



File Code: 1300/2350-5/7700

Date: **MAR 31 2010**

Ms. Sylvia Milligan
Recreation Outdoors Coalition
4000 Beacon Drive
Anderson, CA 96007

Dear Ms. Milligan,

This letter is in response to your Data Challenge Request, dated February 1, 2010, and which was received by this office via email on February 2, 2010. You questioned the accuracy of the information contained in the engineering reports for advising proposed decisions to designate roads for motorized mixed use in the "Motorized Travel Management Final Environmental Impact Statement" (FEIS) and Decision Notice for the Lassen National Forest dated December 14, 2009.

The panel selected to review this Data Challenge concluded the reports meet the requirements of the Data Quality Act pertaining to utility and transparency as well as objectivity and quality. Therefore, we have found no reason to correct the information. In support of this finding, I offer the following explanation.

The references to law, regulations, and policy in your challenge request are not necessarily accurate. For example, definitions applicable to National Forest System (NFS) roads, including the definition "Forest Highway", are found in Section 101 of Title 23 of the United States Code, Section 212.1 of Title 36 of the Code of Federal Regulations (36 CFR 212.1), and Forest Service Manual (FSM) Section 7705. State traffic laws are applicable on NFS roads under regulations at 36 CFR 212.5a. Policies regarding motorized mixed use of NFS roads are found in FSM Section 7715.77 and Forest Service Handbook (FSH) 7709.55 Chapter 30. Policies about maintenance levels and their application on NFS roads are found in FSH 7709.59 Chapter 60 Sections 62.3 and 63.41.

I agree, the USDA guidelines require us to strive to ensure and maximize the quality, objectivity, utility, and integrity of the information that is disseminated to the public. However, these guidelines neither require decisions be delayed to collect data that does not exist nor do they prohibit use of professional judgment to advise decisions that must be made in such situations.

For example, FSM 7715.77 contains the following policy about engineering analysis to foster decisions on proposals for motorized mixed use:

4. Where the responsible official proposes to depart from state traffic law or change current travel management direction by authorizing motorized mixed use where it would otherwise be prohibited, that decision must be advised by documented engineering analysis conducted by a qualified engineer.

5. Decisions on motorized mixed use, like other travel management decisions, are the responsibility of the responsible official. The role of the qualified engineer is to analyze information on the road and road use and to recommend mitigation of safety risks.



Under this policy, the role of engineering analysis is neither to propose motorized mixed use nor to make decisions about it. These actions fall under the responsibility of the Forest Supervisor, in this case, of the Lassen NF. The engineering analysis performed by a qualified engineer only analyzes that information which is available and recommends mitigation of safety risks identified. As you correctly point out, there is no traffic count data nor is there any crash data available for the Lassen NF's roads. If such data were available, it would be displayed in the engineering reports under the USDA guidelines. However, as noted above, the guidelines do not require information be collected when none exists.

In interpreting this policy, it is also important to fully comprehend the meaning of "Engineering Report" and "Qualified Engineer." FSM 7705 defines them as follows:

Engineering Report. A report that analyzes risk factors pertaining to a proposed designation of a road for motorized mixed use that is signed by a qualified engineer and that is presented to the responsible official. The report may identify alternatives, as well as risks associated with those alternatives, for mitigation of factors contributing to the probability and severity of crashes.

Qualified Engineer. An engineer who by experience, certification, education, or license is technically trained and experienced to perform the engineering tasks specified and who is designated by the Regional Office Director of Engineering.

The qualified engineers who performed the motorized mixed use analysis for the Lassen NF proposals were designated by the regional engineer. In addition, the individual analysis reports received a peer review by the regional engineer.

In your letter, you state that concerns about risk discussions in the engineering reports, "reflects a well-known bias by the Forest's engineering staff against continuing to allow motorized mixed use on unpaved Forest roads that have had no known MMU crashes or other safety problems." My staff was unable to find any evidence of bias on the part of the engineers on the Lassen NF.

In conclusion, the information you provided was carefully considered. After a careful review and discussions I concluded there is no correction of information necessary. If you are dissatisfied with this response, you may submit a Request for Reconsideration (RFR). An RFR filed after the 45-day deadline may be denied as untimely. The RFR should reference this letter. Additional requirements and information for an RFR are listed on the USDA Correction of Information website: http://www.ocio.usda.gov/qi_guide/correction.html. An RFR can be submitted to the Reconsideration Official by mail, facsimile, or email:

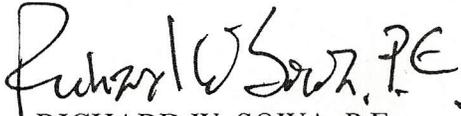
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If you should have any administrative procedural questions, please contact George Vargas, Forest Service Information Quality Officer, at (202) 205-0444 or at gvargas@fs.fed.us.

Sincerely,


RICHARD W. SOWA, P.E.
Director of Engineering