



July 20, 2020

Objection Reviewing Officer
USDA Forest Service, Northern Region
26 Fort Missoula Road
Missoula, MT 59804

Re: Helena-Lewis and Clark Forest Plan Objection

Dear Regional Forester Martin and Supervisor Avey,

On behalf of nearly 6,000 members, Montana Wilderness Association (MWA) submits the following objections on the Draft Record of Decision (DROD) and Final Environmental Impact Statement (FEIS) for the Helena-Lewis and Clark National Forest (HLCNF).

MWA members have invested sixty years in the conservation and stewardship of wild public lands and trails of the Helena and Lewis and Clark National Forests. MWA has been a leader in successful forest collaborations on the Rocky Mountain Front, Little Belts, Big Belts, Big Snowies, South Hills, Upper Blackfoot and along the Continental Divide.

Our previous comments over the course of the revision process also coincide with the objections outlined in this document. We have engaged in the forest plan revision process during all available opportunities, including:

- Submitted comments on the Wilderness Inventory, March 11, 2016
- Submitted comments on the Proposed Action, March 31, 2017
- Submitted comments on the DEIS, October 9, 2019
- Participated in public meetings

We would first like to thank the HLCNF revision team for the extensive time and effort put into the forest plan revision and the opportunities to engage both in writing and in person with forest leadership over the last several years. We thank you for incorporating recommendations from the Upper Blackfoot Working Group (UBWG) and Montana High Divide Trails (MHDT). We have worked collaboratively for many years to solve challenges and protect wild places in these two groups, and we appreciate this inclusion and recognition in the draft forest plan. We also appreciate that appropriate suitability language was included for the management of Recommended Wilderness (RW) in order to protect wilderness character and the potential for future designation by prohibiting motorized and mechanized use.

However, there are several areas where the plan falls short, and we would like to object with the intention of reaching resolution through this process. Our top concerns include inappropriate Primitive ROS management; the need to protect Montana Wilderness Study Areas (WSAs) as required under the Montana Wilderness Study Act; the need for stronger plan components to



protect important landscapes and for wildlife; and designating more areas as recommended wilderness where values warrant inclusion.

Forest Wide Objections

Objection 01: Suitability language for Primitive Recreation Opportunity Spectrum (ROS) fails to protect the Desired Conditions of Primitive ROS, quiet solitude in “large, wild, remote” mountainous landscapes.

The draft forest plan defines Primitive areas as “large, remote, wild, and predominantly unmodified landscapes.” Given this, we are surprised that Primitive ROS, outside of Wilderness and RW, includes suitability language that allows mechanized use. This is arbitrary and not supported by law, Forest Service Manuals, Handbooks or Protocols. The FEIS (Chapter 3, Part 2, pg. 05) states:

“The Recreation Opportunity Spectrum (ROS) Inventory Mapping Protocol, April 2018, provides guidance for not only how ROS settings are mapped but also what activities are appropriate in each ROS setting.”

The FEIS is correct here, but the Mapping Protocol states that “*mechanized use may occur outside of designated wilderness.*” Nowhere does it state that mechanized use must be allowed in every ROS class including Primitive.

Appendix A in the National ROS Inventory Mapping Protocol lists summer characteristics under ROS Class.

“Access - Non-motorized trails; typically trail class 1; Travel on foot and horse; no motorized travel; no mechanized travel within designated Wilderness.”(emphasis added)

This is at odds with the declaration in the FEIS (Chapter 3, Part 2, pg. 5) that “*mountain bikes are suitable in all ROS settings.*” Here is the claim:

“adherence to this protocol contributes to the consistent application of ROS settings across NFS lands. In accordance with this National protocol, mountain bikes are suitable in all ROS settings, unless those areas are specifically closed due to legislative action, such as congressionally designated wilderness, or by closure order at the Forest or District levels”.

Guidance does not require mountain biking happen in every ROS class. Nor is this blanket application “consistent” with other National Forests.¹ Mandating mechanized travel across “all

¹ For example the adjacent Custer-Gallatin NF includes no such mandate in Primitive ROS: (Chap. 2, 2020 Land Management Plan, pg 93)

Primitive Recreation Opportunity Spectrum Settings (ROSP) Objectives (FW-OBJ-ROSP) 01 Sign five areas of wilderness boundaries near adjacent motorized settings per decade to better inform visitors of motorized restrictions within this quiet non-motorized primitive setting. 02 Eliminate five existing unauthorized motorized travel incursions per decade to maintain the primitive setting. Standard (FW-STD-ROSP) 01 Permanent or temporary motorized routes shall not be constructed in primitive settings. Guidelines (FW-GDL-ROSP) 01 To retain the unmodified character of these landscapes, new permanent facilities should not be constructed in primitive recreation opportunity spectrum settings. 02 To retain the desired primitive recreation opportunity spectrum settings, routes should be managed as a Trail class 1 or 2. Suitability (FW-SUIT-ROSP) 01



ROS settings"-- transforms Primitive into SPNM-- eroding the very purpose and effectiveness of ROS as a wild landscape conservation tool. This is particularly damaging because the HLC does not offer backcountry protections afforded in other forest plans.²

In the Snowies, Elkhorns, and Little Belts, HLCNF is also relying on travel analysis conducted 15-25 years ago to justify mechanized suitability. These plans focused on analyzing changing motorized uses and did not analyze (changing) mechanized uses. The Elkhorns Travel Plan was signed 25 years ago. Mechanized use, technology, marketing, and levels of traffic have shifted dramatically since then. Past travel plans were focused on analyzing motorized not mechanized use. Therefore, it is inappropriate to allow mechanized use as a default position in Primitive settings using the incorrect justification that the use has been analyzed in travel planning.³

It is essential the HLC manage Primitive ROS areas to meet their desired future conditions, retaining wild, remote and unconfined values. Therefore, a final decision cannot be made for mechanized suitability in Primitive ROS.

Remedy

- Strike (FW-ROS-SUIT-02) from the Primitive ROS suitability section. Provide place-based guidance for Primitive ROS settings outside of recommended Wilderness and WSAs.
- Amend (FW-ROS-SUIT-07) as follows to clarify that cross-country wheeled use off FS trails is not suitable: Mechanized means of transportation and mechanized equipment are suitable on FS designated trails in desired semi- primitive non-motorized settings, unless prohibited by law, forest plan direction, or forest closure order.

Objection 02: The Draft ROD fails to provide forestwide direction necessary to guide managers and ensure required WSA conditions are met; that wilderness character and potential remain undiminished by changing conditions, activities, permits, developments, leases, etc.

The wilderness characteristics and potential for future designation of the Big Snowies and Middle Fork Judith WSAs may be diminished by the expansion of mechanized and/or motorized uses.

The Forest acted to protect wilderness character and potential for future designation when it analyzed and geographically limited motorized uses to protect WSA wilderness characteristics and potential through 2004 and 2007 travel plans.

The Travel Plan acts in concert with the charter of the Montana Wilderness Study Act by limiting wilderness access to preserve the wilderness character of the region."

Motorized transport is not suitable in primitive settings. 02 Groomed trails are not suitable in winter primitive settings. 03 Non-motorized trails and cross-country nonmotorized travel are suitable in winter primitive settings.

² Alt C offered a non-mechanized backcountry in the wild Elkhorns, rejected in the Draft ROD.

³ ● "Rocky Mountain Ranger District Travel Management Plan" (2007 & 2009),
● "Little Belt, Castle, and North Half Crazy Mountains Travel Management Plan" (2007),
● "Big Snowies Access and Travel Management EA" (2001),
● "Elkhorns Travel Management Plan" (1995)

U S District Court (MT) *Central MT Wildlands v Kimbell*, 2006

Each travel plan was challenged. The Snowies Plan was challenged by environmental litigants in *Central MT Wildlands v Kimbell*, while WSA travel in the Little Belts was challenged by motorized litigants in *Russell Country Sportsmen V USFS*. MWA intervened in both cases on behalf of the Forest's WSA protective actions. The Ninth Circuit agreed with USFS and MWA, providing a landmark ruling that lays out the twin duties of the USFS to preserve wilderness character and potential for designation.

The travel planning process analyzed the effects of motorized uses on seven wilderness characteristics as well as the potential for wilderness designation. Mountain biking was likely uncommon when travel planning was initiated in the 1990s for the Big Snowies WSA. It is mentioned, but not evaluated or geographically limited to preserve wilderness character and potential for designation. The MWSA requires the USFS to actively protect wilderness character and wilderness potential against loss, whether from oil and gas leases, mining, motorized or mechanized uses.

Mountain biking did not affect wilderness character and potential in 1977. Much has changed since 1977 and even since the 2001 Snowies wilderness assessment. Mechanized use has changed significantly, in ways that influence distance covered, terrain, speed, levels of traffic each of which affect wilderness character and potential. To prevent further loss of future wilderness it is essential to set limits.

Responding to the same M-WSA law and court instructions, the Custer-Gallatin National Forest provides different forestwide management direction for M-WSA (See attached), noting:

*The Forest Service can apply more restrictive guidance than the wilderness study area act. The Forest Service cannot apply less restrictive guidance, unless the wilderness study area were to be released by Congress. Therefore, **recommended wilderness area guidance will be applied in the wilderness study area.***⁴ (emphasis added)

The HLCNF must amend the final plan to recognize the same wilderness resources, potential and protections as RWAs are at risk and must be protected in M-WSAs.

Montana Wilderness Study Area Remedy

- The following changes to the plan components are necessary to ensure the protection of wilderness character and the future potential for designation:
 - WSA Desired Conditions (DC)
 - Desired Condition 02 resurrects an illegitimate legal theory at odds with 9th Circuit directions in *Russell Country V USFS*. (See Supplemental Doc 1). It also omits the desired conditions the FS must manage for.
 - (FW-WSA-DC-02) Amend WSA Desired Condition 02 as follows: Wilderness study areas offer outstanding opportunities for solitude; primitive and unconfined recreation. ~~although uses established and allowed prior to the enabling legislation are retained if they maintain the~~

⁴ Plan Components-Wilderness Study Areas, Custer-Gallatin NF 2020 Land Management Plan (See Supplemental Document 11)



- wilderness character and the potential for inclusion in the National Wilderness Preservation System that existed in 1977).
- Insert (FW-WSA-DC-03): *Within each wilderness study area, wilderness character and potential for future designation as wilderness are fully maintained.*
 - WSA Standards - New activities, permits, structures, events, leases, etc that diminish either wilderness character or potential are not allowed in WSAs.⁵
 - (Strike FW-WSA-STD-01): ~~*Within the Wilderness Study Areas new leases for leasable minerals shall include a no surface occupancy.*~~
 - Replace FW-WSA-STD-01: *Activities that may diminish wilderness character or potential for future designation are not allowed. New uses, permits or activities must first be analyzed to determine effects on wilderness character and potential before they may be allowed in WSAs.*
 - WSA Suitability
 - FW-WSA-SUIT-08 wrongly implies WSAs are broadly suitable for motorized traffic, and mechanized uses can—with no serious evaluation of effects—be instantly deemed “suitable” in WSAs. This language is misguided. MWA requests standards, or at minimum clear and binding suitability requirements, to guide future managers and ensure that both legally-required WSA conditions are met, without being diminished or degraded.
 - Strike (FW-WSA-SUIT-08). Replace with FW-WSA-SUIT 08, 09, 10 and 11 as follows:
 - 08 Wilderness study areas are suitable for limited motorized use in those areas determined through travel plans that analyze the effects on wilderness character and potential for inclusion in the National Wilderness Preservation System. Motorized use is not suitable for new or expanded use in WSAs.
 - 09 Mechanized use is not suitable in WSAs unless determined to be suitable through prior analysis of the effects of mechanized uses on wilderness character and designation potential.
 - 10 Wilderness Study Areas are not suitable for mineral leasing or extraction of saleable minerals.
 - 11 Wilderness Study Areas are not suitable for recreational and commercial drone launching and landings. (CGNF)

Objection 03: Use of sequential decision making to remove mechanized and motorized recreation fails to protect wilderness character of RW

MWA supports the management approach of Alt. F which aims to prevent establishment of mechanized and motorized recreation in RWAs. MWA also supports the objections of TWS on the issue of RW closure to non-comforming uses.

⁵ In 1986, Shell Oil Co applied for new federal mineral leases covering @50,000 acres within the Big Snowies WSA. Oil and gas leases were issued across the Forest in the 1980s but never in the BS WSA because new leases conflict with statutory duties to preserve wilderness character and potential.



Like the Flathead National Forest Plan, the HLCNF Plan takes the same approach to eliminating mechanized and motorized use from RW areas by indicating that the HLCNF will “initiate site-specific NEPA decision per the Plan’s suitability direction to close these uses within RW within 3 years from the date of this decision” (DROD, p. 27).

MWA is concerned about the lack of certainty given the limited impact of forest plan suitability, by itself, on existing public uses and the ability the final plan and DROD provide to protect the wilderness character of RW areas.

Appendix K provides sufficient site-specific analysis to support a concurrent decision to close RW. Appendix K specifies which trails would be closed to mountain biking in each of the RW. In order to comply with the 2012 Planning Rule, we believe that Forest Service should provide additional clarity in the final ROD to ensure implementation of the plan’s suitability provision relating to existing motorized/mechanized uses in RW.

Remedy

- With the signature of the Final ROD, the Responsible Official should, concurrently make a decision to close RW to mechanized and motorized recreational use.
- Alternatively, the final ROD should commit to implementing a permanent closure of RW to mechanized and motorized recreational use within a two-year timeframe, and also issue an interim closure order that prohibits mechanized and motorized recreational use in recommended wilderness within 6 months of the final ROD.

Geographic Area Based Objections

Big Belt Geographic Area

Objection 04: The DROD fails to recommend the large, remote, virtually conflict-free Camas Creek Wilderness as repeatedly passed by the U S Senate and House, and reduces Mount Baldy-Edith RW by 6,000 acres.

The draft ROD reduces Recommended Wilderness in the Big Belts from the meager 17,610 acres recommended in the 1986 plan and overlooks large remote tracts with no significant conflicts in addition to active collaborative support. Of 148,939 acres of wild backcountry in 10 roadless areas, the DROD recommends only 15,176 acres in two small areas, one tenth of qualifying wild lands. MWA and its members would like to see more Wilderness recommendations for the most deserving wildlands in the Big Belts.

Both the Camas Creek RW area and Mount Baldy are endorsed by Montana High Divide Trails collaborative. Camas Creek wilderness was also included in several bills, including the 1988 bill which was pocket-vetoed by President Reagan and bills from 1992 and 1994.

Mount Baldy provides excellent wilderness habitat for elk, mountain goat, bear, wolverine and (potential) lynx habitat on the rugged west and south slopes. There are also no significant recreation conflicts for the remedy we offer, and again, both areas are endorsed by the MHDT collaborative.

Remedy:



- The Final ROD should protect non-motorized lands as Camas Creek Recommended Wilderness with boundaries similar to those passed by Congress or outlined in Alt. D (See Supplemental Doc 2)
- The Final ROD should recommend a Mount Baldy-Edith RW area that protects the full non-motorized wild backcountry area in recommended wilderness. (See Supplemental Doc 2)

Snowies Geographic Area

Objection 05: Reduced Big Snowy Recommended Wilderness boundaries fail to protect wilderness assets, character and potential in key WSA zones the Forest acted to protect in 2004. Boundaries and plan components for the proposed Grandview Recreation Area need to be modified to ensure WSA character and potential are not diminished by mechanized uses.

MWA objects to the reduced boundaries for the Big Snowies recommended Wilderness in the Draft Record of Decision (DROD) which fail to protect WSA wilderness features including the East and West Forks of Big Rock Creek, Crystal Cascades, Mount Harlow, Ice Caves, Devil's Chute, Blake and Niel Creeks.

Furthermore, the boundaries and plan components for the Grandview Recreation Area within the Big Snowies WSA fail to maintain wilderness character and potential in the WSA core lands where the Forest previously acted to protect wilderness character and designation potential. In this the Forest fails to "preserve against decline" wilderness character and potential of the Big Snowies WSA.

The Proposed Action initially recommended 103,480 acres of wilderness for the Big Snowies Wilderness Study Area. In the DEIS, Alternatives B, C and D recommended 95,299 acres of wilderness, and fully preserved the wilderness character and potential for designation, consistent with FS legal duties.

In *Russell Country*, the 9th Circuit Court of Appeals defined the USFS legal duties under the 1977 Montana Wilderness Study Act, reversing the lower court and restoring the Forest's actions in the Little Belts Travel Plan.

The draft ROD then ignores the clear instruction in *Russell Country* reducing the Big Snowies RW to 66,894 acres and substituting a new proposal for a 32,296-acre Grandview Recreation Area to feature summer mountain biking and winter snowmobiling area. Snowmobiling is limited to



winter travel plan zones, based on a winter travel plan upheld by 9th Circuit.⁶⁷⁸ Mountain biking is neither limited to similar areas outside the protected wilderness core, nor evaluated for possible effects on wilderness character and designation potential as snowmobiling was evaluated.

Blanket suitability of mechanized use is proposed in core wilderness protected WSA lands--without first evaluating the effects of expanded mountain biking on wilderness character and wilderness potential of the Big Snowies WSA as required to meet statutory WSA duties.

MWA's remedy offers significant practical and legal advantages for the final forest plan:

- It closely follows and honors successful collaborative work, the 2004 Big Snowies Winter Recreation Agreement, adopted by the Forest and upheld under court challenge by 9th Circuit as consistent with the Montana Wilderness Study Act. Mountain bike trails west of the RW will not diminish potential or character of the protected wilderness core preserved in the 2004 collaborative agreement/travel plan.
- Mountain bike use can be featured on sustainable linked trails such as Crystal Lake National Recreation Trail, Grand View, and Dry Pole Creek. These can be linked into a 19.6 mile Grand View Loop Trail with fantastic Crest views, and an ideal average grade of 5-6%. (See Supplemental Doc 3)
- Historic WSA trails to the Crest within the remedy RW area are quite steep including Blake Creek Trail, Niel Creek Trail and Ulhorn-Crystal Lake Trail #493 which drops over 2100 feet in 2.6 miles, an average grade exceeding 15%. These trails are neither sustainable for bike traffic or safe for other users.⁹
- The Grand View Loop Trail connects existing system trails. Improvements to the Grand View Loop offer an ideal collaborative project, like the Kading-Cliff Mountain Crest Trail being constructed through a collaborative partnership between the Montana Bicycle Guild, Montana Wilderness Association, Prickly Pear Land Trust, Highlands Cycling Club and Last Chance Backcountry Horsemen. Both trails can offer world class mountain biking opportunities adjacent to recommended wilderness, a win-win-win.

⁶ Mountain bicycling did not likely occur in WSAs in 1977. It is mentioned, though not evaluated against effects on wilderness character/ potential in the 2001 WSA supplement which weighed effects of motorized uses on 7 aspects of wilderness character and designation potential. Since that time, the technological capabilities, marketing and levels of mountain bike use have changed significantly, necessitating a thorough evaluation of effects on wilderness character and future designation potential of the Big Snowies WSA. To "maintain" does not support activities that diminish wilderness character or wilderness potential.

⁷ In *Central Montana Wildlands v Kimball* (CV-04-175-M-DWM, August 29, 2006) the U S District Court (MT) upheld Big Snowies Travel Plans because the agency acted to preserve wilderness character by limiting activities that diminish wilderness character and potential:

"The Travel Plan acts in concert with the charter of the Montana Wilderness Study Act by limiting wilderness access to preserve the wilderness character of the region."

"The Forest Service, Montana Snowmobile, and Montana Wilderness present a compelling argument that concerned parties effectively crafted a plan, the Winter Recreation Agreement, that abides by the Montana Wilderness Study Act and protects the wilderness character of the area...The Forest Service analyzed the effects of the Winter Recreation Agreement as measured under the seven identified wilderness characteristics and found the Agreement in accord. Indeed, the Forest Service acknowledges the impact of snowmobiles in the area, but has crafted an agreement that will restore the wilderness within the Big Snowies."

⁸ See attached Newspaper clipping (Supplemental Document 12).

⁹

<https://www.americantrails.org/resources/building-sustainable-trails-key-design-elements#:~:text=Ten%20Percent%20Average%20Grade%3A%20An,sections%20can't%20be%20steeper.>



- The remedy is legal and practical, protecting core protected wilderness with unique features such as the Ice Caves and Devil's Chute, while offering outstanding mountain bike and snowmobile recreation opportunities in an adjoining 22,000-acre Grandview Recreation Area. It can be implemented as soon as the plan is complete.

Remedy

- See the Big Snowies MWA Remedies Map (Supplemental Doc 4) that restores wilderness character and potential protection to core wilderness study lands including unique features recognized as wilderness assets in 2001 by the Lewis and Clark National Forest. The proposed remedy aligns RWA protected lands with WSA lands where the Forest acted to preserve wilderness character and potential in 2004.
- Grandview Recreation Area amend (SN-GVRA-DC-01) as follows(changes underlined):
 - 01 Recreation activities with the Grandview Recreation Area enhance and support the primitive characteristics of the area without diminishing the potential for wilderness designation. Also see Forestwide Designated Areas, Wilderness Study Areas.
- Insert (SN-GVRA-GO-02) as follows (see attached trail profile -Grand View Loop):
 - A sustainable system of trails from Crystal Lake to the West Crest and Dry Pole Creek are linked and improved to provide high-quality non-motorized recreation outside the wilderness protected zone. (see MWA RWA remedy map)
- Suitability language for Grandview (SN-GVRA-SUIT-02) must be amended to ensure mechanized use is evaluated and limited as necessary "to preserve the wilderness character" and potential in the Big Snowies WSA. as follows (changes underlined):
 - *Within the Grandview Recreation Area, mechanized means of transportation (such as mountain bikes) will be evaluated to determine suitability on FS established roads and trails to ensure the total amount, location and effects of mountain bike use maintain "presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." Study Act § 3(a). Mechanized means of transportation off of NFS roads and trails in the Grandview Recreation Area is not suitable.*

NOTE: If MWA 's remedies are adopted, modifying Big Snowies RWA and GVRA boundaries, we suggest adjusting ROS classes to match modified desired conditions, retaining Primitive for MWA remedy RWA/WSA landscapes and applying Semi-Primitive Non-Motorized to accommodate mechanized travel on the Grand View Loop Trail.

Crazies Geographic Area

Objection 06: The DROD fails to acknowledge the significance of the Crazy Mountains to the Apsáalooke (Crow) Tribe and protect the northern remote mountain range accordingly.

The Crazy Mountains GA includes roaded lands, Box Canyon IRA, and also a very remote and wild roadless extension of the 120,000-acre Crazy Mountains Roadless Area. The draft ROD fails to acknowledge that a significant portion of the traditional cultural landscape recognized by the Custer-Gallatin National Forest as being of very special significance to the Apsáalooke (Crow) Tribe, extends north across the roadless headwaters of the American Fork into the Lebo-Locho Mountain Roadless Area of the Helena-Lewis and Clark NF. The special tribal significance of this single wild Crazy Mountains landscape is described in the Custer-Gallatin DROD:



Cultural and Historical Characteristics

The Crow Tribe call the Crazy Mountains Awaxaippia meaning “high landscape that is jagged or rough and have a bad reputation or omen.” At least four prominent chiefs of the Crow Tribe fasted on the Crazy Mountains, and the prophetic “dreams” received affected Crow National policies towards “American” government. Vision quest and fasting bed structures have been located on three prominent peaks within the Crazies and other sites have been found along the flanks of these high peaks that may be related to this traditional cultural practice. These practices continue today. The Crazy Mountains are considered a tribal cultural landscape and has been proposed by the Crow Tribe for nomination to the National Register of Historic Places.¹⁰

The Custer-Gallatin NF plans to acknowledge, consult, and protect the very same Crazy Mountains Wild land in the adjoining Crazy Mountains Backcountry Area (CMBA) and the Crazy Mountains Recommended Wilderness Area (RWA). Here are CGNF plan components for the same wild landscape:

Desired Conditions (BC-DC-TRIBAL)

- 01** The Crazy Mountains embody a tribal cultural landscape significant to ongoing traditional cultural practices of the Crow Tribe.
- 02** Research, education, and interpretation of the Crazy Mountain tribal cultural landscape provides public benefits and enhances the understanding and appreciation of Crazy Mountain’s natural environment, precontact, contact, and Crow traditional cultural values.

Goals (BC-GO-TRIBAL)

- 01** The Custer Gallatin National Forest protects and honors Crow treaty obligations, sacred land and traditional use in the Crazy Mountains through continued consultation with the Crow Tribe¹¹

MWA requests similar recognition and protection for the HLCNF component of the roadless Crazy Mountains which blend with the CGNF in the headwaters of the American Fork.

