



February 11, 2022

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Supplemental Information Regarding Poe Hiking Trail (Poe Hydropower Project, P-2107)

Dear Ms. Bose:

American Whitewater (AW) and the California Sportfishing Protection Alliance (CSPA) respectfully submit these comments and supplemental information regarding the Poe Hiking Trail along the North Fork Feather River, California within and adjacent to the project boundary of Pacific Gas and Electric Company's (PG&E) Poe Hydropower Project, P-2107.

In addition to our comments, we are submitting Attachment 1, a signed letter from one of the two private landowners whose property the trail crosses, indicating willingness to grant a right-of-way easement for the trail and Attachment 2, a series of maps from a new analysis that uses high resolution LiDAR bare earth imagery to determine the length and classification of the existing abandoned trailbed.

Background on the Poe Hiking Trail Feasibility Study

On July 30, 2020, pursuant to Article 407 of the Project license, PG&E submitted its final Poe Hiking Trail Feasibility Study¹ along with its determination that construction of the Poe Hiking Trail is not feasible.² PG&E's determination, along with the methods and information it used for making it, have been a source of disagreement between PG&E and other stakeholders and resource agencies.

¹ PG&E, License Article 407 - Hiking Trail Feasibility Study for the Poe Hydro Project (Jul 30, 2020), eLibrary no. 20200730-5226 (Feasibility Study).

² PG&E characterizes the Poe Hiking Trail as a new construction project, but it is the redevelopment of an existing but abandoned trailbed, a less costly undertaking than construction of an entirely new trail. The existing but abandoned trail can be hiked today (and often is), although it needs improvement and some reconstruction to meet proper recreation trail design standards.

American Whitewater and the California Sportfishing Protection Alliance (Intervenors) jointly filed a motion to intervene in the trail feasibility study proceeding on September 18, 2020.³ In the motion, Intervenors argued that PG&E did not properly follow the specific procedures laid out in Article 407, namely that:

- 1) it did not compare the results of the Poe Hiking Trail Feasibility Study with the earlier study results for the Bardee's Bar Trail, and
- 2) it did not make its feasibility determination "based on the results of the study" as explicitly required by Article 407, but instead PG&E based its feasibility determination on its own separate assessment of impacts and its own separate cost analysis that largely contradict the information contained in the feasibility study.

On October 19, 2020, PG&E filed an untimely answer to this motion, opposing intervention and public participation in the proceeding.⁴ Because this answer was not filed within 15 days as required under Rule 213, the Commission must disregard it.

The Commission has yet to issue an order related to the Poe Hiking Trail Feasibility Study.

Multiple agencies and parties have submitted specific information to the Commission that indicates that PG&E's feasibility determination is not based on credible information and actual circumstances.

Intervenors are not alone in recognizing PG&E's faulty approach and flawed feasibility determination:

- On October 7, 2020, the Butte County Board of Supervisors filed comments challenging PG&E's determination of infeasibility, asserting that PG&E mischaracterized the feasibility of construction and maintenance and understated the value of the trail to local communities.⁵
- On October 20, 2020, the California Department of Fish and Wildlife filed comments requesting FERC to direct PG&E to collaborate with the Poe Project Recreation Management Plan Development Team to find a solution to build one or more trails along the Poe Reach.⁶
- On December 18, 2020 the USDA Forest Service, Plumas National Forest filed comments indicating that several of the resource concerns raised by PG&E could be mitigated, that the trail costs in the Feasibility Report were in line with Forest Service trail costs (and that PG&E's substituted cost analysis was inexplicably four times higher), that there are

³ Motion to Intervene by American Whitewater and California Sportfishing Protection Alliance, Sept. 18, 2020. eLibrary no. 20200918-5163.

⁴ Answer of Pacific Gas and Electric Company to Comments On Compliance Filing, Oct. 19, 2020. eLibrary no. 20201019-5115.

⁵ Butte County Board of Supervisors Comments Re: Poe Hydropower Project, Sept. 29, 2020. eLibrary no. 20201007-0008.

⁶ California Department of Fish and Wildlife Comments Re: Poe Hiking Trail Feasibility Study, Oct. 20, 2020. eLibrary no. 20201021-5006.

exceptions to Forest Service trail design standards that PG&E did not consider despite its familiarity with them, and that there is documented public demand for a low elevation trail such as the Poe Hiking Trail on the National Forest.⁷

- On December 22, 2020, Mike Taylor filed comments detailing the specific condition of existing trailbed based on his expert knowledge of the trail and suggesting specific solutions to challenges in re-construction of the portions of trail.⁸ Germane to our submission here, Taylor notes that the Poe Hiking Trail is not a conceptual trail in need of new construction but is rather an existing but abandoned trail with a defined trailbed for much of its length. He also notes that PG&E did not contact private landowners to determine if it could obtain their approval for placing the trail across their land.

Each of these parties indicated strong support for construction of the Poe Hiking Trail, and no party submitted comments opposing the trail nor did any party submit information that substantiates PG&E's determination that reconstruction of the trail is not feasible.

We urge the Commission to evaluate the substantive information provided in these comments.

PG&E cannot knowledgeably characterize the trail's "adverse impacts" to private lands because they have never consulted with the two affected landowners, at least one of whom supports the trail project and has indicated a willingness to grant a right-of-way.

