

Prairie Hills Audubon Society

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October 6, 2026

Director, Ecosystem Management Coordination
USDA Forest Service
201 14th Street SW, Mailstop 1108
Washington, DC 20250-1124

Submitted via <https://www.regulations.gov>, Docket FS-2025-0001

Re: Comments of Prairie Hills Audubon Society opposing the proposed rescission of the 2001 Roadless Area Conservation Rule (36 CFR part 294, subpart B), RIN 0596-AD66, 91 Fed. Reg. 53,827 (Aug. 20, 2026), and on the associated Draft Environmental Impact Statement and cost benefit analysis

Dear Director:

Prairie Hills Audubon Society (PHAS) submits these comments opposing the U.S. Department of Agriculture's proposal to rescind the 2001 Roadless Area Conservation Rule. PHAS is a volunteer-run nonprofit conservation organization incorporated in South Dakota and a chapter of the National Audubon Society. Our members live, work, hike, birdwatch, hunt, and draw drinking water in western South Dakota and northeastern Wyoming, near the Black Hills National Forest and the Buffalo Gap, Fort Pierre, Grand River, and Thunder Basin National Grasslands. We use the public lands surrounding us for water supplies, recreation, and spiritual renewal. PHAS has taken part in the management of these public lands for decades, including as an appellant of the 1997 Black Hills National Forest Plan and in its Phase II Amendment.

This proposal cannot be judged alone. In the same month, the Forest Service proposed to rewrite its Travel Management Rule so that routes are presumed open to motor vehicles unless the agency documents a reason to close them. Rescinding the Roadless Rule while opening the national forests to off-highway vehicles by default would leave roadless areas with neither protection, and the likely result is motorized use spreading across them (Section 12). PHAS asks USDA to withdraw the proposal and keep the 2001 Roadless Rule, and to go further and strengthen protection for roadless lands, as described in Section 14. PHAS also signed the national organizational letter organized by the John Muir Project, "Stop the Roadless Rescission. Close the Loopholes," and we incorporate it by reference. Documents PHAS relies on are listed at the end of these comments and are being transmitted as attachments in separate submissions on this docket tonight, so that they are part of the administrative record.

1. The agency's own numbers do not justify rescission

The preamble describes the benefits of rescission as "modest and localized" (91 Fed. Reg. at 53,829). By USDA's own estimate, even if timber were cut on every newly available operable acre, which the agency itself calls unlikely, national forest sawtimber harvest would rise only 5 to 10 percent, producing \$5.2 to \$11.4 million a year for the Treasury and the Forest Service. The agency adds that, given the small number of operable areas, it is difficult to predict any effect on timber harvest at all (*id.*).

Against that small and uncertain gain, USDA would remove national protection from about 44.7 million acres (DEIS p. 13). The preamble identifies about 18.2 million acres where current plans would allow new permanent roads that the 2001 Rule now prohibits (91 Fed. Reg. at 53,829). Yet the Forest Service already carries a \$6.9 billion deferred maintenance backlog for roads and bridges (*id.*). An agency that cannot maintain the roads it has should not open more country to roads it cannot afford. USDA also estimates recreation losses of about \$6.1 million a year and concedes a loss of quiet, remote, self-reliant recreation (91 Fed. Reg. at 53,829–30). USDA's own cost benefit analysis puts the net present value of rescission at somewhere between a loss of \$92 million and a gain of \$199 million over 15 years, and that range assumes the maximum potential benefits without accounting for uncertainty (Cost Benefit Analysis p. 29). The same analysis reports that visitors spend about \$753 million a year on hunting, fishing, and wildlife viewing in the non-wilderness dispersed areas of the affected forests, and that the affected roadless areas make up about 31 percent of those areas (*id.* p. 16). On USDA's own figures, the costs are certain and the benefits speculative and possibly negative.

