



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

July 28, 2015

Phyllis Ashmead, on behalf of  
Jeanne Higgins, Forest Supervisor  
Stanislaus National Forest,  
19777 Greenley Road  
Sonora, CA 95370

Subject: Notice of Intent to prepare an environmental impact statement for the Over-Snow Vehicle Use Designation Project, Stanislaus National Forest.

Dear Ms. Ashmead:


The U.S. Environmental Protection Agency has reviewed the Notice of Intent to prepare an environmental impact statement for the above referenced project. Our review is pursuant to the National Environmental Policy Act and the Council on Environmental Quality's NEPA implementation regulations at 40 CFR Parts 1500-1508.

EPA supports the Forest Service's effort to effectively manage over-snow vehicle use on the Stanislaus National Forest and the implementation of the final Subpart C of the Travel Management Rule which went into effect on February 27, 2015. We also support the Forest Service efforts to identify snow trails for grooming, and to promote safe, responsible use of the project areas which balances recreational use with environmental protection.

We recommend the scope of topics addressed in the DEIS include water quality, air quality, habitat and species of concern, adaptive management, mitigation, monitoring, enforcement, cumulative effects, consultation with tribal governments, national historic preservation act and executive order 13007, environmental justice, species of concern, climate change and GHG emissions. Please see our attached detailed comments.

We appreciate the opportunity to review this NOI. When the DEIS is released for public review, please send one hard copy and three CDs to the address above (mail code: ENF-4-2). If you have any questions, please contact me at (415) 972-3852 or [munson.james@epa.gov](mailto:munson.james@epa.gov).

Sincerely,

  
James Munson, Lead Reviewer  
Environmental Review Section  
Enforcement Division

EPA DETAILED SCOPING COMMENTS FOR THE NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT FOR THE OVER-SNOW VEHICLE USE DESIGNATION PROJECT, STANISLAUS NATIONAL FOREST. JULY 28, 2015.

**Purpose and Need**

The Purpose and Need Statement “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.”<sup>1</sup>

The *Purpose* is the problem to be solved, the “what” of the proposal. It should be stated as the expected positive outcome. The Purpose should be stated broadly enough so that reasonable alternatives are not dismissed prematurely.

The *Need* is the “why” of the proposal. The Need should establish evidence that a problem exists, or will exist.

**Range of Alternatives**

The Council on Environmental Quality recommends that all reasonable alternatives be considered, even if some of them could be outside the capability of the applicant or the jurisdiction of the agency preparing the EIS.

Consistent with the purpose of the National Environmental Policy Act, the Environmental Protection Agency encourages selection of alternatives that protect, restore and enhance the environment. We strongly support lead agencies’ efforts to identify and select alternatives which maximize environmental benefits, and avoid, minimize, and/or otherwise mitigate environmental impacts.

***Recommendation:***

We recommend the Draft Environmental Impact Statement include a range of alternatives that meets the stated purpose and need, goals and objectives, and responds to issues identified during the scoping process. The alternatives analysis should compare alternatives with respect to how well they respond to the stated purpose and need, goals and objectives, and scoping issues.

**Water Quality**

EPA has concerns regarding potential impacts of motorized vehicle use on water bodies such as sedimentation, temperature and motor related pollutants.

***Recommendations:***

Identify in the DEIS water bodies likely to be impacted by the project, the nature of the potential impacts, and the specific discharges and pollutants likely to impact those waters (addressing both Clean Water Act Section 402 and 404 discharges and potential impairments to water quality standards).

We recommend that the DEIS disclose information regarding relevant TMDL allocations, the water bodies to which they apply, water quality standards, and pollutants of concern.

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<sup>1</sup> 40 CFR 1502.13

Clean Water Act Section 303(d) listed waters should not be further degraded. If additional pollutant loading is predicted to occur to a 303(d) listed stream as a result of a project, describe measures to control pollutant sources in the DEIS.

### **Air Quality**

We suggest the DEIS include relevant information on National Ambient Air Quality Standards, attainment designations, and emissions data, and indicate how the Forest Service will ensure compliance with applicable state and local air quality regulations.

#### ***Recommendations:***

Analyze the air quality implications of proposed conservation measures in the DEIS. Our primary interest is conservation measures' influence on: fugitive dust, wind erosion, wind-borne particulate matter, construction emissions, and Over-Snow Vehicle Use Designation emissions.