The Poe Hiking Trail passes through two parcels of privately owned property. In the letter accompanying its submission of the Feasibility Study, PG&E states that the "it is unclear whether these private landowners would consent to construction and access activities that may be necessary to construct and maintain the hiking trail."⁹ The only reason that this was unclear is because PG&E never contacted these two private landowners to discuss the issue. Yet, PG&E cited "adverse impacts on private property" a primary reason that construction of the Poe Hiking Trail was infeasible.

In October 2021, American Whitewater staff contacted Interest Income Partners, L.P., the owner of one of these two private properties. Partner Chris Tellis confirmed that PG&E has never contacted Interest Income Partners to discuss whether it would be willing to grant access for the trail. In fact, Interest Income Partners is supportive of the trail project, and we submit Mr. Tellis's signed letter addressed to the Commission stating that it is amenable to granting a right-of-way easement for the trail through its property (APN 058-170-046).¹⁰ Thus, it does not

⁷ Plumas National Forest Comments on the Poe Hiking Trail Feasibility Study, Dec. 17, 2020. eLibrary no. 20201218-5011.

⁸ Mike Taylor Comments Regarding July 20, 2020 Submittal by PG&E Concerning Poe Hydroelectric Project, Dec. 22, 2020. eLibrary no. 20201222-5224 (Mike Taylor Comments).

⁹ Feasibility Study, p. 3 (cover letter).

¹⁰ PG&E's Feasibility Study provided an incorrect APN for this property and others shown on its Poe Reach Trail Map (Figure 2d); the correct APN is shown here.

appear that PG&E's stated concerns about impacts to private property are applicable to this property, the larger of the two private properties that the trail crosses.

To our knowledge, PG&E has never contacted owner of the second private property.¹¹ Until PG&E has contacted both private landowners, it is unable to knowledgably characterize any "adverse impacts on private property." Its statements of such should be regarded as speculative, at best.

PG&E is attempting to overturn the Commission's determination that the Poe Hiking Trail is needed.

In its Final Environmental Assessment for the Poe Hydroelectric Project, Commission staff determined that new hiking opportunities within the Project area are needed to meet recreational demand over the license term.¹² This determination is consistent with the Commission's obligations under FPA section 10(a)(1) and its recreation policy. PG&E has attempted to overturn the Commission's determination with the unsubstantiated claim that there is a lack of demand for the hiking trail that could support its need.

In fact, in its own analysis of recreation demand in the project area through the year 2035, PG&E determined that "participation in hiking, observing wildlife, photography, non-motorized boating, and sightseeing in the project area is expected to increase more than 100 percent."¹³ This analysis indicated that the population of Butte County is expected to increase 92% by 2035, a rate much higher than projected for the state as a whole, and that this increase in population will create higher demand for recreational activities as compared to the state as a whole.¹⁴ The analysis also found that visitors prefer undeveloped recreation opportunities;¹⁵ this would include opportunities such as hiking along the North Fork Feather River as opposed to opportunities such as developed picnic areas.

In the Final EA, Commission staff used PG&E's recreation analysis and information provided by a variety of stakeholders including local residents and recreationists, Butte County, the National Park Service, the California Sportfishing Protection Alliance, and Poe trail expert Michael Taylor to conclude that "there is a need to develop a trail in this area in order to enhance recreational opportunities in the Feather River canyon and also to divert users away from sensitive

¹¹ In his December 22, 2020 comments, Mike Taylor notes that the trail on this property "is substantially complete" and that only a short re-route around a tree and stabilization of one pitch will be needed. See Mike Taylor Comments at 3.

¹² See FERC, Final Environmental Assessment Poe Hydroelectric Project No. 2107-016, March 2007, p.164-165. eLibrary 20070329-3045. (Final EA).

¹³ *Ibid*, p. 146.

¹⁴ *Id.*

¹⁵ *Id.*

resources” and that the “alternative abandoned trail” between Bardee’s Bar and the Poe Powerhouse Road (what is now termed the Poe Hiking Trail) was the preferred location.¹⁶

Upon granting rehearing to American Whitewater following license issuance in 2018, the Commission added Article 407 to the Project license, clarifying that the Final EA recommended improving the existing, abandoned trail between Bardee’s Bar and the Poe Powerhouse Road and ordering PG&E to conduct a feasibility study on improving this trail.¹⁷ The Commission noted that “depending on the results of the study, we may also require PG&E to develop an all-weather hiking trail.”

Article 407 did not order PG&E to re-assess the Commission’s determination that there is a need to develop a trail, yet that is exactly what PG&E has attempted to do in its feasibility determination.¹⁸ PG&E provides no substantiated evidence for its claim of lack of demand sufficient to support the need for the trail. In fact, PG&E’s own Poe Hiking Trail Feasibility Study, upon which Article 407 requires it to make the feasibility determination, indicates that there is a need for the trail:

“Trails based recreation has a strong tie to the economy of the county and many trail users desire additional high-quality recreational trails in the area (Butte County Trails Plan -A Framework for Collaboration, BCRCD, 2018). The Poe Hiking Trail would be a valued recreational opportunity for residents and visitors alike. Also by providing a high-quality trail experience, it can go along way to deter negative use of the area.”¹⁹

“With the addition of future whitewater recreational releases of Poe Reach it is expected that the recreation use will continue to increase.”²⁰

“With the lower elevation range of the Poe Hiking Trail route it will be possible to access and utilize the trail most of the year. Many trails in the higher elevations of Butte County above the snow line don’t allow for winter recreation access.”²¹

“Currently there are a limited number of managed recreational trails in a county where new recreational opportunities can serve as a catalyst for

¹⁶ *Id.*, p. 165.