The DROD does not protect the remoteness and wilderness character of the roadless Crazy Mountains. The Loco Mountain Inventoried Roadless Area (IRA) is assigned a Semi-Primitive Non-Motorized Recreation Opportunity Spectrum (ROS) in the forest plan. The area is remote with no motorized travel routes and offers a high probability of solitude. The area is also important for backcountry hunting, hiking, fishing and horseback riding. The Loco Mountain area includes secure elk habitat and elk winter range. It also includes potential wolverine, Canada lynx, and goshawk nesting habitat as well.

Remedy

- The following Desired Conditions, similar to the 2020 Custer-Gallatin NF for the Crazy Mountains, should be included to acknowledge and protect the wild land and cultural values of this single wild landscape:

¹⁰ Pg 159, 2020 Land Management Plan – Custer Gallatin National Forest

¹¹ Pg 163, 2020 Land Management Plan – Custer Gallatin National Forest



- *The Crazy Mountains are recognized as part of the traditional cultural landscape extending unbroken across large undeveloped areas of the Helena-Lewis and Clark National Forest. Large undeveloped landscapes in the Crazy Mountains GA such as the Loco Mountain IRA are recognized as areas of special cultural, historic and spiritual significance to the Apsáalooke (Crow) People.*
- *Tribal representatives are consulted about management activities that may affect areas of cultural, historic or spiritual significance in the Crazy Mountains GA. Visitor use is light within the Loco Mountain Roadless Area and does not diminish the historic remoteness or primitive character of the area, nor the cultural, historic and spiritual values of the area.*
- *The Loco Mountain IRA provides traditional primitive recreation opportunities and opportunities for solitude.*
- Change the ROS setting for Loco Mountain IRA from Semi-Primitive Non-Motorized to Primitive.
- Follow recommendations from Primitive ROS setting Objection and Remedy section above to determine mechanized recreation suitability for the Loco Mountain Primitive ROS setting.

Divide Geographic Area

Objection 07: Plan component language limits the application of the wildlife guideline throughout the Divide Geographic Area.

Wildlife habitat and connectivity guidelines are removed from most of the Divide GA by inserting new language that limits the application of a key Guideline (DI-WL-GDL-01) included in the Draft Forest Plan. The truncation means the wildlife guideline now applies only to a small portion of the GA, a reduction that undermines wildlife conservation purposes for “wide-ranging species” as stated in Divide GA Desired Conditions (DI-WL-DC).

Remedy

- Strike the geographic limitation language inserted into wildlife guidelines (DI-WL-GDL-01) so that wildlife security and connectivity are maintained *throughout the Divide Geographic Area*.
 - DI-WL-GDL-01 should read: In order to maintain or improve wildlife security and connectivity, resource management activities ~~in the central portion of the GA, adjacent to Highway 12, and where private ownerships are intermingled with NFS lands,~~ should maintain or enhance high quality wildlife habitat, wildlife movement areas, and connectivity. In order to improve wildlife security and connectivity ~~in these areas:~~
 - Vegetation management activities should provide for wildlife hiding cover needs.
 - Motorized access should not be increased.
 - New trails should be constructed only where minimal impacts will occur to wildlife habitats and movement corridors.

Objection 08: There are no provisions to protect wild character of areas within the South Hills Recreation Area



There are no provisions to protect the existing undeveloped wilderness, primitive character and naturalness of the Black Mountain, Jericho and Sweeney Creek areas within the South Hills Recreation Area.

Remedy

- The final plan should recommend wilderness for Colorado Mountain (Alternative D) with boundaries as shown on the Colorado Mountain RWA DEIS Alt. D Map (Supplemental Doc 5)
- Add the following Desired Condition to the South Hills Recreation Area emphasis area:
 - (DI-SHRA-DC-03) The undeveloped wilderness and primitive character of the Black Mountain, Jericho Mountain and Sweeney Creek areas are maintained.

Objection 09: MWA objects to the misclassified ROS settings of the Little Prickly Bear

A 15,000 acres including deer, elk and moose winter ranges and winter habitats for wolverine, lynx and other carnivores in Little Prickly Bear were omitted from legally-required winter over snow vehicle travel analysis and are erroneously classed SPM ROS, contrary to 2005 Blackfoot-North Divide collaborative winter recreation agreement. (See Supplemental Document 6.a., 6.b., 6.c., 6.d. and 6.e.) for chronology of North Divide –Little Prickly Bear winter travel planning.)

Remedy: Reclassify as (winter ROS) semi-primitive non-motorized (SPNM) with exceptions for over snow vehicles on Marsh Creek and Lost Horse Forest Roads (See Supplemental Document 10 page 3).

Elkhorn Geographic Area

Objection 10: MWA objects to the failure to consider wilderness, to acknowledge or protect in any way the wilderness character in the roadless heart of the Elkhorns.

The 75,000-acre wild, roadless core of the Elkhorns, among the largest forest roadless areas, was not evaluated in any alternative for recommended wilderness. In contrast to the 86 plan, the DROD offers no desired condition or distinction in recreation management between remote wild lands in the rugged core and urban interface zones with subdivisions and private inholdings.

The wild core of the Elkhorns includes areas with high seclusion value for wildlife due to its remoteness. The roadless core offers outstanding opportunities for solitude, primitive traditional recreation and a cherished sense of remoteness. The 25-year old Elkhorns Travel Plan hardly mentions mechanized travel and did not evaluate effects, yet is dictated by top-down ROS language to be suitable across every ROS class and acre of the Elkhorns WMU.¹²

Remedy:

- The plan should evaluate RW for qualifying wild lands in the Elkhorns.¹³

¹² The Elkhorns Travel Plan signed by Supervisor Clifford in August 1995 evaluated the effects of motorized recreation in four alternatives. No alternative evaluated variations in mechanized use. Mountain biking is not among 3 key issues evaluated nor does it appear in 9 "other issues" raised in public comments cited in the Decision Notice. "The effect of motorized use on the roadless and wilderness character of the Elkhorn Mountains" was one of three key issues evaluated, as measured by three indicators: "1. Change in ROS. 2. Loss of Non-motorized Opportunities. 3. WSA (Wilderness Study Area) Management."

¹³ See MWA comments on Wilderness Inventory re Elkhorns Wildlife Management Unit (GA)

Units E1 (57,279 acres) and E3 (15,180) should be combined and evaluated as a single wild lands unit by including lands around Glenwood Lake, Hidden Lake. Elkhorn and Crow Peaks. Wild lands between the units share similar features, primitive



- If the forest is unwilling, the final plan should select Alternative C from the DEIS (see Supplemental Document 7) which best maintains the historic wilderness character of the primitive Elkhorns core. See attached map (Supplemental Document 9).
- The following desired condition should be inserted as (EH-ACCESS-DC-02):
 - *02 The roadless core of the Elkhorns is large, wild and remote, providing quiet solitude and outstanding opportunities for traditional non-motorized recreation. FS Trails are managed for foot and stock travel.*

Objection 11: Wildlife protections weakened for the Elkhorn GA and Elkhorn Wildlife Management Unit

- A. The 2020 Land Management Plan Wildlife Guidelines (EH-WL-GDL-01) weakens the wildlife-compatible principle of Elkhorns WMU:

*"Maintenance, enhancement, and restoration of wildlife habitats should be the priority for resource management in the Elkhorns Wildlife Management Unit. Management activities and permitted uses **should** be compatible with wildlife values and habitats, **and/or should be designed to avoid negative impacts to wildlife and wildlife habitats.**"*

The new language is weaker than this language in 1986 Forest Plan (III/78):

"Land management activities for other resource values will be considered when they are compatible with management direction for wildlife."

Remedy

- Change guideline to standard, amend EH-WL-GDL-01 to read as follows:
 - *"Maintenance, enhancement, and restoration of wildlife habitats should be the priority for resource management in the Elkhorns Wildlife Management Unit. Management activities and permitted uses will be compatible with wildlife values and habitats."*
- B. Timber harvest activities are allowed that may not be compatible with wildlife

EH-TIM-SUIT-01 (Pg. 160) "The Elkhorns Wildlife Management Unit is not suitable for timber production. However, timber harvest may occur to provide for other multiple use values." MWA objects to the lack of emphasis on wildlife in the Timber suitability language.

Remedy

- Amend EH-TIM-SUIT-01 to add highlighted text as follows:
 - *The Elkhorns Wildlife Management Unit is not suitable for timber production. However, timber harvest may occur outside of roadless areas*

recreation and wilderness characteristics. Unit E1 should also include all lands with wilderness characteristics in Sections 1, 11, 12, 13 T 8 N, R 2 W and Sections 6, 7, 18, 19, 20 T 8 N, R 1 W. These wild lands include all of Casey Meadows, Horsethief Park and the USFS lands in Montgomery Park. These lands are a natural extension of similar lands in draft unit E1, encompass areas with strong wilderness characteristics, excellent wildlife habitat, and exceptional opportunities for primitive and unconfined backcountry recreation including skiing, hunting, hiking, camping and wildlife viewing. MWA wishes to note that evaluating areas that may be highly suitable for future wilderness embedded within the Elkhorns Wildlife Management Unit is entirely consistent with its history, traditions and purposes as a wildlife management area.



to provide for other multiple use values *compatible with wildlife values and habitats*.

C. Missing components fail to minimize impacts to wildlife from potential hardrock mining

The draft ROD is missing key components to minimize impacts to wildlife from potential hardrock mining and exploration which threaten the Elkhorn WMU's Desired Conditions and purposes. This is largely because one guideline from the Draft Plan (EH-EMIN-GDL-01) was weakened and another (EH-EMIN-GDL-02 pg. 148) removed.

In the Draft Forest Plan EH-EMIN-GDL-01 is clear, beginning with - "Where possible within law and regulation "... The draft ROD replaces this with the opening highlighted below, rendering the application of the guideline questionable.

EH-EMIN-GDL-01 (pg. 160) now states:

"When practicable, no surface occupancy for activities associated with exploration of locatable minerals should be allowed during the season of use by elk in identified elk wintering areas, big-game calving or lambing areas, identified elk summer habitat, or other identified wildlife habitats in which wildlife are known to be sensitive to disturbance or displacement."

MWA objects to the weakening of (EH-EMIN-GDL-01) from the draft plan and the removal of (EH-EMIN-GDL-02) from the 2020 Land Management Plan.

Remedy

- Replace EH-EMIN-GDL-01 with the language from the Draft Forest Plan (pg. 148) and make it a Standard:
 - "Where possible within law and regulation, no surface occupancy for activities associated with exploration of locatable minerals should be allowed during the season of use by elk in identified elk wintering areas, big-game calving or lambing areas, identified elk summer habitat, or other identified wildlife habitats in which wildlife are known to be sensitive to disturbance or displacement."
- Restore EH-EMIN-GDL-02 (pg. 148) from Draft Forest Plan, make it a Standard, and revise slightly as follows:
 - "Where possible within law and regulation, activities associated with exploration of leasable minerals should include location and timing restrictions in order to avoid disturbance and displacement of wildlife."

D. Road and Trail standards

Additional Road and trail standards are necessary to protect wildlife habitat and security.

Remedy

- Include the following as road and trail standards:
 - 03 Outside roadless areas, temporary roads may only be constructed to service projects that improve wildlife values and habitat. Any temporary roads must be fully obliterated and natural contours restored within 3 years of construction.
 - 04 Wildlife habitat and security needs limit trail/road densities, locations,



timing and types of recreation uses. (Similar to III /78 - 92 of April 1986 HLNf Plan)

- 05 Unauthorized trails/roads will be reclaimed throughout the WMU.

Objection 12: MWA objects to the absence of language clarifying the Elkhorns WMU remains unsuitable (unavailable) for oil and gas leasing

The 2020 Land Management plan fails to carry forward the current (1998) decision not to lease the Elkhorns WMU for oil and gas in direction for the Elkhorns WMU (GA).¹⁴

Remedy

- Add the following suitability standard: *The Elkhorns WMU is not suitable for oil and gas leasing or exploration.*

Objection 13: Road and trail standards allow roads without a legal right of way

Elkhorns WMU road and trail standards allow new permanent private roads to be built across the national forest lands to inholdings, even without a legal right of way:

Standards (EH-RT-STD) 01 New permanent roads shall be constructed only for alleviating resource concerns (e.g., removing a road from a riparian area and replacing it with a road in another location) or to allow reasonable access to private lands that cannot be accessed except by crossing NFS lands. Permanent roads constructed for these purposes shall include conditions (for example, timing of use restrictions, location restrictions) in order to meet wildlife habitat objectives.

Remedy

- Road and trail standards allow roads without legal right of way. Replace highlighted text above as follows:
 - *Standards (EH-RT-STD-01) New permanent roads shall be constructed only for alleviating resource concerns (e.g., removing a road from a riparian area and replacing it with a road in another location) or when necessary to meet existing legal rights. Permanent roads constructed for these purposes shall include conditions (for example, timing of use restrictions, location restrictions) in order to meet wildlife habitat objectives.*

Little Belt Geographic Area

Objection 14: Plan components fail to meet legally-required desired future conditions for the Middle Fork Judith Wilderness Study Area.

The plan components for the Little Belts GA do not recommend or act to protect the wilderness character and potential of Middle Fork Judith WSA lands protected by the Forest in 2007.

No portion of the Middle Fork Judith Wilderness Study Area was recommended for Wilderness and the rationale provided was that “motorized trails and private inholdings accessed by open roads impact solitude.” (Appendix E FEIS pg 314)

¹⁴ Elkhorn WMU was determined to be unavailable for federal oil and gas leasing in the Record of Decision signed by Supervisor Clifford dated July 20, 1998.



The remedy (Alt D) proposed for Recommended Wilderness by MWA, does not include motorized trails.

The plan components for the Middle Fork Judith WSA fail to maintain wilderness character and potential for designation in the WSA core lands where the Forest previously acted to protect wilderness character and designation potential.

In *Russell Country*, the 9th Circuit Court of Appeals defined the USFS legal duties under the 1977 Montana Wilderness Study Act, reversing the lower court and restoring the Forest's actions to restore and preserve MFJ WSA wilderness in the Little Belts Travel Plan.

We are stunned that the DROD fails to continue this progress, substituting shaky assumptions for clear actions and plan direction to "preserve against decline" wilderness character and potential designation of the Middle Fork Judith WSA.

Blanket suitability of mechanized use in core wilderness protected WSA lands-- without first evaluating the effects on wilderness character and wilderness potential violates WSA duties spelled out on this Forest in *Russell Country*.

Remedy

- The final plan should recommend the 62,000-acre Middle Fork Judith Wilderness as in Alternative D, which protects the wilderness character and potential in the non-motorized protected core of the WSA.
- If the Forest Service is unwilling to recommend Middle Fork Judith as Wilderness, the Primitive ROS in the DROD must remain both intact and non-mechanized to preserve wilderness character and potential for designation.

Objection 15: Insufficient Rationale for excluding Tenderfoot/Deep Creek as Recommended Wilderness

The HLCNF Proposed Action recommended 89,321 acres for wilderness for the Deep Creek area which included Tenderfoot. The draft plan then split the Deep Creek area into two separate polygons, Deep Creek (LB1a) and Tenderfoot (LB1b).

Alternatives B, C, D of the Draft Plan recommended 14,490 acres for Wilderness. The rationale for excluding Deep Creek (LB1a) from Recommended Wilderness is not sufficient. In Appendix E of the FEIS (pg. 313) the rationale for exclusion is stated
"In alternative F, both Deep Creek and parts of Tenderfoot Creek were identified as primitive ROS areas rather than as RWA's."

In fact, Appendix E recognizes that in the DEIS:

"In alternatives B, C, and D, LB1a (Deep Creek) is recommended based on outstanding opportunities for solitude and ecological characteristics."

This is noteworthy and, so, given the recognition based on opportunities for solitude and ecological characteristics, we question why the final plan chose Primitive ROS allocation instead of RW when mechanized use is nearly non-existent.



In addition, Deep Creek was identified as one of three large non motorized blocks in the 2007 Travel Management Plan and as noted in MWA's previous comments it was also included in past wilderness bills. Deep Creek as laid out in Alt. B, C and D would not impact any motorized trails.

Remedy

- Deep Creek (LB1a) should be recommended for Wilderness designation with boundaries of Alt B, C and D of the DEIS. After the Deep Creek Polygon was split into Deep Creek and Tenderfoot areas, Tenderfoot was Recommended in Alt D of the DEIS. Tenderfoot was recommended in response to public comment and ecological characteristics. The rationale for excluding a portion of Tenderfoot (modified LB1b) is not sufficient. The rationale for exclusion is the same as Deep Creek (LB1a). The DROD states that the decision:

"Provides primitive recreation opportunities in multiple locations as an alternative to recommended wilderness areas, so that existing mechanized access can remain suitable in those areas."

The public comment on the DEIS and Draft Plan do not support this assertion for the Deep/Tenderfoot Area. There were very few comments indicating that the Tenderfoot/Deep Creek RW area as proposed by MWA in the DEIS comment period receives more than cursory use by mountain bikers. The Deep Creek trail system which is open to motorized vehicles would remain open to mountain bike use as would Trail #311 which leads down to the Smith River.

- The Tenderfoot polygon (LB1b) should be recommended for Wilderness designation with boundary modifications. The new boundaries for the Tenderfoot RW should be the boundaries for the Tenderfoot Polygon Primitive ROS setting of Alt F.

Rocky Mountain Geographic Area

Objection 16: Mechanized recreation conflicts with the DC in the Badger-Two Medicine Traditional Cultural District

The Badger-Two Medicine is a place of unique cultural and ecological values, and MWA supports the classification of the Badger-Two Medicine as a special emphasis area, with management direction to protect cultural/historic and ecological values as well as Blackfeet treaty rights and consultation.

MWA is pleased to see a Primitive ROS setting for the Badger but are dismayed at the conclusion that mechanized use is suitable in all Primitive settings outside of RW. While we support this area not being recommended for wilderness in the forest plan, our rationale for this position is not based on the desire for the area to receive less administrative protection than a RW, but the desire for plan components that uniquely protect both the wild and cultural values that characterize the Badger, recognize and preserve Blackfeet treaty rights, and give the Blackfeet Nation a larger voice in future decisions that will impact this area.

MWA firmly believes that mechanized use in the Badger is incompatible with the Traditional Cultural District (TCD). The area currently sees very little use by mountain bikers and therefore



sees little impact to the TCD. The increasing popularity of mountain biking and developments in technology mean that the continued allowance of mechanized recreation will impact the TCD in the future. Since the draft Plan guides the management of the Forest for the next 20 years, it is imperative that the Forest prevent impacts to the TCD. This is especially true given the duty by the Forest to consult with the Tribe and acknowledge existing Treaty rights.

Remedy

- Honor Blackfeet wishes and designate the Badger-Two Medicine unsuitable for recreational mechanized and motorized use. The following suitability statement should be added to the Badger-Two Medicine Tradition Cultural District:
 - *03 Motorized and mechanized means of transportation are not suitable in the Badger-Two Medicine Tradition Cultural District. Exceptions may be made for authorized permitted uses, valid existing uses, or in emergencies involving public health and safety that are determined on a case by case basis.*
- A site-specific NEPA decision per the Plan's suitability direction should be used to close these uses within the Badger-Two Medicine area within 3 years from the date of this decision. In the interim, a temporary closure order is appropriate.

Objection 17: Badger-Two Medicine Removal of Standard 02 was inappropriate

Also of concern is the removal of RM-BTM-STD 02 from the 2020 Land Management Plan. There was no justification in the FEIS or DROD for the removal of this standard and MWA supported its inclusion in the DEIS.

*RM-BTM-STD 02: Management activities within the Badger-Two Medicine area shall not pose adverse effects to the Badger-Two Medicine Traditional Cultural District. Management activities shall consider scientific research and ethnographic research as they relate to Blackfeet cultural and land-use identities when analyzing project effects.*¹⁵

This standard is an important guide post for the Forest in that it forces the HLCNF to consider impacts to the TCD and Blackfeet cultural uses when analyzing a given project. The removal of the standard was inappropriate.

Remedy:

- Restore the RM-BTM-STD 02 in the Final Plan as follows:
 - *RM-BTM-STD 02: Management activities within the Badger-Two Medicine area shall not pose adverse effects to the Badger-Two Medicine Traditional Cultural District. Management activities shall consider scientific research and ethnographic research as they relate to Blackfeet cultural and land-use identities when analyzing project effects.*

Upper Blackfoot Geographic Area

MWA is a participant in both the Montana High Divide Trails Collaborative, which submitted unified comments on the Upper Blackfoot GA and the Upper Blackfoot Working Group (UBWG). In 2019, these collaborative groups reached a broad collaborative vision for the Upper Blackfoot and North Divide portion of the Forest. MWA endorses the shared objections and remedies, with

¹⁵Helena-Lewis and Clark Draft Forest Plan (2018) pg. 172



trails and areas recommended for Wilderness shown in the collaborative agreement attached map and submitted by the UBWG on 7/20/2020 .

Objection 18: The UBWG collaborative agreement, and vision, was not fully incorporated into the draft plan.

We support recommended wilderness for Nevada Mountain and Scapegoat Wilderness Inclusions (Silverking, Red Mountain and Arrastra Creek) that were agreed to in the UBWG collaborative. We object to the RW boundaries for Nevada Mountain and the exclusion of Arrastra Creek as RW. We submit, again, recommendations by the collaborative. If accepted, these modest changes will have the beneficial effect of bringing the final plan into close alignment with the UBWG's proposal, while protecting more wild country.

Also, the following ROS modifications correct an error in the plan and further collaborative goals of MHDT and the UBWG.¹⁶

The Desired Condition omits important collaborative goals for connecting trails between Lincoln and the Continental Divide. Members of the UBWG and MWA requested an important **collaborative recreation goal** be included in the Upper Blackfoot GA to foster trail connections sought by the community between Lincoln and Stemple Pass. **This goal is linked to RWA and ROD outcomes in this GA.**

This desired future condition is broadly-supported, connects trails into a system and allows diverse interests to work together as collaborative partners with the Lincoln Ranger District.

Remedy: MWA offers RW boundary changes, modifications to the Summer ROS map, and inclusion of a desired condition as a better solution, all of which are supported by the UBWG.

- Nevada Mountain RWA - Place the northern boundary as shown on the attached map (see Supplemental Document 8) to protect the remote wild lands of northern Nevada Mountain in RW yet leave a significant buffer near private and mining claims at lower elevations along the road corridor. Motorized use is not present in the area in any season.
Alt F moves the northern boundary of Nevada Mountain RWA south to Gould-Helmville Trail omitting 10,000 acres of equally excellent RW quality wild lands with few conflicts. Alternatives B, C, and D placed the northern boundary of Nevada Mountain RWA on the roadless boundary, following the South Fork Poorman Creek Road.
- Silverking RWA - MWA submits the modest boundary of the UBWG for RW, with continued protection of Alice Creek as a National Historic Landscape, Conservation Area and under current travel management plan without change. Alt F places the eastern boundary of the Silver King addition to the Scapegoat along the Alice Creek Road. See attached map (Supplemental Document 9).
- Arrastra Creek RWA - The UBWG has included Arrastra Creek in it's proposal, which protects very high wilderness quality lands wedged between the Scapegoat Wilderness

¹⁶ **Alice Creek summer ROS:** MWA, the Montana High Divide Trails collaborative (and Lincoln collaborative group) support forest plan and legislative proposals that continue existing travel management in Alice Creek. North of Lewis and Clark Pass, the CDNST and Trail#490 are managed for foot and stock, while south, the CDT is open to foot, stock and non-motorized bicycle travel. We wish to note here that the final summer ROS should support this clear outcome.



and large Blackfoot-Clearwater RWA, a key wilderness portal and habitat link, with no recreational conflicts. See attached map (Supplemental Document 9). Alternatives B, C, and D included Arrastra with boundaries that stretched from the Lolo Blackfoot-Monture RWA to Stonewall Creek. Alt F drops Arrastra from RWA entirely.. We are asking for the HLCNF recommend Arrastra Creek for Wilderness using boundaries from the UBWG.

- Modest adjustments in summer ROS configuration are necessary to better reflect desired conditions that accommodate connecting trails between Stemple Pass and Lincoln supported by MWA. See Supplemental Document 10 (page 1) for modified ROS map attached.
- The ROS map errs in codifying Nevada Mountain wild lands between Gould-Helmville and South Fork Poorman Creek as motorized. This area is not open to motorized use. This should be corrected by classifying this area as Primitive to within one half mile of Poorman Creek Road.
- Trails connect the community of Lincoln to the Continental Divide near Stemple Pass, with minimal impact to wildlife habitats and movement corridors.

