for Baker County's historical rights-of-ways and ignoring the coordination process has brought us to this conflict. As we have stated many times before, that no federal agency has the authority to close a RS 2477 right-of-way, period!

We are receiving letters from other County Commissioners from around our state and from other states that the Forest Service is doing the same activities with all the Western States. This seems to be a systematic plan for removing the public from our public lands. The words we hear most from the Forest Service is restrict, close and remove. This is not how you properly manage for multiple use of "our" public lands.

Historically, we have had "open" forests, meaning that we, as the public, are able to travel anywhere in our forests, not including restricted areas, for hunting, fishing, woodcutting, picking berries and mushrooms, camping and off-road motorized travel. Many of our older citizens who have lived and traveled the forests all their lives can now only travel by motorized travel being handicapped.

The Forest Service is now proposing a "closed forest" designation, which will restrict everyone to designated routes only. By violating this rule, a citizen who has traveled most of their lives through these forests will now face a fine of up to \$5,000 and one year in jail; so much for multiple use as the law says.

Coordination

The American Heritage Dictionary defines “coordinate” as, “one that is equal in importance, rank or degree.”

The goal envisioned by Congress and the Secretaries of Interior and Agriculture, was that the coordination process would resolve conflicts between federal and local government. The ultimate goal that Congress has set for the “coordination” process is consistency between federal and local plans, policies and action.

Congress also recognized that local government must have a position in planning and policy making that is superior to that of the general public. It is important that local elected officials have meaningful input into management. Meaningful participation in management is critical to deterrence of adverse impact on the use of private land and on the economy of the government.

In 16 U.S.C. section 1604, the Forest Service is directed by Congress to coordinate the development of, the maintenance of, and the revision of land and resource management plans with local government.

The Secretary of Agriculture mandated in the 1982 Forest Service Planning Rules that in 32 CFR Section 219.1 (b)(9): Coordination with land and resource planning efforts of other federal agencies, state and local and Indian tribes; and Section 219.1 (b)(10): Use of systematic inter-disciplinary approach to ensure coordination and integration of planning activities for multiple-use management.

The Secretary of Agriculture issued travel management rules that required “coordination” with local governments in “designation” of roads, trails and areas for motor vehicle use.”

36 Code of Federal Regulations, Section 212.53 of the specifically issued rules for governing the development of the Travel Management Plans states that you, “shall coordinate with appropriate federal, state and county (local) governments.”

This is why coordination is so vital for County governments: to protect the rights of the citizens of Baker County. We stand ready and willing to follow through with the coordination process and to develop a good working relationship with our federal government partners.

Baker County has tried many times and through many meetings to work with the Forest Service through the coordination process to alleviate conflicts.

The Challenges that we face with attempting to work with the Forest Service through the coordination process is that many of their staff either do not believe that they need to do coordination or do not understand coordination or its processes. Coordination is not against the law; it is the law!

The willingness or level of involvement can be drastically different from one supervisor or regional forester to another. There is no consistency within the agency. I believe that formal and consistent standards and guidelines for the process of coordination would bring clarity and consistency to the process and help the counties and federal government to work together as Congress intended with the laws of coordination.

At the present time there is, as it seems from the County's stance, a great resistance to work through coordination with counties and little to no resistance to working directly with environmental groups. This is contrary to the law of coordination where it is directed by Congress that the federal government shall work government-to-government with the counties directly.

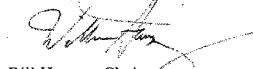
42 U.S.C. 4331 National Environmental Policy Act (NEPA) and (NFMA) 16 U.S.C. 1602 et seq requires both the secretaries of the Department of Agriculture and the Department of Interior to cooperate with local government to see that coordination is accomplished.

Congress makes it clear that federal projects must be studied in coordination with local government in order to assure that the social and economic needs of the local citizens are met and that the police power functions relating to provisions for safety, health and welfare are considered.

Coordination is a Congressional mandate for government agencies to work with County (local) governments and Baker County is willing and able to do so at any time. Coordination is required during the development and implementation of management actions and policies regardless of whether a NEPA process is involved.

Again, I thank you for the opportunity to testify before you today. I am encouraged by Congress stepping up with this committee to reach out to our counties (local) government to correct what has been a non-functional process.

Sincerely,



Bill Harvey, Chairman
Baker County Board of Commissioners

Mr. GIANFORTE. Thank you, Mr. Harvey.
And we'll recognize Ms. Granat for her comments for 5 minutes.

TESTIMONY OF AMY GRANAT

Ms. GRANAT. Mr. Chairman, Madam Ranking Member, and distinguished members of the subcommittee, thank you for giving me the opportunity to testify. We work in partnership, California Off-Road Vehicle Association, with Sierra Access Coalition, both organizations working to protect forest access for a range of public uses. In 2004, former Chief Bosworth defined four major threats to our forests, including invasive species, wildfire, and loss of open space.

However, the fourth thread, off-road recreation, directly targeted motorized-dependent activities and, by doing so, declared it an unacceptable use of forested land. The Travel Management Rule, or TMR, caused thousands of miles of road and trail closures through massive NEPA analyses that harm businesses, communities, disabled individuals, and every form of overland and over-snow travel. The public lost significant access to areas they loved.

Although former Chief Bosworth also stated in 2004 that other forms of recreation can cause damage, horseback riding, bike riding, even hiking or camping, none of those uses have ever been subject to closure, curtailment, or regulatory action. The TMR requires people to limit travels to routes on a map called a Motor Vehicle Use Map. It is a poor map with no landmarks, but somehow people are supposed to follow only those routes shown. It's printed on a flimsy sheet of newsprint. The agency states that the MVUM, or Motorized Vehicle Use Map, is not intended to be a navigational tool, but it is the legally binding enforcement tool. Without knowing where they are, people can face fines of \$5,000 and/or 6 months' imprisonment if found on the wrong road.

Environmental organizations played a key role in the TMR decisionmaking process. The Wilderness Society wrote a travel management wish list to the agency, stating: We intend to provide as much data as we can to the region.

Biologists from the Wilderness Society also provided transportation-related data for the travel management planning process. They provide the data. Then they get their way.

To support closure decisions, the Forest Service used unverified and incomplete information and National Visitor User Monitoring, or NVUM, surveys to downplay the importance of motorized access. For the Inyo National Forest, for example, the NVUM indicated almost zero percent OHV activity, but information submitted on grant applications to the State of California showed 22 percent OHV primary activity visits. Both sets of data cannot be true at the same time. Information submitted to the State was subject to review and audit; therefore, it represents the true numbers.

The Forest Service failed to coordinate with local governments, although regulations state agencies shall cooperate to the fullest extent possible to better integrate environmental impact statements into State and local planning processes. This strongly implies a working relationship with local governments and coordination/compliance with local planning. This issue is a high priority and deserves clarification and consequences in law. Coordination or

compliance lacks teeth, requiring agencies to work in a meaningful manner with local governments.

The Travel Management Rule has also been devastating to fire suppression efforts. Previously, fires were accessible to initial attack. With roads closed, fires burn out of control and make it difficult to get a dozer to cut a road near a fire. Catastrophic wildfire has increased exponentially on Forest Service land in California.

Environmental groups may claim that road closures are beneficial to watershed, but sedimentation from a road can be mitigated and pales in comparison to sedimentation from a watershed devastated by wildfire.

Travel management decisions have had a disproportionate impact on disabled visitors. The analysis for the Eldorado National Forest stated: Restrictions on public wheeled motor vehicle use will impact persons with disabilities to a greater extent, particularly for those routes which provide access to recreation opportunities, such as dispersed camping, stream site access, et cetera.

But the agency dismissed all disabled concerns.

The Rehabilitation Act of 1973 says that no person can be denied participation in a Federal program or facility solely because of their disability. National Forests are owned by the American people and funded by American citizens. The Forest Service is actively denying participation to disabled Americans and granting greater access to able-bodied Americans, making the disabled second-class citizens.

Thank you very much for the opportunity.

[Prepared statement of Ms. Granat follows:]



www.corva.org



www.sierraaccess.com

UNITED STATE HOUSE OF REPRESENTATIVES

Subcommittee on the Interior, Energy and Environment

Mr. Chairman, Madam Ranking Member, and distinguished Members of the Subcommittee: Thank you for giving me the opportunity to testify on Access to Public Lands, The Effects of Forest Service Road Closures.

The California Off-Road Vehicle Association (CORVA) has been advocating for responsible recreation on public land for close to 50 years. CORVA encourages community involvement in the land use planning process and maintains an educational program teaching responsible recreation practices for both motorized and non-motorized enthusiasts.

Sierra Access Coalition (SAC) is an organization made up of local businesses, user groups, and individuals located in Northern California that work to protect forest access and preserve environmentally-sound routes for a range of public uses.

CORVA and SAC believe that federal land can and should be managed for continued access by all members of the public. We request the Forest Service stay true to its byline as the "Land of Many Uses". Additionally, we believe the Forest Service should adhere to Congressional intent contained in the Multiple Use Sustained Yield Act of 1960 that mandated forests be used as working landscapes, and: "...shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes"¹



¹ <https://www.fs.fed.us/emc/nfma/includes/musya60.pdf>



www.corva.org



www.sierraaccess.com

Since the inception of Travel Management the Forest Service has violated the Multiple Use Sustained Yield Act of 1960 by engaging in planned and systematic closures of public land to motorized access. The intent to close roads and trails was laid bare in a speech given by Former Chief of the Forest Service Dale Bosworth in 2004 entitled; "Four Threats to the Nation's Forests and Grasslands"². This speech delineated the major issues facing forest management; the spread of invasive species, wildfire, the loss of open space and unmanaged off-road recreation. Invasive species could be addressed through changes in forest management practices while fighting wildfire is constantly addressed through new and changing technologies. To combat the loss of open space the agency has the Forest Legacy Program assisting landowners to obtain conservation easements.

In speaking of unmanaged off-road recreation, Chief Bosworth went right to the heart of the issues by stating; *"Off-highway vehicles, or OHVs, are a great way to experience the outdoors. But the number of OHV users has just gotten huge.... We're seeing more conflicts between users"*. This formal condemnation of one form of recreation by the Chief of the Forest Service, and by extension those who participate in this form of recreation, set the stage for forests throughout the country to classify motorized recreation, and motorized enthusiasts as an inappropriate and undesirable component in our national forests. With the encouragement from the Chief of the Forest Service in his speech, closure of public land to motorized travel became not only acceptable, but required Forest Service practice.

Chief Bosworth further explained the rationale behind the Travel Management Rule in another speech given in 2004; "OHV Use: Rising to the Management Challenge" in which he stated; *"... other forms of recreation can cause similar damage—horseback riding, bike riding, even hiking or camping in sensitive places...User impacts and conflicts have grown by the same order of magnitude—maybe more. That's why we've got to change the way we manage recreation"*.³ However none of the other recreational uses stated above by Chief Bosworth have ever been subject to as a closure mechanism as comprehensive as the Travel Management rule. The cause of user impacts and conflict have been placed squarely on the backs of OHV

² <https://www.fs.fed.us/speeches/four-threats-nations-forests-and-grasslands>

³ <https://www.fs.fed.us/speeches/ohv-use-rising-management-challenge>


www.corva.org

www.sierraaccess.com

enthusiasts, as no other uses or users have been subject to closure, curtailment, management or regulatory action.

Never before has a federal agency condemned an entire group of Americans based solely on the manner in which they enjoy national forest land. Virtually every Forest Service NEPA analysis in California since the time of Chief Bosworth's speeches have caused massive closure of roads and trails to motorized access, including over-land or over-snow travel.

The agency has never acknowledged the error of their planning or enactment of the Travel Management Rule. Travel Management mandated a 180-degree turn in management direction. Previously, forests were open for all Americans to enjoy and cross country travel was allowed. However Travel Management closed all routes to travel unless they were designated open on a map called a Motor Vehicle Use Map, (MVUM) a flimsy sheet of newsprint with no identifying characteristics, GPS coordinates, landmarks or latitude/longitude. (See Appendix A – *Plumas National Forest Motor Vehicle Use Map*).