Recreation, not logging, is the economic engine of the national forests. By the cost benefit analysis's own figures, recreation visitor spending on national forest lands contributed about \$16.2 billion to the U.S. economy and supported about 167,000 jobs in fiscal year 2023, roughly three times the \$5.8 billion and 51,200 jobs attributed to timber harvest and processing from national forest lands (Cost Benefit Analysis pp. 10–11, 16). The same analysis concedes that road building in roadless areas "could negatively impact tourism and outdoor recreation, which are often drawn to the scenic beauty and intact ecosystems found in these areas" (*id.* p. 28). The pattern holds in the Black Hills. In Crook County, Wyoming, home of the Sand Creek and Inyan Kara roadless areas, travel spending was about \$30 million in 2020 and supported about 290 jobs; in neighboring Weston County it was about \$17 million and 140 jobs (Dean Runyan Associates, *The Economic Impact of Travel in Wyoming*, 2020p, pp. 59–60, 144–145; Attachment A17). Rescission would put the larger, lasting recreation economy at risk for a small and uncertain gain in timber.

The preamble also makes clear that the real drivers are executive orders on timber production, energy, and deregulation, not forest conditions on the ground (91 Fed. Reg. at 53,828). The Draft EIS repeats the same deregulatory purpose (DEIS p. 10). Policy preference is not a reasoned explanation for abandoning a rule built on an extensive factual record, and USDA must address the reliance interests and factual findings underlying the 2001 Rule.

2. Roads bring fire and weeds; protection, not logging, is associated with less severe fire

USDA concedes that greater public access can increase human-caused ignitions (91 Fed. Reg. at 53,829). The Draft EIS goes further. It reports that wildfire ignitions are currently fewer and less frequent in inventoried roadless areas than on other national forest lands, that human ignitions are more likely near roads, and that new road access under the action alternatives could increase the number and frequency of wildfires. It also finds that ground-disturbing activities could increase invasive plants, and that road building and logging could reduce water quality and soil productivity (DEIS p. 24). The Draft EIS then suggests that public access "could be limited" to reduce the added fire hazard (*id.*), without saying how many acres of public land might be closed to hikers, hunters, and other users to offset a risk the agency's own proposal would create. Such closures would fall hardest on people who value pristine and primitive conditions in the parts of the national forests they visit.

The science does not support logging roadless areas to reduce fire. The largest study of its kind in western frequent-fire forests found that forests with the most protection from logging burned at the lowest severity, and those with the least protection and most logging burned at the highest severity (Bradley, Hanson & DellaSala 2016, *Ecosphere* 7: e01492). Forest Service co-authored research has likewise found that dense, older forests can act as fire refugia, while open, thinned forests can burn hotter and drier (Lesmeister et al. 2021, *Fire Ecology* 17: Article 32; see also Attachment A10). The Ninth Circuit has held that the Forest Service must address science showing that fuel reduction does not reliably reduce large fires and can increase fire severity. *Bark v. U.S. Forest Service*, 958 F.3d 865 (9th Cir. 2020).

Where roadless areas do overlap the wildland-urban interface, the 2001 Rule already contains exceptions allowing the cutting of generally small-diameter timber to reduce the risk of uncharacteristic wildfire (36 CFR 294.13(b)(1)). The preamble's complaint is that these exceptions have been used infrequently because of internal reviews (91 Fed. Reg. at 53,828). That is an administrative choice, not a reason to repeal national protection.

The Draft EIS also ignores livestock grazing, a well-documented driver of fire risk in dry forests and rangelands. Grazing degrades native bunchgrasses and soil crusts and opens the way for cheatgrass and other invasive annual grasses that dry early and carry fire. The Draft EIS names livestock as a continuing vector of invasive plants (DEIS p. 107) and says grazing has disrupted natural fire cycles (DEIS p. 215), yet grazing appears only in a list of activities allowed under every alternative (DEIS p. 21). New and reconstructed roads would make it easier to truck livestock, build fences, and develop water in areas now lightly grazed because of limited access. That is a reasonably foreseeable indirect effect of rescission that the Draft EIS never analyzes.

