

DECISION MEMO

MODIFICATION OF UNCOMPAHGRE TRAVEL PLAN TO SPECIFY CORE DATES FOR SEASONAL RESTRICTIONS ON USE OF SELECTED FOREST DEVELOPMENT ROADS TO PROTECT SOFT ROAD BEDS, TO CLARIFY DATES OF SEASONAL RESTRICTIONS FOR WILDLIFE WINTER RANGE AREAS, AND TO MODIFY THE DEFINITION OF "ATV" TO INCLUDE ALL WHEELED VEHICLES 50 INCHES OR LESS IN WIDTH, (E.G., SIDE-BY-SIDES ≤ 50 "

Portions of Delta, Gunnison, Hinsdale, Mesa, Montrose, Ouray, San Juan and San Miguel Counties
Colorado

APRIL, 2009

Responsible Official:

Charles S. Richmond, Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests
2250 Highway 50
Delta, Colorado 81416

/s/ Charles S. Richmond
CHARLES S. RICHMOND
Forest Supervisor

4/11/09
Date

"The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer."

INTRODUCTION

Three decisions are taken up in this Decision. They are:

1. Modification of Uncompahgre Travel Plan Record of Decision (March 2002) to specify core dates for seasonal restrictions on use of selected Forest development Roads to protect soft road beds,
2. Modification of Uncompahgre Travel Plan Record of Decision (March 2002) to clarify dates of seasonal restrictions for wildlife winter range areas, and
3. Modification of both the Uncompahgre Travel Plan Decision (March 2002) and the Grand Mesa Travel Plan Decision (December, 1993) to modify/incorporate the definition of "ATV" to include all wheeled vehicles 50 inches or less in width, (e.g., Side-by-sides).

Each is discussed in turn under roman numbered headings below. A separate document will not be prepared, but rather this decision constitutes the amendments to both the Grand Mesa and the Uncompahgre Travel plan decisions.

I. SEASONAL RESTRICTIONS TO PROTECT SOFT ROAD-BEDS FROM DAMAGE

BACKGROUND

The Table 1 below lists Forest Development Roads which are shown in the March 2002 Uncompahgre National Forest Travel Plan Record of Decision as "RST (restricted) – No motorized vehicles over 50" wide 11/15 – 5/30 to protect soft roadbed from damage" (see Table ROD-1 of the Record of Decision). This is a road maintenance issue.

Table 1. Roads Requiring Soft Roadbed Protection.

NFSR ROAD #	Name	Begin Termini	End Termini
Uncompahgre Plateau Roads			
540	Old Highway 90	FB (east)	NFSR 650
402	Divide Road	Entire Length	
404	Uranium	NFSR 402	NFSR 405
408	Dominguez	FB	NFSR 402
409	Brushy Ridge	Gate at Branch Creek	End of road
503	Delta Nucla	Gate at Pvt land in Sec 30	NFSR 603
515	Deadhorse	Entire Length	
526	Sanborn Work Center	Entire Length	
530	Sanborn Park	NFSR 521	End
537	Horsefly	Entire Length	
608	McKee Draw	Entire Length	
Mountain Division Roads			
611	Beaver Park	Entire Length	
612	Galloway Creek	Entire Length	
618	Fall Creek	FB	NFSR 611
621	Woods Lake	Entire Length	
626	Trestle	Entire Length	
627	Hidden Lake	Entire Length	
628	Priest Lake	Entire Length	
632	Boomerang	Entire Length	
637	Big Creek Cutoff	Entire Length	
638	Last Dollar	FB	FB
867	Alpine Plateau	NFSR 868	FB
868	Alpine	868.2A	end
869	Imogene Pass	Hwy 361	NFST 869.1A

The language, applicable to these roads, of the Uncompahgre Travel Plan ROD-1 is "RST (restricted) – No motorized vehicles over 50" wide 11/15 – 5/30 to protect soft roadbed from damage". In our May of 2006 amendment to this decision for all of these roads, this language was replaced by the following:

RST (restricted) – Roads seasonally closed to motorized travel using vehicles over 50” wide, to protect roadbeds from damage during snowy or wet conditions. Approximate dates of closure will be November 15 – May 30, however these roads may be closed earlier in the fall or left open later in fall, or opened earlier in spring or kept closed later in the spring, by the District Ranger on an individual basis, as roadbed and weather conditions, or other factors allow. This restriction does not prevent administrative access or access for the purpose of maintenance.

In 2005, the Department of Agriculture published the Travel Management; Designated Routes and Areas for Motor Vehicle Use; this final Rule requires that motor vehicle use be designated on National Forest System lands. In 36 CFR 212.56 designated routes are required to be identified on a Motor Vehicle Use Map and shall specify class of vehicle and time of year for which use is designated. To that end, it is important to clearly identify those core dates when roads and trails are not available for motorized use, due to the need to protect natural resources and public facilities.