Dispersed camping is one of the most popular activities engaged by visitors to the forest and their families. Because of these changes in policy, families experienced finding an appropriate camping space difficult and confusing. Visitors were warned they would be cited and subject to a fine of \$5000 and/or 6 months imprisonment if they were found on an undesignated route, even though they often had no idea where they were in any given forest because of the failure of this inadequate map and accompanying lack of signage. In an explanation about how the Travel Management decisions will be enforced, the Lassen National Forest Travel Management page states:⁴ *"The MVUM is not intended to be a navigational tool. It also does not display all the features shown on a visitor map or topographic map...The MVUM will be the legally binding enforcement tool for the Travel Management Decision."*⁵

⁴

https://www.fs.usda.gov/wps/portal/fsinternet/cs/detail/lut/p/z0/04_Sj9CPykssy0xPLMnMz0vMAfljo8zizQwgnNH CwN_Dl8zPyBcqYK8fkO2oCABZcx5g/?position=Feature.Html&pname=Forest%20Service%20-%20Resource%20Management&ss=110506&navtype=BROWSEBYSUBJECT&pnavid=130000000000000&navid=130120000000000&ttype=detail&cid=stelprdb5162025#Why_is_my_right_to_enjoy_public_National_Forest_lands_being_restricted_

⁵ Violations of 36 CFR 261.13 are subject of a fine up to \$5,000 and/or 6 months imprisonment (18 U.S.C. 3571(e)).



www.corva.org



www.sierraaccess.com

In short, the Forest Service created a map, not intended to be used for navigation but the members of the public would be cited if they traveled off the routes on that non-navigational map. Aside from causing intense confusion, the deficiencies of the MVUM created criminals from average working Americans trying to enjoy public land.

During Travel Management the public was given the burden to identify the routes they chose to keep in any given forest. For many, this was an overwhelming task. The agency shifted their responsibility onto an unsuspecting and unprepared public. Not only did the agency abdicate their jobs, they ignored all the intended and unintended consequences of their proposed actions. The agency:

- ✓ Failed to understand or care about the unintended consequences of the rule.
- ✓ Failed to allow enough time for an average American to understand thousands of pages of complicated NEPA documents.
- ✓ Failed to provide maps of proposed road closures.
- ✓ Failed to reach out and engage small rural communities without internet access.

Suddenly the public were forced to become NEPA experts if they wanted to save access to their favorite areas. The Forest Service, with years of land planning experience, knew that average members of the public would be unable to cope with the complexity of a massive NEPA analysis. However they also knew that environmental organizations with scores of attorneys schooled in NEPA possessed the mastery needed to achieve their closures goals. Travel Management was clearly designed to benefit these organizations, because there was simply no way for the public to succeed in their goals to save their roads and trails. In short, the rule was designed so everyone who valued access would lose.

Environmental organizations played a key role in influencing Travel Management decision in our national forests. The Wilderness Society, a key influencer for the Forest Service wrote in 2009: *"The majority of individuals that visit our national forests participate in quiet, nature based forms of recreation such as hiking, camping, bird watching, and fishing. These same quiet recreationists provide a significant source of revenue for local businesses when they spend money during their visit. It's important that land managers consider the economic consequences of decisions that they make — such as approving a timber harvest or constructing a dirt bike*



www.corva.org



www.sierraaccess.com

trail — may result in the displacement of quiet recreationists.”⁶ The Wilderness Society actually coined the phrase ‘quiet recreation’ that has become the excuse for closure of motorized opportunities in many forests. But the Wilderness Society uses false information to determine that the majority of visitors to national forests engage in non-motorized activity. Bias in the Forest Service is so widespread, that the National Visitor Use Monitoring (NVUM) surveys used to determine visitation to national forests we have found to engage erroneous information. The chart in Appendix B illustrates a discrepancy between the information presented by the Forest Service on the NVUM versus the information given on grant funding applications submitted to the State of California. Using the Inyo National Forest as an example, the NVUM showed almost zero percent OHV activity in the forest, but the grant application submitted to the state showed 22% OHV Primary Activity Visits. Both sets of data cannot possibly be true, but the information submitted to the state was subject to close review and audit and therefore represents the true figures. (See Appendix B – NVUM Underrepresentation)

The Forest Service NVUM also underestimates motorized use by dividing it into multiple categories. Reality is that no one walks into a forest, and trailheads to non-motorized activities deserve access just as much as trailheads to motorized activities. By refusing to acknowledge that fact on the NVUM, the agency misleads the public in order to justify road and trail closures. (See Appendix C – Motorized Categories)

The following uses are all dependent on vehicular travel but are not a traditional component of off-road recreation. Access to these activities all suffer because of deceptive Forest Service policy that staunchly refuses to accept that closures of roads and trails cause great difficulties for many others engaging in activities including the following:

- | | |
|--------------------------|--------------------|
| ➤ Hiking | ➤ Bicycling |
| ➤ Camping | ➤ Kayaking |
| ➤ Hunting | ➤ Fishing |
| ➤ Hounding | ➤ Equestrian |
| ➤ Mushroom Gathering | ➤ Foraging |
| ➤ Christmas Tree Cutting | ➤ Firewood Cutting |
| ➤ Driving for Pleasure | ➤ Picnicking |

⁶ <https://wilderness.org/resource/recreation-economic-impact-tool-reit>



www.corva.org



www.sierraaccess.com

➤ Bird Watching

➤ Wildlife Viewing

The role environmental organizations have played in determining Forest Service policy cannot be understated. Appendix D is a letter written by the Wilderness Society for a coalition of 10 environmental organizations in California in support of the analysis Subpart A of Travel Management, determining the minimum road system. *(See Appendix D – Wilderness Letter)* In that letter are references to assisting the Forest Service by providing pertinent science and data, and offering recommendations how to pull the wool over the eyes of an unsuspecting public during the analysis of more roads closures.

We intend to share this work with your biologists, engineers, and landscape ecologists, and provide as much data as we can to the region. Biologists from The Wilderness Society also provided transportation-related data to the Forest Service during the Travel Management Planning Process. We encourage the Forest Service to use these models and data as you move forward with the roads analysis process.

We also strongly recommend that you ensure that roads identified for decommissioning are put into closed status as quickly as possible after final phase two reports are published, and until the formal decision-making process is completed to take those roads off the system (regardless of how long it takes for physical treatment to occur). /

The Wilderness Society recommends closing roads after an initial determination but before NEPA is completed and the public has a chance to engage, circumventing the entire purpose of the NEPA process.

The Forest Service failed to comply with NEPA requirements in regards to working with local government agencies to coordinate their planning efforts. Council for Environmental Quality regulations require federal agencies to during analysis and implementation of NEPA decisions; *“Agencies shall cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements . . .to better integrate environmental impact statements into state or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved state or local plan and laws.*



www.corva.org



www.sierraaccess.com

*Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law."*⁷ (40 CFR 1506.2 (d))

This explanation of coordination in NEPA strongly implies that a productive working relationship must exist between the agency and local and elected government officials. It also indicates that the agency must respect and comply with local planning direction and change its proposed action, if needed, to mirror already existing local decisions.

CORVA and SAC, together with Butte and Plumas Counties filed a lawsuit against the Plumas National Forest largely because of their abject failure to coordinate, collaborate or cooperate with these local counties. These issues remain a high priority that deserve clarification and consequences to the agency delineated in law. Coordination lacks teeth to require federal agencies to work in a meaningful manner with local governments. Congressional direction is direly needed to protect fragile economies, public safety and rural residents, all issues currently ignored by the Forest Service. This big federal agency continues to bully small rural communities, leading to anger and frustration for elected representatives on Boards of Supervisors throughout California and the nation.

Catastrophic wildfire might seem like an inevitable act of nature, but in recent years the effects of Travel Management decisions and resultant road closures have proved devastating to fire suppression efforts. In the past, fires were accessible to initial attack because of an adequate road system; now that so many roads have been closed, fires burn out of control as bulldozers struggle to reopen roads leading to the backcountry. Because of road closures in many areas even getting a bulldozer to a fire is simply not feasible. After the extensive road closures with Travel Management it is no coincidence that the incidence of catastrophic wildfire has increased exponentially.⁸

⁷ https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=561&SID=1ac7bb0cf3b9db0ae5dbd79ca8470b56&ty=HTML&h=L&mc=true&n=pt40.33.1506&r=PART#se40.37.1506_12

⁸ https://www.nifc.gov/fireInfo/fireInfo_statistics.html


www.corva.org

www.sierraaccess.com

Year	Number of Acres Burned
2012	297,212
2013	250,642
2014	399,713
2015	537,446
2016	356,951
2017	644,640

Environmental groups that strongly supported the road closures in Travel Management remain satisfied and are calling for even more road and trail closures. Environmental groups often claim road closures are beneficial to the watershed, however sedimentation from a road can be mitigated, and pales in comparison to sedimentation from an entire watershed devastated by wildfire.

The Travel Management Plan has had a disproportionate impact on disabled visitors, a fact recognized by the Eldorado National Forest response to comments for their Travel Management Final Environmental Impact Statement: ⁹

The effects analysis does recognize that those alternatives with greater restrictions on public wheeled motor vehicle use of roads and trails impact persons with disabilities to a greater extent than those alternatives with fewer restrictions, particularly for those routes which provide access to recreation opportunities such as dispersed camping, streamside access, etc.

As a disabled off-road enthusiast, the effect of my physical restrictions became exacerbated by the disproportionate impact on disabled access by the Travel Management Rule. Disabled individuals are barred from entering Wilderness and Wilderness Study Areas because wheelchairs are mechanical devices prohibited by the Wilderness Act of 1964. Therefore motorized access to national forests is critical for many disabled, elderly and even very young children to enjoy our national forests.

9

<https://play.google.com/books/reader?id=tpk2AQAAIAAJ&printsec=frontcover&output=reader&hl=en&pg=GBS.SL3-PA42>



www.corva.org



www.sierraaccess.com

The Forest Service refused to consider the importance of disabled access as part of Travel Management analyses. The fact they were denying access to thousands of individuals was no cause of concern to the Forest Service; rather they dismissed the importance of disabled access in numerous public meetings, without consideration or compassion, in a very rude manner. Although the Rehabilitation Act of 1973 specifically prohibits the exclusion of the public (including the disabled, handicapped and elderly) from participating in the use of any Federal facility or program the government offers, the Forest Service claimed these restrictions did not apply to Travel Management.

*"The Rehabilitation Act of 1973, which was amended by the Americans with Disabilities Act of 1990, set the direction that no person with a disability can be denied participation in a Federal program that is available to all other people solely because of their disability. This Travel Management project is designed to provide reasonable access for public wheeled motor vehicles and the decision to be made would apply to all Forest visitors. As stated in the preamble to the national Travel Management regulations, there is no requirement to allow people with disabilities to use motor vehicles on road or trails otherwise closed to motor vehicles since such an exemption could fundamentally change the travel management program (Fed Reg V. 70, No. 216, p 68285)."*¹⁰

Loren Kingdon is an 83 year old gentleman with a prosthetic leg, living in the Plumas National Forest. Now retired, all Loren wants to do is travel in the forest he loves, strapping his prosthetic leg onto his off-road vehicle. After Travel Management, trails around his house were closed and he was locked out of the areas he traditionally. Loren's experience mirrors that of thousands of other Americans who were purposely ignored by the agency. Considering disabled access would have forced the Forest Service to modify their plans for extreme closure of roads and trails. To this day the Forest Service chooses to disregard the disabled, elderly and wounded warriors in their zeal to implement discriminatory, exclusionary and elitist policies. When did it become acceptable for a federal agency to treat disabled and elderly like second-class citizens?