¹⁷ *Pacific Gas and Electric Company*, 167 FERC ¶ 61,047 (2019) (Order Granting Rehearing).

¹⁸ Feasibility Study, pp. 4-5 (cover letter).

¹⁹ *Id.*, p. 6 (study; PDF document p. 12).

²⁰ *Id.*

²¹ *Id.*, p. 7 (study; PDF document p. 13).

economic growth and improvement in the quality of life for Butte County residents.”²²

The Commission should reject PG&E’s attempt to overturn the findings of the Final EA. Commission staff clearly determined the need for a hiking trail and, upon rehearing, the Commission acted to clarify that PG&E is required to conduct a feasibility study for this trail and determine feasibility “based on the results of the study.” Not only is PG&E attempting to overturn the Commission’s finding of need for the trail, but it is also using unsubstantiated claims that are contrary and external to the Feasibility Study to do so.

A new analysis confirms that there is existing trailbed for most of the length of the Poe Hiking Trail and that a minority of the trail alignment needs new construction or full reconstruction.

Using high resolution LiDAR data and a geographic information system (GIS), American Whitewater has developed the most detailed maps yet made of the Poe Hiking Trail’s historic alignment and trailbed condition. Our GIS analysis indicates that 49% of the trail’s total length is in good condition, 11% needs improvement work, and 40% needs construction/reconstruction. The full length of the trail, including new connector segments to the proposed trailheads is 3.09 miles.

We are providing a set of detailed maps with this filing and, additionally, we have developed an interactive online map that provides an exceptional degree of detail and the ability to zoom in and add/subtract data layers.²³

LiDAR (Light Detection and Ranging) is a remote sensing technology that measures properties of scattered light (lasers) to make high-resolution maps of the earth’s surface. When mounted to low-flying aircraft, LiDAR can image the surface with a resolution and three-dimensional locational accuracy of approximately 5 inches. This aerial LiDAR data can be specially processed to remove all vegetation from the image, yielding a bare earth digital elevation model (DEM) that fully reveals the bare ground surface.

²² *Id.*, p. 11 (study; PDF document p. 17).

²³ The interactive Poe Hiking Trail – Trailbed Condition map is available at <https://arcg.is/1LzLGf2>. To see the bare earth LiDAR imagery without the color-coded line depicting trailbed condition, use the layer menu in the top right menu bar of the map to deselect the “Poe Hiking Trail Alignment” layer and then zoom in more closely to see the bare earth detail with the readily visible existing trailbed. Alternately, use this link to load the map with the Poe Hiking Trail Alignment layer already deselected: <https://arcg.is/y8v9u>.

Bare earth LiDAR DEMs are an exceptional tool for identifying intricate and subtle details on the earth’s surface that are difficult to discern with other methods. They often reveal features that are difficult to see even while on the ground due to vegetation, terrain, and other obstructions. Bare earth LiDAR analysis is commonly used in land management applications and is the primary means by which the National Geographic Society has been locating and mapping ancient Mayan developments that are covered by thick jungle vegetation.²⁴ This includes complex irrigation and terracing systems that are, in terms of their impression on the earth’s surface, similar to the imprint remaining from the abandoned miners’ trail along the North Fork Feather River that is under consideration for redevelopment as the Poe Hiking Trail.

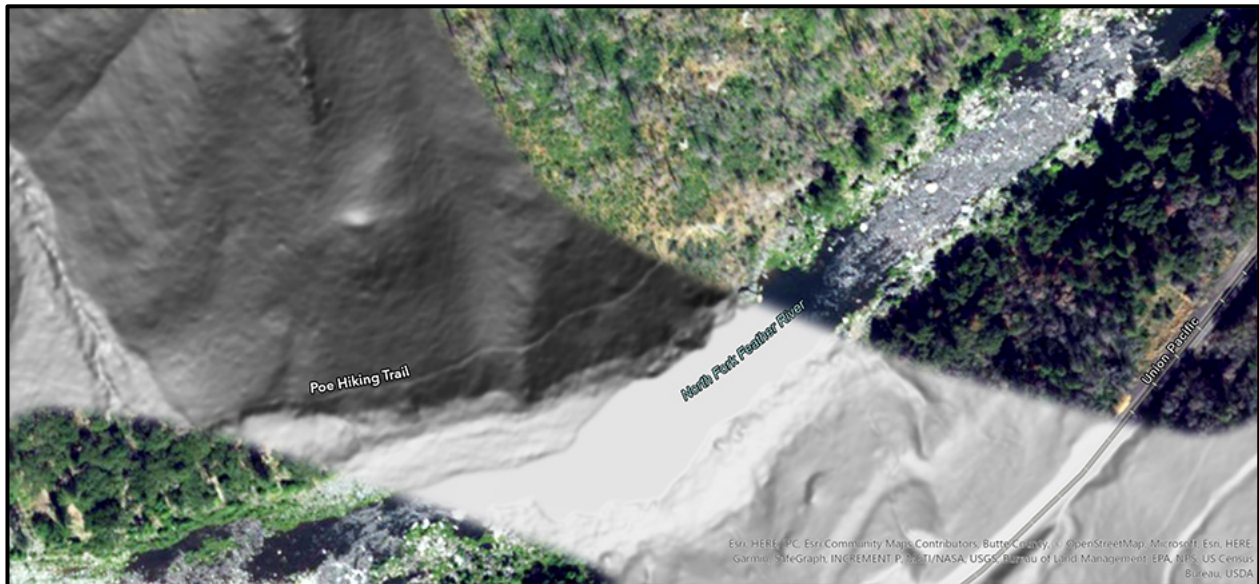


Figure 1: Bare earth LiDAR imagery (shown in grayscale) reveals details about the earth's surface that are not visible by other means. Here, the Poe Hiking Trail's trailbed is revealed in addition to stream channels, landslides, and human alterations of the surface that are not visible in the color aerial image.