Conclusion

MWA appreciates the USFS efforts throughout this forest plan revision. We look forward to continuing to work through the objections process and hope our recommendations and suggestions result in an improved final land management plan for the HLC National Forest. Please don't hesitate to contact us anytime.

Sincerely,

Zach Angstead (Lead Objector)
Central Montana Field Director
zangstead@wildmontana.org

John Gatchell
Senior Conservation Advisor
jgatchell@wildmontana.org



Supplemental Documentation

1. Russell Country Sportsmen et al v United States Forest Service (12 Pages)
2. South Big Belts MWA Remedy Map (1 Page)
3. Grandview Loop Trail Profile (1 Page)
4. Big Snowies MWA Remedies Map (1 Page)
5. Colorado Mountain RWA DEIS Alt. D Map (1 Page)
6. North Divide –Little Prickly Pear winter travel planning.
 - a. North Divide Winter Travel Plan Chronology (2 Pages)
 - b. 2005 Upper Blackfoot - North Divide Winter Recreation Agreement (11 Pages)
 - c. Winter Travel Project Upper Blackfoot - North Divide (2 Pages)
 - d. Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (11 Pages)
 - e. DECISION NOTICE and FINDING OF NO SIGNIFICANT IMPACT - SOUND WOOD SALVAGE TIMBER SALE (11 Pages)
7. Elkhorn Alt C. Map from DEIS (1 Page)
8. Nevada Mountain MWS Remedy Map (1 Page)
9. Arrastra/Silverking MWA Remedy Map (1 Page)
10. Upper Blackfoot ROS Remedy Maps (3 Pages)
11. Custer Gallatin NF WSA Plan Components (2 Pages)
12. Big Snowy Winter Travel News Articles

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RUSSELL COUNTRY SPORTSMEN;
MONTANA TRAIL VEHICLE RIDERS
ASSOCIATION; GREAT FALLS TRAIL
BIKE RIDERS ASSOCIATION;
MEAGHER COUNTY LITTLE BELTERS;
GREAT FALLS SNOWMOBILE CLUB;
TREASURE STATE ALLIANCE;
MOTORCYCLE INDUSTRY COUNCIL;
SPECIALTY VEHICLE INSTITUTE OF
AMERICA; THE BLUERIBBON
COALITION,

Plaintiffs-Appellees,

v.

UNITED STATES FOREST SERVICE;
LEWIS AND CLARK NATIONAL
FOREST; LESLEY THOMPSON, Forest
Supervisor,

Defendants,

and

MONTANA WILDERNESS
ASSOCIATION,

Intervenor-Defendant-Appellant.

No. 10-35623

D.C. No.
4:08-cv-00064-SEH

18852 RUSSELL COUNTRY SPORTSMEN v. USFS

GREAT FALLS SNOWMOBILE CLUB;
MONTANA TRAIL VEHICLE RIDERS
ASSOCIATION; GREAT FALLS TRAIL
BIKE RIDERS ASSOCIATION;
MEAGHER COUNTY LITTLE BELTERS;
MOTORCYCLE INDUSTRY COUNCIL;
RUSSELL COUNTRY SPORTSMEN;
SPECIALTY VEHICLE INSTITUTE OF
AMERICA; THE BLUERIBBON
COALITION; TREASURE STATE
ALLIANCE,

Plaintiffs-Appellees,

v.

UNITED STATES FOREST SERVICE;
LEWIS AND CLARK NATIONAL
FOREST; LESLEY THOMPSON, Forest
Supervisor,

Defendants-Appellants,

and

MONTANA WILDERNESS
ASSOCIATION,

Intervenor-Defendant.

No. 10-35784

D.C. No.
4:08-cv-00064-SEH
OPINION

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Argued and Submitted
June 7, 2011—Portland, Oregon
Submission Withdrawn June 17, 2011
Resubmitted August 25, 2011

Filed October 12, 2011

RUSSELL COUNTRY SPORTSMEN V. USFS 18853

Before: Raymond C. Fisher, Ronald M. Gould and
Richard A. Paez, Circuit Judges.

Opinion by Judge Fisher

18856 RUSSELL COUNTRY SPORTSMEN V. USFS

COUNSEL

Ignacia S. Moreno, Assistant Attorney General, Jared S. Petinato and Allen M. Brabneder (argued), U.S. Department of Justice, Washington, D.C.; Alan J. Campbell, U.S. Department of Agriculture, Office of General Counsel, for the defendants-appellants.

Matthew K. Bishop (argued) and Sarah McMillan, Western Environmental Law Center, Helena, Montana, for the intervenor-defendant-appellant.

Paul A. Turcke (argued), Moore Smith Buxton & Turcke, Chtd., Boise, Idaho; William P. Horn, Birch Horton Bittner Cherlot, Washington, D.C., for the plaintiffs-appellees.

OPINION

FISHER, Circuit Judge:

We decide whether the United States Forest Service’s (Service) 2007 Travel Management Plan for parts of the Lewis and Clark National Forest, including the Middle Fork Judith Wilderness Study Area, violates the Montana Wilderness Study Act of 1977 (Study Act) and the National Environmental Policy Act (NEPA). We hold that nothing in the Study Act, which requires the Service to manage a wilderness study area so as to “maintain” its wilderness character as it existed in 1977, prohibits the Service from exercising its discretion to enhance the wilderness character of a study area. We also hold that NEPA does not require the Service to prepare a supplemental draft environmental impact statement (EIS) where, as here, the final decision makes only minor changes and is qualitatively within the spectrum of the alternatives discussed in the draft EIS. We accordingly reverse the judgment of the district court.

BACKGROUND

In 2007, the Service issued a revised Travel Management Plan governing recreational motorized and nonmotorized use on 1.1 million acres of the Lewis and Clark National Forest. The area covered by the travel plan encompasses the Little Belt Mountains, the Castle Mountains, the north half of the Crazy Mountains and the 81,000-acre Middle Fork Judith Wilderness Study Area.

The Service’s draft environmental impact statement (DEIS), released in July 2006, considered five summer alternatives and three winter alternatives. The most restrictive summer alternative would have allowed motorized use on 1287 miles of roads and trails. The least restrictive summer alternative would have allowed motorized use on 2262 miles of roads and trails.¹ Each of the alternatives also would have permitted motorized vehicles within 300 feet of a road or trail for parking (i.e., accessing dispersed campsites), passing or turning around.

The Service’s final plan, issued in October 2007, adopted summer alternative 5, with several modifications, and winter alternative 2.² Overall, the plan designated 1366 miles for motorized recreational use, including 870 miles of routes open year-round and another 496 miles open seasonally.³ The

¹The recreational groups, plaintiffs-appellees in this case, contend that the DEIS alternatives would have allowed motorized use on between 1951 and 3036 miles of roads and trails. As we explain below, however, the correct range is 1287 to 2262 miles.

²The Service presented the plan in a record of decision and a final EIS.

³The 1366 miles include 37 miles yearlong and 188 miles seasonally for motorcycles; 121 miles yearlong and 101 miles seasonally for all-terrain vehicles (ATVs); 128 miles yearlong and 50 miles seasonally for four-wheel drive vehicles; and 584 miles yearlong and 157 miles seasonally for full-size passenger vehicles. “Lower-level” vehicles can use routes designated for “higher-level” vehicles. Thus, for example, motorcycles, which are the lowest-level motorized vehicles, can use all 1366 miles of routes, whereas four-wheel drive vehicles can use only the routes designated for four-wheel drive and full-size passenger vehicles.

plan also designated about 304 miles for groomed over-snow motorized travel and permitted over-snow, cross-country (i.e., off-road, off-trail) motorized travel on 483,000 acres between December 1 and May 15.

The final plan dropped the 300-foot dispersed camping rule and instead allowed “parking, passing, or turning around . . . within the length of the vehicle and attached trailer” (about 70 feet), subject to certain conditions designed to ensure safety and protect vegetation, soil and water. The modified dispersed camping rule also permitted off-road travel beyond the “vehicle length plus trailer” limit to access certain established campsites.

Within the Middle Fork Judith Wilderness Study Area, the plan “emphasize[d] non-motorized recreation,” reducing routes designated for motorized recreational use from 112 miles under the previous travel plan to 38 miles under the new plan. The Service’s record of decision explained this choice as follows:

When Congress passed the Montana Wilderness Study Act, it instructed the agency to maintain the wilderness character of the Middle Fork of the Judith Wilderness Study Act Area (WSA). Managing this area primarily for non-motorized use best accomplishes this goal until Congress decides whether or not the area should be designated as wilderness. Presently there is an abundance of motorized use in this area, some of which is necessary to access private land in the middle of the WSA. To balance the need to provide access to private land, the special “highlight of the summer” trip some of the trails provide for motorized users, with the need to maintain wilderness character, I have eliminated motorized use except for one connected complex of trails (approximately 12 miles) and the road system that accesses the private land.

Nine recreational groups having an interest in motorized recreation subsequently filed suit against the Service, seeking to invalidate the travel plan as violating NEPA and the Study Act. The Montana Wilderness Association intervened as a defendant, and the parties filed cross-motions for summary judgment.

The district court granted the recreational groups' motion for summary judgment and denied the Service's cross-motion. The court concluded that the Service failed to comply with NEPA by adopting a final decision that "fell outside the range of alternatives [considered in the DEIS] and made numerous, significant changes to the DEIS" without preparing a supplemental environmental impact statement as required by 40 C.F.R. § 1502.9(c), which states that "[a]gencies . . . [s]hall prepare supplements to either draft or final environmental impact statements if . . . [t]he agency makes substantial changes in the proposed action that are relevant to environmental concerns." The court concluded that the final decision departed from the range of alternatives discussed in the DEIS in four areas:

1. "The chosen decision reduced total mileage open for motorized travel by nearly thirty percent beyond the most restrictive DEIS alternative."⁴
2. The final decision "closed several trails not specified for closure in the DEIS."

⁴This ruling was based on the mileage figures offered by the recreational groups. As noted, the recreational groups contended that the DEIS alternatives would have allowed motorized use on between 1951 and 3036 miles of routes, which placed the 1366 miles included in the final travel plan outside the range of alternatives considered in the DEIS. The motorized use authorized by the DEIS alternatives actually ranged from 1287 to 2262 miles, however.

3. The final decision "reduced the snowmobile season short of any DEIS alternative."⁵
4. The final decision "scrapped a 300-foot-off-road-travel rule for a much more restrictive 'vehicle plus trailer length' area."

The court also granted summary judgment to the recreational groups on their Study Act claim. The court concluded that the Study Act, which directs the Service to administer wilderness study areas "so as to maintain their presently existing wilderness character," Pub. L. No. 95-150, § 3(a), 91 Stat. 1243 (1977), requires the Service to preserve the wilderness character of a wilderness study area against decline, but prohibits the Service from *enhancing* the wilderness character of the area. The court said that the Study Act:

directed the Forest [Service] to maintain the wilderness character of Wilderness Study Areas as it existed in 1977. To the extent the wilderness character was there in 1977, it was to be maintained. To the extent the wilderness character was lacking in 1977, it was not to be imposed.

Noting that the final travel plan reduced overall motorized use in the study area from 112 miles to 38 miles, the court concluded that the travel plan "eliminate[d] roughly two-thirds of the previously-available motorized routes" — which the court construed as an impermissible "attempt at enhancement or creation of wilderness character" in the study area.

⁵Under the alternatives discussed in the DEIS, the snowmobile season would have ended on May 15, whereas in the final travel plan the snowmobile season would have ended on May 1. During the appeals phase of the administrative proceedings, however, the Service restored May 15 as the end of the snowmobile season. It appears that the district court did not take this last revision into account in its analysis.

The court entered judgment setting aside the travel plan in certain respects and remanding to the Service for further action. The Service and the Montana Wilderness Association separately appealed. We consolidated the two appeals, and, after hearing argument, referred the matter for possible mediation. The parties elected not to pursue mediation. The matter is therefore ripe for decision.

STANDARD OF REVIEW

We review de novo a district court’s grant or denial of summary judgment. *LaVine v. Blaine Sch. Dist.*, 257 F.3d 981, 987 (9th Cir. 2001). The Study Act and NEPA do not contain their own provisions for judicial review. Accordingly, our review of the Service’s decision under these statutes is governed by the judicial review provisions of the Administrative Procedure Act (APA), 5 U.S.C. §§ 701-06. *See City of Sausalito v. O’Neill*, 386 F.3d 1186, 1205-06 (9th Cir. 2004). Under the APA, agency decisions may be set aside if “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

DISCUSSION

I. Montana Wilderness Study Act

[1] The Study Act requires the Service to administer wilderness study areas “so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.” Study Act § 3(a). This provision imposes two requirements. First, the Service must administer study areas so as to maintain their wilderness character as it existed in 1977. Second, the Service must administer the areas so as to maintain their potential for designation as wilderness areas — i.e., as part of the National Wilderness Preservation System. The dispute here concerns the first of these requirements.

The recreational groups urge, and the district court concluded, that the obligation to administer study areas so as to “maintain their presently existing wilderness character” prohibits the Service not only from *degrading* the wilderness character of a study area, but also from *enhancing* it. They argue that the Service improperly attempted to enhance the study area’s wilderness character by reducing overall motorized use miles in the study area beyond 1977 levels. The Service disputes that interpretation, arguing that the Study Act “creates a floor, not a ceiling, for environmental protection.”

[2] The Service is correct. The Study Act plainly mandates preservation of a base level, but does not prohibit enhancing the area’s wilderness character above that level. Webster’s defines “maintain” as “to keep in a state of repair, efficiency, or validity” and as to “preserve from failure or decline.” Webster’s Third New International Dictionary 1362 (2002). Other dictionaries confirm this meaning. *See Owasso Indep. Sch. Dist. No. I-011 v. Falvo*, 534 U.S. 426, 433 (2002) (“The ordinary meaning of the word ‘maintain’ is ‘to keep in existence or continuance; preserve; retain.’ ” (quoting Random House Dictionary of the English Language 1160 (2d ed. 1987))); American Heritage Dictionary of the English Language 1055 (4th ed. 2000) (defining “maintain” as “To keep up or carry on; continue,” and as “To keep in an existing state; preserve or retain”); Oxford English Dictionary (online version June 2011) (defining “maintain” to include “To keep up, preserve, cause to continue in being (a state of things, a condition, an activity, etc.); to keep vigorous, effective, or unimpaired; to guard from loss or deterioration.”). In sum, the Study Act simply requires the Service to preserve a study area’s wilderness character against *decline*. Enhancement of wilderness character is fully consistent with the Study Act’s mandate, although the Study Act does not require it.⁶

⁶We recognize that the word “maintain” is sometimes used to mean holding in a constant state. An engineer calculating a car’s gas mileage,

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[3] This meaning is confirmed by the purposes of the Study Act. One of the Act’s express aims is to preserve a study area’s “wilderness character” throughout the study period. The Study Act does not define the term “wilderness character,” but the parties agree that it borrows a definition of wilderness from the Wilderness Act, Pub. L. No. 88-577, 78 Stat. 890 (1964) (codified at 16 U.S.C. § 1131(c)).⁷ The Wilderness Act defines “wilderness as an area that has, among other things, ‘outstanding opportunities for solitude or a primitive and unconfined type of recreation.’” *Greater Yellowstone Coal. v. Timchak*, No. CV-06-04-E-BLW, 2006 WL

for example, might instruct an assistant to maintain the car’s speed at 55 miles per hour, meaning that the assistant should keep the car moving at exactly 55 miles per hour, no more and no less. Ordinarily, however, the word is used to communicate the idea of preserving something against decline, not preventing enhancement. A student who is told that she must maintain a B average to retain a scholarship, for instance, will not lose her scholarship if her grade point average rises to 4.0. A baseball player whose contract provides for payment of a bonus if he maintains a .300 batting average will still get the bonus if he bats .350.

⁷Section 1131(c) defines wilderness as follows:

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

16 U.S.C. § 1131(c).

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3386731, at *2 (D. Idaho Nov. 21, 2006) (applying the Wyoming Wilderness Act of 1984, which contains language identical to the Study Act) (quoting 16 U.S.C. § 1131(c)).⁸ The Study Act accordingly “requires the Forest Service to administer [wilderness study areas] to maintain” overall wilderness character, including “opportunities for solitude or primitive and confined recreation[,] that existed there in [1977],” until the area is either designated as a wilderness area or removed from the Study Act. *Id.* at *3; *see also id.* at *3-*6 (overturning the Service’s decision permitting increased heli-skiing in the Palisades Wilderness Study Area where the Service failed to show that increased helicopter use would not diminish current users’ available opportunities for solitude compared to 1984 levels). The Service can accomplish this purpose — providing current users with opportunities for solitude comparable to those that existed in 1977 — when the Service either preserves against decline or enhances wilderness character.

The Study Act’s other express aim is to maintain a study area’s “potential for inclusion in the National Wilderness Preservation System.” Study Act § 3(a). Once again, the Service acts consistently with this objective when it either preserves against decline or enhances the wilderness protection of the area. Preserving motorized recreational uses, by contrast, does nothing to maintain the area’s potential for wilderness designation.

The Study Act’s legislative history also shows that enhancement is permitted. The Senate report explains that the Study Act “directs the Secretary to administer the proposed study areas so as not to *diminish* their presently existing wilderness character and potential.” S. Rep. No. 95-163, at 1

⁸The Wyoming Wilderness Act of 1984, Pub. L. No. 98-550, § 301(c), 98 Stat. 2807, requires the Secretary of Agriculture to administer wilderness study areas “so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.”

(1977) (emphasis added); *see also id.* at 2 (stating that the study areas are “to be managed by the Secretary so as not to *diminish* their presently existing wilderness character and potential” (emphasis added)). The choice of the word “diminish” reveals that Congress intended to protect wilderness character from decline rather than to prevent enhancement.

The recreational groups point out, correctly, that Congress appears to have contemplated that existing recreational activities, including motorized uses, could continue during the study period, so long as those activities did not diminish wilderness character, undermine a study area’s potential for wilderness designation or conflict with the Service’s overall forest management objectives. *See* S. Rep. No. 95-163, at 2 (1977) (explaining that the “language regarding wilderness character and potential was added by the committee . . . to assure continued enjoyment of the areas by those recreationists whose pursuits will not, in the judgment of the Secretary, preclude potential wilderness designation for the areas”); H.R. Rep. No. 95-620 (1977), at 4 (“The use of off-road vehicles, while generally prohibited in designated wilderness areas, is entirely appropriate in wilderness study areas . . .”). Congress did not, however, mandate that motorized recreational levels be maintained.⁹ And Congress made clear that the Service was free to reduce motorized use levels when carrying out its general obligations to manage national forests — as it has done here. *See id.* (“Nothing in [the Study Act] will prohibit the use of off-road vehicles, unless the normal Forest Service planning process and travel planning process, which

⁹Congress thus drew a distinction between wilderness areas on the one hand and wilderness *study* areas on the other. In wilderness areas, roads and use of motorized vehicles are generally prohibited. *See* 16 U.S.C. § 1133(c). In study areas, by comparison, motorized uses are not prohibited; but neither are they afforded statutory protection. Furthermore, the Study Act may require the Service to curtail motorized uses when necessary to maintain a study area’s wilderness character or potential for designation.

applies to all national forest lands, determines off-road vehicle use to be inappropriate in a given area.”).¹⁰

[4] We therefore hold that nothing in the Study Act prohibits the Service from enhancing the wilderness character of a wilderness study area. The district court’s decision that the travel plan violates the Study Act is accordingly reversed.¹¹

II. National Environmental Policy Act

The district court also concluded that the Service violated NEPA by adopting restrictions on motorized use that “fell outside the range of alternatives” considered in the DEIS and by making “numerous, significant changes to the DEIS” without preparing a supplemental draft environmental impact statement, as required by 40 C.F.R. § 1502.9(c)(1)(i). The Service challenges that ruling on appeal. We ordinarily review the Service’s decision not to prepare a supplemental EIS under the arbitrary or capricious standard. *Cf. Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 556-57 (9th Cir. 2000) (applying 40 C.F.R. § 1502.9(c)(1)(ii)). We reverse.

[5] NEPA requires the government to prepare an EIS for any proposed federal action “significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). The

¹⁰The Service manages national forests under the National Forest Management Act of 1976, which requires the Secretary of Agriculture to “develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System.” 16 U.S.C. § 1604(a). The Secretary must assure that those plans “provide for multiple use . . . in accordance with the Multiple-Use Sustained-Yield Act of 1960,” including “coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness.” *Id.* § 1604(e)(1). The discretion afforded to the Service under these statutes is, of course, qualified by the duties imposed under the Study Act.

¹¹Because we hold that the Study Act permits the Service to enhance wilderness character, we do not reach the Service’s alternative argument that the travel plan at issue here did not enhance wilderness character.

EIS must address, among other things, “the environmental impact of the proposed action” and “any adverse environmental effects which cannot be avoided should the proposal be implemented.” *Id.* § 4332(2)(C)(i)-(ii). Effects that may be relevant to the EIS include ecological impacts, such as “effects on natural resources and on the components, structures, and functioning of affected ecosystems,” as well as the “aesthetic, historic, cultural, economic, social, or health” effects of the proposed action. 40 C.F.R. § 1508.8(b). The EIS must “[r]igorously explore and objectively evaluate all reasonable alternatives.” *Id.* § 1502.14(a).

[6] An agency can modify a proposed action in light of public comments received in response to a draft EIS. *See id.* § 1503.4(a). “[A]gencies must have some flexibility to modify alternatives canvassed in the draft EIS to reflect public input.” *California v. Block*, 690 F.2d 753, 771 (9th Cir. 1982). If the final action departs substantially from the alternatives described in the draft EIS, however, a supplemental draft EIS is required: “Agencies . . . [s]hall prepare supplements to either draft or final environmental impact statements if . . . [t]he agency makes *substantial changes* in the proposed action that are *relevant to environmental concerns*” 40 C.F.R. § 1502.9(c) (emphasis added).

[7] Section 1502.9(c) does not define the terms “substantial changes” and “relevant to environmental concerns.” The Council for Environmental Quality (CEQ), however, has published guidance on when changes to a proposed action will require preparation of a supplemental EIS. The CEQ guidance provides that supplementation is not required when two requirements are satisfied: (1) the new alternative is a “*minor variation* of one of the alternatives discussed in the draft EIS,” and (2) the new alternative is “*qualitatively within the spectrum of alternatives* that were discussed in the draft [EIS].” Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations [hereinafter

“Forty Questions”], 46 Fed. Reg. 18,026, 18,035 (Mar. 23, 1981) (emphasis added).

[8] The First, Eighth and Tenth Circuits have adopted this CEQ guidance as a framework for applying § 1502.9(c)(1)(i). *See New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 705 & n.25 (10th Cir. 2009); *In re Operation of Missouri River Sys. Litig.*, 516 F.3d 688, 693 (8th Cir. 2008); *Dubois v. U.S. Dep’t of Agric.*, 102 F.3d 1273, 1292 (1st Cir. 1996).¹² We now join them in doing so.

Here, the district court pointed to four changes in the Service’s decision that the court concluded required supplementation of the DEIS. We address each in turn.

A. Overall Motorized Use Mileage

[9] The district court concluded that the Service was required to prepare a supplemental draft EIS because the final decision “reduced total mileage open for motorized travel by nearly thirty percent beyond the most restrictive DEIS alternative.” According to the court, the most restrictive alternative considered in the DEIS (summer alternative 4) permitted motorized use on 1951 miles, and the least restrictive DEIS alternative (summer alternative 1) permitted motorized use on 3036 miles. The court found that the final decision, which allowed motorized use on just 1366 miles, fell outside the range of alternatives considered in the DEIS, summarizing the figures as follows:

¹²In *Block*, we focused this inquiry on “(1) whether the alternative finally selected by the Forest Service was within the range of alternatives the public could have reasonably anticipated the Forest Service to be considering, and (2) whether the public’s comments on the draft EIS alternatives also apply to the chosen alternative and inform the Forest Service meaningfully of the public’s attitudes toward the chosen alternative.” 690 F.2d at 772. Thus, in applying the two-part Forty Questions framework, we consider whether the commenting public would regard the change as a minor variation or find the new alternative to be qualitatively within the spectrum of alternatives previously considered.