¹⁰

<https://play.google.com/books/reader?id=tpk2AQAAAMAJ&printsec=frontcover&output=reader&hl=en&pg=GBS.SL3-PA42>



www.corva.org



www.sierraaccess.com



1 Prosthetic Leg Holder Over Right Front Wheel

CORVA and Sierra Access Coalition have developed common sense resolutions that could help correct many of the access issues caused by faulty Forest Service policy:

- (1) Dispersed Camping: In Region 5 in California, people are allowed to travel 30' maximum off a trail for dispersed camping. In Region 2, that distance is 300'. That allowable distance to travel must be uniform and codified.
- (2) Allow access for disabled, handicapped, and elderly people. (*See Appendix E – Motorized Mobility*)
- (3) Implement a system through the Woodcutting Program that will allow "one trip in, one trip out" to retrieve firewood regardless of distance.
- (4) Develop and implement a system for big game retrieval that will allow a "one trip in, one trip out" regardless of distance.
- (5) Develop a plan to coordinate and collaborate fully with counties including complying with local planning decisions and public safety concerns. Documentation on compliance by the Forest Service must be required.
- (6) Fire fighting planning and access to the forest must be coordinated between federal, state and local fire fighting agencies.
- (7) The FS should present the most accurate analysis possible in order to ensure the public's trust and ensure continued volunteer efforts in the forest.

www.corva.orgwww.sierraaccess.com

Together CORVA and Sierra Access Coalition are developing an administrative petition to be filed with the US Department of Agriculture for reconsideration of the 2005 Travel Management Rule by the end of this year with the Texas Public Policy Institute. The deficiencies in the Travel Management Rule were so broad and far-reaching, that although specific relief is requested in this testimony, it also has to be acknowledged that there is an option to reverse some of damage through the filing of the above-mentioned petition. Thank you very much for the opportunity to provide testimony to the Subcommittee regarding the effect of Forest Service road closures on recreational access, and the difficulties of coordination with the agency.

Amy Granat

Managing Director

California Off-Road Vehicle Association

Mr. GIANFORTE. Thank you, Ms. Granat.
And now we'll recognize Mr. Furnish for your 5 minutes of testimony.

TESTIMONY OF JIM FURNISH

Mr. FURNISH. Thank you, Chairman Gianforte and Ranking Member Plaskett. I am Jim Furnish, former USDA Forest Service Deputy Chief for National Forest Systems. I retired in 2002, following a 35-year career in the agency.

This career included jobs as a district ranger, also a forest supervisor. I managed national forests and their complex issues at both the policy level and the practical field level. I'm well acquainted with these issues, and I bring a wealth of experience.

As a Bighorn National Forest ranger from 1977 to 1984, I took aggressive steps to reduce four-wheel drives and trails. As Siuslaw National Forest supervisor from 1991 to 1999, I completed a travel plan for the Oregon Dunes National Recreation Area, a globally significant off-highway vehicle area.

Now, today, I hope to speak to four main issues: One is the emergence of off-highway vehicles as a potent force in reshaping land management considerations; second, the consequence of inadequate funding of road and trail maintenance and access; third, the adequacy of agency coordination with affected interests and parties; and, fourth, the ideological battle over perceived public rights to recreate on public lands.

I'd like to take you back when I first started working for the Forest Service in the mid-sixties. OHVs were virtually unheard of. I watched this machine and the users and the recreation activity blossom over the course of my career to become one of the most dominant effects on our land management issues and the public we serve.

I left the agency just before the travel management regulation that's been referenced, but this was an effort to address for the first time, really, in a comprehensive way the issue of off-highway vehicles and to strike a balance between appropriate use and access of the land and these machines with other necessary restrictions associated with the negative consequences.

Historians will argue whether the Forest Service has done a good job because this effort continues, but the travel management regulation, in my view, as an extension of Nixon's earlier executive order back in the seventies, is part of the same tapestry that the Forest Service is using to try to get their arms around this vexing issue.

It's been very much complicated by the funding. The Forest Service, for as long as I've been in the agency and since, has struggled with lack of road maintenance dollars as well as travel maintenance dollars. And this issue has been exacerbated in the recent decades relative to fire funding. And I would like to say that Congress has stepped up to try and deal with that fire funding issue. And so that is—that has helped, but nevertheless, the Forest Service continues to be chronically short of road maintenance and trail maintenance dollars.

I would also say you can never get enough thoughtful cooperation, which brings me to coordination with groups and individuals

interested in OHV issues and, more broadly, access to public lands. The Forest Service, as required by law and policy, has, since its very inception in the late 1800s, sought to coordinate with interested parties in reaching decisions. Seeking out and considering the views of all sides of an issue are the essence of public service.

The agency uses public notices, holds public meetings, and has created numerous resource advisory committees, all in a spirit of coordination. All these are commonly used in dealing with OHV and access issues. I routinely accepted requests to meet with OHV advocates and groups, and these meetings often involved field trips to look at issues firsthand, which leads me to say there is a difference between listening, understanding, and agreeing.

I think some parties do not feel listened to—coordinated with—when they are not agreed with. Put another way, coordination is deemed ineffective or nonexistent if decisions and outcomes are seen as unsatisfactory. I do not believe coordination necessitates agreement, especially when considering multiple viewpoints on contentious issues.

And by far, the thorniest issue is an ideological one. For example, what does “public land” mean? What rights does it confer on citizens? What reasonable authority is vested in agency officials discharging their responsibility to manage OHVs and access in the public interest? And I would say, in reference to your comment that national forests are locked up, I would say they are open for business. Thank you.

[Prepared statement of Mr. Furnish follows:]

**Testimony of former U.S. Forest Service Deputy Chief Jim Furnish
before the U.S. House of Representatives,

Subcommittee on Interior, Energy, and Environment
Committee on Oversight and Government Reform

Hearing on Public Land Access
June 26, 2018**

I am Jim Furnish, former USDA Forest Service Deputy Chief for National Forest Systems. I'd like to thank Chairman Gianforte and Ranking Member Plaskett for the opportunity to testify today. I left the agency in 2002, following a 35-year career that also included jobs as district ranger and forest supervisor, and I served from coast to coast. I managed national forests and their complex issues at both the policy and practical field level. I am well acquainted with the issues, and I bring a wealth of experience – as a Bighorn National Forest district ranger from 1977-1984, I took aggressive steps reduce four-wheel drive (4WD) roads and trails; as Siuslaw National Forest Supervisor from 1991-1999, I completed a travel plan for the Oregon Dunes National Recreation Area, a globally significant OHV area.

I will address these main issues: 1) the emergence of off-highway vehicles (OHV) as a potent force in reshaping land management considerations; 2) the consequences of inadequate funding for road and trail maintenance; 3) adequacy of agency coordination with affected interests and parties; and 4) the ideological battle over perceived public “rights” to recreate on public lands.

When I began working for the Forest Service in 1965, OHVs were unknown, and enthusiasts relied on post-WWII 4WD “jeeps” to access back country destinations. Many of the early roads were pioneered with no engineering design. OHVs (and snow machines) revolutionized backcountry recreation. They are smaller, cheaper, and much more capable of negotiating difficult trails than 4WD vehicles. It is no wonder they have proven immensely popular. As the use of ATVs skyrocketed, the Forest Service struggled to stay ahead of management challenges. Negative consequences reached a point that, in 2004, Chief Dale Bosworth listed off-road vehicle use among the “four great threats” to national forests.

This declaration prompted the Forest Service to undertake meticulous transportation planning on every national forest to address the OHV threat. Over a period of several years, hundreds of public meetings were held to develop “use maps” that identified which roads and trails were to be open to OHV use, and which were to be closed. OHVs were also required to confine travel to designated routes, unless specifically exempted. As expected, the process and the decisions proved controversial.

My opinion, based on over thirty years’ experience, is that unregulated OHV use poses significant risks to the natural and human environment. The Forest Service took far too long to respond effectively to such risks, in spite of a comprehensive Nixon-era executive order. Ill-advised and abusive OHV use patterns and practices became well-rooted and common-place. Many OHV users, far too many, felt free to travel wherever and whenever they wished, resulting in strong sense of entitlement. I put much

blame on Forest Service leaders and field managers alike that reacted too slowly, or not at all, to recreation conflicts and obvious water quality, wildlife habitat, and noise problems.

However culpable the agency might be, ignoring problems or simply allowing OHV abuses to continue is not a solution. Thus, I fully supported the belated nation-wide effort (which followed my retirement) to take measured steps to solve known problems. And yes, this resulted in reducing and limiting historic OHV patterns of use that had developed for decades – regrettable, but necessary.

Another important management dilemma facing the Forest Service is the chronic funding shortage for road and trail maintenance. A GAO study noted the agency has only one quarter the needed annual funds, and a \$314 million backlog. I see no prospect that this situation will improve measurably in the foreseeable future. This reality bears heavily on any consideration to authorize OHV use on sensitive, pristine landscapes that afford high quality water and critical wildlife habitats. Unmaintained roads and trails pose serious threats, and any conscientious ranger will take steps to ensure a reasonable transportation network that is *right-sized* to fit resources, uses, and finances.

I am happy to note the passage of P.L. 114-245 (NFS Trails Stewardship Act), which will hopefully enable better cooperation and bring more resources to the maintenance challenge.

You can never get enough thoughtful cooperation, which brings me to coordination with groups and, individuals interested in OHV issues, and more broadly, access to public lands. The Forest Service, as required by law and policy, has since its inception sought to coordinate with interested parties in reaching decisions. Seeking out and considering the views of all sides of an issue are the essence of public service. The agency uses public notices, holds public meetings, and has created numerous resource advisory committees – all in a spirit of coordination. All these are commonly used in dealing with OHV and access issues. I routinely accepted requests to meet with OHV advocates and groups, and these meetings often involved field trips to look at issues first hand.

I note that there is a difference between listening, understanding, and *agreeing*. I think some parties do not feel listened to – coordinated with – when they are not *agreed* with. Put another way, coordination is deemed ineffective or non-existent if decisions and outcomes are seen as unsatisfactory. I do not believe coordination necessitates agreement, especially when considering multiple viewpoints on contentious issues.

By far the thorniest access issue is an *ideological* one – for example, what does *public land* mean, what “rights” does it confer on citizens, what *reasonable* authority is vested in agency officials discharging their responsibility to manage OHVs and access in the public interest?

I note a core issue to be the competing ideologies of OHV and *non-motorized* recreationists. I’ve ridden OHVs and enjoyed it. They are powerful, can darn near go anywhere, and are FUN! As an older person, OHVs can help me continue to enjoy opportunities that are slipping away, fast. But OHVs also tempt me to do things I ought not do and to go places I ought not go.

And many people, also owners of public lands, just don't like these machines and what they do to our national forests. There is a legitimate, competing constituency that deserves an equal say in OHV and access questions. We will not resolve ideological divides here. I point this out because "the ranger" lives between these competing interests. And agency officials can't do their business lopsided. Your oversight of the agencies who manage public lands must confront this truth: every agency official should seek to *do right by the land*, while balancing competing interests. Such fairness will necessarily result in disappointment at some opportunities lost, but hopefully a *deeper gratitude* for the retained opportunities to recreate on spectacular public lands.

Mr. GIANFORTE. Thank you, Mr. Furnish.

At this time, I'd like to recognize Representative White for your 5 minutes of testimony.

TESTIMONY OF THE HONORABLE KERRY WHITE

Mr. WHITE. Thank you, Mr. Chairman, members of the committee.

A little background on myself. My family has been in the Gallatin Valley for 150 years. My great-grandfather came there when he was 13 years old. And I've seen quite a change in the Forest Service over those years. Our family is a leaseholder with a cabin in the Storm Castle drainage. We currently pay over \$3,000 a year in lease, but we only have access to the cabin half of the year because of the travel management plan that was passed by the Forest Service in 2004.

When they came out with that plan, myself and 11 other folks started Citizens for Balanced Use, to try to understand why the Forest Service was closing about 50 percent of the roads and trails in that forest to motorized use. There was closures proposed for bicycles and mechanized use, and there was also proposed closures to horse.

They came out with a draft environmental impact statement over 1,500 pages. And after that, they came out with a final environmental impact statement over 1,500 pages, and asked the public to consume and digest this document and provide substantive comments to the Forest Service. The general public is not the Forest Service with professionals to comprehend a document of that size. After that, the document was approved. The Record of Decision was signed. CBU sued that in Federal court in Missoula. We ultimately lost. We appealed that to Federal Court of the Ninth Circuit in California, and we ultimately lost. And that's our last opportunity. The Supreme Court is not going to take a case on Travel Management Rule and locking people out of the forest.

