



File Code: 1570

Date: August 4, 2011

John Cooney
Dry Gulch, LLC
PO Box 2521
Breckenridge, CO 80424

Dear Mr. Cooney,

On May 18, 2011, you filed a Notice of Appeal (NOA) on behalf of **Dry Gulch, LLC** pursuant to 36 CFR 215. White River Forest Supervisor Scott Fitzwilliams signed the Record of Decision (ROD) approving Alternative G Modified of the White River Travel Management Final Environmental Impact Statement (FEIS) on March 17, 2011. Pursuant to 36 CFR 215.17 an attempt was made to seek informal resolution of the appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.18 - Formal review and disposition procedures. I have reviewed the appeal record, including your written NOA, the ROD, FEIS, SDEIS, DEIS and supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

FOREST ACTION BEING APPEALED

The White River National Forest travel planning effort is an extension of earlier planning processes to both update the WRNF travel management direction and to align the travel strategy on the Forest within the scope of the White River Forest Plan. Due to public input and the complexity of the subject matter, the decision was made to separate the two plans and develop the Travel Management Plan after the completion of the Forest Plan in 2002.

In November 2005 the National Travel Management Rule (36 CFR 212) was published revising regulations in response to the growing popularity and capability of off-highway vehicle use of the national forests and the effects of that use on the environment. Subpart B of the final Travel Management Rule requires designation of roads, trails, and areas for motor vehicle use.

The purpose of the Forest Supervisor's action is to implement the 2005 Travel Management Rule through selection of a designated road and trails system, allowable uses on those routes, and winter motorized travel uses by area or designated routes. Identified needs are to update the official designated transportation system, identify what is not part of the official travel system, and designate a travel system aligned with the need to balance social and resource demands.



The decision will:

- Designate the official White River National Forest system road and trail network.
- Designate 1,420 miles of road to be open to licensed vehicles of which 872 miles will be open to licensed and unlicensed vehicles.
- Designate 1,613 miles of road and trail to be open to licensed motorcycles of which 1,066 miles will be open to unlicensed motorcycles.
- Designate 1,023 miles of road and trail to be open to motorized vehicles less than 50" in width (ATVs).
- Allow mechanized (bicycle) travel on 2,172 miles of road and trail.
- Designate 3,373 miles of road and trail for horseback riding and 3,592 miles for hiking. The Forest is an open forest for horse and hike travel.
- Incorporate 225 miles of previously unauthorized routes into the travel system.
- Decommission 519 miles of system routes.
- Authorize those areas where motorized use over snow can occur in accordance with 36 CFR 212, Part C. There will be 695,723 acres of open areas for motorized use; 517,693 acres of restricted areas where motorized use over snow can occur on designated routes; and within restricted acres, 198 miles of over snow routes will be authorized.
- Exempt in the final travel order and motor vehicle use maps, use and occupancy of National Forest System lands and resources pursuant to a written authorization issued under federal law or regulation.
- Not allow off road travel for game retrieval.
- Allow off road parking for special uses such as forest product gathering when specified and issued by permit.
- Allow parking a motor vehicle on the side of the road up to 30 feet from the edge of the road surface for all uses other than dispersed camping or as specified by a permit.
- Allow off road camping and parking; it must not damage the land, vegetation or streams and no live trees may be cut.
- Allow access for permitted activities on National Forest System lands independent of general public access. Individuals or groups with special permits will be allowed to conduct their business according to the conditions outlined in their permits.

APPEAL REVIEWING OFFICER'S FINDINGS AND RECOMMENDATION

The Appeal Reviewing Officer, Richard Cooksey, Deputy Forest Supervisor Medicine-Bow/Routt National Forest, found that:

- Documentation in the project record indicates that during the informal disposition the need to correct the information on the Dillon map was discussed and the Forest agreed. A correction to the map to reflect the nature of the easements granted to the US Government was necessary.

ARO Cooksey recommended affirmation of the Forest Supervisor's decision with instruction to complete an errata correcting the Dillon Map for 5-GH-36 (Lightburn Road) and 5-GH-19 (Jesse Road aka Backdoor).

APPEAL DECISION

I agree with the ARO's analysis as presented in the enclosed letter. All appeal issues raised have been considered. I affirm the Forest Supervisor's decision to implement Alternative G Modified and grant all requested relief.

The project may be implemented on, but not before, the 15th business day following the date of this letter (36 CFR 215.9(b)). My decision constitutes the final administrative determination of the Department of Agriculture (36 CFR 215.18(c)).

Sincerely,

/s/ Randall Karstaedt

RANDALL KARSTAEDT

Appeal Deciding Officer

Acting Deputy Regional Forester, Resources

Enclosure

cc: Wendy Haskins

Scott Fitzwilliams

Cindy Dean



File Code: 1570-1
Route To:

Date:

Subject: White River National Forest Travel Management Plan,
Appeal No. WR 11-02-00-0036 (215)

To: Appeal Deciding Officer

As the designated Appeal Reviewing Officer, this is my recommendation on disposition of the appeal filed by **John Cooney, Dry Gulch LLC** under the regulations at 36 CFR 215. Forest Supervisor Scott Fitzwilliams signed the Record of Decision (ROD) for the White River National Forest on March 17, 2011, and a legal notice of the decision was published in the newspaper of record on May 4, 2011. My recommendation is based on the appeal and the decision documentation (36 CFR 215.18(a)).