DECISION

It is my decision to further amend the travel plan decision of March of 2002, to apply the following additional restriction to the roads listed in the table above. *“Motorized travel during the core dates of January 1 through May 15 is restricted, for soft road bed protection, to use only by wheeled or tracked vehicles 50 inches or less in width (e.g., ATV’s). These dates of restriction can be extended beyond the core period, depending on conditions of individual roads, weather and snow melt. Users will need to contact local forest offices to find out what the actual ending date is if they wish to have assurance of access prior to visiting the Forest.”*

This decision does not alter the decision of May, 2006 (Modification of Uncompahgre Travel Plan that allows for variable seasonal closure of selected Forest development Roads) that allows for flexibility in seasonal restriction dates, other than to restrict use during the core dates.

RATIONALE

The definition and subsequent publication in the annual Motor Vehicle Use Map, of this core set of dates is required by National Policy. This does not change, but does refine, the decision made in the March 2002 Uncompahgre Travel ROD.

The reality of road management actions is that roads self close in the winter with the snow levels and are deliberately closed by gates during the wet spring season. Several forest users commute from the West end to Montrose via these roads until the snow stops them. Christmas tree cutting occurs in December if the roads are still passable. By using a January 1 – May 15 date, it accommodates forest uses and there is flexibility to increase the dates annually if the situation warrants.

This does allow for snow-mobile access, but limits full size vehicle use during the spring thaw period

II. SEASONAL RESTRICTIONS FOR MOTORIZED TRAVEL WITHIN WILDLIFE WINTER RANGE AREAS

BACKGROUND

The March, 2002 ROD states under Winter Travel Decisions (page 9): “...it is also my Decision to restrict motorized use on selected areas in winter. This focuses on over-the-snow- travel by motorized means. My decision is to restrict travel to designated routes through the areas indicated in the Winter Decision Map attached to this ROD.”

The ROD does not have a clear and express date of closure for winter range areas.

However Chapter 2 of the FEIS identifies a winter season as November 15 through May 30, and further states:

“...travel restricted to designated routes during the winter season. This includes big game winter range areas where motorized travel would be allowed to pass through on designated routes to access suitable snowmobile recreation areas above the winter range... Winter Alternative 3 maps in map packet show the designated snowmobile routes in these restricted travel areas.”

Hence, it would appear that the area closure for winter range was tied to the dates November 15 through May 30.

DECISION

It is my decision to further amend the travel plan decision of March of 2002, to specify the following restriction to the winter range areas of the Forest as mapped in that decision, including the roads listed in the table below. *“Winter range areas as mapped in the March 2002 ROD, with specific exception of routes designated as open in winter in the March 2002 ROD, are closed to motorized travel during the core dates of January 1 through April 15, to protect wildlife from disturbance. These dates can be extended beyond the core period, depending on conditions of individual roads, weather, snow melt, and other conditions. Users will need to contact local forest offices to find out what the actual ending date is if they wish to have assurance of access prior to visiting the Forest.”*

The specific routes closed to motorized use by the winter range restrictions are as follows.

Table 2. Roads & Trails located within Winter Range

Roads located within Winter Range – Uncompahgre Plateau			
ID	NAME	Begin	End
404.0	URANIUM	NFSR 404.1B	NFSR 405
405.2A	CALAMITY PLANTATION	Entire length	
405.2B	UTE CREEK	Entire length	
405.2C	SNOWSHOE ROAD	Entire length	
405.4A	COW CREEK	Entire length	
408.2B		Entire length	
408.3A	WINTER CAMP	Entire length	
408.3B		Entire length	
416.1A	RIM SOUTH SPUR	Entire length	
418.0	BRET POINT	FB	NFST 649
420.0	BLACK POINT	NFSR 423	end
500.0	LOVE MESA	FB	Base of Switchbacks
500.4C		Entire length	
502.0	DRY MESA	NFST 102.1A	FB
502.1A	DINOSAUR QUARRY	NFSR 502	end
502.2A	BLACK POINT	Entire length	
502.2A1		Entire length	
503.3A	JOKER RESERVOIR	Entire length	
505.0	7N	NFSR 505.2A	NFSR 525.1D
509.0	WEST TRANSFER	Entire length	
513.0	CRAIG POINT	Entire length	
513.2B	CRAIG POINT LOCAL B	Entire length	
513.2D	LITTLE GUTSHALL	Entire length	
515.0	DEADHORSE	Entire length	
515.1C		Entire length	
525.0	POTTER BASIN	NFSR 533	NFST 119
525.1A	LEE RESERVOIR	Entire length	
525.1A1		Entire length	
525.1D		Entire length	
526.0	SANBORN WORK CENTER	Entire length	
529.0	SAWMILL MESA	FB	NFST 103
538.0	MCKENZIE CREEK	NFSR 513	NFSR 538.1A
540.1E		Entire length	
540.1E1		Entire length	
540.1F	DRY PARK	Entire length	
542.0	ROATCAP	Entire length	