Address potential adverse effects of snowmobile noise and air emissions in the DEIS.

### **Adaptive Management, Mitigation and Monitoring**

Adaptive management is an iterative process that requires selecting and implementing management actions, monitoring, comparing results with management and project objectives, and using feedback to make future management decisions. The process recognizes the importance of continually improving techniques through flexibility and adaptation instead of adhering to a standard set of actions. For adaptive management to succeed, the objectives should be explicit and measurable, thresholds of concern and associated triggers and action commitments should be well defined, and there must be agreement to adjust management and/or mitigation measures if monitoring indicates that objectives are not being met.

#### ***Recommendation:***

Consider implementation of an Adaptive Management Plan for this project, and discuss it in the DEIS. Include measurable objectives, a timeline for periodic reviews and adjustments, thresholds of concern, triggers, and action commitments, including a mechanism to consider and implement additional mitigation measures, as necessary.

### **Enforcement**

Enforcement of roads and trails is both necessary and difficult. Signs and barriers are not always effective in closing roads and trails or in reducing impacts and protecting forest resources. For the OSV Designation Project to adequately protect natural resources, we recommend that the Forest Service ensure the enforceability of the route network.

#### ***Recommendation:***

EPA encourages the Forest Service to consider enforcement as a significant issue driving the analysis of alternatives for OSV. We recommend the DEIS describe in detail how use restrictions will be enforced and what approaches have been successful. Evaluating alternatives based on the potential for unauthorized use could facilitate development alternatives that help reduce the need

for enforcement.

### **Seasonal Snowmobile Use**

EPA has concerns regarding potential impacts of motorized vehicle use during wet conditions when soils and aquatic systems may be more vulnerable to erosion.

#### ***Recommendations:***

Provide data on existing snowmobile use, potential impacts to soils and watershed resources, and mitigation for these impacts in the DEIS.

We recommend that the Forest Service consider prohibiting OSV activity when the snow is less than one foot deep in order to protect vulnerable alpine vegetation.

OSV use during spring conditions, over routes that are part mud and part snow, is particularly destructive and should be prohibited. We recommend wet weather and/or seasonal route closures be considered as a tool to avoid and minimize adverse impacts of motorized use on native surface roads and related erosion, sedimentation, and water quality effects.

Identify and describe in the DEIS the impacts from the proposed OSV designation plan on forest resources such as watersheds, fish and wildlife habitat (fragmentation, travel and dispersal corridors), water quality, air quality, and other recreational and forest uses. Discuss the potential impacts of designated open play areas on these resources, and identify measures to avoid, minimize, or mitigate these impacts.

### **Cumulative Effects**

Cumulative impacts result from the incremental impact of the proposed action when added to other past, present, and "reasonably foreseeable" future actions, including those on private adjacent land irrespective of what agency/entity has decision-making authority or analysis responsibility. Cumulative impacts analysis and disclosure is relevant and important for OSV Designation Plans because roads have significant impacts that can be examined at many different geographic, temporal and cross-cutting scales.

#### ***Recommendations:***

Include the following information in the cumulative effects analysis:

1. Identification of resources being cumulatively affected and the geographic area where impacts occur.
2. Use of appropriate analysis area boundaries for the resource and time period over which the cumulative effects have occurred or will occur.
3. Identification of impacts on resources of concern with scientifically defensible significance threshold levels.
4. Evaluation of past, present, and reasonable foreseeable future actions that have affected, are affecting, or would affect resources of concern (include an evaluation vs. benchmark or baseline or reference conditions).
5. Disclosure of the overall cumulative impacts that can be expected if the individual

impacts are allowed to accumulate, and comparisons of cumulative impacts for the proposed management direction and the reasonable alternatives in relation to the no action alternative and/or an environmental reference point.

### **Consultation with Tribal Governments**

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000), was issued in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and to strengthen the United States' government-to-government relationships with Indian tribes. The Project area may include sensitive sites of cultural value to local tribes. EPA recommends the DEIS describe the process and outcome of government-to-government consultation between the Forest Service and each of the tribal governments within the project area, issues that were raised (if any), and how those issues were addressed in relation to the proposed action and selection of a preferred alternative. President Obama directed all federal agencies to develop an action plan to implement this Executive Order by February 3, 2010. For more information refer to: <http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president>.