BACKGROUND

On August 27, 2002, the Forest Supervisor of the White River National Forest published a Notice of Intent in the Federal Register for a travel management plan and inviting public comment until October 31, 2002. The agency held six public meetings in September 2002 and open houses were held at ranger districts, where many members of the public provided input.

On July 28, 2006, the forest released a Draft Environmental Impact Statement (EIS), providing for public comment from July 28 to October 26, 2006. The WRNF staff members held meetings with individuals, interest groups, and government representatives during this time. On November 7, 2008, the forest released a Supplemental Draft EIS (SDEIS) for public review and comment and staff members again met with individuals, interest groups, and government representatives. Comments were to be submitted by January 6, 2009.

On March 17, 2011, the Forest Supervisor signed a Record of Decision (ROD) for travel management on the White River National Forest (WRNF).

RELIEF REQUESTED

"Please revise the Dillon Map."

ISSUES AND DISCUSSION

APPEAL ISSUE I: OBJECTION TO THE DILLON MAP

Appellant states: "The only access through Dry Gulch is a non-motorized Recreational Trail Easement. All other public use is prohibited. Your Record of Decision clearly states that these roads will be managed as such. However, the Dillon Map in the ROD does not reflect this. Our objections to the Dillon Map are as follows:



5-GH-36. Lightburn Road: In the WRNF TMP ROD Dillon Map dated March 18, 2011, it is indicated that 5-GH-36 is open for motorized use to the boundary of Dry Gulch. We request that this route be permanently closed to all use as there is no public easement for this road on or through Dry Gulch, and the alignment is steep, unsustainable, and extremely dangerous. Please revise the Dillon Map.

5-GH-19-Jesse Road a/k/a Backdoor: In the WRNF TMP ROD Dillon Map dated March 18, 2011, it is indicated that 5-GH-19 is open for motorized use to the boundary of Dry Gulch. We request that this road be closed to all motorized use otherwise motorized users will be directed onto Dry Gulch with no access to cross Dry Gulch, no safe turn-around, and no alternative motorized routing. Public use via a non-motorized Recreational Trail Easement is permitted.”

Rule:

None cited

Discussion:

According to documents in the project record (InformalDispositionCooney.docx; WithdrawCooney.docx), an errata will be issued correcting an error in the March 17, 2011 Record of Decision (ROD) for the White River National Forest Travel Management Plan. Forest Service Trail GH-36 Lightburn Road will be closed and decommissioned on Forest Service System lands and Forest Service Trail GH-19 Jesse Road a/k/a Backdoor will be only open to hike, horse, and bike. This correction is necessary to honor valid existing rights for the Dry Gulch private property.

Recommendation:

I recommend the Forest Supervisor’s decision be affirmed with instructions to complete the errata correcting the Dillon Map for Trail GH-36 and GH-19.

RECOMMENDATION

I recommend that the Forest Supervisor’s March 17, 2011 Record of Decision be affirmed with instructions to complete the abovementioned errata and that the Appellant’s request for relief be granted.



RICHARD A. COOKSEY
Appeal Reviewing Officer

Deputy Forest Supervisor
Medicine Bow-Routt National Forests
Thunder Basin National Grassland

**DRY GULCH LLC
PO BOX 2521
BRECKENRIDGE, CO 80424**

USDA Forest Service Appeal Deciding Officer/Rocky Mountain Region
740 Simms
Golden, CO, 80401

May 18, 2011

Re: **WRNF TMP ROD Map Dillon Dated March 18, 2011**

Dear Appeal Deciding Officer:

We are in receipt of the above referenced documents, more specifically the Travel Management Map of Dillon contained therein.

As per our letter dated January 5th, 2009, we are the owner of the private real property commonly referred to as "Dry Gulch" located in the Golden Horseshoe area of Summit County. As stated in the exhibits of our letter of January 5th, the only access through Dry Gulch is a non-motorized Recreational Trail Easement. All other public use is prohibited. **Your Record of Decision clearly states that these roads will be managed as such. However, the Dillon Map in the ROD does not reflect this. Our objections to the Dillon Map are as follows:**

5-GH-36 . Lightburn Road. In the WRNF TMP ROD Dillon Map dated March 18, 2011, it is indicated that 5-GH-36 is open for motorized use to the boundary of Dry Gulch. We request that this route be **permanently closed to all use** as there is no public easement for this road on or through Dry Gulch, and the alignment is steep, unsustainable, and extremely dangerous. **Please revise the Dillon Map.**

5-GH-19-Jesse Road a/k/a Backdoor. . In the WRNF TMP ROD Dillon Map dated March 18, 2011, it is indicated that 5-GH-19 is open for motorized use to the boundary of Dry Gulch. We request that this road be **closed to all motorized use** otherwise motorized users will be directed onto Dry Gulch with no access to cross Dry Gulch, no safe turn-around, and no alternative motorized routing. Public use via a non-motorized Recreational Trail Easement is permitted. **Please revise the Dillon Map.**

Regards,

John Cooney, Owner, Dry Gulch

[Handwritten signature]
5/18/2011
VIA Certified Mail # 7011 0470 0002 0370 1407