I'd like you to take a look at the written testimony that I submitted. There's a photo there of the DEIS and the FEIS with a ruler showing the massive amount of document that's prepared by the Forest Service that the public is asked to look at. There's also a couple of pages of road closures. This is how the Forest Service closes the roads. They call them rip, slash, and seed, where they tear live trees out of the ground, stack them across the road. It blocks access for, not only motorized and mechanized use, but also hiking, horseback, cross-country skiing.

There has been—and I would agree with Mr. Furnish—a significant increase in OHV use, but I would also refer to the recreation specialist's report from the Gallatin that shows national trends indicate that aging populations may desire more accessible opportunities. Our population is aging. We need those recreational access.

There is also a photo illustration of four major cities in Montana last summer where air quality was hazardous. And there's also a report from the USDA 2013 Wildland Firefighter Smoke Exposure and the toxins that is in this smoke. There is also a chart from Montana Department of Environmental Quality, the State in which I'm from, that shows the effects from wildfire smoke. And in the top four categories of that chart, it will show you it causes pre-

mature mortality. In other words, these fires are killing people because of the toxins that are released in the air.

There's also a picture that I've attached there of the erosion that happens, the sedimentation that goes into our streams. It shows the condition of our forests out there. Some of our forests out there are over 80 percent dead. And the Forest Service is not cutting the timber or not managing it actively. They're actually proposing to do more prescribed burns, which if you look at that report from the Firefighter Smoke, those toxins are released whether they are wild-fire or prescribed burns.

I just would ask this committee to bring attention to what we're faced in Montana. Almost 22,000 miles of roads closed. And I would just ask you to think a minute. The emotional impact that these closures have on a father or a grandfather that cannot take their kids or their grandkids to those places that they shared with their father or their grandfather before them, as there's a closed gate or obliterated road.

Thank you, Mr. Chair.

[Prepared statement of Mr. White follows:]



REPRESENTATIVE KERRY WHITE
HOUSE DISTRICT 64

HELENA ADDRESS:
CAPITOL BUILDING
PO BOX 200400
HELENA, MONTANA 59620-0400
PHONE: (406) 444-4800

HOME ADDRESS:
400 BLACKWOOD RD
BOZEMAN, MT 59718
PHONE: (406) 587-3653

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

COMMITTEES:
NATURAL RESOURCES - CHAIR
TAXATION
FISH, WILDLIFE & PARKS

UNITED STATES HOUSE OF REPRESENTATIVES

Sub-committee on Interior, Energy, and Environment

Written Testimony of Montana House Representative Kerry White

June 26, 2018

As a fourth generation Montanan and member of the Montana House of Representatives I have grave concerns over the management of our federal lands. In 2004 I joined a group of citizens to form Citizens for Balanced Use (CBU), a grass roots organization promoting shared use of our public lands for multiple use recreation, active forest management, and responsible resource development. At that time the Gallatin National Forest was preparing their new Travel Management Plan and the DEIS showed significant closures of roads and trails to multiple use. These closures would adversely affect opportunities for recreation and more importantly the ability for the Forest Service to actively manage the land.

The 2004 DEIS and ultimately the FEIS numbered more than 5000 pages as illustrated in **Appendix A**. This was a difficult task for the public to consume such a large amount of information in a short 60 day comment period on each document and provide substantive comments to the agency. The record of decision was signed in 2008 and resulted in the loss of nearly half of all motorized trail opportunities. This trend continues today as many forests in Montana have gone through, or are completing Travel Planning or Forest Planning actions.

CBU continues to engage in many of these actions in Montana and other western states as we see the importance of trying to keep recreation and forest management opportunities available and open. To be honest, this is very time consuming and has resulted in little to no success in keeping access open. It seems the Forest Service has a preconceived agenda of closures and a predetermined decision of reducing access.

Under both NEPA 40 CFR 1506.3 and The National Forest Management Planning Act 16 USC 1602-1604 the Forest Service is required to "coordinate" with state, local, and tribal government "Resource Plans" when developing the federal plan. The Forest Service in Montana seemed to ignore local plans as many counties

did not have a formally adopted "Resource Plan" but all the counties in Montana have an adopted "Growth Policy". Even though the County Growth Policy has much of the required information contained in a "Resource Plan" the federal agency was reluctant to accept a Growth Policy as a Resource Plan because of the title of this plan. "Resource Plan vs Growth Policy"

Realizing this problem I carried and got passed in my first session of legislature HB 169 which allowed the Growth Policy to be the legal document for local governments to use in coordinating with federal agencies on land planning actions. Even after the passage of HB 169, the Forest Service is failing to coordinate with local governments.

The recent release of the Flathead Forest Plan Revision stated on page 46, "Flathead County has a natural resource plan that the Flathead National Forest has determined generally compatible with the proposed plan for the Forest, except for certain goals and objectives (listed under the sections of the Flathead County natural resource plan under forest management, fires and fuels management, recreation, and roads) that are incompatible with proposed plan components. The Forest is committed to working with all local counties to better address the impacts and benefits of management of the Forest." This statement reflects the lack of the required coordination with the local governments by the Flathead National Forest and rather only addresses what is contained in the Forest Service Land Management Planning Handbook which does mention "Compatibility" specifically under FSH 1909.12 Chapter 40, Section 44, (b)(2)(ii) "The compatibility and interrelated impacts of these plans and policies" but the Forest Service failed to comply with NEPA 40 CFR 1506.2 (4)(d) where it states "To better integrate environmental impact statements into State and local planning processes, statements shall discuss any inconsistency of a proposed action with any State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law."

The Forest Service has failed to effectively coordinate with local governments as illustrated in the Flathead Forest Plan revision document and I have witnessed this in many other cases where the Forest Service has ignored local plans. Because of this concern I wrote a letter in December 2017 to then Forest Service Chief Tony Tooke expressing my concern over the lack of coordination between the Forest Service and local governments. Here is the specific language in my letter to Chief Tooke.

"I would request the employees of your agency to receive training and direction on "coordination". Coordination is a requirement under NEPA and FLPMA when an agency is completing a significant action but being involved in many of these agency actions over the past many years it is clear there is no consistency or national direction to the specific regions or districts in the process of coordination. I believe proper training on coordination and a policy which provides consistency across the agency would benefit local governments and the public. In Montana we have 56 counties with a responsibility to provide for the Health, Safety, and Welfare of their county residents. Much of our land within these counties is federally managed and plays a significant part in the economic sustainability of these communities. The federal land managers must recognize the importance of their decisions on these communities and take serious consideration of the comments and concerns these local governments have in regards to proper land management. The best way to accomplish this is through coordination and making the federal decision "as consistent as possible" with any local resource plan or Growth Policy. Please consider a review of your coordination policy throughout

the agency and provide training to those specific districts and regions where confusion or insufficient training on coordination exists.”

Senator Jed Hinkle of the Montana Senate hand delivered the letter to Chief Tooke and discussed the contents. Chief Tooke expressed a sincere interest in my concerns over the lack of coordination and sent me a letter stating he was asking Region 1 Supervisor Leanne Marten to meet with me to discuss this issue. I subsequently met with Ms. Marten in Missoula at her office. I raised the issue of lack in her agency coordinating with local governments and showed her the Flathead National Forest revision document as an example where only a single paragraph was devoted to local government participation and only compatibility was mentioned. I explained to her that under coordination the federal agency is required to be as consistent as possible with the local plan and if they are not, the federal agency must provide a statement describing the extent of the inconsistency and more importantly describe the extent to which the agency would reconcile its proposed action with the local plan or law.

I believe Ms. Marten understood my concern and agreed in the deficiency of the Flathead National Forest in coordinating. She stated that the Forest Service needed to do a better job going forward in the area of coordination. I am skeptical that anything will change anytime soon until meaningful training of Forest Service personnel is completed or at least has begun.

I say this because the Custer Gallatin National Forest is in the process of revising their Forest Plan and I am a member of the Custer Gallatin Working Group (CGWG) which has engaged with the Forest Service in completing this plan. This collaborative was initiated by the County Commissioners of 9 counties where parts of the Custer Gallatin National Forest is located. During a meeting of the CGWG, when the ID Team Leader was present, I requested the CGWG facilitator to provide the Forest Service with the Growth Policies of the 9 counties affected by the Forest Plan. At a subsequent meeting of the CGWG I asked the Forest Service ID Team Leader what she was doing in regards to reviewing the Growth Policies. She stated, “We are in the process of doing a consistency review of the Growth Policies.” But at a subsequent meeting she said the Forest Service did not have time to look at all the Growth Policies for consistency but were reviewing them for “compatibility”. I received the following message from the ID Team Leader on February 8th of 2018.

“Kerry, Thank you for your email and question about the proposed action (Custer Gallatin Forest Plan Revision) and review of the County Growth Policy. As mentioned in our email on this subject to you on December 8, 2017, the actual results of the review of “compatibility” of the revised Forest Plan with county and other government plans is part of the Environmental Impact Statement (Draft EIS anticipated fall 2018). We are in an open comment period until March 5 on the proposed action. Feel free to comment and let us know the areas of the proposed action that you do not think are “compatible” or “contrary to the Growth Policy”.

It would seem the Forest Service initially accepted the Growth Policies with the intension of completing the required consistency review but changed course and decided to review them for compatibility. I believe if the agency had clear direction from leadership and training on what is required in law with regards to coordination with local governments in developing a plan that is consistent with the local resource plan or

Growth Policy, the result would be a better plan that benefits the counties and small communities directly affected by these land management decisions.

The result of the Forest Plan revisions and Travel Plan decisions in Montana has resulted in a loss of access to and on our federally managed public lands. Concerned with this loss of access prompted me to introduce and ultimately get passed, HJ 13 in the 2015 session. HJ 13 was a study bill to look at the loss of access to our public lands that has occurred since 1995, the last 20 years. The study was assigned to the Environmental Quality Council (EQC) interim committee which I have been a member of during my 3 terms in the legislature. The EQC prepared a final report which can be found at the following link:

<http://leg.mt.gov/content/Committees/Interim/2015-2016/EQC/Committee-Topics/hj-13/hj13-finalreport.pdf>

In the Executive Summary on page 1 of the report you will see the Forest Service has closed an astounding 21,951 miles of roads on land they manage in Montana since 1995. Each and every one of these roads was important for recreation and management of this land. Many types of techniques were used to close these roads. Some were gated, some had tank traps or pits dug to block access, and many more were put out to bid as "Rip, Slash, and Seed" projects where the road was completely destroyed, trees were cut and placed across the destroyed road bed, and the road bed was reseeded. (**Appendix B**).

In Montana our population demographics show an aging population. With this increase in age comes a greater need and desire for some type of mechanized and motorized transport in order to recreate on our public lands. On page 41 (**Appendix C**) of the Program Evaluation of the Montana State Parks Division presented to the May 2018 EQC meeting the following statement was made:

"Motorized recreation grew significantly with a 300% increase in OHV registration and a nearly 200% increase in snowmobile registration since 2000;"

The complete report can be found at the following link:

<https://leg.mt.gov/content/Committees/Interim/2017-2018/EQC/Meetings/May-2018/parks-program-eval-may-2018.pdf>

The Bureau of Business and Economic Research at the University of Montana completed a study in 2013 on OHV use in Montana. The complete study can be found at the following link:

<http://stateparks.mt.gov/fwpDoc.html?id=67359>

On page 6 of the study it shows that 58% of the survey respondents indicate the lack of access as the number one threat to their enjoyment of this recreation activity. (**Appendix D**)

For the first time in history the U.S. Department of Commerce looked specifically at the economic impact of outdoor recreation and recently released their findings in 2016. According to the report found at the following link:

<https://www.bea.gov/newsreleases/industry/orsa/orsanewsrelease.htm>

On page 2 of this study, motorized use accounted for 59.4 billion of gross output putting it as the number 1 outdoor recreation activity in a 373.7 billion dollar industry. (Appendix E)

The growth of motorized and mechanized recreation contributes greatly to local economies but the Forest Service is not responding to this growth. Rather than increase road and trail opportunities for recreation needs they are closing access. An aging population with a desire to access their public lands are being shut out by gates, blockades, and road obliterations. Many outdoor organizations contribute countless hours of volunteer work in clearing and maintaining these trails. The motorized community is the workhorse of the Forest Service in cleaning up trash, clearing the trails of down timber, installing water bars, spraying weeds, search and rescue, and maintaining these roads and trails for the enjoyment of everyone. Closing access to the fastest growing sector and largest economic contributor in the outdoor recreation industry is not what we should expect from our public land managers. These agencies should be increasing motorized recreation opportunities and partnering with groups and organizations to develop new roads and trails or at the very least stop closing and obliterating this infrastructure. More closures result in more people being concentrated into smaller areas causing more impact to the resource and can increase user conflict.