3. Threatened and endangered species, birds, and clean water

Based on the preliminary draft biological assessment, the Draft EIS finds that the proposed rule "may affect, and is likely to adversely affect" 327 ESA-listed species and 71 designated critical habitats (DEIS pp. 25, 161). That finding alone should end the inquiry. The Draft EIS also concedes that road construction and logging could increase habitat fragmentation, loss of connectivity, edge effects, and human disturbance, with impacts broader in scale under the action alternatives (DEIS p. 25). Roadless areas are the least fragmented habitat left on national forests and grasslands, serve as refuges and corridors for wildlife, and protect headwaters and municipal water supplies. For an Audubon chapter, they are also some of the most important remaining habitat for birds that need large blocks of undisturbed forest and prairie. Leaving their fate to plan-by-plan amendment invites exactly the incremental loss the 2001 Rule was adopted to prevent. In the Black Hills, rescission could harm the northern goshawk, the black-backed woodpecker, Lewis's woodpecker, the endangered northern long-eared bat, and the tricolored bat, which has been proposed for listing.

4. Forest plans and directives are not a substitute for national protection

USDA argues that roadless areas will be adequately managed through forest and grassland plans. But plans can be amended by a forest supervisor or regional forester. The Draft EIS says so plainly: plans "may be amended in any manner whatsoever and are revised periodically" (DEIS p. 19). The preamble likewise admits that subsequent amendments and revisions "could increase the area where timber harvest and road construction would be allowed," with impacts "beyond those summarized" (91 Fed. Reg. at 53,830). Those amendments are a reasonably foreseeable

consequence of this rule. Yet the Draft EIS declines to analyze them, saying the effects of any future plan change will be analyzed only when that change is made (DEIS p. 20). That defers the very consequence this rule is designed to enable. NEPA requires USDA to disclose the reasonably foreseeable effects of its action now, not to divide them into later, smaller decisions that will each be reviewed one forest at a time and never as a whole.

The Black Hills show why this matters. The Draft EIS itself lists the Black Hills National Forest plan revision as underway and notes that it could change management direction for the forest (DEIS p. 35). On the Black Hills, a plan change is not speculative. It is in progress now, and the Draft EIS does not analyze what rescission would mean for it.

The protections that remain inside the planning process are also being weakened. The criteria for inventorying and recommending areas for wilderness in plan revisions are set out in the Forest Service Handbook (FSH 1909.12, Chapter 70). The Forest Service has proposed to reclassify all Handbooks as "advisory" guidance that employees may disregard, and to let officials depart from Manual direction whenever they find it in the public interest. 91 Fed. Reg. 39,948 (July 1, 2026) (RIN 0596-AD74, Docket FS-2026-0067). USDA cannot tell the public that plans will protect roadless areas while making the rules for identifying and protecting those areas in plans optional.

5. The Black Hills are overcut, and their few roadless areas are precious

The Black Hills National Forest has been logged above sustainable levels for years. The Forest Service's own Rocky Mountain Research Station found that the Forest Plan's harvest level of 181,000 CCF a year "is not a sustainable option," and that only about 72,400 to 90,500 CCF a year appears sustainable, even assuming all suitable timberlands are available for harvest (Graham, Battaglia & Jain 2021, *A Scenario-Based Assessment to Inform Sustainable Ponderosa Pine Timber Harvest on the Black Hills National Forest*, RMRS-GTR-422, Abstract). Even that range considers only the timber resource, "without including other resource needs" such as wildlife and old growth (*id.* p. 45). In 2017 and 2019, harvest exceeded net growth, and merchantable standing live volume fell from about 15.4 million CCF in 1999 to about 8.0 million CCF in 2019 (*id.* p. 25). The report also found that sustaining harvests above 150,000 CCF a year over the last 20 years can lead to high tree mortality (*id.* p. 42). Timber sold peaked at about 253,000 CCF in 2008 and has since fallen far below the plan level as the forest ran short of merchantable trees (S. Tupper, *South Dakota Searchlight*, Apr. 12, 2024), yet the 181,000 CCF allowable sale quantity has never been amended.