### **National Historic Preservation Act and Executive Order 13007**

The proposed project may include disturbance of previously undisturbed ground, including grading, filling, vegetation clearing, paving, and increased vehicle traffic. This disturbance could have significant impacts on cultural, particularly tribal, resources. Consultation for tribal cultural resources is required under Section 106 of the National Historic Preservation Act (NHPA). Historic properties, under the NHPA, are properties that are included in the National Register of Historic Places (NRHP) or that meet the criteria for the National Register. Section 106 of the NHPA requires a federal agency, upon determining that activities under its control could affect historic properties, to consult with the appropriate SHPO/THPO.

Executive Order 13007, Indian Sacred Sites (May 24, 1996), requires federal land managing agencies to accommodate access to, and ceremonial use of, Indian sacred sites by Indian Religious practitioners, and to avoid adversely affecting the physical integrity, accessibility, or use of sacred sites. It is important to note that a sacred site may not meet the National Register criteria for a historic property and that, conversely, a historic property may not meet the criteria for a sacred site.

### **Environmental Justice**

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations," addresses disproportionate adverse impacts of federal actions on minority and low-income populations. We recommend the DEIS identify minority and low-income populations potentially affected by the project, and address whether any of the alternatives would cause any disproportionate adverse impact, including changes in existing resources or access, or community disruption. Describe measures taken by the Forest Service to: (1) fully analyze the environmental effects of the proposed actions on minority and low income populations,; and (2) present opportunities for affected communities to participate in the NEPA process, including information and participation materials in all languages spoken by those in affected areas.

Environmental justice considerations may play an important role in the proposed Project, both from the standpoint of anticipated benefits of the Project and adverse impacts. In the context of "affected

environment,” the DEIS should document existing human health and environmental risks to which people in the project areas are exposed. The document should also explore potential mitigation measures for any adverse environmental justice effects.

### **Species of Concern**

EPA recommends that the DEIS include a review of species that would be affected by the project alternatives. The results of consultation with the United States Fish and Wildlife Service, if appropriate, regarding threatened or endangered species or critical habitat should be included in the DEIS. We encourage the Forest Service to relocate, reduce, or eliminate portions of the project that adversely affect threatened, endangered, or candidate species or their potential habitat.

### ***Recommendations***

EPA recommends that, when identifying snow trails for grooming, the Forest Service take into consideration habitat for species of concern and avoid key nesting seasons.

The DEIS would benefit commit to monitoring and enforce rules to adequately protect natural resources and meet project objectives.

### **Climate Change/GHG Emissions**

On December 18, 2014, the Council on Environmental Quality released revised draft guidance for public comment, which describes how Federal departments and agencies should consider the effects of greenhouse gas emissions and climate change in their NEPA reviews.

"CEQ recognizes that many agency NEPA analyses to date have concluded that GHG emissions from an individual agency action will have small, if any, potential climate change effects. Government action occurs incrementally, program-by-program and step-by-step, and climate impacts are not attributable to any single action, but are exacerbated by a series of smaller decisions, including decisions made by the government. Therefore, the statement that emissions from a government action or approval represents only a small fraction of global emissions is more a statement about the nature of climate change challenge, and is not an appropriate basis for deciding whether to consider climate impacts under NEPA. Moreover, these comparisons are not an appropriate method for characterizing the potential impacts associated with a proposed action and its alternatives and mitigations."

The revised draft guidance suggests that, if an agency determines that evaluating the effects of GHG emissions would not be useful in the decision making process and to the public to distinguish between the proposed action, alternatives and mitigations, the agency should document the rationale for that determination.

Consistent with the revised draft guidance, estimate the greenhouse gas emissions that would result from implementation of each alternative, and discuss any potential impacts of climate change on the project.

The draft guidance is available in full at:

[http://www.whitehouse.gov/sites/default/files/docs/nepa\\_revised\\_draft\\_ghg\\_guidance\\_searchable.pdf](http://www.whitehouse.gov/sites/default/files/docs/nepa_revised_draft_ghg_guidance_searchable.pdf)

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