The Forest Service many times has a desire to separate users in an effort to reduce user conflict. But most often the users removed are motorized and mechanized while other users are allowed everywhere. The closure of these areas to motorized and mechanized use because of user conflict is not a reason to close areas of the forest to specific users. It often times seems the Forest Service is engaging in segregation and viewed by some as discrimination against a certain segment of the population. With an aging population more users lack the ability to hike long distances. Handicapped, disabled, and the physically challenged users are often removed for their public lands because of road and trail closures to motorized transport.

In working for CBU over the past 14 years, our organization has been contacted by many elderly, disabled, and physically challenged individuals concerned about the closures. These folks are no longer able to access the areas they historically once enjoyed. Families with young children and older grandparents are not able to share and enjoy those areas because of road closures. This has a social and emotional impact on this important segment of our population as public lands provide an opportunity to get away and enjoy nature. Nothing more disturbing than finding a locked gate or destroyed road that once provided access to a favorite place or destination.

Not only are road closures preventing access to our public lands but also agency policy has changed over the years. Many forest Districts in Region 1 have adopted a policy of removing motorized and mechanized use in areas where they Recommended Wilderness Areas (RWA) during forest planning. The Custer Gallatin is one such forest where current Forest Planning is in progress and stated in the "Proposed Action – Revised Forest Plan, Custer Gallatin National Forest" on page 93 under "Suitability (FW-SUIT-RWA) 04" it states, "Recommended Wilderness Areas are NOT suitable for motorized and mechanized recreation." The action by the Forest Service in removing historic motorized and mechanized use in areas they deem suitable for wilderness and designating them as recommended for wilderness simply and plainly circumvents the powers of Congress to designate wilderness. The Forest Service is creating wilderness without the consent of Congress.

The Wilderness Study Areas are another area where a change in policy has reduced access. In the Region 1, Forest Service Manual, the management of Wilderness Study Areas is defined under FSM 2329. (**Appendix J**) FSM 2329 (2) states: "At time of designation of these areas, uses that existed in 1977 can be allowed to continue subject to 36 CFR 212.57." But over the last several years these historic uses have been restricted or completely removed. Areas once enjoyed by motorized access are no longer available. Some uses have been removed through travel planning or forest planning but in some cases such as the Hyalite Porcupine Buffalo Horn WSA both summer and winter motorized historic use was removed through an interim order signed by the Forest Supervisor and simply renewed annually. There are currently legislative proposals before the U.S. House and Senate to release these WSAs in Montana. After 40 years of study and WSA designation it seems the time has come to release these areas that do NOT qualify for formal designation as wilderness.

Another designation which has facilitated closures of our roads and trails is the Clinton Roadless Rule signed by President Clinton during his last days in office in 2001. This Rule designated about 58 million acres in the Western U.S. as roadless but in fact much of this land had roads but with this designation it opened the door for the agency to arbitrarily close existing roads within these areas. An example of the restrictions on lands in my back yard for the Gallatin National Forest (GNF) there are 714,000 acres of congressionally designated wilderness and 740,000 acres designated as roadless under the Clinton Rule out of the 1.8 million acres in the GNF. A mere 345,000 acres remains open in this forest to multiple use management and the new Forest Plan revision will probably restrict additional areas even further.

Road closures have even more of an adverse effect on the ability of the agency to actively manage a growing resource. Our forests are a growing garden and as such should be managed as a garden rather than a hands off, no access, left to deteriorate and burn policy resulting in polluting our air and water, killing wildlife, and putting lives and property at risk.

Over 1.2 million acres burned in Montana last year costing the federal government and the state millions of dollars. The air quality during much of last summer in most of Montana was recorded as very unhealthy or hazardous. Reports to the Legislature Environmental Quality Council on the increase of ER visits during these fires are of great concern. Photos of Billings, Butte, Missoula, and Livingston during the 2017 fires are included. (**Appendix F**) The Montana Department of Environmental Quality has posted on their website a chart of air quality standards and the "effects of wildfire smoke". (**Appendix G**).

Please notice under the 4 categories of "Unhealthy for Sensitive Groups, Unhealthy, Very Unhealthy, and Hazardous" the health effect listed is "premature death". In other words the smoke from these catastrophic fires is killing people. The USDA commissioned a study in 2013 on Wildland Firefighter Smoke Exposure. This can be found at the following link:

<https://www.firescope.org/specialist-groups/safety/hazards/wildfire-ff-smoke-exposure.pdf>

On pages 5 through 7 of this report the list of toxins and their effects on the human body are listed. (**Appendix H**) Maybe the most deadly of these chemicals is Crystalline Silica which has contributed to many individuals in the mining industry contracting lung disease. Crystalline Silica is listed as a human carcinogen by the Occupational Safety and Health Administration. Gases and liquids present in smoke adhere to the

particles and thus can enter the airway, lungs, and bloodstream. (U.S. Department of Agriculture 1989; Bytnerowicz 2009) This report indicates the same deadly carcinogens are released into the air whether from wildfires or controlled burns.

The Montana Constitution states in Article IX, Section 1, "The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." The smoke from both wildfires and prescribed burns on federally managed land is adversely affecting the air quality and also water quality during spring run off when erosion and sediment pollute our rivers and streams. **(Appendix I)** Montana citizens no longer enjoy a clean and healthful environment during the summer when our air is filled with smoke and ash.

The nearly 22,000 miles of road closures by the Forest Service in Montana has impaired the ability of this agency to reduce fuel loads and actively manage the land they are responsible to care for. This agency has moved toward a policy of introducing more and more fire into the landscape and away from harvesting a renewable resource that benefits small communities throughout Montana. In Mineral County more than 80% of the land base is managed by the Forest Service leaving funding for public services stressed and resulting in a lack of employment opportunities as the Forest Service has reduced timber sales and the supply of logs to one of the last remaining mills in Montana.

The blame is not all on the Forest Service as litigation has halted most of the timber sales in Montana. Take for example the Stonewall Timber Sale near Lincoln, Montana where an injunction issued by a federal judge in response to litigation which halted the harvest. Last year this same timber proposed to be cut was burned in the Stonewall fire, polluting our air, and putting lives and property at risk. This was a total waste of a resource that could have provided jobs to many in the timber industry and improved the forest health. But these litigants are not concerned with jobs and really not concerned about the environment as these lawsuits are mostly about the money they collect through the Equal Access to Justice Act (EAJA) and the destruction of an industry. An industry we dearly need in Montana to tend to our ever growing garden of timber.

There are some solutions in my mind that would improve access and the condition of our forests and also greatly benefit small communities in rural Montana. Here is a list of some ideas that Congress and the Administration might consider.

- Litigation reform to stop the abuse of the EAJA by extreme environmental groups which litigate each and every project.
- Require environmental litigants to post a bond when they sue that is equal to the value of the timber to be harvested or the amount of lost value of the timber in a salvage sale.
- Mandatory arbitration by a select committee before court action can proceed.
- Direction from leadership to require training on Coordination throughout the agency.
- Clearly define coordination in Federal Statute.
- Clear direction from leadership on RWA management to allow existing uses to continue in these areas until Congress considers a formal designation of wilderness.

- Mandate pre-fire planning in cooperation and coordination with state and local governments. Jurisdiction and response decisions should be made prior to fires.
- Revise NEPA to allow NEPA Sufficiency and Hard Release to be applied to areas designated in Forest Planning as suitable for those activities. This would avoid costly preparation of multiple NEPA documents on individual projects already deemed suitable in those areas.
- The 2012 Forest Planning Rule requires collaboration but this term is not clearly defined as to how the agency is to treat the recommendations from collaborative groups. National agency direction should be given to specific regions and districts on how to address collaboration.
- Liability should be assumed by federal agencies for damages when wildfires or prescribed burns leave federally managed land and burn on to state or private land.
- Provide liability insurance or contribute to Workmen's Comp Insurance premiums for volunteer services for trail and road maintenance.

Thank you for the opportunity to come before your committee and provide testimony on the important issue of road and trail closures.

Sincerely,

Representative Kerry White

Montana House District 64

Mr. GIANFORTE. Thank you, Mr. White.

And thank you for the panel for your testimony.

We'll now move to the period where the committee gets to ask questions, and I'll start, if I could.

Back to you, Representative White. Could you please explain to the committee what prompted the need to study road closures in Montana? You initiated that in the State legislature, and it was completed by Department of Environmental quality, but help us with the—why did you do that?

Mr. WHITE. Thank you, Mr. Chairman and members of the committee.

I first was elected to the legislature in 2013. I carried a bill that allowed the growth policy to be the legal document to coordinate because we were seeing road closures. 2004, as I mentioned, CBU was started. And through that organization, when I became a legislator, phone call after phone call. And U.S. legislators understand when there's an issue out there that's of importance, you get phone calls. And that's really what prompted it, from one end of the State to the other, from other States.

And so I brought a study, HJ 13. I just wanted to see how much access we had lost that Forest Service and BLM—that study covers both of them—how much access we had lost in the last 20 years. So what prompted it was a public outcry that we're losing access.

Mr. GIANFORTE. And, again, just for the record, the study showed that one-third of all the roads in Montana had been closed by the Forest Service and BLM. Is that correct?

Mr. WHITE. Yes.

Mr. GIANFORTE. Okay. Again, for Mr. White, does the Forest Service have reliable data on road closures, and would you suggest that other States do some more studies?

Mr. WHITE. Mr. Chairman, members of the committee, I would suggest that other States initiate a study like this. When we did this under the Environmental Quality Council, of which I was a member of and I chaired that subcommittee that was working on it, we worked on it with a liaison with the BLM and a liaison with the Forest Service that helped go through that study. But it was a long and tedious process because each one of those forests had to try to go back and find that information. And, in fact, the BLM is very lacking on their records and their inventory of roads and trails.

The Forest Service was able to garner that information from all those, I think it might be 13 different forests within the State of Montana. And then our staff with the Environmental Quality Council put together that report. I have a link to that report that I submitted. If you go to that link, it's an interactive link. There's lots of things you can do through that link as those links inside of the study are active links to be able to do that.

I would suggest that other States do that, first of all, because it would produce an accurate inventory of what is out there on the ground and then look back at what we've lost for access.

Mr. GIANFORTE. Okay. Ms. Granat, could you describe the consequences of losing access to public land?

Ms. GRANAT. The consequences are very broad, Mr. Chair. Every aspect of community life is affected. And for California, we have 19

forests. There isn't any other State that has as many forests as we do. So we have rural communities up and down the spine of the Sierra Nevada up until northern California that are not, by far, not wealthy communities. You take a little bit of recreation/tourism away from them and they start suffering. There's high poverty rates. There are higher jobless rates. There's a lack of services.

One of the biggest problems is the lack of timber harvests because timber harvest, out of that, 25 percent used to go to schools and to road maintenance dollars of the proceeds of the harvest, of the timber sale. After now, there is no timber sales—there are no timber sales. There was a measure to secure rural school funding which tried to make up some of it, but where before there were a few million dollars that went to local economies, now it's much, much lower. So, really, older people are suffering and school-children are suffering.

Mr. GIANFORTE. Could you explain a little more about the economic impact on the local communities from lack of access?

Ms. GRANAT. It's a very interesting thing because we actually studied the difference between motorized and nonmotorized recreations. The majority of nonmotorized recreations don't spend time in the local communities. They go out and go to their trailheads. They come back. Most of their equipment is purchased where they live in local stores. Motorized enthusiasts spend a lot of time. They go to hotel rooms. They go to restaurants. They do like to eat well, I would say. And they spend time in the local communities, and they go back off into those communities. Hunters, for example, will spend easily \$1,300 to \$2,000 a weekend.