Little old forest is left. In the Roby project area on the Hell Canyon Ranger District, for example, late-succession forest makes up only 0.3 and 0.6 percent of the two management areas, against a Forest Plan objective of 5 percent (Roby Preliminary EA p. 23). The Mountain Pine Beetle Response project targeted about 178,000 acres of the largest trees on the forest that were not designated old growth, cutting off future old growth (MPBR Final EIS (2012) p. 123). As of 2021, only about 0.5 to 0.6 percent of the Black Hills National Forest was old growth. The roadless areas are among the few places where older forest has been allowed to develop. Inventoried roadless areas and designated wilderness together make up only about two percent of the Black Hills National Forest (Amended Petition for Very Rare or Uncommon Designation of Sand Creek, Aug. 12, 2009, p. 24). Nearly everything else is managed for timber, roads, grazing, and recreation. The 1997 Revised Forest Plan allocated only about 1 percent of the forest to primitive recreation and about 1.4 percent to semi-primitive non-motorized recreation, while about 90 percent was managed as "roaded natural" (1997 Record of Decision, Appendix p. 8),

and less than 15 percent was assigned high or very high scenic integrity objectives (*id.* Appendix p. 20) (summarized in Attachment A16). The roadless areas are among the few places left on the Black Hills where anyone can find a quiet, unroaded, natural setting.

The shortfall in timber also creates pressure on roadless land. Lands are left out of the suitable timber base partly because they are inaccessible (RMRS-GTR-422, Appendix). New roads would remove that barrier. Rescission, followed by the plan revision now underway, could move roadless land into the timber base, which is exactly where a timber program short of merchantable trees will look next.

PHAS has pressed this issue for years. With other conservation groups, retired Forest Service employees, and in 2021 the Oglala Sioux Tribe, PHAS joined letters to the Regional Forester, the Forest Supervisor, and USDA's Under Secretary on February 16, 2021, May 17, 2021, June 16, 2021, January 31, 2023, and July 12, 2023, asking the agency to bring Black Hills logging down to sustainable levels. Those letters are attached (A05–A09) and incorporated by reference.

6. Sand Creek Roadless Area

In PHAS's view, Sand Creek, on the Wyoming side of the Black Hills, was the finest roadless area in the Black Hills at the time of the RARE II wilderness review, and it remains exceptional. By Wyoming standards it was passed over for wilderness, but by Black Hills standards it is outstanding. We believe that when wilderness was designated in the Black Hills, the Black Elk area in South Dakota was chosen over Sand Creek, largely because Wyoming already had many wilderness areas and South Dakota had none.

Sand Creek's values are documented in the 2009 Amended Petition to the Wyoming Environmental Quality Council to designate Sand Creek as Very Rare or Uncommon, filed by Biodiversity Conservation Alliance and endorsed by PHAS and other groups (Attachment A02; maps and photographs are Attachment A15). Among them:

- Sand Creek is a Wyoming Class 1 "Outstanding Water," one of only about 15 named waters in the state with that designation, and it feeds a nationally important Class 1 wild trout fishery downstream.
- It is a refuge for ice-age boreal plants hundreds of miles from the northern forests, with about 70 rare plant species and seven rare native vegetation types, including a 3,450-acre exemplary site with stands in pristine condition.
- It holds a population of the finescale dace, an extremely rare native fish.
- In 1997 the Forest Service designated the Sand Creek Late Successional Forest Landscape, describing it as one of the few intact late-successional landscapes in the Black Hills. Late-successional pine of this kind probably affords the best northern goshawk nesting habitat in the Black Hills.
- About 4,035 acres are crucial winter range for mule deer, and parts of the area carry Forest Service Botanical Area status and a Wild and Scenic River eligibility finding.

The petition notes that the roadless designation limits logging on about 7,700 acres of the area (petition p. 21). Roadless status has also protected Sand Creek from mining. In the 1990s, the Forest Service approved placer mining exploration in Sand Creek under a categorical exclusion. PHAS sued, arguing that two extraordinary circumstances barred a categorical exclusion: the project was in an inventoried roadless area and in a floodplain. The District Ranger withdrew the

decision within days. The roadless designation was one of the two safeguards that protected Sand Creek, and rescission would remove it. The Wyoming Very Rare or Uncommon petition was denied, which leaves the roadless designation as one of Sand Creek's protections from mining impacts. The 2001 Rule does not close roadless areas to mining claims, and claims with valid existing rights carry a right of reasonable access, but as the 1990s case shows, roadless status brings closer environmental review of mining proposals.