542.1B		Entire length	
556.0	LITTLE GUTSHALL	Entire length	
557.0	HORSEFLY POINT	Entire length	
603.1A	ELK POINT	Entire length	
604.0	BUCKTAIL	Entire length	
604.1A		Entire length	
614.0	RAY	Entire length	
614.1A	RAY SPUR 1A	Entire length	
614.1B		Entire length	
617.0	TELEPHONE DRAW	Entire length	
660.0	PINTO MESA	Entire length	
660.1A	PINTO MESA SPUR 1A	Entire length	
661.0	COTTONWOOD NORTH FORK	Entire length	
663.0	UPPER DRY PARK	Entire length	
663.1A	PATTERSON MTN	Entire length	
Roads located within Winter Range – Naturita Division			
ID	NAME	Begin	End
595.0	SAWMILL SPRINGS	entire length	
610.1A	BREWSTER CREEK	entire length	
607.2A	CALLAN DIVIDE	entire length	
608.0	MCKEE DRAW	entire length	
644.0	OAK HILL	entire length	
651.0	NELSON SPRINGS	entire length	
597.0	EAST MCKEE DIVIDE	entire length	
607.2B	PIPELINE	entire length	
608.0	MCKEE DRAW	entire length	
607.2A1	CALLAN WELL	entire length	
596.0	EAST MCKEE DRAW	entire length	
607.2E	HAMILTON SPUR 2E	entire length	
642.0	EAST NATURITA	entire length	
608.1A	SAWMILL	entire length	
634.0	STOCKDALE	entire length	
Trails located within Winter Range – Uncompahgre Plateau & Naturita Division			
ID	NAME	Begin	End
2607.0	SNOWSHOE	NFSR 416	NFSR 405.2A
2608.0	UTE CREEK	NFSR 404	NFSR 405.2B
2633.0	NORTH BENCH	NFST 658	NFSR 409
2658.0	CORRAL GULCH	FB	NFSR 409
5659.0	BUCKTAIL CREEK	NFSR 503	NFSR 604.1A
5659.1A	BUCKTAIL CREEK SPUR	Entire length	
6102.0	PICKET CORRAL	NFSR 500.4C	NFST 102.1A
6119.0	TRAVER	NFSR 525	NFST 119 bottom of switchbacks
6121.0	ROATCAP	NFSR 542.1B	End
5597	EAST MCKEE DIV	NFSR 608	NFSR 597

RATIONALE

Because of the absence of any mention of specific date in the ROD itself, and reference to “over snow travel” dates intended for application of winter restrictions has not been clear. Reference to November 15 to May 30 in the EIS may well have been for purposes of analysis or simple general understanding of the reader, and not intended to be enforceable dates. These all inclusive and set dates include periods of the year when there is no snow in the winter range and when big game have moved back up to higher elevations, and are not using the winter range. We believe it is not reasonable to restrict use in these areas, using these closures, unless it is for the stated purpose of protecting wintering animals from disturbance.

This decision includes a different set of dates than the dates for soft road bed restrictions. This is because the objectives of the restrictions are completely different, and the affected areas are in different locations.

Winter range areas on the Uncompahgre Plateau are essentially lower elevations. Typically these lower elevations are snow free for much of the spring and fall periods between November

15 and May 30 and accessible by wheeled vehicles. More narrowly defined dates of this decision satisfy the wildlife needs and at the same time accommodate recreation needs. Fall hunting generally ends approximately December 1 and turkey season begins approximately April 15. Christmas tree gathering extends in to late December. In extreme years, when big game animals need to rely on the winter ranger later in the spring, these dates can be extended if the situation warrants.

Winter range areas have been identified in cooperation with the Colorado Division of Wildlife. Animals concentrate on winter range from as early as October, until mid- April depending on weather conditions. Disturbance to wintering big game animals results in excitement and usually sudden movement. Excitement costs energy needed for survival in winter or for the growth of a fawn, calf or lamb inside a female and the survival rate of that young. Animals can be displaced from preferred habitats to areas which are less desirable or to adjacent private lands where they may cause damage. An objective of the Uncompahgre Travel Plan Decision was to manage motorized travel to prevent unacceptable stress on big game during the winter and to keep animals on their winter ranges.

This clarification of dates does not, we believe, change the decision of the March 2002 Uncompahgre Travel ROD, but rather clarifies it.