Mr. GIANFORTE. Okay. Thank you, Ms. Granat.

At this time, I'd like to—well, I'd ask the same question of Mr. Harvey. What are the consequences of losing access to public lands?

Mr. HARVEY. Well, first off, we had a vibrant timber industry at one time. And they said, well, because of that, we'll open up the opportunities for having travel in the forest so that you can have a recreational economy. We did that. We expanded our efforts. We promoted, and we've done all that. That's one of the—part of the recreation that we have now is the biggest economy in Baker County, next to agriculture. But without the access, we have none. We're trying to expand it right now, use of off-road vehicles and also bike riding, mountain bike riding now. But if these same accesses are closed to one, they're going to be closed to both.

And if you put everybody in the same area and diminish the amount of roads, then you create a dust hazard for everybody. And you're also putting multiuses on the same road. So you'll have off-road vehicles. You have four-wheel truck driving. You'll have potential log trucks on private land sales, and you'll have people who are horseback riding and what have you. This is a danger that we can't survive with.

But if you close off the roads as they're trying to do right now, which is about 4,000 more miles of roads in Baker County, we don't have as much as Montana, but that's the lifeblood that we have. I live out there. I have for 45 years. I utilize that. I do off-road vehicle travel. I do horseback riding. Many ranchers take supplies out

for their cattle on four-wheel drives and off-road vehicles, so they can get to the down areas that they need to get salt to their cattle.

This whole area is a truly multiuse activity, and that's what benefits Baker County. Without our access, people can't do the thinning projects, and we can't do logging. So this does affect the economy.

Mr. GIANFORTE. Okay. Thank you, Mr. Harvey.

At this time, I'd like to recognize the ranking member, Ms. Plaskett, for her questions.

Ms. PLASKETT. Thank you very much. And this is really very interesting, the testimony and your questioning, Mr. Chair. I'm appreciative of the information that's been shared here.

Mr. Furnish, thank you so much for giving us your insights and experiences at this hearing today. And you state in your testimony that, by law and policy, the Forest Service has always sought to coordinate with interested parties; and that, in such coordination, the Forest Service uses public notice, public meetings, numerous advisory committees to make decisions. Is that correct?

Mr. FURNISH. Correct.

Ms. PLASKETT. Can you give us an example of what that public notice would entail, how the public be would notified, and how that information would be disseminated?

Mr. FURNISH. Well, oftentimes these are legal notices in local newspapers as well as articles that show up in local newspapers. They put fliers and posters around local communities, libraries. If there are radio shows, they will often go on the radio, advertise upcoming meetings.

And I would just say that, in my experience, the popularity of these open meetings to discuss contentious issues on national forests would provide the best testimony that people hear about this. They are not in the dark.

Ms. PLASKETT. Well, I know in my own community, you get a certain group of people that are very interested in this, and they're usually there to voice their concerns.

Mr. FURNISH. Yes.

Ms. PLASKETT. When you talk about numerous advisory committees, what do you mean by that?

Mr. FURNISH. Well, there was a provision a number of years ago for—I think the term is resource advisory committees or RACs. This would be one example of a federally constituted committee. And they have open meetings with selected representatives from all different constituencies.

There are also ad hoc committees that deal on an issue-oriented basis, that type of thing. So there are any number of groups and organizations that the Forest Service works with, both formally and informally.

Ms. PLASKETT. So one of the things that I think is key, and we've heard it a number of times in different testimony, is this idea about coordination.

Mr. FURNISH. Yes.

Ms. PLASKETT. And the coordination that's required under the law, and how does that actually take place on the ground. You talked from your own experience, being as a Forest Service manager, of having to coordinate different viewpoints. Can you explain

to us what those different viewpoints were and how do you weigh that? How does that occur, in your practical experience?

Mr. FURNISH. Well, it's difficult.

Ms. PLASKETT. It's still giving you pause even after all these years?

Mr. FURNISH. I mean, it is difficult just because it's something of an art as well as a science. But, I mean, let me take you to the Oregon Dunes National Recreation Area. This was a fantastic dune system on the Oregon coast. It's one of the world's best off-highway vehicle riding areas and enormously popular, and it's a huge economic driver for the local communities.

We had formal meetings. We did an EIS. We did all of that kind of stuff. And some of these meetings were attended by hundreds of people. But we also did field trips. And I had an associate there, Arnold Ryland, who worked with Oregon Off-Highway Vehicle Association, I'm sure much like the woman here from California.

And Arnold and I met repeatedly in office as well as out in the field so that he could share his views, I could share my views. And I also met with conservation groups, who, frankly, didn't like off-highway vehicles and wanted to know what I was going to do to restrict them.

I would just say that we came up with in the long run what I think was a fairly balanced plan that gave all parties some of what they wanted and also denied all parties some of what they wanted.

Ms. PLASKETT. So, for example, in the discussion that we've had, what—for instance, would you characterize the views of hunters and fishermen at the same time off-highway vehicle users? Do those—are there times when those viewpoints converge? Are they usually oppositional to one another? How do you manage that?

Mr. FURNISH. Well, you know, it's interesting. The hunting and fishing community I think illustrates within itself a conflict and a contrast, because I happen to know some dear friends who are resolute about never using an off-highway vehicle in the pursuit of hunting. I also know fishermen who are determined to hike in.

I also know those who would like to be able to drive an OHV up to their bagged game, throw it in back and drive back to camp. I know fishermen who would like to be able to drive right up to a platform that's provided for people with disabilities. All these things I would argue are necessary, but it's impossible to provide them everywhere all the time for all people.

Ms. PLASKETT. So the Travel Management Rule requires that the Forest Service involve the public. So let me move on to that. I wanted to ask you about the funding. You talked about funding issues that you have.

Mr. FURNISH. Yes.

Ms. PLASKETT. Can you explain that a little bit more?

Mr. FURNISH. Well, bear in mind I left the Forest Service in 2002, so I'm not as conversant as I was when I was the Deputy Chief. But I would just say, throughout my career, I would say this has been an area of chronic underfunding of both road maintenance as well as trail maintenance.

And I would argue it's a simple business proposition. If you don't have the necessary funding to take care of your business, you need to whittle it down. And so this was largely driven by the creation

of many of these roads and trails through two things. The first was timber activity, which we saw many of the national forests logged from the fifties throughout the nineties that created thousands and thousands of miles of road; also, unrestrained off-highway vehicles that created numerous, hundreds of thousands of miles of trails that were not engineered.

These two features I would argue, logging roads as well as off-highway vehicle-created trails, came to real loggerheads with the lack of funding and necessitated this travel management regulation and the necessary comprehensive planning to try to right-size the trail and road system.

Ms. PLASKETT. Thank you.

And thank you for your indulgence, Mr. Chair. I yield back.

Mr. GIANFORTE. Thank you. At this time, the chair recognizes Mr. Gosar for his questions.

Mr. GOSAR. So, Mr. Furnish, isn't a lot of the underfunding fire borrowing, because you've seen its advent since you've been in the Forest Service, these huge catastrophic fires? And so we strip all the rest of the funding for the Forest Service because we got to pay for these humongous catastrophic fires. Isn't that true? The answer is yes. I don't want you to get any crossways. I'm from Arizona, and I'm originally from Wyoming.

So it's been brought to my attention that a Forest Service gate was placed across Forest Road 219, Horseshoe Bend Road, blocking access to considerable public land acres behind the gate, as right here, with no appropriate level of analysis or document rationale to do so.

Further, it's my understanding this gate is locked and recreation staff who manage the float trips on your forest are one of the few who have a key. Now, this is a serious matter if access is impacted for State and local government administrations in addition to the fact that it prohibits public use of public land and legal obligations of permitted grazing allotment management. Just to let you know, what this basically says is it says wilderness, and it's not even close to wilderness.

Mr. FURNISH. Well, I can't see the pictures.

Mr. GOSAR. I'm explaining it to you. You'll have to trust me on this one, okay?

Mr. FURNISH. I'll try.

Mr. GOSAR. So, additionally to this gate, for some time, there was a sign that read national forest wilderness, misleading the public that directly behind the gate is a wilderness. This picture shows that that wilderness area isn't there. This is and has never been designated a wilderness area and on quite the contrary. There are many acres of multiple use lands directly beyond this gate before the true wilderness begins. So this is not your just average gate, okay? This is severely constructed.

Mr. FURNISH. I assume that's a road, not a trail.

Mr. GOSAR. It's a road, yeah, and here it is. You can see where the road comes down the bottom right-hand corner to, yeah, your right-hand corner, and you can see private and then way over here is the wilderness. Here is the gate, gives you a little bit more application here. So, I mean, you know, once again, we constantly have these problems.

Now, is it common practice for the Forest Service to put up gates blocking access and signs designating wilderness in nonwilderness areas?

Mr. FURNISH. I would hope no.

Mr. GOSAR. I just showed you one.

Mr. FURNISH. Well, you asked me if it's common practice. We have 200 million—

Mr. GOSAR. There are a whole bunch of them in Arizona. I mean, I can tell you right now, Mr. Furnish. I mean, you came as an expert here. And so we had—my first term we had the Wallowa fire up in northeastern Arizona.

Mr. FURNISH. I'm familiar with it.

Mr. GOSAR. Okay? And what ended up happening is, is they actually closed the roads. They locked them up. And I went to the chief, and I said: Listen, you got a problem coming because what you're doing is you're locking people out of their livelihood. And what's going to happen, we're going to have a gunfight; someone's going to get killed; and it's your problem. I instantly had the sheriffs who had all the keys.

So we got a problem here. This isn't exactly what you have stated, is that we've had these catastrophic wildfires, and the reason we have those catastrophic fires is because you've mismanaged the forest. And what ends up happening is, before that time, we didn't have these kind of catastrophic fires in Arizona, because they were limited 8,000 acres or less because we had access to those, because we had fundamental access to the livelihood called the forest. You either manage it or it manages you.

So, Mr. White, the comment was made about recreation and trout fishermen and stuff. When you have these catastrophic fires, does it help trout?

Mr. WHITE. No, sir.

Mr. GOSAR. It actually kills them off, doesn't it?

Mr. WHITE. Yes, sir.

Mr. GOSAR. Because what ends up happening, these forest fires are so intensely hot that they actually sterilize the soil.

Mr. WHITE. Yes, sir. I actually had pictures I was going to provide the committee on Elk that were burned up, domestic livestock, horses, cows, fish baked in the streams, squirrels. Everything in the forest is completely incinerated, but I just didn't give that to the committee.

Mr. GOSAR. I want you to bring those pictures.

Mr. WHITE. I will.

Mr. GIANFORTE. Now, Mr. Furnish, I'm going to ask you another question. What's worse? What is easier mitigated, a road or sterilized soil from a catastrophic fire?

Mr. FURNISH. What is easier—

Mr. GOSAR. What's easier mitigated ecologically, a road or a catastrophically incinerated soil?

Mr. FURNISH. That depends on many things. It depends on how many acres of such sterilized soil you're talking about.

Mr. GOSAR. I tell you what, sterilized soil is by far—

Mr. FURNISH. Are you talking about a 50-mile road or a 1-mile road, 2,000 acres of sterilized soils, 100 acres?

Mr. GOSAR. It takes 50 years just to get microbes in sterilized soil, 50 years.

Mr. Harvey, is it easier to mitigate that road or that sterilized soil?

Mr. HARVEY. The roads are far more—

Mr. GOSAR. That's what I thought. That's what I thought.

Mr. Chairman, once again, when we have these discussions about locking up the access to the public, it would be nice to have specialists that actually can talk about this that are currently involved in the Forest Service so they can be held accountable.

I yield back.

Mr. GIANFORTE. Thank you.

At this time, the chair would recognize Mr. Palmer for his questions.

Mr. PALMER. Thank you, Mr. Chairman.

Mr. GIANFORTE. And if I could, just 1 second. I think that, with the number of committee members here, we'll probably do another round if people want to stay.

Mr. PALMER. Okay.