7. Beaver Park and Inyan Kara

Beaver Park in South Dakota shows how hard-won roadless protection is, and that Congress itself has spoken to it. After the Veteran salvage sale litigation was settled in 2000 (*Biodiversity Associates v. Laverty*, No. 99-N-2173 (D. Colo.)), Congress in 2002 authorized fuel breaks, fire-access improvements, and other treatments in and around the Beaver Park Roadless Area, notwithstanding the settlement, NEPA, and NFMA. Pub. L. No. 107-206, § 706, 116 Stat. 864–69 (2002). The Tenth Circuit upheld Congress's power to do so (*Biodiversity Associates v. Cables* (10th Cir.)). But in the same law Congress expressly protected the area's future: the authorized actions "will not affect the determination of the Beaver Park Roadless Area's wilderness capability, wilderness suitability, and/or roadless character" (*id.* § 706(m)). Congress also barred further ground-disturbing or vegetation-removal activities in the Beaver Park Roadless Area until the Black Hills Phase II plan amendment was completed, and required the area to be analyzed for suitability as a Research Natural Area (*id.* § 706(l)). Congress plainly treated Beaver Park as a roadless area worth preserving. The Draft EIS does not mention this statute, and USDA should explain how an agency rule could set aside the roadless status Congress chose to protect.

Inyan Kara in Wyoming is a laccolith whose summit is considered a natural island. The area is under 5,000 acres and is landlocked by private land, so the public cannot reach it.

8. National grasslands and grassland wilderness

The proposal would also remove national protection from inventoried roadless areas on the national grasslands PHAS members use. On the **Buffalo Gap National Grassland** these include Indian Creek and Red Shirt, both recommended for wilderness in the grassland plan, and First Black Canyon, a 4,965-acre area adjacent to the Pine Ridge Reservation. The **Grand River National Grassland** (Perkins and Corson counties), the **Thunder Basin National Grassland** in Wyoming, and the **Little Missouri National Grassland** in North Dakota also contain inventoried roadless areas.

PHAS's region does not stop at the state line. The Black Hills straddle the South Dakota–Wyoming border, and PHAS members also use the roadless areas of the Thunder Basin National Grassland in Wyoming (seven roadless units), the Ashland Ranger District of the Custer Gallatin National Forest in southeastern Montana, and the Little Missouri National Grassland in North Dakota. As PHAS reads the Draft EIS state maps, every one of these areas would lose national protection under Alternative 2, and nearly all of them, including the Black Hills roadless areas, the Grand River and Thunder Basin roadless areas, most of the Ashland roadless land, and most of the Little Missouri roadless land, would lose it under Alternative 3 as well. Only scattered pieces, such as part of the Buffalo Gap roadless acreage near the Badlands, appear to keep protection under Alternative 3 (DEIS Vol. II, Figures 17, 22, 28, and 37).

The agency's case for rescission rests on timber and forest fuels, but grassland roadless areas offer no timber benefit. For them, rescission brings only new roads, motorized use, grazing infrastructure, and leasable mineral development, which the preamble calls reasonably foreseeable in affected roadless areas (91 Fed. Reg. at 53,830). Native prairie is among the most endangered ecosystems in North America. North American grassland bird populations have declined by more than 40 percent since 1966, and birds that breed in the Great Plains and winter in the Chihuahuan grasslands have declined by nearly 70 percent; remaining prairie is increasingly fragmented, including by roads (National Audubon Society, *North American Grasslands and Birds Report* (2019), pp. 4, 13–14; Attachment A18). Species such as the greater sage-grouse on the Thunder Basin National Grassland are sensitive to roads and human disturbance near their breeding grounds. Yet the Draft EIS never mentions South Dakota or the Buffalo Gap, Grand River, Little Missouri, or Thunder Basin National Grasslands by name, and offers no analysis of rescission's effects on grassland roadless areas.

To our knowledge, no designated wilderness exists anywhere on America's national grasslands. The grassland roadless areas, including Indian Creek and Red Shirt, are the only candidates there are. Rescission could foreclose grassland wilderness for good.