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Total Miles Designated by Vehicle Type					
	Passenger	4x4	ATV	Motorcycle	Total
Summer 1	1523	514	260	739	3036
Summer 4	955	397	262	337	1951
Decision	741	178	222	225	1366

The Service argues that the DEIS total mileage figures relied on by the district court are inappropriate for comparison to the 1366 mileage figure for the final plan because they double count route miles that are open to several motorized uses. As we have noted, under the travel plan “lower-level” vehicles can use routes designated for “higher-level” vehicles. Thus, for example, a route that is open to both motorcycle and ATV use is counted twice in the mileage totals relied on by the district court. The Service has offered numbers that avoid double counting, and these numbers show that the 1366 total motorized route miles permitted in the final decision fall *within* the range of alternatives discussed in the DEIS:

Total Miles Designated for Motorized Use

Summer 1	2262
Summer 3	1774
Summer 4	1287
Summer 5	1441
Decision	1366

[10] The recreational groups offer no credible reason to doubt either the accuracy of the Service’s mileage figures, which are supported by the administrative record, or the Service’s assertion that the numbers relied on by the district court are inappropriate for comparison to the 1366 figure because

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they reflect double counting. We therefore credit the Service’s mileage figures. As a consequence, the overall motorized use miles authorized by the travel plan are within the range of alternatives included in the DEIS. The district court’s finding of a NEPA violation therefore inadvertently relied on a mistaken premise.¹³

B. Trail Closures Not Specified in the DEIS

[11] The district court faulted the Service for not preparing a supplemental draft EIS because the final decision included several trail closures that were not included in any of the alternatives discussed in the DEIS. Neither the district court nor the recreational groups, however, explain why these modifications were “substantial changes . . . relevant to environmental concerns.” 40 C.F.R. § 1502.9(c)(1)(i). They appear to have been “minor variation[s]” that were “qualitatively within the spectrum of alternatives that were discussed in the draft [EIS].” Forty Questions, *supra*, 46 Fed. Reg. at 18,035. Accordingly, no supplemental draft EIS was required.

C. Modification of the End Date of the Snowmobile Season

The district court concluded that the Service was required to prepare a supplemental draft EIS because the Service

¹³The recreational groups correctly point out that the Service raised this argument for the first time in its supplemental summary judgment briefing rather than in its statement of genuine issues. Ordinarily, we would not permit a party to dispute factual issues conceded in a statement of genuine issues. It makes no sense, however, to affirm a NEPA violation and set aside a travel plan that serves the public interest on account of a misunderstanding about the administrative record. *Cf. Tucson Woman’s Clinic v. Eden*, 379 F.3d 531, 554 (9th Cir. 2004) (“We normally do not reach claims raised for the first time on appeal, but we may exercise discretion to do so where manifest injustice would otherwise result.”). We accordingly rely on the correct numbers, without approving of the Service’s inexcusable failure to raise this argument sooner.

changed the end of the snowmobile season from May 15 in the DEIS to May 1 in the final decision. The Service restored the May 15 date during the appeals phase of the administrative proceedings. Any continued objection to this change is therefore moot.

D. Modification of the Dispersed Camping Rule

[12] Finally, the district court concluded that the Service violated NEPA because the final decision included a modified dispersed camping rule that was not discussed in a supplemental draft EIS. The DEIS proposed permitting off-road driving in a 300-foot corridor on either side of roads and trails for parking, passing and turning around. In the final decision, the Service dropped that proposal in favor of a plan allowing “parking, passing, or turning around . . . within the length of the vehicle and attached trailer,” subject to certain conditions. The plan also permitted off-road travel beyond the “vehicle length plus trailer” limit to access certain established dispersed campsites. The Service explained its decision as follows:

Several respondents were concerned about the possibility of a 600-foot wide roaded corridor resulting from the 300 foot dispersed camping rule. I did not find specific information in the Final EIS (FEIS) that indicates this was happening on the ground, however, in too many cases, users are developing roads or trails out of dispersed camp sites and extending the area covered by the 300 foot rule. Once a trail or road is created, another user may travel on that newly created road or trail and camp 300 feet beyond the newly developed road or trail, allowing the road or trail to continue to grow. My decision will reduce the creation of new trails out of dispersed camp sites by prohibiting travel off designated routes to a campsite, while still allowing access to continue to the majority of existing dispersed campsites.

The Service says the district court’s decision requiring supplementation was wrong for two reasons. We reject the Service’s first argument but agree with its second.

The Service argues that it was not required to prepare a supplemental draft EIS because the changes to the dispersed camping rule would have only lessened environmental impacts in comparison to the alternatives discussed in the DEIS.¹⁴ The Service contends that a change in a proposed action that only lessens environmental impacts is, as a categorical matter, not a change that is “relevant to environmental concerns” for purposes of § 1502.9(c)(1)(i).

We agree with the Service up to a point. That a modified alternative only lessens environmental impacts may tend to show that the new alternative is a “minor variation of one of the alternatives discussed in the draft EIS” and is “qualitatively within the spectrum of alternatives that were discussed in the draft [EIS].” Forty Questions, *supra*, 46 Fed. Reg. at 18,035. *See, e.g., Sierra Club v. Van Antwerp*, 526 F.3d 1353, 1360 (11th Cir. 2008) (“When the change to the proposed action is a ‘minimizing measure,’ . . . the agency ‘is not automatically required to redo the entire environmental analysis’ . . . because a minimizing measure’s effects on the environment will usually fall within the scope of the original NEPA analysis” (quoting *Sierra Club v. U.S. Army Corps of Eng’rs*, 295 F.3d 1209, 1221 (11th Cir. 2002))); *Friends of the Bow v. Thompson*, 124 F.3d 1210, 1218-19 (10th Cir. 1997) (“Although we are not prepared to say that a reduction in the environmental impact of an action can never trigger a require-

¹⁴We need not decide whether the modifications to the dispersed camping rule only lessened environmental impacts. *See* Michael S. Freeman & Meg Parish, *Supplemental NEPA Analyses: Triggers and Requirements*, Rocky Mountain Mineral Law Foundation, Special Institute on the National Environmental Policy Act (2010), at n.34 (stating that a court should be “wary of simplistic characterizations of a change as reducing the impacts of a proposal”). Because we reject the Service’s argument on another ground, we have no occasion to address that question.

ment to prepare a supplemental [environmental assessment], we believe that a reduction in environmental impact is less likely to be considered a substantial change relevant to environmental concerns than would be an increase in the environmental impact.”).

A new alternative, however, may lessen environmental impacts and yet fall outside the range of alternatives discussed in a draft EIS. Supplementation may be required, for example, when modifications to a proposed action, although lessening environmental impacts, also alter the overall cost-benefit analysis of the proposed action. In *Massachusetts v. Watt*, 716 F.2d 946, 948-49 (1st Cir. 1983) (Breyer, J.), for instance, the court required preparation of a supplemental analysis when the government lowered its estimate of the benefits expected to be gained from granting oil drilling leases in the North Atlantic Ocean. The court reasoned that additional analysis was required because the adverse environmental consequences of the action — although diminished — might no longer be justified in light of the drastically reduced expectation of economic benefit. *See id.*

The Service relies on the Third Circuit’s decision in *South Trenton Residents Against 29 v. Federal Highway Administration*, 176 F.3d 658, 664-66 (3d Cir. 1999). That case, however, involved a Department of Transportation (DOT) regulation that *expressly omits* a duty to prepare a supplemental EIS when a new alternative lessens environmental impacts. The DOT regulation states that “a supplemental EIS will not be necessary where. . . [t]he changes to the proposed action . . . result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS.” 23 C.F.R. § 771.130(b). Section 1502.9(c) contains no similar language. The government’s reliance on *South Trenton Residents* is therefore misplaced.

[13] Although we disagree with the Service that modifications that lessen impacts never require supplementation, we

nonetheless agree that the modifications to the dispersed camping rule here did not require preparation of a supplemental draft EIS. We hold that the final decision was a “minor variation” and “qualitatively within the spectrum of alternatives” discussed in the DEIS. Forty Questions, *supra*, 46 Fed. Reg. at 18,035.

[14] We reach this conclusion for several reasons. First, the dispersed camping rule is a secondary rather than a primary aspect of the overall travel plan. Second, the modifications are relatively minor — scaling back the 300-foot limit to approximately 70 feet. Third, there is very little reason to believe the modified travel plan will have environmental impacts that the agency has not already considered. The Service modified the rule to eliminate the risk that users would develop roads or trails out of dispersed camp sites. The change eliminates that adverse impact, leaving only the impacts caused by parking, passing and turning around that have already been fully considered. Although the modified dispersed camping rule has the potential to concentrate motorized travel in a smaller area, which could theoretically pose different or additional impacts relative to the 300-foot rule, there does not appear to have been much actual use beyond the 70-foot perimeter even under the original rule. Finally, there is no indication that the modifications alter the overall cost-benefit analysis of the proposed action.

The recreational groups argue that supplementation is required in light of the Tenth and First Circuits’ decisions in *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.* (“BLM”), 565 F.3d 683 (10th Cir. 2009), and *Dubois v. U.S. Department of Agriculture*, 102 F.3d 1273 (1st Cir. 1996). *BLM* and *Dubois*, however, involved substantial modifications that went to the heart of the proposed action and posed new and previously unconsidered environmental questions.

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They are therefore readily distinguishable from the dispersed camping modifications adopted here.¹⁵

CONCLUSION

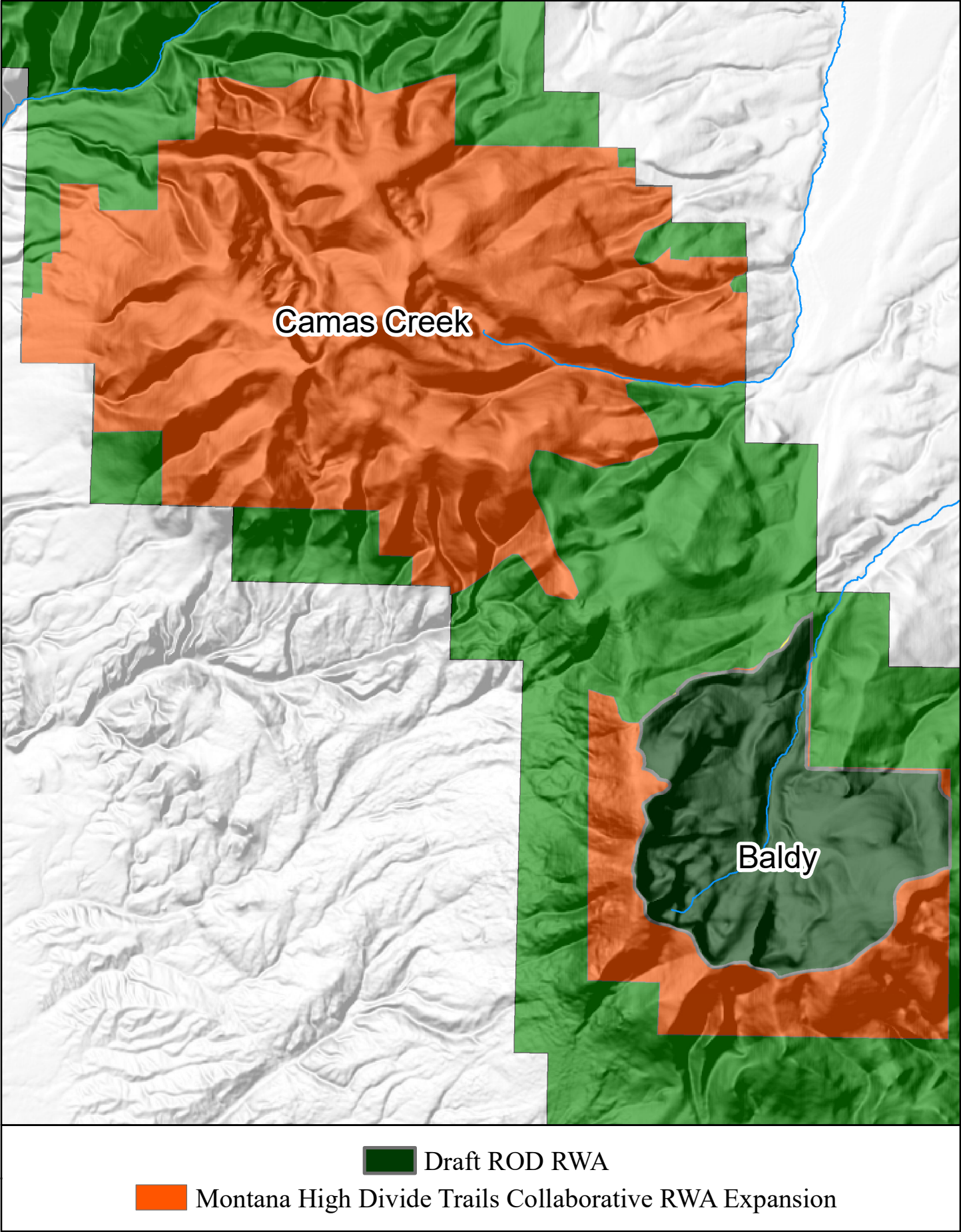
[15] We hold that the Service's 2007 travel plan conforms to the Study Act and NEPA. The judgment of the district court is accordingly reversed.

REVERSED.

¹⁵In *BLM*, the Tenth Circuit held that the government was required to prepare a supplemental analysis when it substantially modified a proposed action for oil and gas exploration on New Mexico grasslands. The original proposal would have allowed exploration within 492 feet of roads, whereas the revised proposal permitted exploration anywhere within the project area, but only on up to 5 percent of the total surface land area. *See BLM*, 565 F.3d at 692. The court found that the modified plan could result in "wildly different impacts on plants and wildlife" in comparison to the original plan. *Id.* at 706. The modified plan "was qualitatively different and well outside the spectrum of anything BLM considered in the Draft EIS." *Id.* at 707. The government was thus "required to issue a supplement analyzing the impacts of that alternative under 40 C.F.R. § 1502.9(c)(1)(i)." *Id.*

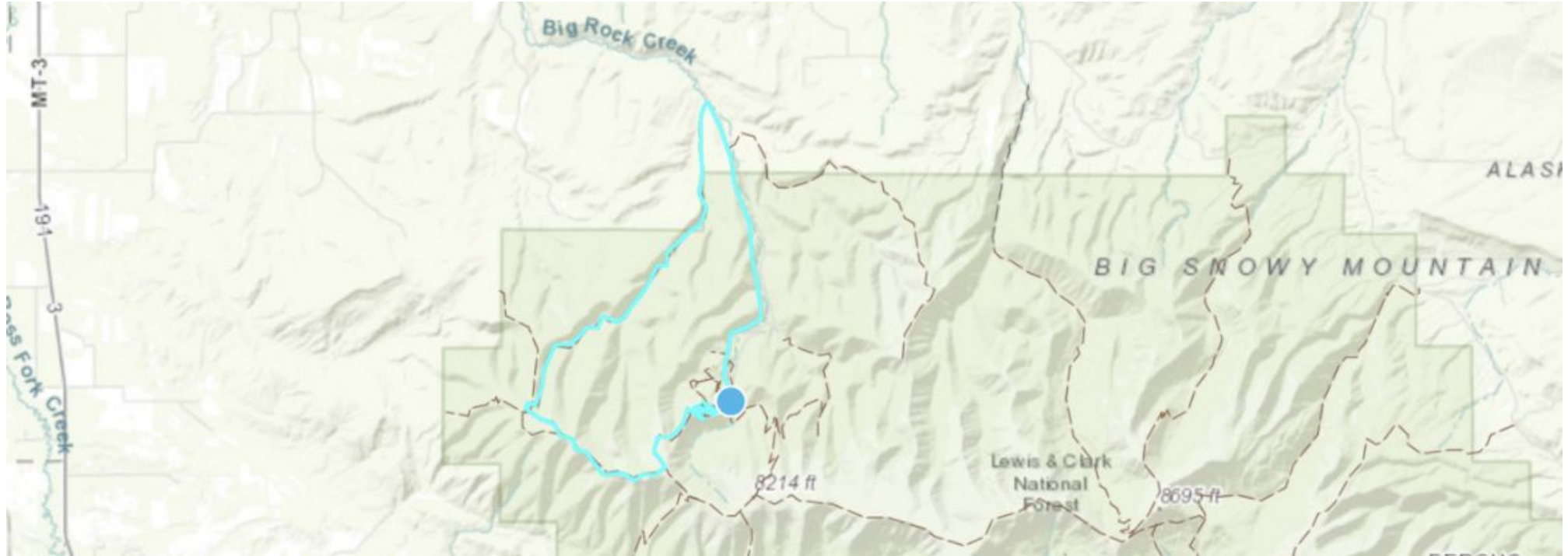
In *Dubois*, the Service adopted a modified proposal for expansion of a skiing facility within a national forest in New Hampshire. The original proposal would have expanded the facility to a new part of the forest, whereas the modified proposal would have squeezed much of its expansion into the existing permit area. *See Dubois*, 102 F.3d at 1292. The modified proposal envisioned a 28,500-square-foot base lodge facility within the existing permit area; proposed developing ski trails, access roads and lifts on land that the previous alternative would have left as a woodland buffer; and would have widened existing trails, eliminating existing buffers separating trails. *See id.* The court held that these were "substantial changes from the previously-discussed alternatives, not mere modifications 'within the spectrum' of those prior alternatives." *Id.* The modified configuration posed "wholly new problems" and "environmental impacts that the Forest Service has not yet considered." *Id.* at 1293. Supplementation was therefore required.

South Big Belts Collaborative Recommended Wilderness



*slight variations in some boundary lines are caused by polygon geometry errors between FS and MWA shapefile projections

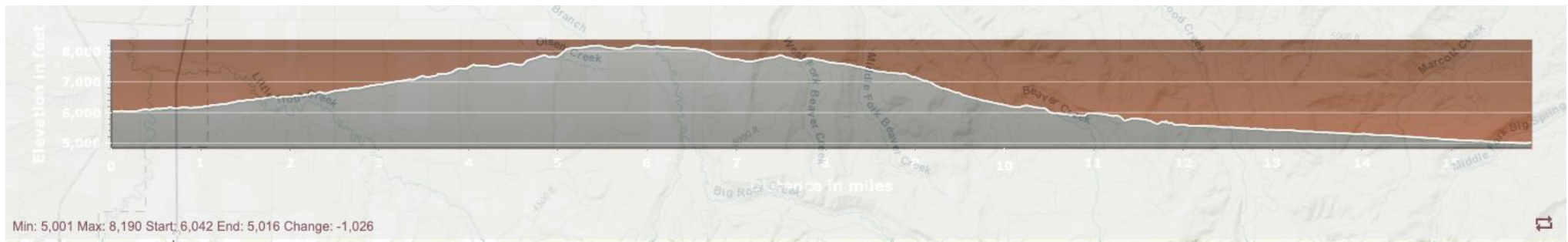
Big Snowies Grandview Loop Elevation Profile



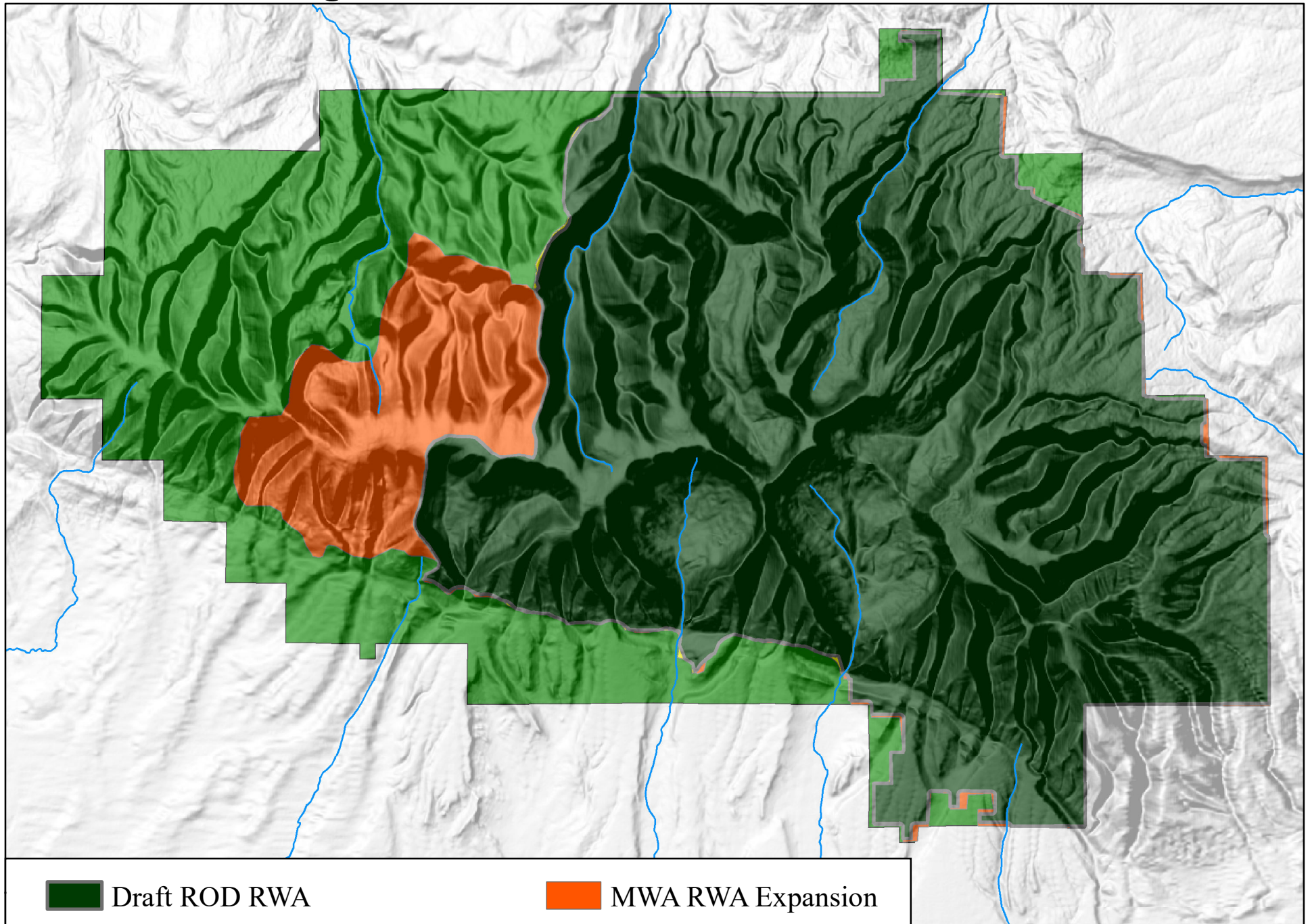
Elevation Profile

Crystal Lake to West Peak via Grandview Trail (#403), West Peak(#490) to Dry Pole Trail(#481) To Crystal Lake Rd*

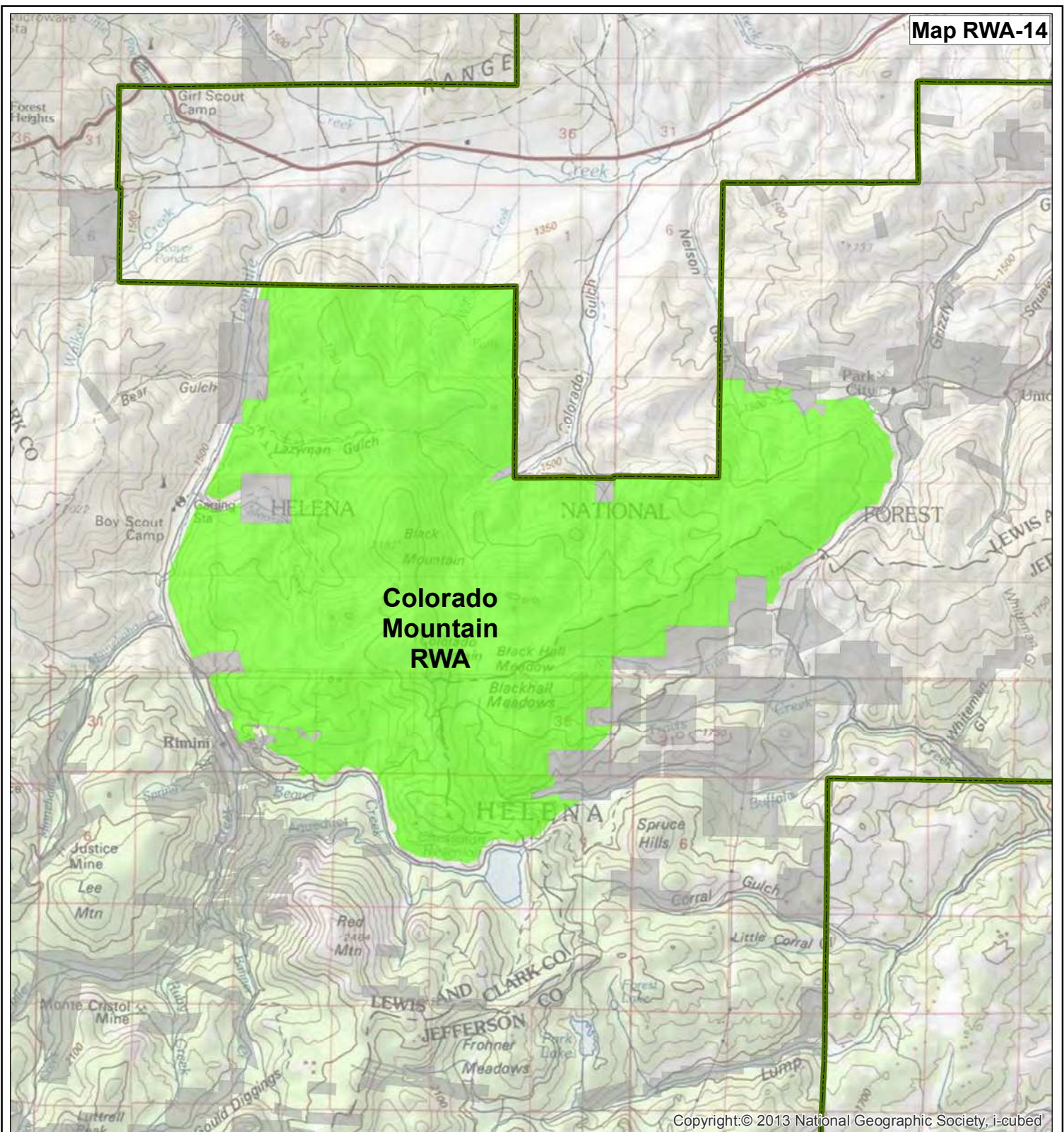
*elevation profile from intersection of Dry Pole Trail (#481) and Crystal Lake Rd To Crystal Lake not included in profile