III. MODIFICATION OF BOTH THE UNCOMPAHGRE TRAVEL PLAN DECISION AND THE GRAND MESA TRAVEL PLAN DECISION TO MODIFY/INCORPORATE THE DEFINITION OF "ATV" TO INCLUDE ALL WHEELED VEHICLES 50 INCHES OR LESS IN WIDTH, (E.G., SIDE-BY-SIDES ≤ 50").

Background

Currently on the GMUG National Forests, the definition of "ATV" relies on the March 2002, Uncompahgre Travel Plan Record of Decision, page 7, number 5 of the numbered footnotes:

"5 ATV TRAILS - Allowed uses include ATVs, motorcycles, mountain bikes, horse/pack animals, foot travel. Contrary to definitions in the FEIS Appendix B, an ATV is now considered to be a trail vehicle of less than 50 inches in width. A more complete definition is found in Forest Service Handbook 2309.18.

The referenced FSH 2309.18, defines an ATV as follows:

" All-Terrain Vehicle (ATV). A type of off-highway vehicle that travels on three or more low-pressure tires; has handle-bar steering; is less than or equal to 50 inches in width; and has a seat designed to be straddled by the operator."

Hence, with reference to the options discussed in the attached letter, reference is made in our definition of an "ATV" to the FSH 2318, and therefore the newer side-by-side vehicles are precluded.

DECISION

It is my decision to amend the Decisions for both the Grand Mesa and the Uncompahgre Travel Plans as needed to accept the definition of "ATV" as defined by a wheeled vehicle 50 inches or less in width, and to eliminate the reference to the FSH.

Specifically, the language, "A more complete definition is found in Forest Service Handbook 2309.18," at page 7 of the Uncompahgre Travel Plan Decision is deleted by this amendment.

The outcome of this decision is that the newer side by side ATV's may use all routes designated as "ATV allowed" as long as they conform the width definition.

RATIONALE

We have considered the technical difference between these two types of vehicles and concluded that the prohibition of these newer vehicles is not reasonable, or supported by the purposes for route designation.

It is my finding that the configuration of riders, side-by-side vs. front to back, makes no real difference in terms of environmental effects on the National Forest. The tire pressure, load bearing and wheel base of these vehicles is so similar to straddle mount ATV's that there is very little difference in the impact to resources. They are essentially the same vehicle, just with a different arrangement of riders.

PUBLIC NOTICE

Substantial changes to the formal decisions of the travel plans require a level of NEPA analysis commensurate with the decision made. Regulations at 36 CFR 212.52 (a) state "The public shall be allowed to participate in the designation of NFS roads, NFS trails, and areas on NFS lands and revising those designations pursuant to this subpart. Advanced notice shall be given to allow for public comment, consistent with agency procedures under the NEPA, on proposed designations and revisions..."

We do not believe the modifications and clarifications in this decision rise to the level of "substantial changes", or that these clarifications/modifications constitute "designation" of roads trails or areas.

This notice, along with an appropriate news release and contact with interested parties and organizations will serve as public notice of this decision. A copy of this decision is also posted on the Forest Web site under Travel Management at <http://www.fs.fed.us/r2/gmug/policy/>.

NEPA COMPLIANCE

REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an Environmental Impact Statement or Environmental Assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

A. Category of Exclusion

This decision falls within Category 31.12 – 1. "Orders issued pursuant to 36 CFR Part 261 – Prohibitions to provide short-term resource protection or to protect public health and safety. Examples include, but are not limited to: a. Closing a road to protect bighorn sheep during lambing season."

The refinement of seasonal restrictions for both wildlife winter range, and for protection of road bed surfaces, are consistent with this category of actions.

B. Relationship to Extraordinary Circumstances

There are no conditions that would constitute a significant effect on an extraordinary circumstance related to this proposed authorization. "The mere presence of these resource conditions does not preclude the use of a categorical exclusion. It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists; the degree of potential effect of the proposed action on these resource conditions that determines whether extraordinary circumstances exist" 36 CFR 220.6(b). This conclusion is based on our consideration of the following items:

1. Federally listed Threatened, Endangered, Proposed (TEP) and Forest Service

- Sensitive Species or their Critical Habitat (Endangered Species Act: Section 7.)
2. Floodplains and Wetlands or Municipal Watersheds
 3. Congressionally designated areas
 4. Inventoried Roadless
 5. Research Natural Areas
 6. Native American Religious or Cultural Sites or Areas
 7. Archaeological Sites or Historic Properties or Areas

APPEAL OPPORTUNITIES

In accordance with 36 CFR 215.12(f), and consistent with the rulings by the United States District Court for the Eastern District of California, in *Earth Island Institute v. Ruthenbeck*, this decision is not subject to administrative review (appeal), and is the final administrative action of the Forest Service and the Department of Agriculture.

CONTACT INFORMATION

For further information contact Jeff Burch, Forest Supervisor's Office, 2250 Hwy 50, Delta, CO 81416, 970-874-6649.