The grassland plan shows both what protection looks like and how thin it is without the national rule. For areas recommended for wilderness, such as Indian Creek and Red Shirt, the Nebraska National Forest Units plan (Management Area 1.2) allows uses only if they do not degrade wilderness characteristics, limits motorized use to administrative and emergency purposes, bars new road construction and reconstruction, prohibits mineral material removal, and allows oil and gas leasing only without ground disturbance. It even directs the agency to pursue opportunities to remove or relocate fences and water developments in these areas (Nebraska National Forest Units Land and Resource Management Plan, ch. 3, pp. 3-6 to 3-7 (Amendment 2, 2009); Attachment A19). The Forest Service thus already recognizes that range structures degrade wilderness character. But this direction is a plan component, which can be amended "in any manner whatsoever" (DEIS p. 19), and it covers only the recommended areas. Without the national rule, other grassland roadless areas, such as First Black Canyon, would depend entirely on whatever management area the plan happens to assign them.

Rescission would also make these areas easier to disqualify. This has happened before. In the roadless inventory for the Northern Great Plains plan revision, the Forest Service relied on its handbook criteria for national grasslands, which allowed a grassland roadless area to be inventoried only if it had "less than 1 mile of interior fence per section" (FSH 1909.12, ch. 7, § 7.11a(5)(b), as then in effect). Using that filter, the agency moved public-proposed grassland roadless areas out of the "official" inventory (Nebraska National Forest Units, Draft EIS for the Land and Resource Management Plan, Appendix C, pp. C-5 to C-6, Tables C-3 and C-4). PHAS has objected to that filter for years (including in 2009 comments to the Grand River Ranger District, Attachment A11), because wilderness itself may contain fences and the Wilderness Act sets no limit on them. Current direction still admits range improvements such as fences and water troughs to the wilderness inventory only if they are not substantially noticeable (FSH 1909.12, ch. 70, § 71.22b(6)). New roads would make more fencing and water developments practical, which could keep these areas from qualifying in future inventories.

9. Tribal trust responsibility

The Black Hills are sacred to the Lakota and other Tribal nations, and First Black Canyon borders the Pine Ridge Reservation. The Oglala Sioux Tribe joined the 2021 letters described in Section 5. USDA's own summary reports that the majority of Tribal governments consulted oppose rescission and see it as a failure of the federal trust responsibility (91 Fed. Reg. at 53,831–32). As of publication, only 29 of 64 requested consultations had been held (*id.* at 53,831). USDA should not finalize any rule before government-to-government consultation is complete, and it should seriously consider the alternatives Tribes requested, including a strengthened roadless rule.

10. The public process is inadequate

The 2001 Rule was adopted after an 18-month process with 129 days of public comment, more than 400 public meetings, and over 1.6 million comments. This time USDA allowed about six weeks of comment, held no public hearings outside Alaska, and granted only a 15-day extension, not the 120 days requested by Earthjustice and other groups. Even the 21-day scoping period drew more than 220,000 comment letters on behalf of over 625,000 people (91 Fed. Reg. at 53,830), and the Draft EIS reports that about 99 percent of those comments opposed rescission (DEIS p. 9). The Federal Register now reports more than 320,000 comments on this proposal. Public interest of that scale calls for a full comment period and public hearings in the West, including in the Black Hills region.

11. The Draft EIS fails to consider a reasonable range of alternatives

The Draft EIS analyzes only three alternatives: No Action, full rescission, and a "modified" rule that would keep protection on about 13 million acres and strip it from about 31.7 million (DEIS pp. 13–18). Every action alternative reduces protection. No alternative would strengthen it, even though Tribes asked for a "Strengthened Roadless Rule Alternative" (91 Fed. Reg. at 53,832) and 99 percent of scoping comments opposed rescission (DEIS p. 9). Commenters asked for exactly that kind of alternative during scoping (DEIS Appendix 3, p. 298). The Draft EIS rejected it, saying an alternative that adds acreage "would not be responsive to the deregulatory executive orders" (DEIS p. 27) and that adding restrictions would not meet the purpose and need (DEIS p. 28). It also set aside codifying the rule or designating wilderness as outside the scope (DEIS p. 26). Under long-standing NEPA case law, an agency may not define its purpose and need so narrowly that only one outcome, less protection, can qualify.