Big Snowies Recommended Wilderness Area



*slight variations in some boundary lines are caused by polygon geometry errors between FS and MWA shapefile projections



Colorado Mountain Recommended Wilderness Area Alternative D



North Divide Winter Travel Planning Chronology

USFS regulations at 36 CFR 212. 8 (subpart C) require that use of over snow vehicles in designated routes and/ or areas be analyzed with public involvement. National forest lands in the Little Prickly Pear area of the North Divide were included in the Blackfoot-North Divide winter travel planning process in 2006 (See Sept 2006 attached notice and map)

In 2009, the Little Prickly Pear area (estimated 15,400 acres) was dropped from travel planning. No winter travel analysis has ever been completed for this winter range area. ¹

- November 2000: Notice to Forest Users Initiates Travel Planning
- April 2003: Public Scoping Notice for Travel Plans –Blackfoot, Divide, Big Belts
- August 2003: Public Meetings / Comment on Travel Plan Alternatives in Draft EIS (Blackfoot, Divide, North and South Big Belts)
- March 2004: Supervisor Clifford Suspends Blackfoot and Divide Travel Plans
- 2004-2005: For 14 months, members of the Montana Wilderness Association, Ponderosa Snow Warriors, Montana Snowmobile Association, Helena Snowdrifters and MT Dept. of Fish, Wildlife and Parks conduct collaborative meetings at the Lincoln Ranger District covering winter travel on parts of the Rocky Mountain, Lincoln and Helena Ranger Districts. U.S. Forest Service staff are present at all meetings, providing resource information and assistance. North Divide is discussed in “Winter Recreation Meeting” collaborative minutes recorded by the USFS; 2004-2005.
- May 9, 2005: Winter Recreation Agreement for the Blackfoot-North Divide is signed by MWA, MSA, MT FWP, Ponderosa Snow Warriors, Lewis and Clark NF Supervisor Spike Thompson and Acting Helena NF Supervisor Jane Kollmeyer in a public ceremony at the Lincoln Community Hall. ***The U. S. Forest Service pledged to conduct winter travel planning for forest lands included in the WRA.***
- Sept 2006: Public meetings/comments are conducted on Blackfoot-North Divide winter travel plan by the Lincoln and Helena Ranger Districts. (announcement attached)

¹ The 1998 Soundwood Salvage Sale signed by Helena District Ranger Dennis Hart did not analyze or make decisions about over snow winter vehicle travel. A copy of the signed Decision Notice is attached.

Soundwood was a salvage timber sale that also included select travel restrictions responding to sportsmen’s complaints of off-road vehicle abuses affecting wildlife security and fair chase **during hunting season** on national forest lands in the Little Prickly Pear.

No alternative evaluated winter travel restrictions. In his 98 Decision Notice, Ranger Hart recommended changes in “forest plan revision” to protect important winter ranges in the area.

FOREST SERVICE OPEN HOUSES TO DISCUSS WINTER TRAVEL PLANNING

HELENA, MONT., September 8, 2006— Officials with the Helena National Forest will be hosting two open house meetings to kick-off planning efforts for motorized and nonmotorized winter recreation. Specifically the planning effort will only analyze winter travel in the Blackfoot and North Divide landscape areas. The first meeting will be held at the Lincoln Community Center from 4-7 p.m. on Thursday September 14th. The Helena meeting will be held the following week on September 26th from 4-6 p.m. at the Lewis and Clark County Library conference room.

The Lincoln and Helena Ranger Districts are preparing a Blackfoot and North Divide Winter Travel Plan Environmental Assessment. The purpose of this planning effort is to implement a plan that has

- 2007: Scoping is again initiated for Divide Travel. Rocky Mountain Ranger District Travel Plan is signed, incorporating WRA collaborative agreement for southern RMF.
- 2009: Divide Travel re-initiated (winter/summer), **omitting Little Prickly Pear area.**
- 2013: Supervisor Avey signs Upper Blackfoot Winter Travel Plan, incorporating the collaborative WRA for the Lincoln Ranger District. No appeals are filed.
- 2014: Montana High Divide Trails objects (Oct 6, 2014 Letter to Helena District Ranger DeGeest) to the omission of North Divide-Little Prickly Pear from legally required winter over snow vehicle travel planning. In a follow-up meeting, the District Ranger acknowledges the omission explaining that correcting the omission at this stage would require going back to scoping. Forest plan revision provides an opportunity to correct this. A decision is made to fund a data gathering project to document winter wildlife and recreational uses through citizen science winter tracking in the Little Prickly Pear.
- 2014-2016: Training and 211 winter field surveys are conducted by volunteers from Montana Wilderness Association, Winter Wildlands Alliance, Wild Things Unlimited, with logistical support from staff of the Helena Ranger District. Winter data showing the key importance of the Little Prickly Pear to wintering wildlife documenting use by carnivores (9 species) including wolverine, grizzly and lynx as well as wintering deer, elk and moose, --as noted by Ranger Hart in 1998. (Summary report attached)

**BLACKFOOT AND CONTINENTAL DIVIDE
HELENA NATIONAL FOREST**

**ROCKY MOUNTAIN FRONT
LEWIS AND CLARK NATIONAL FOREST**

**WINTER RECREATION AGREEMENT
May 9, 2005**

MONTANA WILDERNESS ASSOCIATION (MWA)

MONTANA SNOWMOBILE ASSOCIATION (MSA)

PONDEROSA SNOW WARRIORS (PSW)

ISLAND RANGE CHAPTER, MONTANA WILDERNESS ASSOCIATION (IRMWA)

HELENA SNOWDRIFTERS (HS)

WILD DIVIDE CHAPTER, MONTANA WILDERNESS ASSOCIATION (WDMWA)

HELENA NATIONAL FOREST (HNF)

LEWIS AND CLARK NATIONAL FOREST (LCNF)

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS (DFWP)

PURPOSE

This agreement is made as a full and final compromise between the above parties regarding their concerns associated with winter travel management on the Lincoln Ranger District and portions of the Helena and Rocky Mountain Ranger Districts, Helena and Lewis and Clark National Forests. This agreement is designed to achieve and enhance Forest Service management responsibilities while allowing for appropriate and predictable long-term public access and diverse winter recreation opportunities on National Forest System lands of the Helena and Lewis and Clark National Forests within the State of Montana.

TERMS OF AGREEMENT

The parties agree as follows:

I) PROPOSED WINTER TRAVEL MANAGEMENT PLAN REVISION

- A) The U.S. Forest Service shall amend its travel and forest plan for the Blackfoot and Continental Divide area on the Helena National Forest, and Rocky Mountain Ranger District, Lewis and Clark National Forest.
- B) The U.S. Forest Service shall use its best efforts to complete a final winter travel plan within sixteen (16) months of signing of this agreement.

- C) The Travel Plan Revision Process shall be conducted in accordance with all applicable legal and procedural requirements. The range of alternatives considered by the Forest Service during the Plan Amendment Process shall include an alternative proposing changes to winter recreation on the Blackfoot and Continental Divide Travel Management Plan on the Helena National Forest, as well as Rocky Mountain Ranger District, Lewis and Clark National Forest, in accordance with the attached maps of the area and the terms of this agreement. Specifically, the Forest Service shall propose an alternative to allow, or limit winter recreational use on the Blackfoot and Continental Divide Travel Management Plan on the Helena National Forest, and Rocky Mountain Front - Lewis and Clark National Forest in accordance with the maps attached to this Agreement labeled Blackfoot Winter Travel Exhibit A and Continental Divide Winter Travel Exhibit B and Rocky Mountain Front Exhibit C.
- D) For those areas of the Helena and Lewis and Clark National Forests outside of this agreement and attached exhibit maps, the U.S. Forest Service shall use the travel planning process to determine if, where, and how over-snow motorized use is allowed, restricted, or prohibited. Montana Snowmobile Association ("MSA"), Montana Wilderness Association ("MWA"), and respective affiliate chapters and clubs agree to continue to meet to seek a negotiated and mutual proposal for Continental Divide-Helena National Forest areas not depicted in these exhibits. To the extent the parties reach an agreement regarding additional areas, they shall file such agreement as a supplement to Exhibits A, B and C of this agreement and be bound by the terms of this agreement with respect to these additional areas. The Helena National Forest shall consider any supplemental agreements made pursuant to this paragraph as part of an alternative in the Blackfoot and Continental Divide Travel Plan EIS.

II) IMPLEMENTATION

- A) Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association agree to publicly support an amendment revising the Helena and Lewis and Clark National Forest Travel Plans containing the winter recreation management prescriptions contained in Exhibits A, B and C.

Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association also agree to use their best efforts to advocate and encourage public support for winter recreation amendments in accordance with Blackfoot - Continental Divide-Rocky Mountain Front Winter Recreation Agreement Exhibits A, B and C and further agree to use their best efforts to educate and inform other organizations and the public regarding the benefits of such amendments.

In the event of administrative appeals or litigation challenging those portions of Forest Travel Plan amendments that incorporate all of the terms, conditions and restrictions contained in Exhibits A, B and C, Montana Wilderness Association and Montana Snowmobile Association agree to seek intervention and otherwise

participate to the extent allowed by law in the appropriate forum in order to support any decision of the Helena or Lewis and Clark National Forest to so revise its Forest Travel Plan.

- B) Montana Department of Fish, Wildlife and Parks (DFWP), with primary responsibilities for fish and wildlife resources within the state of Montana, participated in the development of this winter recreation agreement. DFWP will recommend that the Helena and Lewis and Clark National Forests adopt Exhibits A, B, and C into respective forest travel plans. DFWP further agrees to assist snowmobile clubs to identify and sign designated trails and areas in Exhibits A, B, and C consistent with winter range and wildlife management policies of the 1993 state snowmobile PEIS.
- C) Should the Helena or Lewis and Clark National Forests, through the Travel Plan Amendment Process, adopt and implement Forest Travel Plan Amendments which incorporate all of the terms, conditions and restrictions contained in Exhibits A, B and C, then the Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association hereby agree that their organizations shall support and encourage adoption of the same management prescriptions for the applicable portions of the Helena and Lewis and Clark National Forests during the next revision of the Forest Plan ("Forest Plan Revision Process").
- D) The Helena and Lewis and Clark National Forests shall agree to propose a travel plan alternative consistent with Exhibits A, B and C, when it revises the Helena and Lewis and Clark National Forest Plans.
- E) Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association also agree to use their best efforts during the above-mentioned Forest Plan revision process to advocate and encourage public support for continued management in accordance with Winter Recreation Agreement Exhibits A, B and C and further agree to use their best efforts to educate and inform other organizations or the public during the Forest Plan Revision Process of the benefits of such a Travel Plan. In the event of administrative appeals or litigation challenging a Forest Plan Revision which is in accordance with Exhibits A, B and C; Montana Wilderness Association and Montana Snowmobile Association agree to seek intervention and otherwise participate to the extent allowed by law in the appropriate forum in order to support those portions of the decisions of the Helena and Lewis and Clark National Forests to revise the Forest Plan consistent with Exhibits A, B and C. Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association further agree that, should the Forest Plan Revision Process result in management in accordance with Exhibits A, B and C; that they shall not seek to modify or amend the Forest Plan provisions relevant to this agreement sooner than the next Forest Plan revision cycle following the Forest Plan Revision Process.

- F) If, at the conclusion of the Travel Plan Revision process, the Helena and Lewis and Clark National Forests adopt revised Forest Travel Plans that are not in accordance with Exhibits A, B and C; then all parties' obligations under this agreement shall cease, and MWA, and MSA expressly reserve the right to challenge revised travel plan(s). Provided, that the failure to file an administrative appeal of the revised Forest Travel Plan shall be considered agreement with the Forest Travel Plan as amended through the Travel Plan Revision process and the provisions of this agreement shall remain in effect.

III) SPECIAL AREA PROVISIONS

A) STEMPLE PASS

Crater Mountain Road will be governed by a special "K" closure to general winter snowmobile use with occasional use allowed for special events such as the Trans-Montana ride connecting the Lincoln and Marysville groomed snowmobile systems of the Ponderosa Snow Warriors and Helena Snowdrifters. All parties agree the snowmobile clubs will notify the district ranger in advance of such special events but will not be required to apply for special use permits. Snowmobiles are only allowed to travel this route when the ranger has provided permission, and whenever practical written notices will be posted of the snowmobile event and the day it will take place.

Signs will be posted depicting a family of skiers and urging caution and slow snowmobile travel when crossing the Stemple Pass ski area. Other signs may be posted by mutual agreement of MSA, MWA and HNF. No parking or other improvements will be provided to unload snowmobiles at Stemple Pass.

Snowmobile use will be allowed but not encouraged on designated routes in the Trout-Tarhead area as displayed on Exhibit map B. These routes will not be marked, groomed or depicted on snowmobile use maps.

- B) The Lincoln Ranger District will work with Lewis and Clark County and area skiers to improve nonmotorized public access to Helena National Forest lands in the lower reaches of Rooster Bill Creek.

IV) MAPS AND SIGNING

Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association will provide volunteer assistance in posting winter travel signs and effectively communicating winter travel plan provisions to winter recreationalists.

Montana Department of Fish Wildlife and Parks will work with all parties to update winter snowmobile and ski maps to accurately reflect revised winter travel plans.

V) MONITORING

- A) The Helena and Lewis and Clark National Forests agree to monitor winter use on the Blackfoot-Continental Divide-Rocky Mountain Front to help insure compliance with Travel Plan provisions regarding motorized and non-motorized winter use on the Forest. Weather conditions permitting, such monitoring shall consist of six (6) field visits per season to verify snowmobile use and contact with snowmobilers and snowmobile use groups. MWA and MSA agree that a representative from their organizations shall accompany the Forest Service on field visits. MSA, MWA and FWP agree to assist the Forests in obtaining additional funding to carry out monitoring.
- B) Montana Department of Fish, Wildlife and Parks will assist with monitoring in the course of normal field activities and report observations concerning winter recreation and wildlife to the U.S. Forest Service and all interested parties at annual winter monitoring meetings. Any changes in wintering wildlife use will be reported and discussed at collaborative annual monitoring meetings.
- C) Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA and Montana Snowmobile Association agree to assist the Helena and Lewis and Clark National Forests in monitoring winter use on the Forest. If the U.S. Forest Service materially fails to conduct the monitoring activities set forth above, MSA or MWA shall inform the Forest Service of their concerns and all parties shall thereafter conduct a meeting to seek a mutually agreeable resolution. If the parties are unable to reach a mutually agreeable resolution and wish to pursue the concerns raised regarding monitoring, then the parties may mutually agree to refer the monitoring concerns to non-binding arbitration through the following procedure:
- i) Written notice shall be provided to the designated representative of each party advising of the decision to submit the concerns at issue to arbitration
 - ii) Within ten (10) business days upon service of this notice the parties shall attempt to mutually agree upon an arbitrator to hear and determine the resolution to the expressed concerns.
 - iii) If an arbitrator cannot be agreed upon within ten (10) business days, the parties shall request the Federal Mediation and Conciliation Service to provide a list of seven (7) proposed arbitrators. Within five (5) business days after receipt of this list the parties shall select an arbitrator by alternately striking one name at a time until only one (1) arbitrator remains. The order in which the parties strike names shall be determined by lot.
 - iv) The arbitrator shall conduct a hearing and shall render a decision in writing.
 - v) The expenses of the arbitrator shall be born equally by the U.S. Forest Service and the party appealing the concern to arbitration. Should more than one party appeal a concern to arbitration the cost of said arbitrator shall be born equally

among the parties raising the concern to arbitration. Each party shall be responsible for their own costs for any arbitration held under the terms of this agreement.

- vi) The arbitrator shall have only such jurisdiction and authority to interpret and apply the provisions of this paragraph as shall be necessary to the determination of the arbitration issue. The arbitrator shall not have any power to determine issues arising under any other provisions of this Agreement, nor shall the arbitrator have any power to add or subtract from, modify or alter in any way, the provisions of this Agreement.
 - vii) In the event a party does not agree to follow the findings and decision of the arbitrator, the parties agree that the arbitrator's findings and decisions may be entered into any subsequent litigation regarding the same dispute.
- D) Prior to November 1 each year, each forest shall prepare a monitoring report containing an assessment of monitoring and enforcement of the winter use provisions of the Blackfoot, Continental Divide and Rocky Mountain Front Travel Management Plans. The report will identify successes and problem areas identified through the monitoring process and will describe the public outreach, monitoring, and enforcement steps the Forest Service has taken in the previous year with regard to winter use. Provided, that such report shall be considered informational in nature only and the Forest Service, MSA and MWA shall not be stopped from presenting additional information in the event of administrative proceedings or litigation involving relevant issues.
- E) Prior to December 1 each year, the Forest Service shall meet with all interested parties, Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island Range Chapter-MWA, Montana Snowmobile Association and Montana Department of Fish, Wildlife and Parks to discuss any problem areas identified through monitoring and to discuss what steps will be taken to address these problem areas. The Helena National Forest shall take lead responsibility for annual monitoring meetings.
- F) The parties agree to cooperate to take measures to bring any problem areas into compliance with the Helena and Lewis and Clark National Forest Travel Plans. Such measures may include additional education, outreach, monitoring, and law enforcement. If, after three consecutive years, such actions still prove ineffective to remedy the problem area or situation, the U.S. Forest Service, after consultation with the parties, shall take further action to bring the area into compliance that may include relocation of trails or closure of the area.

VI) ENFORCEMENT

- A) Subject to available funding, and in coordination with other law enforcement responsibilities, the Forest Service shall provide law enforcement efforts to enforce winter travel management on each Forest. Montana Wilderness Association, Ponderosa Snow Warriors, Helena Snowdrifters, Wild Divide Chapter-MWA, Island

Range Chapter-MWA and Montana Snowmobile Association agree to support efforts of the U.S. Forest Service to conduct these activities.

- B) Montana Department of Fish, Wildlife and Parks, in the course of its normal duties, will coordinate and assist the U.S. Forest Service with enforcement of winter travel management on the Helena and Lewis and Clark National Forests.

VII) ADDITIONAL WINTER USE OPPORTUNITIES

- A) The U.S. Forest Service agrees to work with Montana Wilderness Association and its chapters to identify and analyze opportunities for additional non-motorized backcountry winter use on the Helena and Lewis and Clark National Forests including opportunities to provide greater access to the Forest for winter non-motorized activities. The Forest Service agrees to use best efforts to obtain funding to fulfill this agreement. Montana Wilderness Association and its chapters agree to assist the U.S. Forest Service in identifying and analyzing such opportunities and to assist efforts of the Helena and Lewis and Clark National Forests to analyze and provide such opportunities.
- B) The Forest Service agrees to work with Montana Snowmobile Association and Ponderosa Snow Warriors to identify and analyze opportunities for providing motorized winter use on the Helena National Forest. Montana Snowmobile Association agrees to assist the Forest Service in identifying and analyzing such opportunities.

VIII) ADDITIONAL PROVISIONS

- A) This agreement shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, and assigns.
- B) The undersigned representatives of each party certify that they are fully authorized by the party or parties they represent to execute this agreement.
- C) This agreement includes and embodies the entire terms and conditions of the agreement between the Parties.
- D) Nothing in this agreement shall constitute or be interpreted as an admission of fact or law by any party.
- E) Nothing in this agreement may be construed to require the Helena or Lewis and Clark National Forest to obligate to pay funds or in any other way take action in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable appropriations law. The U.S. Forest Service will make all reasonable efforts to obtain the resources necessary to carry out the terms of this agreement and to have the necessary funds allocated.

- F) Nothing in this agreement may be construed to limit, direct or modify the discretion accorded to the U.S. Forest Service by the statutes they administer or by general principles of administrative law.
- G) Nothing herein shall be construed as an admission of fact or law by any party about the appropriateness, or inappropriateness of any type of motor vehicle use, or the restriction of such use, of or upon National Forest lands outside of the context of this particular settlement. Nothing herein shall be construed to prevent any party to this agreement from advocating that motorized vehicle use should be allowed, or not allowed, on public lands.