To delineate the alignment of this trail as accurately as possible, American Whitewater obtained high-resolution bare earth LiDAR DEM data from the Plumas National Forest and processed it to visually highlight the trailbed and other features of the bare earth landscape. We then classified 41 discrete segments of the trail according to each segment’s degree of visibility in the bare earth LiDAR imagery.

Next, we used these classifications to interpret trailbed condition as “good condition,” “needs improvement,” or “needs construction/reconstruction.” Segments interpreted as being in good condition have an easily visible full width trailbed mostly free of fallen rock. Segments that need improvement have a discernable trailbed but with a decreased width and may have minor

²⁴ See Laser Scans Reveal Maya "Megalopolis" Below Guatemalan Jungle, available at <https://www.nationalgeographic.com/history/article/maya-laser-lidar-guatemala-pacunam>

rock accumulations or obstructions on the trailbed. Any section of trail that has no visible trailbed because it has been buried beneath fallen material, lost to erosion, or because it needs to be newly constructed (i.e., connectors to each trailhead) is interpreted to require construction or reconstruction.

Interpreted Trailbed Condition	Length (Miles)	Percent of Total Length
Good Condition	1.51	48.8%
Needs Improvement	0.34	10.8%
Needs Construction/Reconstruction	1.25	40.4%
TOTAL	3.09	100%

Figure 2: Poe Hiking Trail trailbed condition, length, and percent of total length as derived from interpreted LiDAR analysis.

A set of five maps depicting the Poe Hiking Trail and its current trailbed condition is included with this filing. An interactive map with greater detail and additional features, including the ability to directly view the bare earth LiDAR imagery, is available at <https://arcg.is/1LzLGf2>.²⁵ GIS data and bare earth LiDAR imagery are available upon request.

The results of our detailed analysis directly contradicts PG&E’s unfounded assertion that “there is no existing trail between Bardees Bar Road and the Project Powerhouse Road, and the proposed alignment of the trail does not correspond with any existing or historic trail.”²⁶ The existence of a trailbed is plainly visible in the bare earth LiDAR imagery for 60% of the total distance between Bardees Bar Road trailhead and the Project Powerhouse Road trailhead.

Conclusion

The information submitted here, along with information that multiple agencies and parties have previously submitted to the Commission, directly counters the unfounded assertions that PG&E has used to determine that the Poe Hiking Trail is infeasible. Collectively, this information indicates that:

1. PG&E has no specific knowledge of potential impacts to private property because it has never contacted the two affected landowners.

²⁵ See footnote 22, *supra*, for instructions on how to view the bare earth LiDAR imagery at this link.

²⁶ Feasibility Study, p. 3 (cover letter).

2. PG&E has misrepresented impacts to environmental resources by not considering common mitigations.
3. PG&E has failed to consider exceptions to Forest Service trail design standards that would reduce the impact of the trail and reduce costs.
4. The costs analysis that PG&E substituted for the analysis contained in the feasibility study is inexplicably four times more expensive than recent Forest Service trail construction in the area.
5. There is documented demand for additional hiking opportunities in the area.
6. There is existing trailbed for 60% of the distance between the two trailheads.

There is substantial information in the record indicating that the Poe Hiking Trail is feasible.

The Commission should recognize that PG&E's determination of infeasibility was made using information that is not credible or supported in the record and that is contrary to the substantive information that is in the record and that is even within its own Feasibility Study. We believe that there is not substantial evidence in the record to support a Commission decision to accept PG&E's determination of infeasibility, nor do we believe that PG&E has made that determination in accordance with the explicit procedures of Article 407.

Respectfully submitted,



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Attachment 1

**Letter from Chris Tellis, Interest Income Partners, L.P.,
Re: Poe Hiking Trail and Private Property Access – Poe Hydroelectric Project No. P-2107**



INTEREST INCOME PARTNERS, L.P.

October 3, 2021

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, D.C. 20426

Re: Poe Hiking Trail and Private Property Access – Poe Hydroelectric Project No. P-2107

Dear Secretary Bose,

I am the owner of one of the two private properties that the proposed Poe Hiking Trail would cross on its route between Bardees Bar Road and Poe Powerhouse Road. My property (APN 058-170-046) is identified on Map 2d of PG&E's July 2020 Poe Hiking Trail Feasibility Study (see page 19).

I support the concept of this low-elevation trail in the river corridor, and I believe it can help fulfill public demand for access to this area while having minimal impact on the natural environment.

As a landowner, I confirm my willingness to support the project and I am amenable to granting a right-of-way easement for the trail through my property. I was not contacted by PG&E or its contractors during their development of the feasibility study; however, I am ready and willing to engage in discussions regarding the trail and access through my property and may be contacted by email or telephone.