A strengthened alternative would better meet USDA's own stated goals of reducing wildfire risk and improving forest health, for the reasons in Section 2. USDA cannot cure the omission by adding such an alternative only in the Final EIS, because the public would never have had the chance to comment on it. The Draft EIS must be withdrawn and reissued with a strengthened alternative. PHAS also opposes Alternative 3, which keeps protection on only about 13 million acres and lets local units modify boundaries (DEIS pp. 15–18, 27). As shown in Section 8, Alternative 3 would strip national protection from nearly all of the roadless areas in PHAS's region, including every Black Hills roadless area.

12. Rescission must be analyzed together with the Travel Management Rule rewrite

Four days after proposing this rescission, the Forest Service published a notice of intent to rewrite its Travel Management Rule, following Executive Order 14408 (May 29, 2026), which

rescinded the off-road vehicle executive orders the current rule implements. 91 Fed. Reg. 54,686 (Aug. 24, 2026) (Docket FS-2026-0100). That proposal would drop the national "minimization criteria" that require motorized routes to be located to minimize damage to soil, water, vegetation, and wildlife; presume that existing roads, trails, and access points are open unless the agency documents specific reasons to close them, using public data sets including aerial imagery as evidence that a route exists or existed; require every closed route to be reviewed each year for reopening; require consideration of new roads and trails to increase access; and allow off-route motor vehicle use for big-game retrieval, firewood gathering, and dispersed camping.

The two actions come from the same Department, in the same month, and push in the same direction. Together they would strip inventoried roadless areas of the national ban on road building and, at the same time, presume that any route in them that shows up on aerial imagery is open. In a roadless area, what aerial imagery shows is very often a user-created, unauthorized track, exactly what the 2005 Travel Management Rule was written to stop. An agency that lost a large share of its staff in 2025 will not be able to build a documented record to close each such route every year, so in practice the routes will stay open by default.

The Draft EIS acknowledges that the Travel Management Rule "is scheduled for amendment" (DEIS p. 34), and it relies on "future travel management decisions about if constructed roads would be open to the public" to limit the effects of rescission (DEIS p. 22). It also suggests that public access "could be limited" to reduce the added fire hazard (DEIS p. 24). Yet the companion rulemaking would make limiting access harder, not easier. The Draft EIS cannot rely on travel management to soften the effects of rescission while the Department rewrites travel management to open routes by default. The two rulemakings are connected and cumulative actions, and USDA must analyze them together in a single EIS or a revised Draft EIS for this rule.

PHAS asks that all inventoried roadless areas, whether or not this rescission is finalized, be excluded from any open-unless-closed presumption and from off-route exemptions, and that user-created routes in roadless areas never be treated as existing routes. PHAS incorporates by reference its scoping comments on the Travel Management Rule (Sept. 23, 2026) (Attachment A14).

13. Objection to the unlawful NEPA procedures governing this review

USDA prepared this Draft EIS under its revised NEPA procedures at 7 CFR part 1b (91 Fed. Reg. at 53,831). Those procedures were adopted first as an Interim Final Rule issued without prior notice and comment, 90 Fed. Reg. 29,632 (July 3, 2025) (Docket No. USDA-2025-0008), and adopted, with minor changes, as a final rule effective April 3, 2026, 91 Fed. Reg. 17,062 (Apr. 3, 2026). That rulemaking rescinded the Forest Service's NEPA regulations at 36 C.F.R. Part 220 in full; eliminated the mandatory requirements to publish a draft environmental impact statement and to solicit public comment on it (see 7 C.F.R. § 1b.7(d), which renders all solicitation of comment from the public, Tribes, States, local governments, and other agencies discretionary); and eliminated the requirement of former 36 C.F.R. § 220.4(e)(1) that the Forest Service conduct public scoping for all proposed actions.

PHAS believes these revised procedures violate the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., and the Administrative Procedure Act, 5 U.S.C. §§ 553, 706(2). The procedures are the subject of pending federal litigation: *Center for Biological Diversity and Sierra Club v. U.S. Department of Agriculture, et al.*, Case No. 3:26-cv-00866 (N.D. Cal., filed Jan. 28, 2026). PHAS incorporates by reference the Complaint in that action and adopts its

allegations and arguments as PHAS's position on the lawfulness of the procedures governing this review. PHAS further incorporates by reference the comments of Earthjustice on the Interim Final Rule (Aug. 4, 2025, Docket No. USDA-2025-0008). (Attachments A12 and A13).