SIGNATURES

In witness whereof, the parties have executed this agreement on 9 May 2005
Date

Chuck Beck (Pres)

Chuck Beck, President
Montana Snowmobile Association

Gerry Jennings

Gerry Jennings, President
Montana Wilderness Association

Jim Paris

Jim Paris, Ponderosa Snow Warriors

Helena Snowdrifters

Helena Snowdrifters

Alan Brown

Alan Brown, Legal Affairs Director
Montana Snowmobile Association

Paul Edwards

~~Pat Bik~~ **PAUL EDWARDS**
Wild Divide Chapter
Montana Wilderness Association

Island Ranger Chapter

Island Ranger Chapter
Montana Wilderness Association

Jane Follmeyer

Jane Follmeyer, Acting Supervisor
Helena National Forest

Leslie W. Thompson

Leslie "Spike" Thompson, Supervisor
Lewis And Clark National Forest

M. Jeff Hagener

M. Jeff Hagener, Director
Montana Fish, Wildlife And Parks

Exhibit A -- Lincoln Ranger District

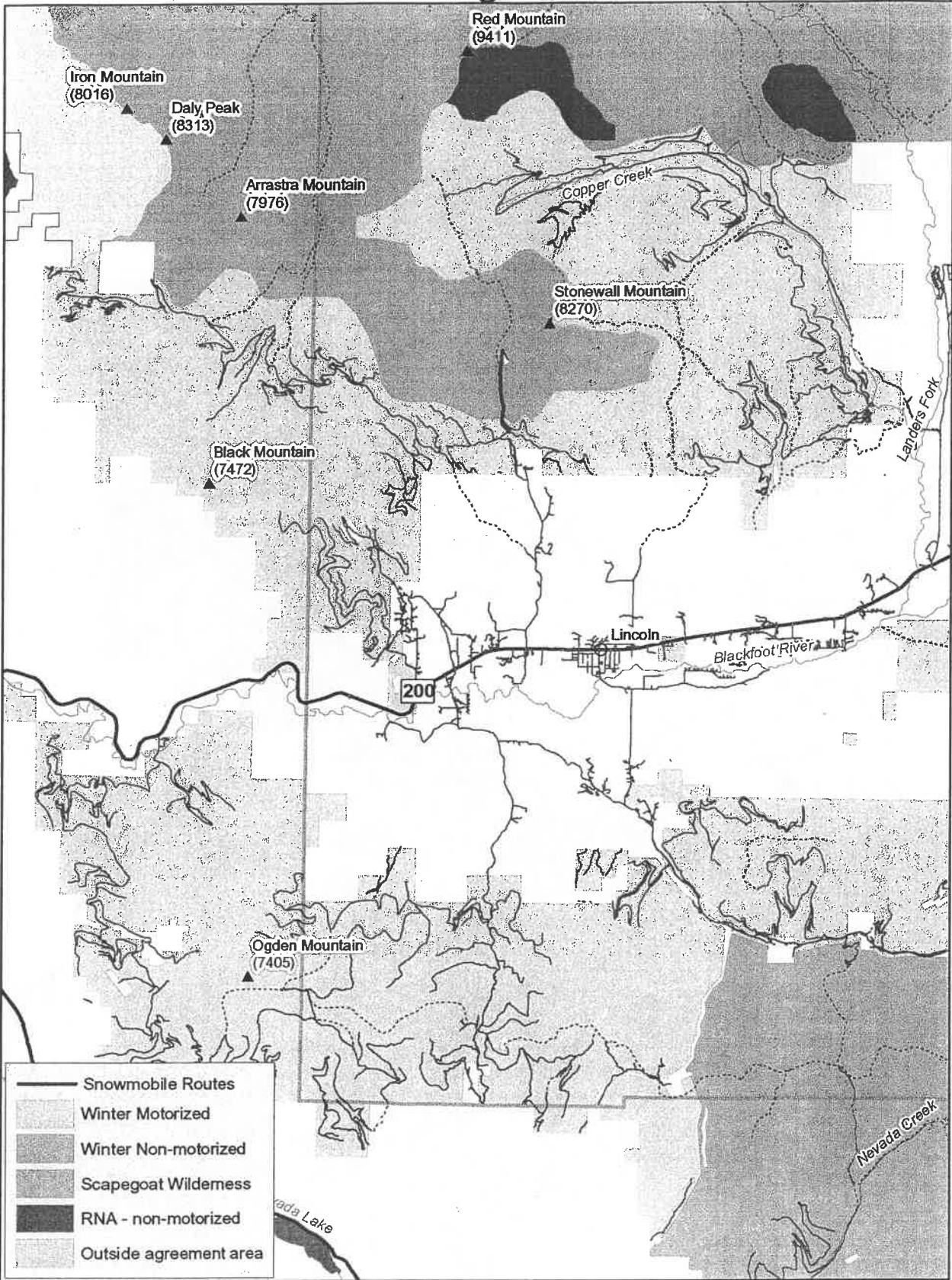


Exhibit B -- Continental Divide

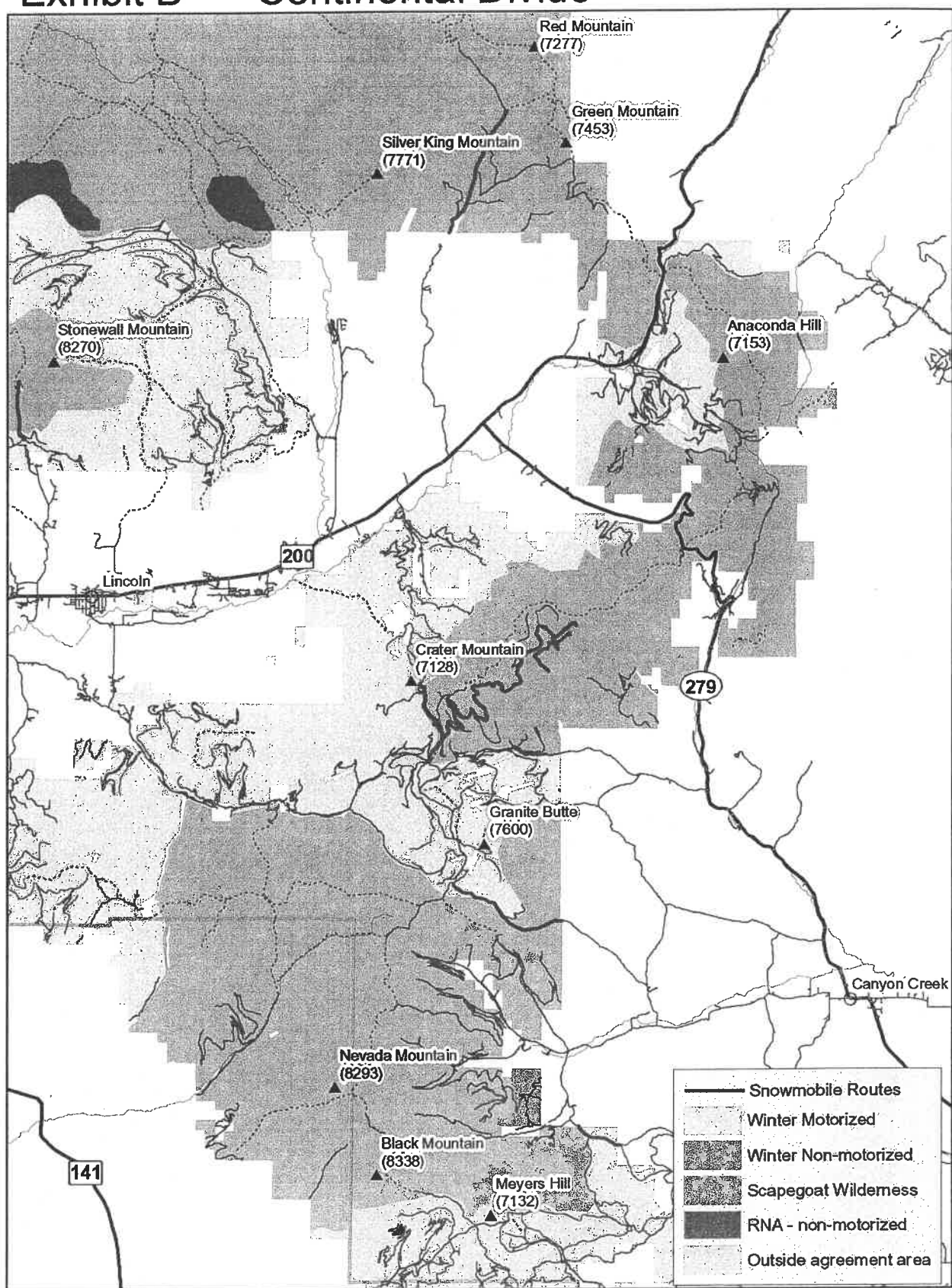
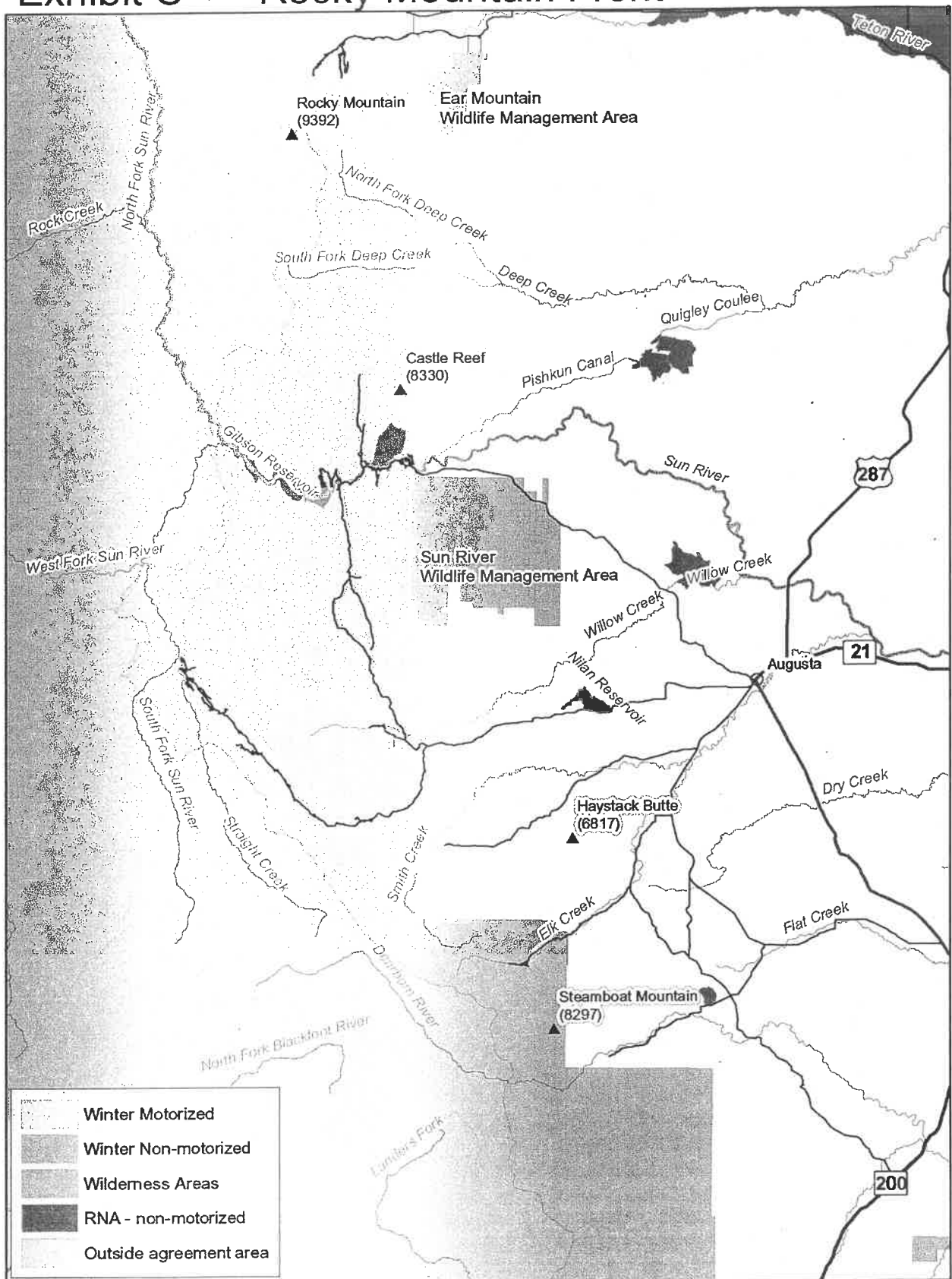
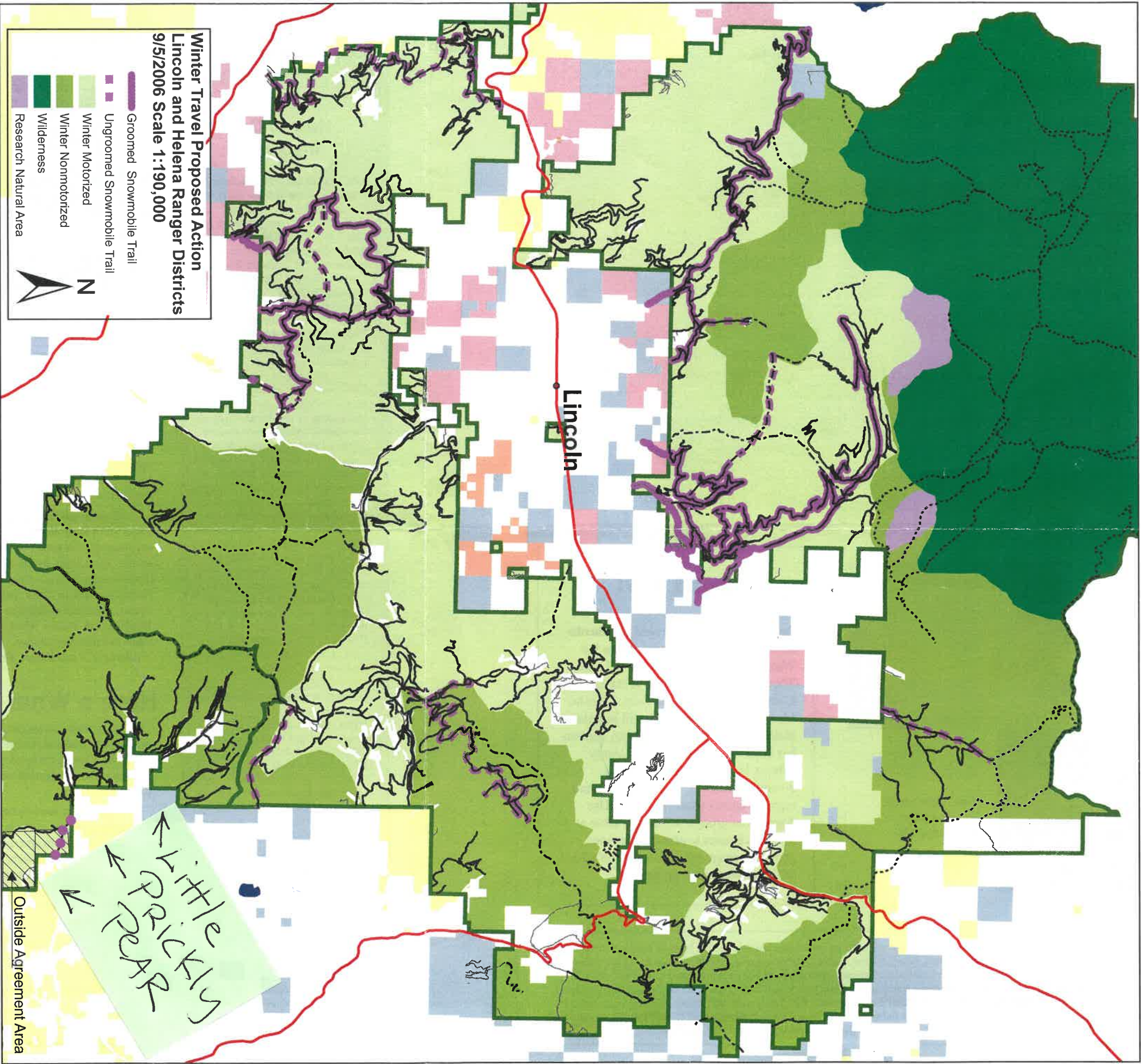


Exhibit C -- Rocky Mountain Front



Winter Travel Plan - Proposed Action



How to Get Involved

We are sending you this proposed action in order to get your thoughts, concerns and alternative suggestions to the proposed action. Once we receive your comments, we will incorporate them into the proposal where possible, then alternatives to the proposal will be developed. We will analyze the environmental effects of the alternatives by the end of the winter (around March 2007).

Then, we will send out a final environmental document that includes a decision by the Helena National Forest on what management actions will be taken in the project area. There will be an appeal period following the project decision, with specific rules to appeal a project.

Please visit the Forest website for more information on how this process works. Let's work together and incorporate your ideas at this very important stage. If you have specific questions about the collaboration group and how they came to the agreement, you can contact Jim Paris of the Montana Snowmobile Association at 362-4140 or Bob Bushnell of the Ponderosa Snow Warriors at 362-4629 or Brad Borst of the Montana Wilderness Association at 443-7350 ext. 102.

Motorized and Non Motorized Winter Use Areas

The map above shows areas proposed to allow for motorized winter use (light green) and areas to allow for non motorized winter use (darker green). By law, the Research Natural Areas (purple) and designated Wilderness (darkest green) areas are for non motorized use only. Groomed snowmobile routes are shown as solid purple lines, and snowmobile routes not groomed are shown as dashed purple lines. Larger, more detailed maps are available for viewing on our website or at the office locations listed on page one of this document.

Proposed Action Motorized Use Dates

Areas designated as open to snowmobile use will be available for a specific period of time. We are asking for your feedback on two date scenarios. The Winter Use collaboration group did not recommend motorized use ~~dates~~ in their final agreement.

First scenario- Motorized use areas open 12/2 - 4/15 except for the Copper Bowl area which would be open 12/2 - 5/1.

Second scenario - Motorized use areas open 12/2 - 4/15 except for the Copper Bowl area which would be open 12/2 - 6/1.

Keep in mind that all grooming of snowmobile routes in Montana stops on April 1.

Initial Acreage Comparison

Winter Use	Existing
Motorized	189,200
Non Motorized	49,500
RNA and Wilderness	85,500
Total	324,200
Winter Use	Proposed
Motorized	134,400
Non Motorized	111,000
RNA and Wilderness	85,500
Total	330,900*

*includes acres recently acquired from the Nature Conservancy.

Helena National Forest
Lincoln Ranger District
1569 Highway 200
Lincoln, MT 59639

Phone: 406-362-4265
Fax: 406-362-4253
email: comments-northern-helena-lincoln@fs.fed.us

For more information,
visit the Helena National
Forest website at
[www.fs.fed.us/r1/helena/
projects/winter_travel](http://www.fs.fed.us/r1/helena/projects/winter_travel)

"Caring for the land and
serving people."



6.c. North Divide – Little Prickly Pear winter travel planning - Winter Travel Project Upper Blackfoot - (Page 2 of 2)

Right: Copper
Bowls in late May
2004, snowmobile
and skier tracks.



Left: Continental
Divide trail in
February 2004.

Join Us!

An **open house** will be held in **Lincoln** to visit about the proposed action for Winter Travel Planning from 4-7 p.m., Thursday, September 14th at the Lincoln Community Hall, Main Street, Lincoln, Montana. An **open house** will be held in **Helena** from 4-6 p.m., Tuesday, September 26 at the Lewis & Clark County Library large conference room in downtown Helena. Forest Service and representatives from the Winter Use Agreement groups will be available at the open houses to answer questions about the proposed action and the efforts of the collaboration group.

"The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDAs TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202)720-6382 (TDD). USDA is an equal opportunity provider and employer."

September 2006
Official Comment Period
Newsletter

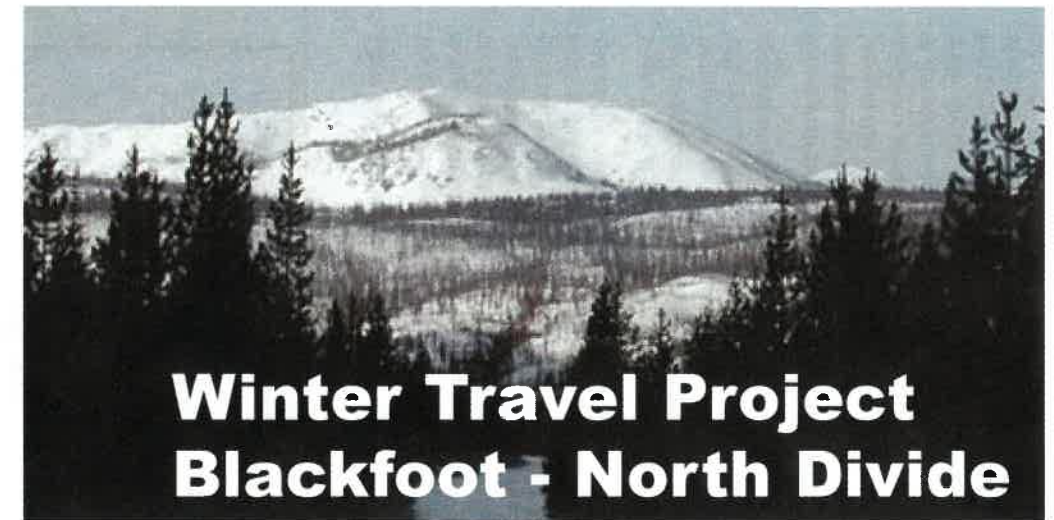
How to Get Involved

The Lincoln and Helena Ranger Districts of the Helena National Forest are preparing an Environmental Assessment for the Blackfoot - North Divide Winter Travel Plan. The proposed action can be obtained from the Lincoln Ranger District at 1569 Highway 200, Lincoln, MT 59639, the Helena Ranger District at 2001 Poplar Street, Helena, MT 59601 or on the Forest website at [www.fs.fed.us/r1/helena/
projects/winter_travel](http://www.fs.fed.us/r1/helena/projects/winter_travel)

The comment period ends 30 days following the date of publication of this legal notice in the Helena Independent Record. This publication date is the exclusive means for calculating the time to submit comments on the proposed action. Those wishing to comment on this proposal should not rely upon dates or timeframes provided by any other source. Only those who provide comment or otherwise express interest in the proposed action by the close of the comment period will be accepted as appellants. Comments must meet the requirements of 36 CFR 215.6. It is expected the legal notice will be published on September 9, 2006.

Comments must be submitted to:
Mandy Alvino
Resource Specialist
Lincoln Ranger District
1569 Highway 200
Lincoln, MT 59639
(406) 362-4265 phone
(406) 362-4253 fax
Comments may be submitted by email in word (.doc), rich text format (.rtf), text (.txt), and hypertext markup language (.html) to comments-northern-helena-lincoln@fs.fed.us
Comments may also be hand delivered weekdays 8:00 am - 4:30 pm at the above stated address.

To be eligible for appeal, each individual or representative from each organization submitting comments must either sign the comments or verify identity upon request.



Why Winter Travel Planning?

There has recently been a successful collaboration to address motorized and non-motorized winter recreation between the Montana Snowmobile Association, Ponderosa Snow Warriors (snowmobile club in Lincoln, MT), Helena Snow Drifters, Montana Fish, Wildlife, and Parks (FWP), and the Montana Wilderness Association for approximately 360,000 acres of National Forest lands within the Blackfoot River drainage and along the Continental Divide.

Collaboration took place over the course of about 10 months and in May of 2005 an agreement was reached. Together with the entities mentioned above, signatories to the agreement also included the Forest Supervisor of the Helena National Forest, Forest Supervisor of the Lewis and Clark National Forest, Director of Montana Department of Fish, Wildlife, & Parks, President of the Montana Snowmobile Association, President of Montana Wilderness Association, President of the Helena

Snowdrifters, President of the Ponderosa Snow Warriors, and President of the two local Montana Wilderness Association Chapters.

In May of 2006, the collaboration resumed after the addition of over 6700 acres of Nature Conservancy lands into the National Forest system northeast of Lincoln. The group amended their agreement to include these lands.

The Helena National Forest, as part of the Winter Use Agreement, committed to considering this agreement as an alternative in the upcoming travel planning analysis. After receiving funding from the Tri-County Resource Advisory Committee (Powell County) and the Lewis & Clark County Resource Advisory Committee, the Helena National Forest is bringing this collaborative work forward and initiating the required environmental analysis and public involvement in compliance with the National Environmental Policy Act (NEPA).

Here's What Is Proposed

The collaboration group agreed to areas in the project area where motorized and non-motorized use would be allowed for winter travel. Please note, this agreement and proposed action is only for winter travel.

These areas were defined on maps using logical topographic boundaries and features so the areas would be easy to determine when people are out on the ground. Areas were delineated to address resource concerns such as roadless areas, big game winter range, research natural areas, proposed research natural areas, mountain goat habitat, and lynx/wolverine habitat.

In addition to resource issues, other social issues such as backcountry, roadless, quiet areas, remoteness, and special features were also considered in the collaborative process.

Since the details of the Winter Use Agreement will directly address the outcomes of the project and meet current Forest Plan direction, the agreement

areas will be used as the proposed action. So, with this mailing, the Forest Service is beginning the environmental analysis for winter travel and we would like your participation.

The purpose and need for this project is to provide for and implement a plan that has support from the motorized and non-motorized communities which is a benefit for public lands. This support will make implementation easier particularly with education, information exchange, and enforcement. Implementing winter travel planning will also provide better and more enforceable area delineations between motorized and non-motorized use. The establishment of non-motorized use will benefit various natural resources including wildlife habitat/ populations as well as ensure quality winter quiet areas and protection of pristine areas. Implementation of motorized areas will benefit users with lands that provide a high quality experience of both a trail system and play areas.

Winter Wildlife Surveys in the Little Prickly Pear Creek area
of the Helena National Forest

Year Two

Prepared by Steven Gehman

May 2016



During winter 2015-2016 Wild Things Unlimited (WTU) again partnered with Winter Wildlands Alliance (WWA), Montana Wilderness Association (MWA) and the Helena National Forest (HNF) to continue a citizen science-based wildlife snow-tracking project in the Little Prickly Pear Creek (LPPC) area of the Helena Ranger District (HRD). Hilary Eisen of WWA served as project coordinator, and Melissa Cain of MWA served as our volunteer coordinator. Amanda Hagerty and John Gatchell of MWA helped to organize and participated in a Helena-based snow-tracking workshop. Denise Pengroth (HNF Wildlife Biologist) and Heather DeGeest (HRD District Ranger) provided logistical support, gps units, maps, and funding on behalf of the Helena National Forest.

In cooperation with WWA and MWA, WTU conducted one workshop to train volunteers in snow-tracking techniques and data-collection protocols. The workshop included a classroom session and a field session; 42 people attended the classroom session conducted at the Montana Wild Building in Helena on December 18, and 26 of those people participated in the field session the following day. We also invited people trained during three 2014-2015 workshops to participate again in 2016 surveys.

Seventeen volunteers participated in snow-tracking surveys. Hilary Eisen, Gary Ingman, and John Gatchell served as tracking leaders during the workshop field session. Workshop participants who went on to conduct snow-tracking surveys after receiving training included: Bret Brunner, Melissa Cain, Tony DaSilva, Tori DaSilva, Casey DaSilva, Pat Grantham, Brian Green, Barb Harris, Mikaela Howie, Gary Ingman, Jeff Lustgraft, Nathan Schroeder, Dan Sidor, Leslie Smith, and Jim Smith.

Snow-tracking surveys occurred along most of 16 pre-determined routes or off-trail in the vicinity of those routes (Fig. 1). As in winter 2014-2015, survey efforts were again hampered by a period of unseasonably warm weather, lasting from early February through early March 2016. Warm temperatures melted most of the snow at low to mid-elevations in the LPPC area, and made tracking difficult or impossible over much of the area. Volunteers conducted some surveys during this period, primarily along the Continental Divide and within upper reaches of drainages, where some snow remained.