Sincerely,

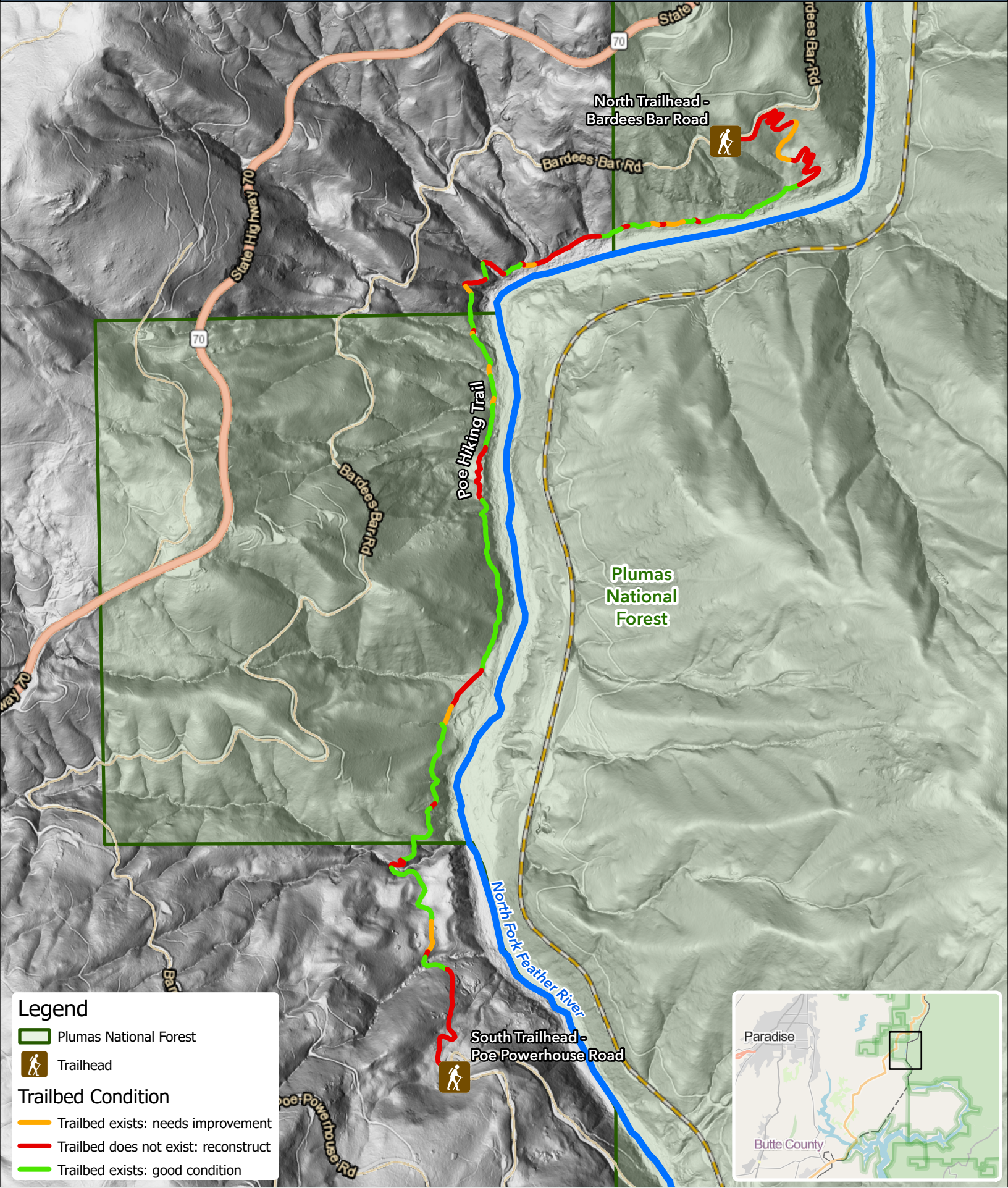
Chris Tellis

Attachment 2

Map Series (5 Maps): Poe Hiking Trail Existing Trailbed Alignment and Condition as Determined From Bare Earth LiDAR Analysis by American Whitewater

These maps are also presented in an interactive, online format at <https://arcg.is/1LzLGf2>.