The main points of that Complaint, which PHAS adopts, are: (a) the rule was made immediately effective without advance notice or opportunity for public comment, in violation of 5 U.S.C. § 553(b) and (c), and none of the exceptions USDA invoked lawfully applies; (b) USDA provided no reasoned explanation for abandoning public participation requirements in place, largely unchanged, since the 1970s, rendering the rule arbitrary and capricious under 5 U.S.C. § 706(2); (c) the elimination of public participation is contrary to NEPA's statutory mandates that agencies use "all practicable means," in cooperation with the public, to fulfill NEPA's purposes, 42 U.S.C. §§ 4331(a)–(b), 4332(2)(B); (d) the rule is inconsistent with Executive Order 11514 § 2(b), which remains in effect; and (e) Congress has repeatedly legislated on the settled premise that draft EISs are published for public comment. USDA's April 2026 final rule does not cure these defects; an agency cannot validate a rule adopted in violation of section 553 by accepting comments only after the rule has taken effect.

Whatever procedures USDA contends govern this rulemaking, PHAS asks that USDA provide a full comment period on any revised Draft EIS, hold public hearings, and respond to substantive comments in any Final EIS.

14. What PHAS asks USDA to do

1. Withdraw the proposed rescission and keep the 2001 Roadless Area Conservation Rule in full (Alternative 1, No Action). Reject Alternatives 2 and 3.
2. Analyze and adopt stronger protection. Close the "forest health" and wildfire exceptions that have been used to justify commercial logging. Extend roadless area protection to unroaded areas and recommended wilderness that have been identified as roadless areas in forest and grassland plans since 2001. Analyze the Increased Protection Alternative described in the John Muir Project sign-on letter (Attachment A01). Limit motorized use and reduce grazing impacts in roadless areas. PHAS asks USDA to analyze and adopt a new alternative that protects roadless areas more strongly than the No Action alternative.
3. If USDA proceeds, withdraw the Draft EIS and issue a revised Draft EIS for public comment that includes a strengthened alternative and fully analyzes reasonably foreseeable plan amendments and site-specific effects, including on the Black Hills, the national grasslands, and threatened and endangered species.
4. Analyze this rescission together with the Travel Management Rule rewrite, and exclude all inventoried roadless areas from any open-unless-closed presumption and off-route exemptions.
5. Complete government-to-government consultation with Tribes before taking any final action.
6. Extend the comment period and hold public hearings in the western states, including in the Black Hills region.

Thank you for considering these comments. Please keep PHAS on the mailing list for this rulemaking.

Sincerely,



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Attachments

The following attachments are part of these comments and are transmitted in separate submissions on this docket, each led by a transmittal and attachments list (A00):

A01 John Muir Project et al., "Stop the Roadless Rescission. Close the Loopholes." (2026)

A02 Amended Petition for Very Rare or Uncommon Designation of Sand Creek (Aug. 12, 2009)

A03–A04 RMRS-GTR-422 (2021), in two parts

A05–A09 Coalition letters on Black Hills logging (Feb. 16, 2021; May 17, 2021; June 16, 2021; Jan. 31, 2023; July 12, 2023)

A10 John Muir Project et al., old-growth amendment DEIS comments (Sept. 17, 2024)

A11 PHAS letter on grazing improvements and roadless eligibility (May 27, 2009)

A12 Complaint, CBD and Sierra Club v. USDA, No. 3:26-cv-00866 (N.D. Cal.)

A13 Earthjustice comments on the USDA NEPA Interim Final Rule (Aug. 4, 2025)

A14 PHAS scoping comments on the Travel Management Rule, Docket FS-2026-0100 (Sept. 23, 2026)

A15 Sand Creek maps (Sierra Club wilderness proposal; Forest Service structural stages) and photographs

A16 PHAS summary of recreation opportunity spectrum and scenic integrity statistics, 1997 Black Hills Revised Forest Plan

A17 Excerpts, The Economic Impact of Travel in Wyoming, 2020p (Dean Runyan Associates): Crook and Weston Counties

A18 National Audubon Society, North American Grasslands and Birds Report (2019)

A19 Nebraska National Forest Units LRMP, Chapter 3, Management Area Direction (Amendment 2, 2009)