A total of 60 track surveys covering 217.7 km were conducted in the LPPC area, during 31 days between December 19, 2015 and April 30, 2016 (Table 1); I conducted 18 surveys and volunteers conducted 42 surveys. Brian Green deserves special acknowledgement because he completed 19 surveys during the course of the winter, and his persistence resulted in the documentation of five sets of wolverine tracks along the Continental Divide.

Tracks of nine carnivore species were observed during the 60 track surveys, as follows: wolverine (6 times), mountain lion (16 times), bobcat (28 times), wolf (14 times), red fox (9 times), coyote (uncounted), striped skunk (uncounted), short-tailed weasel (uncounted), and long-tailed weasel (uncounted) (Table 1, Fig. 1). Canada lynx and American marten tracks were not observed this winter. Specific UTM coordinates for observed tracks of all carnivores except coyote, skunk, and weasels are presented in Table 2.

Non-carnivore tracks observed during surveys included: snowshoe hare and red squirrel (almost every survey), deer (25 surveys; South Fork LPPC, Cellar Gulch, McQuithy Gulch, Beartrap Gulch, Deadman Creek, lost Horse Creek, Marsh Creek, Continental Divide), elk (12 surveys; South Fork LPPC, McQuithy Gulch, Beartrap Gulch, Cellar Gulch, Marsh Creek, Deadman Creek), and moose (11 surveys; South Fork LPPC, Beartrap Gulch, Cellar Gulch, Deadman Creek, Marsh Creek, Continental Divide).

Wolverine tracks were observed each month from January through April 2016, and all six observations occurred along a 15 km section of the Continental Divide, between Davis Gulch/Virginia Creek and Gleason Creek/Beartrap Gulch (Table 1, Fig. 2). For each of the five sets of wolverine tracks observed by Brian Green, I was able to confirm his identification through personal observation of the tracks or from photographs that he took of the tracks.

Brian Green found wolverine tracks crossing the Continental Divide between the South Fork of Poorman Creek and Gould Creek on February 23, and followed the wolverine trail for 1.66 km into upper S.F. Poorman Creek (Fig. 2). I was able to locate the same wolverine trail on February 25, and followed it for another 5.03 km, documenting the wolverine's travels through the head of Davis Gulch west of the C. D. and through the upper reaches of Virginia Creek and Gould Creek on the east side of the C. D. (Fig. 2). Along the wolverine trail,

I collected four scats and four hair samples (Table 3), and documented six feeding sites where the wolverine had dug into the snow to feed on the remains of deer and elk carcasses. Unfortunately, the timing of track observations and/or the presence of poor tracking conditions did not allow us to follow any other wolverine trails during winter 2015-2016.

The scat and hair samples from Gould Creek, along with three additional scats collected by Brian Green in Beartrap Gulch and along the CDT near the Helmville-Gould Trail intersection during April (Table 3), were sent to the USFS genetics lab at the Rocky Mountain Research Station in Missoula for analysis. Hopefully some of these genetic materials will lead to individual identification of one or more wolverines.

Because we detected no evidence of trapping in the LPPC area during early winter, we supplemented snow-tracking efforts with the operation of six baited camera stations in the LPPC study area. Camera stations were located in Marsh Creek, Cellar Gulch, North Fork LPPC, Beartrap Gulch, South Fork LPPC, and Deadman Creek. All camera stations were established between January 13 and February 2, 2016, and were operated through the remainder of the winter season and into summer 2016 (Table 4). Five of the six camera stations were checked before the end of the winter field season, and four of those were visited by carnivores. The Cellar Gulch camera was visited twice by a red fox; the North Fork LPPC camera was visited once by a bobcat, once by a coyote, and twice by a striped skunk; the Beartrap Gulch camera was visited once by a pair of mountain lions, three times by a bobcat, three times by a red fox, and once by a striped skunk; and the Deadman Creek camera was visited once by a bobcat and four times by coyotes (Table 4, Fig. 3).

During the two winters of this project (2014-2015 and 2015-2016) combined, 149 people attended the classroom sessions associated with four snow-tracking workshops; 73 of those people attended the field portion of a workshop, and 29 trained volunteers went on to conduct snow-tracking surveys in the LPPC study area. A total of 113 snow-tracking surveys were conducted on 51 days of the two winters, and those surveys covered 409.2 km of roads, trails, and off-trail routes. Tracks of eleven carnivore species were observed during surveys, as follows: wolverine (n=12), Canada lynx (n=3), American marten (n=3), mountain

lion (n=27), bobcat (n=51), gray wolf (n=17), red fox (n=19), plus uncounted numbers of coyote, short-tailed weasel, long-tailed weasel, and striped skunk tracks (Fig. 4). Five carnivore species, including mountain lion, bobcat, red fox, coyote, and striped skunk, were photographed at camera stations during the two winters.

Tracks indicated that one or more wolverines visited the LPPC area seven times during the two winters, and that a Canada lynx visited once. Six of the seven sets of wolverine tracks represented east-west movement across a 15 km section of the Continental Divide, between Davis Gulch/Virginia Creek on the north end and Gleason Creek/Beartrap Gulch on the southern end. The other wolverine trail came from the direction of the Continental Divide south of Deadman Creek, and crossed Deadman Creek, the South Fork of LPPC, Beartrap Gulch, and the North Fork of LPPC on its way through the LPPC area. It appears that the LPPC area offers winter feeding opportunities for wolverines, in the form of big game carcass remains, either from hunter-killed or winter-killed animals.

Numbers and distributions of track observations (Fig. 4) indicated that mountain lions, bobcats, red foxes, coyotes and weasels are relatively common residents of the study area, and that wolves are fairly regular visitors to the area (particularly during winter 2015-2016).

Overall, our surveys confirmed that the LPPC area is a wildlife-rich region, with a prey base including moderate densities of snowshoe hares, red squirrels, deer, elk, and moose supporting a diverse and abundant carnivore community.

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 5 of 11)

Table 1. Snow tracking surveys conducted in the Little Prickly Pear Creek area of the Helena National Forest during winter 2015-2016.

Location	Date	Distance covered (km)	Carnivore Tracks Detected <u>a/</u> (# detections)
Helena Ranger District, Little Prickly Pear Creek			
Rt. 1, Cellar Gulch	1/1/2016	2.71	COY
	1/13/2016	5.87	BC (1), ML (1), COY, WEA
	2/4/2016	<u>5.44</u>	<u>COY, WEA</u>
	Subtotals	14.02	BC (1), ML (1), COY, WEA
Rt. 3, North Fork LPPC	12/19/2015	3.10	BC (1), WEA
	1/14/2016	2.92	COY, WEA
	1/28/2016	4.80	COY, WEA
	3/20/2016	<u>2.84</u>	<u>COY</u>
	Subtotals	13.66	BC (1), COY, WEA
Rt. 5, McQuithy Gulch	12/21/2015	4.00	COY, WEA
	1/9/2016	4.49	BC (1), ML (1), COY, WEA
	2/7/2016	<u>7.92</u>	<u>BC (4), ML (1), RF (1), COY</u>
	Subtotals	16.41	BC (5), ML (2), RF (1), COY, WEA
Rt. 6, Deadman Creek	12/19/2015	4.00	RF (3), COY, WEA
	1/14/2016	1.69	BC (1), COY
	2/3/2016	3.88	BC (1), COY, WEA
	3/15/2016	5.61	WF (1), COY, WEA
	Right Hand Fork Dry Gulch	2/3/2016	<u>1.00</u> <u>COY</u>
Subtotals		16.18	BC (2), WF (1), RF (3), COY, WEA
Lost Horse Creek			
Lower LHC Road (N of Deadman Cr)	2/3/2016	3.25	BC (2), COY
Upper LHC Road (S of Deadman Cr))	2/3/2016	<u>7.75</u>	<u>ML (3), BC (1), COY</u>
Subtotals		11.00	BC (3), ML (3), COY
Rt. 8, Marsh Creek Road	1/13/2016	2.40	none
	1/19/2016	10.40	WF (1), BC (1), COY, WEA
	1/27/2016	10.75	WF (2), ML (1), BC (1), COY, WEA
	3/20/2016	<u>2.61</u>	<u>ML (1), BC (2), WF (2), SS, COY</u>
	Subtotals	26.16	BC (4), ML (2), WF (5), SS,COY,WEA
Rt. 9, South Fork LPPC Road (4038)	1/13/2016	4.66	ML (2), BC (1), COY
	1/18/2016	2.40	BC (2)
	1/22/2016	3.25	BC (1), RF (1)
	1/30/2016	3.11	COY
	2/2/2016	4.66	RF (1), COY
	2/12/2016	1.06	WF (1)
	2/14/2016	1.06	BC (1)
	3/23/2016	<u>2.10</u>	<u>ML (1), COY</u>
Subtotals		22.30	BC (5), ML (3), WF (1), RF (1), COY

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 6 of 11)

Table 1. Continued -- p. 2

Location	Date	Distance covered (km)	Carnivore Tracks Detected <u>a/</u> (# detections)
Rt. 10, SF LPPC spur road, 4038-A	2/12/2016	1.38	none
	2/14/2016	1.38	COY
	3/4/2016	1.38	COY
off-trail, SFLPPC/Beartrap	2/12/2016	1.54	none
off-trail, SFLPPC/Beartrap	2/14/2016	2.72	none
off-trail, SFLPPC/Beartrap	3/4/2016	<u>2.72</u>	<u>COY</u>
Subtotals		11.12	COY
Rt. 11a, SF LPPC, Road 4038	1/13/2016	2.55	RF (1), COY, WEA
	2/2/2016	<u>4.13</u>	<u>BC (1), COY, WEA</u>
Subtotals		6.68	BC (1), RF (1), COY, WEA
Rt. 11c, SF LPPC, spur road	2/2/2016	1.59	BC (2), COY, WEA
Rt. 12, Beartrap Gulch			
Beartrap/SF LPPC	12/19/2015	5.25	BC (2)
Beartrap Gulch	1/2/2016	2.11	none
Beartrap Gulch	1/11/2016	3.35	COY, WEA
Beartrap Gulch	1/13/2016	1.51	WF (2), RF (1), COY
Beartrap Gulch	1/30/2016	3.13	COY
Beartrap Gulch	3/23/2016	3.68	RF (1), COY
Beartrap Gulch	3/30/2016	6.47	BC (1), COY, WEA
Beartrap Gulch	4/2/2016	4.08	WV(1),ML (1), COY
Beartrap Gulch	4/29/2016	<u>4.08</u>	<u>ML (1), COY</u>
Subtotals		33.66	WV (1), BC (3), ML (2),WF (2), RF (2), COY, WEA
Rt. 13, CDT, Stemple Pass to Granite Butte Lookout			
Stemple to LRD/HRD line, (Rt. 13 + off-route)	2/8/2016	6.92	COY, WEA
	2/23/2016	5.30	WV (1), RF(1), COY, WEA
	3/4/2016	<u>6.57</u>	<u>WEA, COY</u>
Subtotals		18.79	WV (1), RF (1), COY, WEA
Rt. 14, CDT, GB Lookout to LRD/HRD boundary line			
Marsh Cr. towards Stemple Pass	1/19/2016	4.00	COY, WEA
	3/5/2016	2.95	COY, WEA
Marsh Cr. towards Stemple Pass	3/20/2016	<u>3.67</u>	<u>COY</u>
Subtotals		10.62	COY, WEA

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 7 of 11)

Table 1. Continued -- p. 3

Location	Date	Distance covered (km)	Carnivore Tracks Detected <u>a/</u> (# detections)
Rt. 16 CDT, LRD/HRD line to head of Deadman Creek			
Marsh Creek to south (Rts 14/16)	1/19/2016	3.20	WEA
Marsh Cr. to NF LPPC (Rts 14/16)	1/27/2016	1.07	WV (1)
LRD/HRD line to head NFLPPC	2/8/2016	2.32	COY, WEA
LRD/HNF line to H-G Trail intersect.	3/5/2016	1.00	WV (1), WEA
Marsh Cr. To NF LPPC	3/20/2016	3.36	ML (3), BC (1), WF (4), SS, COY
head of Bearttrap Gulch	3/30/2016	1.44	WV (1)
Marsh Creek to south (Rts 14/16)	4/30/2016	<u>3.12</u>	<u>WV (1), WF (1), COY</u>
Subtotals		15.51	WV (4), BC (1), ML (3), WF(5), SS, COY, WEA
TOTALS	31 days	217.70	WV(6), BC(28), ML(16), WF(14), RF(9), SS, COY ,WEA

a/ WV = wolverine, LX = lynx, ML = mountain lion, BC = bobcat, AM= American marten, RF = red fox, WF = wolf, COY = coyote, WEA = weasel (long-tailed and short-tailed)

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 8 of 11)

Table 2. UTM locations for tracks of uncommon carnivores detected during snow tracking surveys in the Little Prickly Pear Creek area of the Helena National Forest, during winter 2015-2016.

Species	Date	General Location	UTM Coordinates	
			UTM-e	UTM-n
		Helena and Lincoln Ranger Districts, Little Prickly Pear Creek area		
Wolverine	1/27/2016	CD, above NF LPPC	386186	5188638
	2/23/2016	CD, near head of SF Poorman Creek	387381	5190674
	2/25/2016	CD, near head of Gould Creek	385884	5192669
	3/5/2016	CD, above Marsh Creek	387036	5189364
	3/30/2016	CD, above Beartrap Gulch	383658	5181969
	4/2/2016	CD, above Beartrap Gulch	383664	5182541
	4/30/2016	CD, above NF LPPC	385696	5188440
Mountain Lion	1/13/2016	Cellar Gulch	389830	5185318
	1/13/2016	SF LPPC Road	389132	5182037
	1/13/2016	SF LPPC Road	386887	5181254
	1/27/2016	Marsh Creek	393942	5186148
	2/2/2016	LPPC, main road	392525	5182568
	2/3/2016	Deadman/Lost Horse Creek	394277	5177619
	2/3/2016	Deadman/Lost Horse Creek	394474	5177137
	2/3/2016	Deadman/Lost Horse Creek	394924	5176921
	2/7/2016	McQuithy Gulch	389261	5182657
	3/20/2016	Marsh Creek	388996	5188105
	3/20/2016	CD, above NF LPPC	385262	5187672
	3/20/2016	CD, above NF LPPC	384740	5187539
	3/20/2016	CD, above NF LPPC	384418	5187316
	3/23/2016	SF LPPC Road	388057	5182025
	4/2/2016	Beartrap Gulch	384172	5183011
	4/29/2016	Beartrap Gulch	383766	5182973
Bobcat	12/19/2015	NF LPPC	386918	5186093
	12/19/2015	Beartrap Gulch	386378	5182048
	12/19/2015	SF LPPC/Beartrap Gulch	385324	5181305
	1/9/2016	McQuithy Gulch	388893	5183934
	1/13/2016	Cellar Gulch	389289	5186529
	1/13/2016	SF LPPC Road	386507	5180936
	1/14/2016	Deadman Creek	390867	5179169
	1/18/2016	SF LPPC	389381	5182092
	1/18/2016	SF LPPC	388988	5182041
	1/19/2016	Marsh Creek	388506	5188582
	1/22/2016	SF LPPC	389560	5182213
	1/27/2016	Marsh Creek	393875	5186209
	2/2/2016	SF LPPC	386632	5181061
	2/2/2016	SF LPPC	389501	5180595
	2/2/2016	SF LPPC	389571	5180258

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 9 of 11)

Table 2. Continued. Page 2.

Table 2. Continued. Page 2.

species	Date	General Location	UTM Coordinates	
			UTM-e	UTM-n
		Helena and Lincoln Ranger Districts, Little Prickly Pear Creek area		
Bobcat - continued	2/3/2016	Lost Horse Creek Road	391538	5180864
	2/3/2016	Lost Horse Creek	395898	5176823
	2/3/2016	Deadman Creek	391459	5179173
	2/7/2016	McQuithy Gulch	389344	5182619
	2/7/2016	McQuithy Gulch	388944	5182670
	2/7/2016	McQuithy Gulch	388175	5183222
	2/7/2016	McQuithy Gulch	387769	5184149
	2/14/2016	SF LPPC	387024	5181427
	2/24/2016	CD, N, head of SF Poorman Creek	387527	5190108
	2/25/2016	CD, N, above Davis Gukch	385835	5192948
	3/20/2016	Marsh Creek	387774	5190108
	3/20/2016	Marsh Creek	387585	5188928
	3/20/2016	CD, above NF LPPC	386418	5188694
	3/30/2016	Beartrap Gulch	384718	5182928
Gray Wolf	1/19/2016	Marsh Creek	393363	5186575
	1/27/2016	Marsh Creek	393602	5186437
	1/27/2016	Marsh Creek	392353	5187267
	2/2/2016	bottom of Cellar Gulch	391819	5182333
	2/12/2016	SF LPPC	387020	5181432
	2/24/2016	upper Marsh Creek	387263	5189125
	3/15/2016	Deadman Creek	387795	5179098
	3/20/2016	Marsh Creek	387918	5188828
	3/20/2016	Marsh Creek	387083	5189297
	3/20/2016	CD, head of Marsh Creek	386740	5189016
	3/20/2016	CD, Marsh Cr/North Fork divide	386574	5188739
	3/20/2016	CD, above NF LPPC	384596	5187472
	3/20/2016	CD, above NF LPPC	384340	5187172
	4/30/2016	CD, head of Marsh Creek	386744	5188954
Red Fox	12/19/2015	Deadman Creek	391865	5179454
	12/19/2015	Deadman Creek	390221	5178989
	12/19/2015	Deadman Creek	388641	5178788
	1/22/2016	SF LPPC	389826	5182537
	2/2/2016	bottom of Cellar Gulch	391816	5182324
	2/2/2016	SF LPPC	389647	5182336
	2/7/2016	McQuithy Gulch	388569	5183045
	2/24/2016	CD, above Marsh Creek	386860	5189170
	2/25/2016	CD, Virginia Creek/Davis Gulch divide	385845	5193052
	2/25/2016	CD, Virginia Creek/Davis Gulch divide	386405	5193037

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 10 of 11)

Table 3. Scat and hair samples collected by WTU in the LPPC area of the Helena NF during winter 2015-2016.

Sample #	Date Collected	Location	UTM Coordinates		Lab Results a/		Comments
			UTM-e	UTM-n	Species	Individual	
HFW1601S	2/24/2016	LRD, CD/ Marsh Cr. Rd.	387173	5189177			likely coyote
HFW1602S	2/25/2016	LRD, CD/Gould Creek	385833	5192999			from WV backtrack
HFW1603S	2/25/2016	LRD, CD/Gould Creek	387060	5192802			from WV backtrack
HFW1604S	2/25/2016	LRD, CD/Gould Creek	387537	5192390			from WV backtrack
HFW1605S	2/25/2016	LRD, CD/Gould Creek	387287	5191703			from WV backtrack
HFW1606S	2/24/2016	LRD, CD/Gould Creek	387252	5191554			likely bobcat
HFW1607H	2/25/2016	LRD, CD/Gould Creek	385851	5192920			assoc. w/ WV feeding site
HFW1608H	2/25/2016	LRD, CD/Gould Creek	385833	5192999			assoc. w/ 1602S
HFW1609H	2/25/2016	LRD, CD/Gould Creek	387060	5192802			assoc. w/ 1603S
HFW1610H	2/25/2016	LRD, CD/Gould Creek	387537	5192390			assoc. w/ 1604S
HFW1611S	4/11/2016	Upper Beartrap Gulch	384275	5183002			assoc. w/ WV tracks
HFW1612S	4/11/2016	Upper Beartrap Gulch	384275	5183002			assoc. w/ WV tracks
HFW1613S	4/30/2016	CDT/Helmville-Gould	385697	5188436			assoc. w/ WV tracks

a/ samples were sent to the Genetics Lab, at the USFS Rocky Mountain Research Station, for analysis; should have results by the end of 2016

6.d. North Divide – Little Prickly Pear winter travel planning - Winter Wildlife Surveys in the Little Prickly Pear Creek area of the Helena National Forest -Year Two (Page 11 of 11)

Table 4. Camera stations operated in the Little Prickly Pear Creek area of the Helena National Forest during winter 2015-2016.

Location	Station ID	Dates of Operation a/ (# days)	Carnivore Visits (# visits)
Cellar Gulch	CG1	1/13/16 - 3/10/16 (57)	red fox (2)
Beartrap Gulch	BG2	1/13/16 - 3/10/16 (57)	two mountain lions (1) ,bobcat (3), red fox (3), striped skunk (1)
Deadman Creek	DC3	1/14/16 - 3/11/16 (57)	bobcat (1), coyote (4)
North Fork LPPC	NF4	1/14/16 - 3/10/16 (56)	bobcat (1), coyote (1), striped skunk (2)
Marsh Creek	MC5	1/27/16 - 3/20/16 (53)	none
South Fork LPPC	SF6	2/2/16 - no check	??

a/ dates from set-up through last check of station; all cameras were left in place and operational into summer 2016; will have additional information by fall 2016

DECISION NOTICE

and

FINDING OF NO SIGNIFICANT IMPACT

SOUND WOOD SALVAGE TIMBER SALE

Lewis and Clark County

**USDA
HELENA RANGER DISTRICT
HELENA NATIONAL FOREST**

JUNE 1998

I. INTRODUCTION

I have made a decision to treat vegetation on approximately 210 acres and implement an area closure with designated routes on approximately 15,000 acres of National Forest System Lands located in Township 11 N, 12 N and 13N and Range 7W within the Little Prickly Pear Creek drainage.

This project was prompted by timber inventory and field reconnaissance which revealed serious forest health problems. Mature to overmature trees in the area are suffering from insect and disease infestations which include the parasitic dwarf mistletoe and spruce budworm. In addition, the freeze thaw event of 1989 has resulted in ongoing mortality.

Also, existing travel restrictions on several roads within the project area are not effectively restricting motorized use. In addition to motorized vehicles using roads intended to be closed within the project area, several unauthorized, motorized trails have been constructed from Forest roads, allowing motorized access to the Continental Divide National Scenic Trail (CDNST).

II. ALTERNATIVES

In making my decision, I considered eight alternatives. I considered four of those alternatives in detail. Chapter II describes the alternatives in detail.

Alternatives Considered But Not Given Detail Study: These four alternatives did not clearly provide distinct advantages from Alternatives 1, 2, 3 or 4. Following is a summary of these alternatives and the rationale for dismissing them from detailed study:

1. Original Proposed Action: The original proposed action included timber harvest of approximately 400 acres and an area closure which included approximately 1500 acres. During public involvement, scoping and site visits, it became apparent that this alternative would not adequately meet the purpose and need for this project. Additional unauthorized use was discovered adjacent to the project area, which affected elk vulnerability and habitat effectiveness. Modification of the proposed action was necessary in order to better address the Purpose and Need for the project.

2. 40 Acre Opening: This alternative was developed to address the issue related to harvest unit size. It was proposed to limit harvest unit openings to 40 acres. The interdisciplinary team felt that restricting harvest areas to traditional treatment sizes would not be responsive to the maintainance and sustainability of the natural occurring ecosystems within the project area. Patch size analysis within the Divide Landscape Analysis indicates that 56 percent of the landscape within that firegroup had a patch size of greater than 250 acres.

Over time, continuous areas of dead, dying and diseased trees within the project area will eventually fall over, creating natural openings greater than 40 acres. After harvest, the project area will not appear much different than what would have happened over time. Limiting opening sizes to 40 acres would result in areas of dead, dying and diseased trees being left on site, limiting the ability to fulfill the purpose and need, and creating additional fuel accumulations.

3. Staged Harvest: This alternative considered treating smaller areas upon entry, returning later to harvest the remaining area, in order to reduce the effects of the harvest.

If the forest was in a healthy condition this could reduce the effects on other resources. However, the current rate of decline in these forest types makes it unlikely that they would survive for any significant period of time. Harvesting now will recoup the greatest value of the forest products, re-establish healthier forests sooner, and reduce long term disturbance to the area because only one entry will be needed.

4. Harvest More Dead and Dying Trees: An alternative was also considered which would treat more dead and dying trees within the project area, but remain outside the Nevada Mountain Roadless Area. This would have required the construction of approximately 2.5 miles of road which would be recontoured/obliterated following harvest. This alternative would have harvested 440 acres, producing 2.4 million board feet.

Because of the need for construction of 2.5 miles of road to access the areas to be treated, the desire to maintain a minor component of older trees for forest landscape diversity within the project area and the past harvest within the area; this alternative was dropped from detailed study.

Alternatives Considered in Detail: Alternatives 1, 2, 3 and 4 represent distinct choices in how to respond to the purpose and need for the project and key issues and concerns.