Poe Hiking Trail - Trailbed Condition Overview Map

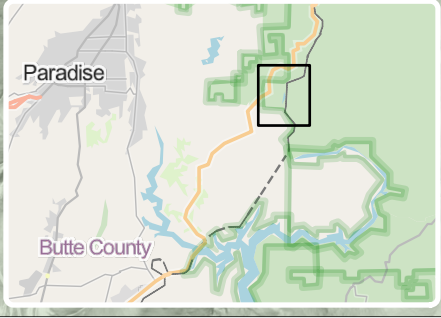


Legend

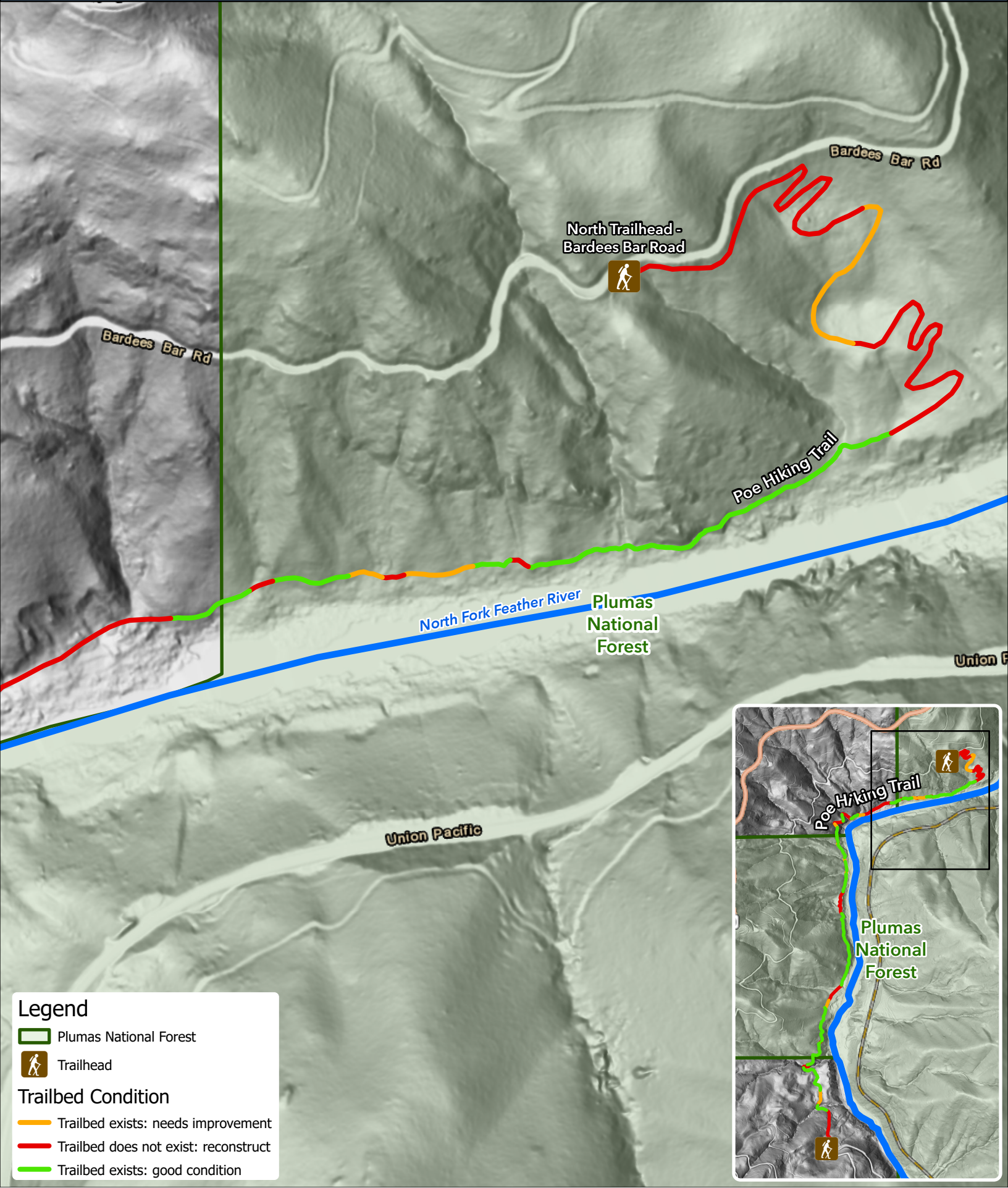
- Plumas National Forest
- Trailhead

Trailbed Condition

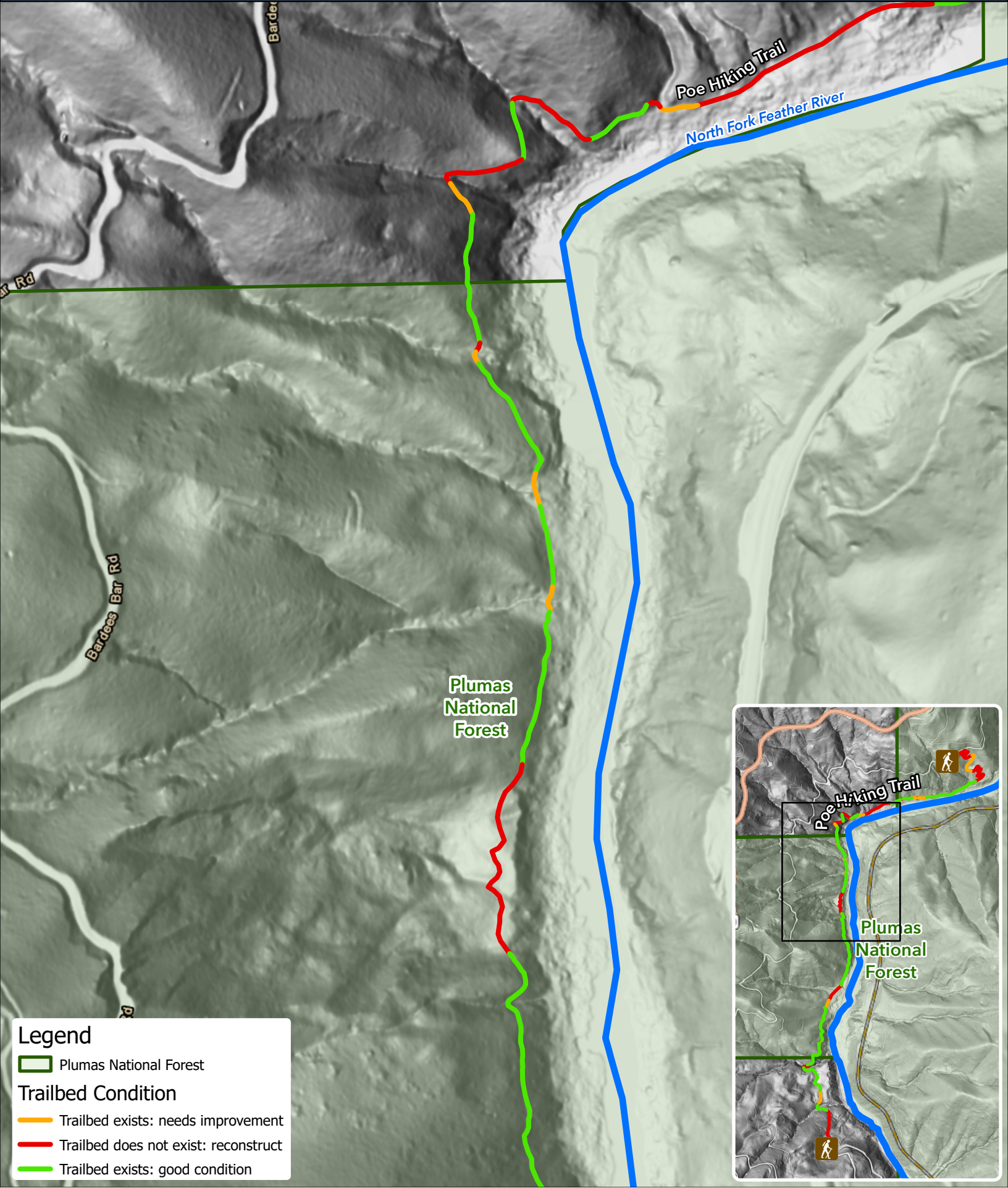
- Trailbed exists: needs improvement
- Trailbed does not exist: reconstruct
- Trailbed exists: good condition