Mr. GIANFORTE. And I talked to the ranking member about that. So go ahead, Mr. Palmer.

Mr. PALMER. All right. Thank you, Mr. Chairman.

Reclaiming my time, we have had some discussion just now about forest management. There was also the issue of managing forests, particularly old-growth forests, relative to spotted owl, and the Forest Service and the various Federal agencies came up with this idea that it had to be all old growth. It turns out that wasn't the case. I mean, once they figured out that the spotted owl preferred cover and taller trees and not the extensive canopy cover of the smaller trees, they realized the biggest threat was the barred owl. I mean, they literally, Mr. Chairman, were making a decision to hire people to go out and kill barred owls.

So we've been all over the roadmap, if not the forest floor roadmap, on how to manage forests. And a lot of what has been discussed is wrong in regard to—I'm a forest owner, by the way, private landowner. And I understand that the buildup of fuel on the forest floor is extremely dangerous. It is dangerous for your investment. It is dangerous to neighboring landowners. And it has certainly been catastrophically dangerous in a number of our Western States, with uncontrolled forest fires. And it's largely because of poor forest management and lack of access. And it creates a greater danger for those fighting fires, because once you get into an area that doesn't have access, you really do isolate firefighters and put them in grave danger at times.

So my point is, Mr. Furnish, you testified in a hearing almost a year ago, a year and 2 weeks ago tomorrow, or today, actually, on resilient forests and a bill that I thought was a very sensible approach to managing our Federal forests. It allowed for management of the forests, much like I try to manage the forestland that I'm a part-owner in.

But you had this position that it endangered the forest, to go in and remove trees that don't have a benefit for wildlife, particularly—there are some that do—but that somehow you concluded

that it would disturb the forest. And what we've seen are hundreds of millions of acres that have been lost.

I don't understand that. You go look at some of the State-managed forests, not all of them but some of them, and it's a decided advantage. And, again, looking at the privately managed forests.

So I just wonder what your thinking is in regard to limiting access. Now, you know, I understand not wanting to have four-wheelers racing all over forestland. I get that. You can manage that. I managed it on my property. But why would we not want to get in and make sure that we have healthy forest? Because what we're seeing right now is not working.

Mr. Harvey?

Mr. HARVEY. No, sir, it's not. And I'd like to touch base on coordination, because that's a key aspect of it.

Mr. PALMER. Uh-huh.

Mr. HARVEY. It's not working on the ground. When I talked to the Forest Service supervisor in my area and the district ranger, I asked, do you even know what I'm talking about, and they said, no, we've never heard of it. So maybe in Washington, D.C. they talked about it, but they did not transfer that down to the ground level that I have to deal with on a daily basis.

We, as four-wheelers, horseback riders, or what have you, we're in the forest. When we see a danger, we call it in immediately. We diminish the threat to our forest. We manage our forests on private lands and State lands far greater than the Forest Service even remotely comes close to. So, yeah, proper management can happen, it does happen, but not at that level.

And they also say, we don't have enough money. The problem with not having enough money, it's growing right in front of you. It's called trees.

Mr. PALMER. That's exactly right.

The only forester in Congress is Congressman Bruce Westerman, who's a dear friend of mine, and we have forest management as a common interest. And the thing about properly managing forest is that you get the fuel off the forest floor, you are able to manage it to protect it from severe drought situations by thinning, and you also protect it from insect infestation. We've got this issue in Alabama with the pine beetles where you literally have to go in and remove the infected trees and the trees in the adjacent area. That's how you preserve the forest.

And, Representative White, you mentioned—I don't know where you got the number, but you said 80 percent of the trees are dead. I've flown over some forests, and I, looking down in the summertime at the canopy, can see the dead trees and know that that is going to eventually spread to other areas if you don't get in and cut those out.

If I may allow the witness to comment, and I yield back.

Mr. WHITE. Thank you, Representative.

We had a massive outbreak of beetle kill in Montana. We tried to get in and maybe harvest some of those trees. Litigation pretty much stopped that, from environmental groups that actually don't want any kind of active forest management. They support burning it. Now those trees, after that amount of time, they're just falling over.

The fuel load on the floor of the forest is unreal in some of those areas. And the wildlife—this study, HJ13 study, will show a movement of wildlife from public lands to private property, an increase in wildlife, because of the habitat degradation on those public lands. There is no habitat for those animals. So we're seeing an influx of animals on private land, which then causes an economic hardship on those private landowners. So it's kind of a catch-22.

Mr. GIANFORTE. Okay.

So I think we'll—they've called votes for, like, 20 minutes. We probably have enough time for another round of questions here.

And if I could start with you, Mr. White, I wanted to go back to your example about this lease you have. Is that on forestland?

Mr. WHITE. Yes, sir. My grandfather got that in 1934.

Mr. GIANFORTE. So it's been in the family a while.

Mr. WHITE. My grandfather and grandmother built a cabin, hand-peeled the logs.

Mr. GIANFORTE. And you used to have year-round access to that cabin?

Mr. WHITE. Yes, we did.

Mr. GIANFORTE. And when did the access get restricted?

Mr. WHITE. 2008, when the tribal plan was signed, they put a gate at the bridge. And when I say we used to have year-round access, that was by vehicle travel. Now we can access it in the wintertime if there's enough snow cover on the road for snowmobiles. But where they put the gate, there's about 2 or 3 miles that melts out real early, so there's a month or 2 that we cannot access it at all.

Mr. GIANFORTE. Okay. When this travel plan was changed, were your lease arrangements reduced to compensate you for not having access to the property?

Mr. WHITE. No, sir.

Mr. GIANFORTE. Okay.

And we heard about all this public notice. You talked about the 1,500-page document that you had to review. Were there public meetings related to this travel plan?

Mr. WHITE. Yes, there were, Mr. Chairman.

And, you know, I think years ago in a public hearing the Forest Service would sit up there and answer questions from the public in a public setting. Now what you have is little stations and little tables where you go around, and there will be a hydrologist, and there will be a silviculturist, and there will be a recreation manager. And so, you know, they kind of tend to separate the people, and the people don't really have the opportunity to ask those questions.

Mr. GIANFORTE. Do you feel, through that—you went through that process.

Mr. WHITE. Yes.

Mr. GIANFORTE. Do you feel that your concerns were incorporated into the travel management plan?

Mr. WHITE. No, sir.

Mr. GIANFORTE. Okay.

We've heard a lot of discussion today about off-highway vehicles. But isn't it the case that many of these road closures are not about

off-highway vehicles, they're about pickup trucks just transporting people on developed roads?

Mr. WHITE. Mr. Chairman, the pictures that I showed of those road closures, rip, slash, and seed, they are completely obliterating that road or trail. It's gone for everyone. No more maintenance on that trail, because that trail never existed.

And I provided copies of maps from 1934 to the Forest Service and all the trails that were on that. And you look at a current Forest Service map, and you will see, once they obliterate that trail, they remove it from the map. It was like it was never there.

So when they say that these were user-created routes and stuff, I challenge them to look at the old maps of the Forest Service and actually look at what was on the ground.

Mr. GIANFORTE. Okay. Thank you for that.

Mr. Harvey, we've heard about families being unable to access drainages where they've hunted generations ago and all of a sudden the decision by the Forest Service completely cuts the family off from access. We've heard about leases.

I'm interested in your comments about how, in your area, road closures impact the public's ability to get access to the land.

Mr. HARVEY. Many of the people in Baker County have lived there for all their lives, their families for many years, like Mr. Kerry's. The problem is, now that Forest Service wants to close the roads—and these are good roads. These are engineered roads, as the gentleman pointed out. The problem is we don't need engineered roads for off-wheel vehicles. And the roads that we ride in personally are old logging trails. We're not doing any damage to them.

But the thing is we pleasure-ride; we don't race. And we police ourselves. We pick up trash if there is any. We go after people who are disobeying the laws and things like that.

But the coordination process could work on what roads should be or could be closed if necessary. The coordination is actually government-to-government. I don't need them to put out a public notice that they're having a public meeting, take everybody's input, and treat the counties as the public. That's what they do. That's not the law of coordination. Coordination is actual sitting down, designing the plans from the beginning, not coming in at the end and commenting like anybody else.

If we had the opportunity to sit down and help design these plans, we could alleviate 15 years of the planning process, because we would be a partner with them. And we would go to the public and say, this is what your input to us and ours to them has brought forth. And that's what coordination truly is.

Mr. GIANFORTE. Thank you.

Ms. Granat, if you could comment on how these road closures have impacted your use of public lands.

Ms. GRANAT. As a disabled person, a mother, and a grandmother, I got involved in this for a very personal reason. We went to go on a trail—and I am that fabled off-roader that takes my Jeep through the woods. I haven't raced in a really long time, but I do like a good challenge. So, you know, when I go home, I'm just an average Jeoper.

But we went to go on a trail and didn't realize until we saw it that there was a gate across the road, and the road had been closed in the year interim. And I told my friends, my kids, you know, go ahead, go see the road, go see what happened, but I couldn't walk any further, and so I had to stay by the road while they went inside. And I sat by my Jeep very sad.

Getting areas closed off to you, knowing that you will never, ever see them again—every additional wilderness, every additional wilderness study area, every additional nonmotorized back-country, there are so many designations, and they limit access to people.

And it's so many people now that are—you know, I'm a baby boomer. We're getting older. And the areas that people have had access to for years, as Representative White was saying—I work with hunters all the time who say: But I can't get back there. I can't take—you know, how can I hunt if I can't take a game card into a wilderness?

Wheelchairs are illegal in wilderness. They're not allowed. So that's the extent to where we have gotten in keeping people out.

Mr. GIANFORTE. Okay. Thank you.

At this time, Ms. Plaskett, do you have additional question?

Ms. PLASKETT. Yes. Thank you very much.

We've talked quite a bit about the travel management rule. And one of the things that we've discussed is the road system and the part called the "Road System Management: Identification of Unneeded Roads." "Forest officials should give priority to decommissioning those unneeded roads that pose the greatest risk to public safety or environmental degradation."

Mr. Furnish, during your time at the Forest Service, what were some of the reasons you encountered as to why a road maybe needed to be closed?

Mr. FURNISH. Well, one of the main reasons has to do with unmaintained roads and sedimentation that affects water quality. That's one of the big ones.

Sometimes it's a single-purpose road, like for timber management. And so if you're logging an area and then you don't intend to go back there for 20 or 30 years—that was intended to log, and so, when the logging is over, close the road, wait 30 years. When you come back, you can open it up again.

Ms. PLASKETT. And are times given—is something put in that says that this road will reopen in 20 years? Or is it that then you just have to—

Mr. FURNISH. Typically not, because I think that's too far to foresee with any kind of precision.

Ms. PLASKETT. So then how does a logger then be able to have that road reopened for them to be able to use it?

Mr. FURNISH. Well, generally, the road prism, the structure of the road, is still there, and you can just come in with a blade, a piece of equipment, and just reshape it and it's ready for use.

Ms. PLASKETT. But if it's closed off for those purposes, would they have to—

Mr. FURNISH. Well, there's a difference between whether a road has actually been decommissioned versus just closed.

Ms. PLASKETT. Okay.

Mr. FURNISH. If a road has simply been closed, it can simply be reopened again by reopening a gate. But if it's been decommissioned, then it's really not intended to, for instance, log that area again.

Ms. PLASKETT. How do you balance that against the reasons that people are given and, you know, some of the really compelling testimony that's here today with others to keep a road open?

Mr. FURNISH. Well, I would first make the point that closures do not necessarily reduce use. I would say they tend to concentrate use. If you have fewer roads for people to operate on, it will tend to concentrate use. But it doesn't necessarily follow that if you close 20 percent of the roads in an area that 20 percent of the users will disappear.

Ms. PLASKETT. Right.

Mr. FURNISH. That is not a corollary.

Ms. PLASKETT. So, when that happens, that puts more stress on those roads that are being used, right?

Mr. FURNISH. Well, but if you have limited maintenance dollars, you want to try and apply them on the best roads you have to try and serve the using public.

And I think what's been left out of much of the discussion we've had today is the people who don't use motorized vehicles who are hikers, mountain bikers, that kind of thing. And the footprint of an off-highway vehicle is much larger than that of a pedestrian. They can cover so much more ground, and the associated noise and that type of thing. They just have a much bigger impact on—

Ms. PLASKETT. The off-highway vehicles.

Mr. FURNISH. Yeah. Uh-huh.

Ms. PLASKETT. And when you talk about those off-highway vehicles and the impact that they have, road damage, et cetera, there is a variety of problems that can occur. Based on your experience, what type of problems are created when Forest Service roads, either those in the official system or those that are unauthorized, cannot be adequately maintained?

Mr. FURNISH. Can you rephrase that?

Ms. PLASKETT. I'm sorry. So what problems that can be created on these roads by the off-highway vehicles, the roads that are unauthorized or even those that are authorized, if you don't have the funding or the support to maintain them?

Mr. FURNISH. Well, I mean, one of the biggest problems has to do, again, I would say, with sediment and clean water. You also have wildlife habitat issues. There are a lot of endangered species and that kind of thing that don't relate well to motorized vehicle activity.

And so trying to balance all of these things, as well as, like, with hunters and fishers, who would prefer to practice that form of recreation without the use of off-highway vehicles, and trying to balance that with those who do, having areas to hunt and fish where you don't have off-highway vehicle trails open would be a valid consideration.

Ms. PLASKETT. Sure.

And you stated for your own example, as a Bighorn National Forest ranger, taking aggressive steps. Why was that needed in that instance?

Mr. FURNISH. Well, one was that we just had so many four-wheel-drive roads, and they were virtually unmaintained.

I will say that I've been a frequent visitor to the Bighorn in the years since, as recently as 1 year ago, and I would like to offer testimony, with my own eyes, that it is true that most of the off-highway vehicle users and other users of the national forest are wonderful, law-abiding citizens.

And it was a thrill to see that system in use there on the Bighorn, where they had gone through a travel planning process, had decided which roads and trails would be opened, which ones would be closed, and to see people out recreating openly on an accessible national forest, with some restrictions, and having a great time. And I was one of them.

Ms. PLASKETT. Okay. Thank you very much.

Mr. GIANFORTE. Thank you.

And the chair recognizes Mr. Gosar for 5 minutes.

Mr. GOSAR. So, Mr. Harvey and Ms. Granat, are you familiar with the Arizona Peace Trail?

Mr. HARVEY. I'm sorry, I'm not.

Ms. GRANAT. I am a bit.

Mr. GOSAR. Okay. So this was kind of a very well-orchestrated plan, road plan, with the BLM over on the west side of Arizona. And what they did is they worked in coordination, Mr. Harvey, with the BLM to designate what roads they wanted to keep on and help manage themselves. Pretty successful. Very successful.

So you come back to that coordination, Mr. Harvey. It's not about just opening wanton. You made the comment that, you know, we police ourselves and we turn people in that are not abiding. Is that true?

Mr. HARVEY. Yes, sir.

Mr. GOSAR. Ms. Granat?

Ms. GRANAT. Absolutely. I'm a tread trainer for Tread Lightly, and that's one of the principles that Tread Lightly teaches.

We have in almost every forest in California volunteer off-road groups that go around and patrol. Particularly successful: San Bernardino National Forest, Rubicon Trail. These are all patrolled by volunteers all weekend. And if they need assistance, they ask the local sheriffs for help.

But we're adamant that we need proper, responsible behavior on a trail.

Mr. GOSAR. So, Mr. White, most of this management plan really wasn't dictated by common citizens. It was done by sue and settle, wasn't it?

Mr. WHITE. Yes.

Mr. GOSAR. So let me get this straight. So what we did is we sued on behalf of a group—and they were named earlier on. I openly talk about Center for Biological Diversity. You know, because Mr. Furnish actually said it's more of—it's as much of an art as it is about science. I don't know about that.

But what ends up happening is these groups come in and they sue. And then what ends up happening, there's a decision with the Justice Department. And, to be honest with you, we're not entitled to see, or we haven't been able to see those forecasts.

But a lot of what's happened, particularly in Arizona, is that—that shut down all our timber sales, by the way. You know, it was the three different lawsuits in 1979 and then in '81 and then in '82 and '84, and it just kept growing. And so that's why we have this problem.

So you brought up the individual. Well, how does that impact the lease, like, say, a grazing lease?

Mr. WHITE. Representative, anytime you close access, it affects anybody that has anything up there, whether it's grazing lease, whether it's a timber sale for active management, whether it's a cabin lease, whether it's a mining claim, patented mining claim. CBU got calls all the time, "We can't access our mining claim anymore."

Mr. GOSAR. Right.

Mr. WHITE. And that's a very popular activity, whether it's a gold panning association, which is a supporter of ours in the State, or a person that actually owns a mining claim.

And I will say, on the litigation side, two groups in the State of Montana, basically two individuals, Alliance for the Wild Rockies and Native Ecosystems, are responsible for 70 percent of the litigation shutting down our timber industry. We used to have 31 mills. I think we're down to seven or nine or something like that within our State. And these were good-paying jobs.

And being in legislature, those good-paying jobs being gone, we have reduced income tax collection, which reduces revenue to our State budget, which reduces the services that we can provide for the citizens of Montana. And I'm sure Mr. Harvey can tell you the problems in a county commission trying to provide services to those people in the county.

Mr. GOSAR. So, Mr. Harvey, going back to you, with the loss of Secure Rural Schools, have you seen a huge impact after that?

Mr. HARVEY. We will. We just received it this year. We have 1 more year. But the problem is our road department, which takes care of snow removal in winter, which keeps access to everything, was reduced by half. We went from 34 employees to 17 because of the loss of revenue from timber industry.

And, also, yet some of the sales that we do have, they tear up the roads, but we get no revenue from it anymore. We have no mill. That goes to Idaho or it goes to another county in Oregon.

But this aspect I have to look at from a county's perspective. Yes, the revenue diminishes, but the cost of services go up. And we either provide it as best we can or we cut services.

Mr. GOSAR. Well, and I want to get back to one more point, is management of the forest. A dynamic forest is a little new growth, a little medium growth, a little bit of old growth, because they all have special functions within the dynamics. And so it's not about if; it's how you have to continue to utilize and work the forest. And that's been our problem, is that we haven't been, and we're reaping the disasters that are occurring.

And part of this application is the roadless rule, is closing off—I'll give you an example here. This is a nightmare for people back home, I mean, I'll give you one more example, if I can have a little indulgence.

Mr. GIANFORTE. Yes.

Mr. GOSAR. We have a place called Fossil Creek. Do you know about it, Mr. Furnish?

Mr. FURNISH. I've heard of it.

Mr. GOSAR. Yeah. So what ends up happening is, it's one of these wonderful areas that there's water in Arizona, for God's sakes, water. And everybody is attracted to that. But what ends up happening is that we have these things called monsoons. Do you know that they refused to put a road in there—there actually is a road in there. They want to destroy the road. And so what ends up happening, for emergency services to get there, it takes over 8 hours and a helicopter ride.

This is absurd. This is absolutely absurd. To be able to look at a natural wonder, take care of that, and be able to have safety and access. It's just mind-boggling.

I yield back.

Mr. GIANFORTE. Thank you.

And we'll recognize Mr. Palmer for the final round of questions.

Mr. PALMER. Thank you, Mr. Chairman.

And I thank the witnesses.

I want to get back to the discussion that we were engaged in in my first round of questions. And one of things that I think you mentioned, Mr. Harvey, was the ability to pay for our forest management by utilizing—it may have been Representative White who said this, but one of you mentioned this—by sensible forest management. That is, thinning, select cutting. That's how you pay for the forest management.

One of the—I was thinking about this as we were sitting here. We talked about the excessive amount of fuel on the forest floor. Anyone who's ever been to a bonfire or gone camping, it's a fairly simple notion that if you want the fire warmer, you put more wood on the fire, right?

Mr. HARVEY. Yes, sir.

Mr. PALMER. Representative White, have you ever had to do that to warm up?

Mr. WHITE. Yes, sir.

Mr. PALMER. Well, the more wood on the floor makes a hotter fire. And even mature trees can be killed because the fire burns too hot. That's a fundamental principle of forest fires. And you also want to be able to use fire as a management tool.

Mr. HARVEY. Yes, sir.

Mr. PALMER. That's good for wildlife, all sorts of wildlife. A lot of people think burning the woods is bad for wildlife, but it's good. And it's good forest management. But if there's too much fuel on the floor, you can't do that, can you?

Mr. HARVEY. No, sir. Much of our forests are impassable because of that same reason.

Mr. PALMER. Well, and that goes back to what I said earlier about the dangers that creates for firefighters. Because a fire that burns with that intense level of heat is not only potentially deadly for the trees, it is potentially deadly for the forest firefighters that are in there.

I also want to point out that there's this false narrative that when you do select cutting or when you open up Federal

forestlands for logging, it creates this false narrative that it's clearcutting. And that's not the case, is it?

Mr. HARVEY. No, sir, not in eastern Oregon especially. Like I mentioned, the limited moisture for a year, of 12 inches, we don't use—we only do selective cutting. We cannot do clearcutting. We don't want to do clearcutting.

Mr. PALMER. Well, when you have limited moisture or particularly intense droughts, when you thin, it increases—is it correct to say it increases the survivability of the remaining forest?

Mr. HARVEY. Yes, sir, it does. That's the design of management of forest, which they do not do anymore.

Mr. PALMER. Right.

Mr. WHITE. It will also raise the water table, too, in the ground.

Mr. HARVEY. Yes.

Mr. PALMER. That's exactly right, because you don't have as much competition for the water.

One of the other things that I want to point out, Mr. Chairman, is that there are 1.1 million acres of forestland that we have lost to forest fire and to disease that now needs to be replanted. I don't know if any of that's in Oregon or Montana or California.

Mr. HARVEY. All the time.

Mr. PALMER. All the time. And that there's 58 million acres that are on the "high" or "very high" risk right now.

Mr. HARVEY. Yes, sir.

Mr. PALMER. So my question is, to the panel: Does it make sense to continue the practices that we employ now to manage our Federal forests when we've already lost millions of acres, some that will take—it'll take years, maybe decades, to recover? When there are 58 million acres that are at risk or very high risk, does it make sense to continue to limit access to these forests or to continue the management practices that allow unbelievable amounts of fuel to collect on the forest floor?

Mr. HARVEY. Sir, I believe that's the definition of "insanity," doing the same thing over and over and not getting any different results.

Mr. PALMER. I will not disagree with that for the record.

Any other comments, Mr. Harvey?

Mr. HARVEY. Yes, sir. We're fighting for the potential of actually managing. When you lock it up, that's neglect, and that's destruction by neglect. We can't continue to do that. I lost 130,000 acres in the fires that I described earlier. I can't afford to do that every year. I've only got a 15-year supply at that rate. That's the rest of my county.

Mr. PALMER. And there are ranchers and homeowners and other people who've suffered losses as a result of fires that burned out of control.

Ms. Granat, in regard to access for vehicles, I limit what you can drive on my forest, as we limit what can be driven on U.S. highways.

And I don't understand why we can't have laws, Mr. Chairman, that allow people to operate vehicles on roads and maintain those roads, again, pay for it with the management of the forest, that have the same kind of traffic control in the forest that we do. You

know, you've got to catch people who abuse the law, but the same thing is true on our highways.

So I just think we need a commonsense approach to this. You know, make the forest accessible to the people, all kinds of people, even people with impaired abilities, but also manage the forest in a way that makes sense and pay for it with the resources that we have.

With that, Mr. Chairman, I thank you for holding the hearing, I thank the witnesses, and I yield back.

Mr. GIANFORTE. Okay. Thank you.

And I want to thank the witnesses as well. This is a very important discussion to make sure the public has access to the public's land and we can get back to start managing our forests again.

Again, I thank each of you for being here.

The hearing record will remain open for 2 weeks for any member to submit a written opening statement or questions for the record.

Mr. GIANFORTE. And if there's no further business, without objection, the subcommittee stands adjourned.

[Whereupon, at 3:23 p.m., the subcommittee was adjourned.]