Poe Hiking Trail - Trailbed Condition - Detail Map 1



Poe Hiking Trail - Trailbed Condition - Detail Map 2



Legend

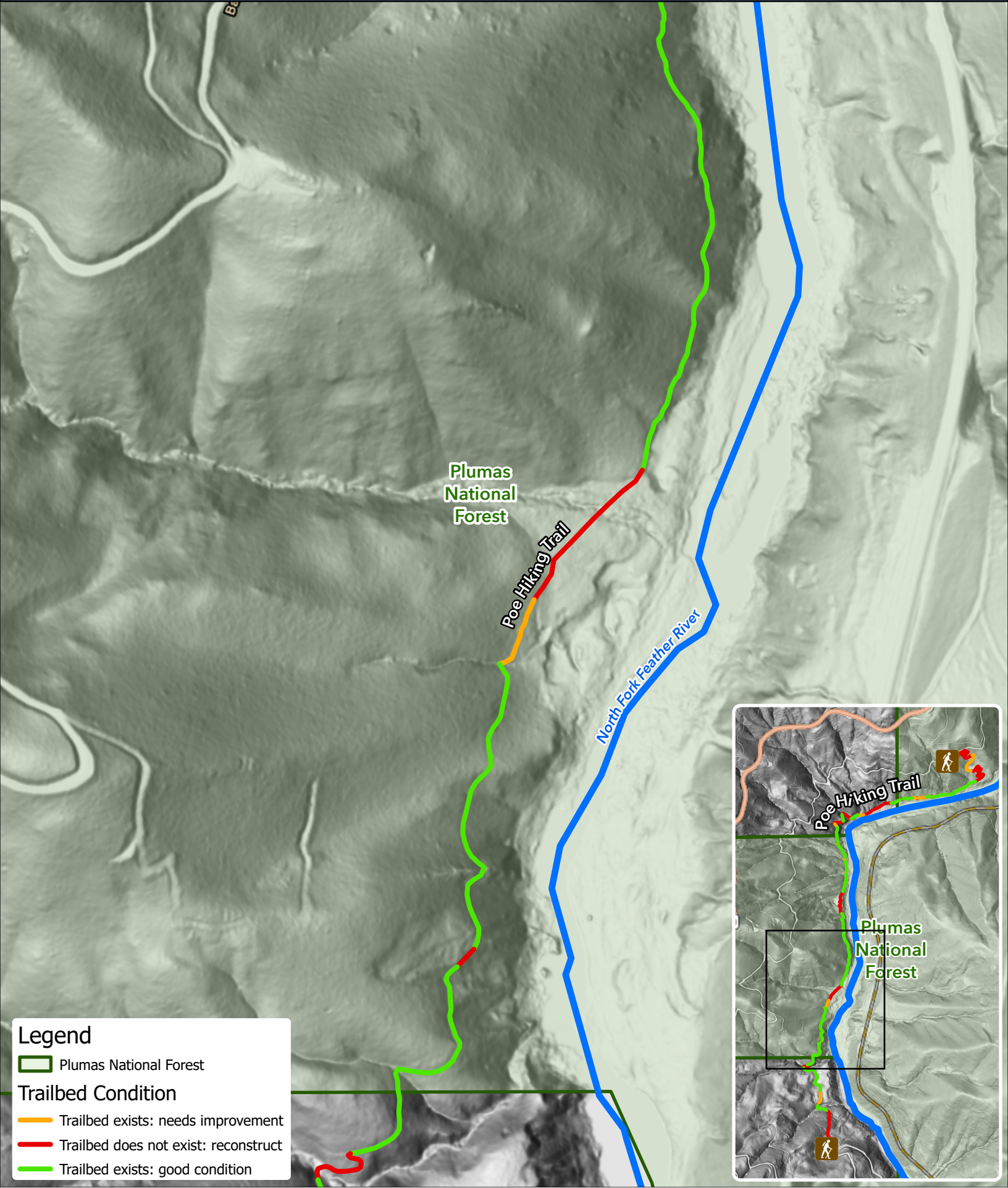
- Plumas National Forest

Trailbed Condition

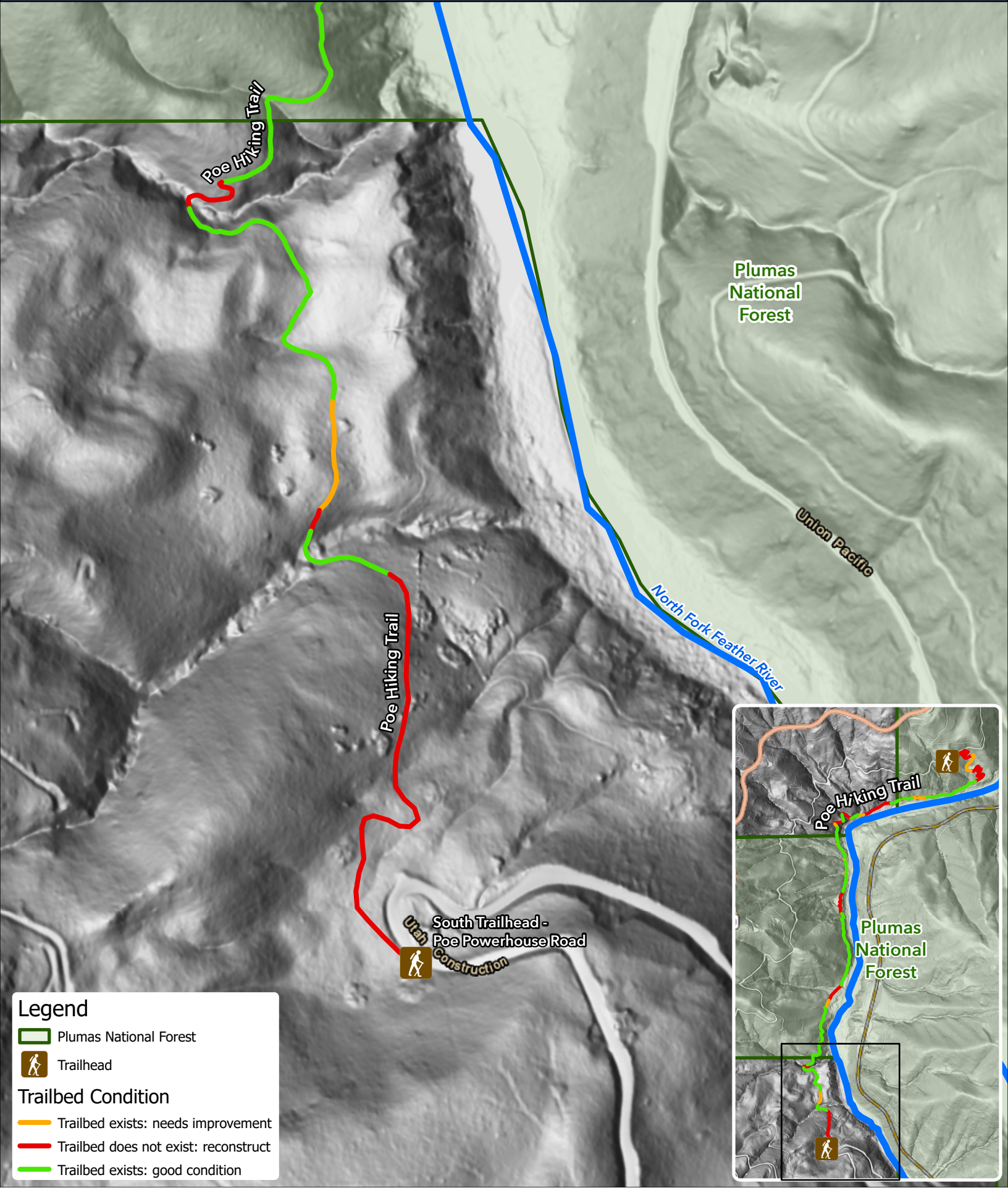
- Trailbed exists: needs improvement
- Trailbed does not exist: reconstruct
- Trailbed exists: good condition



Poe Hiking Trail - Trailbed Condition - Detail Map 3



Poe Hiking Trail - Trailbed Condition - Detail Map 4



Legend

- Plumas National Forest
- Trailhead

Trailbed Condition

- Trailbed exists: needs improvement
- Trailbed does not exist: reconstruct
- Trailbed exists: good condition

Certificate of Service

I hereby certify that in accordance with 18 C.F.R. § 385.2010, I have this day caused the foregoing comments by American Whitewater and California Sportfishing Protection Alliance to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated February 11, 2022.

A handwritten signature in black ink that reads "Scott Harding". The signature is written in a cursive style with a large initial "S".

Scott Harding
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