1. Alternative 1 - No Action: This alternative responds to those concerns in opposition to implementation of the action alternatives. None of the actions identified in the Proposed Action would be implemented.

This alternative was not selected because it does not allow for the development of an area travel management plan, it would not discourage motorized use within the project area, it would continue to allow impacts/disturbances to the security of wildlife, forests would continue to deteriorate and opportunities to generate a new age class of trees with timber harvest would decline over time.

2. Alternative 2 - proposed action - modified: This alternative would implement a 7,500 acre area closure and 210 acres of harvest which would prioritize those areas with the highest insect and disease damage. Overall, stands generally have greater than 30% mortality. This alternative responds to issues raised during scoping, specifically, protecting roadless character, existing travel management problems and forest health issues.

3. Alternative 3: This alternative included a 15,000 acre area closure, with designated routes and 340 acres of timber harvest within all stands in the treatment area which exhibit insect or disease infestations. This alternative was designed to meet all aspects of the purpose and need while providing additional consideration to big game security and integrity of the Nevada Mountain Roadless area and greater harvest opportunity.

4. Alternative 4: This alternative features a 7,500 acre area closure with increased opportunities within the area closure for motorized use. Harvest units proposed are similar to Alternative 3, with the exception of about 20 acres of untreated patches, which would be left to break sight distance and

provide local cover for wildlife, would be left adjacent to the designated travel routes along Forest Roads #4038, #4038-B1 and #4037.

III. DECISION

My decision is to implement 'Alternative 2 - modified' with specific modifications. Alternative 2 includes: harvest of approximately 210 acres within areas which are generally greater than 30% mortality, obliterate short segments of Forest Road #4038 to reduce vehicle access to existing roads, construct approximately 0.5 miles of temporary road, (all of which will be obliterated by re-contouring, and re-vegetated after project completion) and allow one season of public firewood removal after completion of the timber sale.

Specific modification to 'alternative 2 -modified' are as follows:

- Implement the 15,000 acre area closure from Alternative 3 with the following designated routes:
 - Forest Road # 4039 to Cellar Gulch Trailhead
 - Forest Road # 4002
 - Forest Road # 4038 to existing gate;

The area closure would be implemented starting on January 1st of 1999. During the fall of 1998 signs will be posted in the area and news releases will be used to alert users of the area of the changes being implemented on January 1st.

- Designate the Cellar Gulch Trail as a system trail which would be open to motorized use with seasonal and width restrictions (July 1 to September 30 for vehicles 50 inches and less in width);
- Construct a trailhead for the Cellar Gulch Trail and rehabilitate segments of a pioneered jeep road above this location which is exhibiting drainage problems and is steep and narrow in places;
- Install closure devices on Forest Road 4002-A1 and 4002-A2 at the Forest Boundary and Forest Road 4002-B1 at the junction of Forest Road 4002-B2;
- Move the existing gate on Forest Road #4038-A1 to the junction of Forest Road # 4038 and Forest Road #4038-A1;
- Move the existing gate on Forest Road #4038 to a safer location with a turnaround within 0.50 miles of its existing location;
- Close Continental Divide Trail #337 to motorized vehicles from Black Mountain north to the junction of Forest Service Trail #465 and close the old trail system in Deadman Creek to motorized vehicles year-long;
- Retain a no harvest buffer in Unit 4 to provide an east-west corridor for wildlife and retain Douglas fir patches which exhibit old growth characteristics within Units 2 and 4;

Prohibit snowmobile use from October 15 to December 15.

SPECIFIC MITIGATION MEASURES:

- Logging activities will be restricted to December 16th through March 15th and June 1st through August 31st annually;
- Log hauling will not be permitted on weekends and federal holidays;
- Log trucks will be required to have CB radios and run with lights on at all times when operating within the National Forest boundary;
- Best Management Practices and Soil and Water Conservation Practices (FSH 2509.22) will be applied where applicable;
- All treatment will be designated to avoid adverse impacts to any identified cultural resources as required by the National Historic Preservation Act;
- To reduce noxious weeds, heavy equipment to be used off-roads (e.g. skidders, earth moving equipment) will be scrubbed or steam cleaned prior to entering Forest Service Lands;
- Noxious weeds will be monitored for and treated if found. Native grass seed will be used in all revegetation efforts.

Based on the analysis completed for this project, I also recommend that the Management Area allocation in the S 1/2 of Section 23, T14N, R7W be changed from T-1 to W-1 because this is important mule deer winter range. This change should be made during the Forest Plan revision.

IV. DECISION RATIONALE

After careful review of the environmental analysis and public comment regarding this proposal, I chose to implement Alternative 2 "modified" with the changes noted above. The two major features of this decision include the harvest of 210 acres of diseased and over-mature forests and the implementation of an area restriction approach to travel management on 15,000 acres. This approach responds well to the stated purpose and need for the project, which includes capturing the value of the dead and dying trees while it is still viable to do so, replacing these sickly older stands of trees with young vigorous trees, reducing fuel loadings and fuel continuity to lower the risk for intense wildfires, and it helps protect the character of the Nevada Mountain Roadless Area.

The timber harvest portion of this project is important because it will remove trees that are disease infested, dead, and down on the ground. Removal of these trees will make room for younger, healthier trees that will contribute to improvement of forest health in the project area.

The selected alternative includes three harvest areas over 40 acres (2 units will be approximately 50 acres and 1 unit will be approximately 80 acres). While I know several commentors expressed concern about the size of these treatment areas, I made the decision to treat these areas for the following reasons:

- a.) to allow treatment of the entire forest type which is dying;
- b.) the forest types within the treatment areas are high elevation forests which are typically dominated by lodgepole pine forests that are affected by infrequent, extensive high intensity wildfires, which often create openings larger than 40 acres;
- c.) to manage these forests with large treatment areas which mimics the natural scale of change on the landscape, which will better contribute to the sustainability of the forest in the future
- d.) the larger treatment sizes mean larger areas regenerate and grow on the landscape which can be important to species which require interior forest habitat.

A request for exceeding the 40 acre opening size limitation was approved by the Regional Forester in a letter dated May 21, 1998.

The harvest of trees will help provide some of the lumber and wood products that our society depends on. This will also provide jobs for the local logging and lumber industry. Other benefits from the timber harvest include replacing old diseased trees with new stands of younger, faster growing trees and the reduction of forest fuels by removing the merchantable material and treating the remaining slash. Choosing the No Action Alternative would not have any of these benefits. Alternatives 3 and 4 both harvested over 100 additional acres when compared to Alternative 2. However, I chose Alternative 2 over these other alternatives because it treats the priority areas and, with the travel restrictions, provides the best conditions for big game security and other wildlife.

The travel portion of this decision is the most contentious aspect of the proposal in many ways. A number of commentors were in favor of the area restriction approach with it's reduced opportunities for use of off-road motorized vehicles. I also heard from folks who felt strongly that this approach should not be adopted and that the status quo should be retained. In weighing both of these points of view and the current conditions/trends (e.g. increased unauthorized use of motorized vehicles off road and into the Nevada Mountain Roadless Area), I decided to adopt an enforceable 15,000 acre area closure with designated routes which will be better understood by the public than the present situation. I did this to provide the protection of the roadless area, to reduce the chances for spread of noxious weeds, and to improve wildlife habitat conditions. All of these items are consistent with Forest Plan direction for this part of the Forest. My decision also includes designating a new motorized trail, the Cellar Gulch Trail. With the addition of this trail, off-road motorized opportunities are still provided for but have been substantially reduced in the area. The snowmobile timing restrictions adopted were based on comments received about the misuse of snowmobiles in the area during the big game season. By prohibiting snowmobile use between October 15 and December 15, it will improve big game security and hunting opportunities.

Overall, I feel the approach being taken with this decision is responsive to the purpose and need for this project while taking into consideration Forest Plan management direction, site specific needs, and public comments received on the proposal.

V. PUBLIC INVOLVEMENT

Interested parties had several opportunities to comment on this project, beginning with a 30 day public comment period on the proposed action. We received numerous comments that helped guide the analysis and develop alternatives to that proposal. During the analysis and development of alternatives, we hosted an informal open house at the District office as well as a field trip to the project area. Once the alternatives were finalized, we sent those out for public comment. During the comment period we hosted an informal open house to provide the public an opportunity to discuss specific design features of the alternatives with members of the interdisciplinary team. We also hosted a public field trip to the project area. The completed environmental analysis was sent out for a 30 day public review period. During the 30 day comment period it was brought to our attention that errors existed within **Tables II-3 : Comparison of Travel Restrictions By Alternative for Motorized Use and Table II-4 : Comparison of Travel Restrictions by Alternative for Snowmobiles**. A letter was sent to all individuals that received a copy of the EA to notify them of this error and an additional 15 days was allowed to provide additional comments or change their comments based on these errors; no comments specific to this modification were received. Also, while in the process of reviewing comments, it was discovered that two individuals were inadvertently left off the mailing list to receive an EA. These individuals were mailed a copy of the EA and asked to provide comments within 30 days of the receipt of the letter. Neither of these individuals responded. Responses to comments received during that time are summarized and documented in Appendix A of this decision notice. The complete records of public involvement with this project are located in the project file at the Helena Ranger District office.

VI. FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Based on my review of the analysis in the Sound Wood Salvage EA and supporting documents, and my evaluation of the following factors described in 40 CFR 1508.27, I conclude that the selected alternative is not a federal action that will significantly affect the quality of the human environment. Based on this, an Environmental Impact Statement is not necessary and will not be prepared for this project.

1. Context

The setting for this project is northeast of Helena in the South Fork of Little Prickly Pear Creek drainage. The effects of this action are described in Chapter III of the EA. Our conclusion from the analyses is that there will be benefits to the ecosystem by implementing this project. The actions are within the range of natural processes and thus, will not have a significant effect to the region or society as a whole. The project is consistent with the management direction in the Helena Forest Plan.

2. Intensity and Severity

a. Impacts that may be both beneficial and adverse: The known and suspected impacts from the actions are described in Chapter II and III of the EA. The management practices proposed here, primarily timber harvest and travel management, are not unique and monitoring of previous projects and implementing these practices have shown they do not have significant effects. The effects as described in the EA are within the range of expected impacts described in the EIS for the Helena Forest Plan. Based on the known and anticipated impacts associated with this project, I conclude that the intensity of impacts will not be significant.

b. The degree to which the proposed action affects public health and safety: To minimize risks to public safety, the timber sale contractor will be required to abide by specific public health and safety requirements, e.g. signing to alert the public of log truck traffic and no log truck hauling on weekends and Federal holidays.

Based on the environmental analysis, I have concluded that the selected action has a low risk of threatening public health and safety.

c. Unique characteristics of the geographic area: Based on review of the project area and the site-specific locations of activities, there are no unique resource characteristics identified that will be affected by this action. No timber harvest or road building within any of the alternatives occur within the roadless area, nor will there be any impacts to wetlands or farmlands.

d. The degree to which the effects on the quality of the human environment are likely to be highly controversial: Based on the analysis of the environmental effects, the intensity of the effects would be similar to past actions. These past actions have not generated dispute as to the size, nature or effect of the action. Therefore, I conclude that the intensity of the effects of this project are not expected to result in controversy.

e. The degree to which the possible effects on the human environment involve unique or known risks: The setting of this project is similar to areas of past management, and the types of effects identified in Chapter III of the EA are similar to past actions. Timber harvest has occurred on Helena National Forest lands for over 40 years and area closures with designated routes have been successfully implemented on this Forest over the past decade. Common techniques for these activities will be used. The ID Team used the results of these past experiences as a frame of reference, and combined that insight with scientifically based information and analytical tools to estimate the effects of this proposal. There are no unique or unusual characteristics identified in this proposal that have not been previously encountered.

Based on this, I conclude that this proposal does not introduce effects that would constitute a unique or unknown risk to the human environment.

f. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration: Effects of this project are minor and short term in nature. Access roads to be constructed are temporary and will be obliterated after harvest and its related activities. Thus, I conclude that this action does not establish a precedent for future actions with significant effects.

g. Whether the action is related to other actions with individually insignificant effects, but significant effects when considered cumulatively: Chapter III of the EA discusses the combined effects of this project

with other past, present and reasonably foreseeable actions. Based on this discussion, there are no known effects which in combination with other activities would have significant effects.

h. The degree to which the action may adversely affect districts, sites, highways, structures or objects in or eligible for listing in the National Register of Historical Places or may cause loss or destruction of significant scientific, cultural, or historical resources: There are no known significant scientific resources within the project area. A complete survey for cultural and historical resources has been completed in the area, and the action will not affect any known sites. The action is in compliance with Section 106 of the National Historic Preservation Act. Mitigation measures will be applied to avoid the known sites in the area and there will be contract provisions in the timber sale contract to ensure that any new sites are not adversely affected. Based on this information, I conclude that the selected action will not cause loss or destruction of significant scientific, cultural or historical resources.

i. The degree to which the action may adversely affect an endangered or threatened species or their habitat that has been determined to be critical under the ESA, 1973: The results of the Biological Evaluations conducted for fish, wildlife and plants indicated that no adverse effects will occur to threatened, endangered or sensitive species. The potential for enacting yet undiscovered sites containing threatened, endangered or sensitive species will be mitigated by using standard timber sale contract clauses. Based upon these determinations, I conclude that there will be no adverse effect to species or their habitats determined to be critical under the ESA.

j. Whether the action threatens a violation of Federal, State or local law or requirements imposed for their protection of the environment: Based on the environmental analysis and the disclosures in the EA, I conclude that this project is in compliance with statutes imposed for the protection of the environment.

VII. FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

Forest and Resource Management Plan Consistency

Based on the analysis, I find the selected alternative to be consistent with the management direction for the area and all its applicable standards and guidelines. This "Sound Wood Salvage" project is appropriately tiered as prescribed under the National Environmental Policy Act, 40 CFR 1502.20.

National Forest Management Act

I have determined, through the ID Team process, that the project is responsive to applicable laws and regulations guiding the planning and management of National Forest lands. I also recognized the various ecosystems and took into consideration their management for the production of goods and services.

National Environmental Policy Act

The NEPA provisions have been followed as required under 40 CFR 1500. The EA and this Decision Notice comply with the intent and requirements of the NEPA. The EA analyzes an acceptable range of alternatives, including the "No Action" alternative. It also discloses the expected impacts of each alternative and discusses the identified issues and concerns. This document describes the decisions we have made and their rationale.

Endangered Species Act

The Biological Evaluation (BE) concludes there will be "no effect" on any threatened or endangered species. The BE also includes an evaluation for other "species at risk" and is documented in Appendix B of the Biological Evaluation.

National Historic Preservation Act

The known physical heritage resources will be protected through avoidance. The project is in full compliance with the intent and the requirements of the NHPA and will not jeopardize preservation of important historic, cultural and natural aspects of our national heritage.

Suitability for Timber Management

All areas proposed for harvest on National Forest System Lands have been determined to be suitable for timber production in accordance with 36 CFR 219.14 and are part of the lands classified as suitable in Appendix G of the Forest Plan. All areas to be treated have been visited on the ground by Foresters and Silviculturalists to verify this.

Even-aged Management

I have reviewed the Timber Stand Diagnosis and agree with the silvicultural recommendations that even-aged management of the timber stands under the selected alternative is appropriate to meet the objectives and requirements for Management Areas T-1 and T-5.

Provision to Alter Vegetation

The selected alternative complies with the requirements under 36 CFR 219.27(b) in regard to altering vegetative tree cover. After comparing the predicted environmental effects (EA, Chapter III), the selected alternative is best suited to meet Forest Plan direction.

Assurance of Restocking

Silvicultural treatments diagnosed for the selected alternative are fully expected to result in adequate restocking of desirable trees in five years. Similar harvest treatments in lodgepole pine stands on the Helena National Forest and in the project area have been very successful in establishment of new seedlings.

Additional Laws and Requirements

The selected alternative is in compliance with all other applicable laws and regulations. State water and air quality standards will be met. Floodplains and wetlands within the project area will be protected.

VIII. APPEAL PROVISION AND IMPLEMENTATION


Decisions made by the Forest Service are subject to appeal pursuant to 36 CFR 215.7. As stated in 36 CFR 215.11, an appeal may be filed by any person or any non-federal organization or entity that has provided comment or otherwise expressed interest in this proposal by the close of the comment period specified in 36 CFR 215.6. A written appeal must be submitted within 45 days after the date of the notice of this Decision is published in the *Independent Record*, Helena, Montana.

Appeals are submitted to:

USDA Forest Service, Northern Region
Attn: Appeals Deciding Officer (RFO)
PO Box 7669
Missoula, Montana 59807

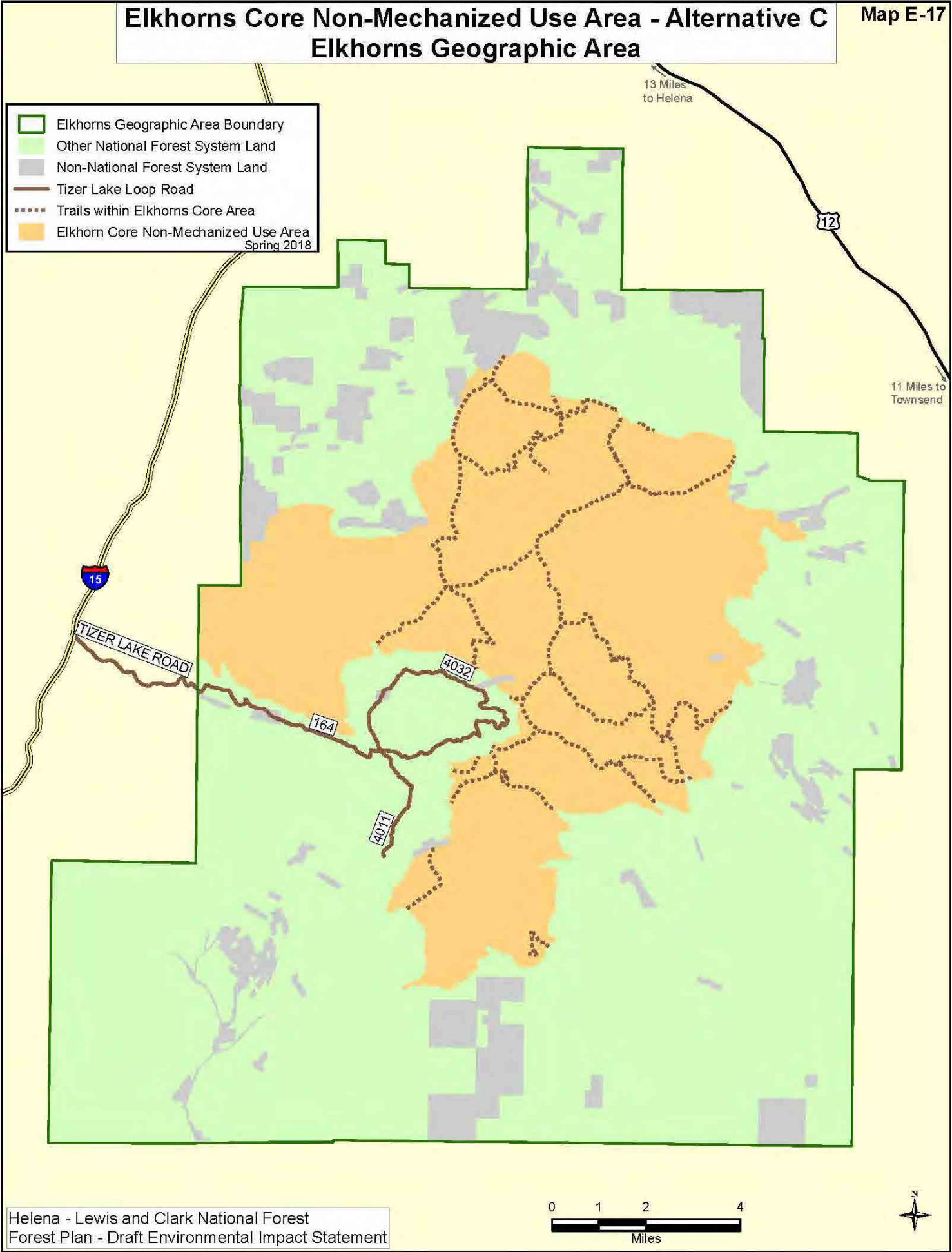
An appeal must meet content requirements of 36 CFR 215.14. Detailed records of the Environmental Analysis are available for public review at the Helena Ranger District Office, 2001 Poplar, Helena, Montana 59601. For further information on this Decision, contact Sharon Scott at the Helena Ranger District, (406) 449-5490.

If no appeal is received, implementation of this Decision may occur on, but not before, 5 business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of the appeal decision.



Date: June 8, 1998

Denis A. Hart, District Ranger
Helena Ranger District
Helena National Forest
USDA-Forest Service

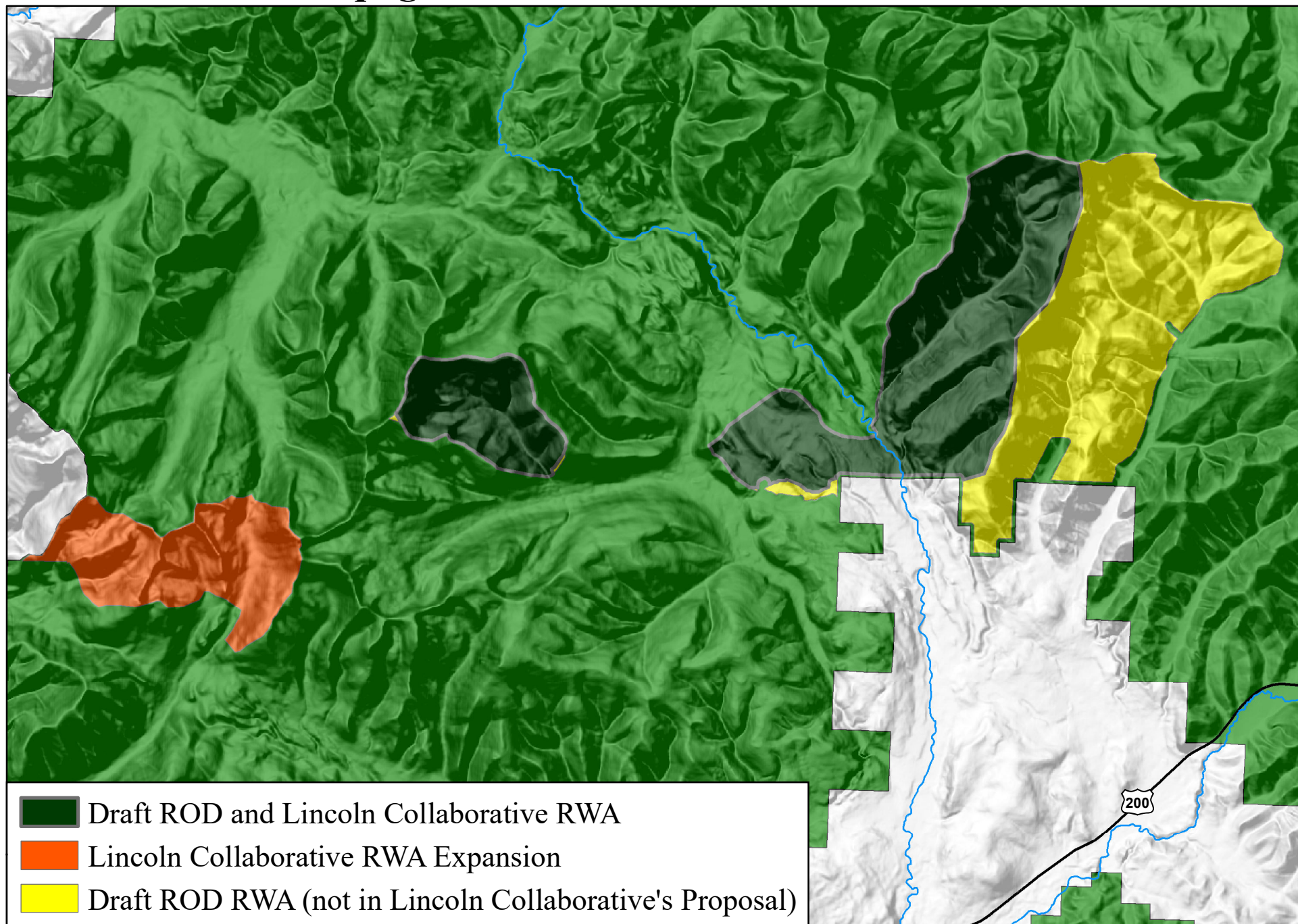


Nevada Mountain Recommended Wilderness Area



*slight variations in some boundary lines are caused by polygon geometry errors between FS and MWA shapefile projections

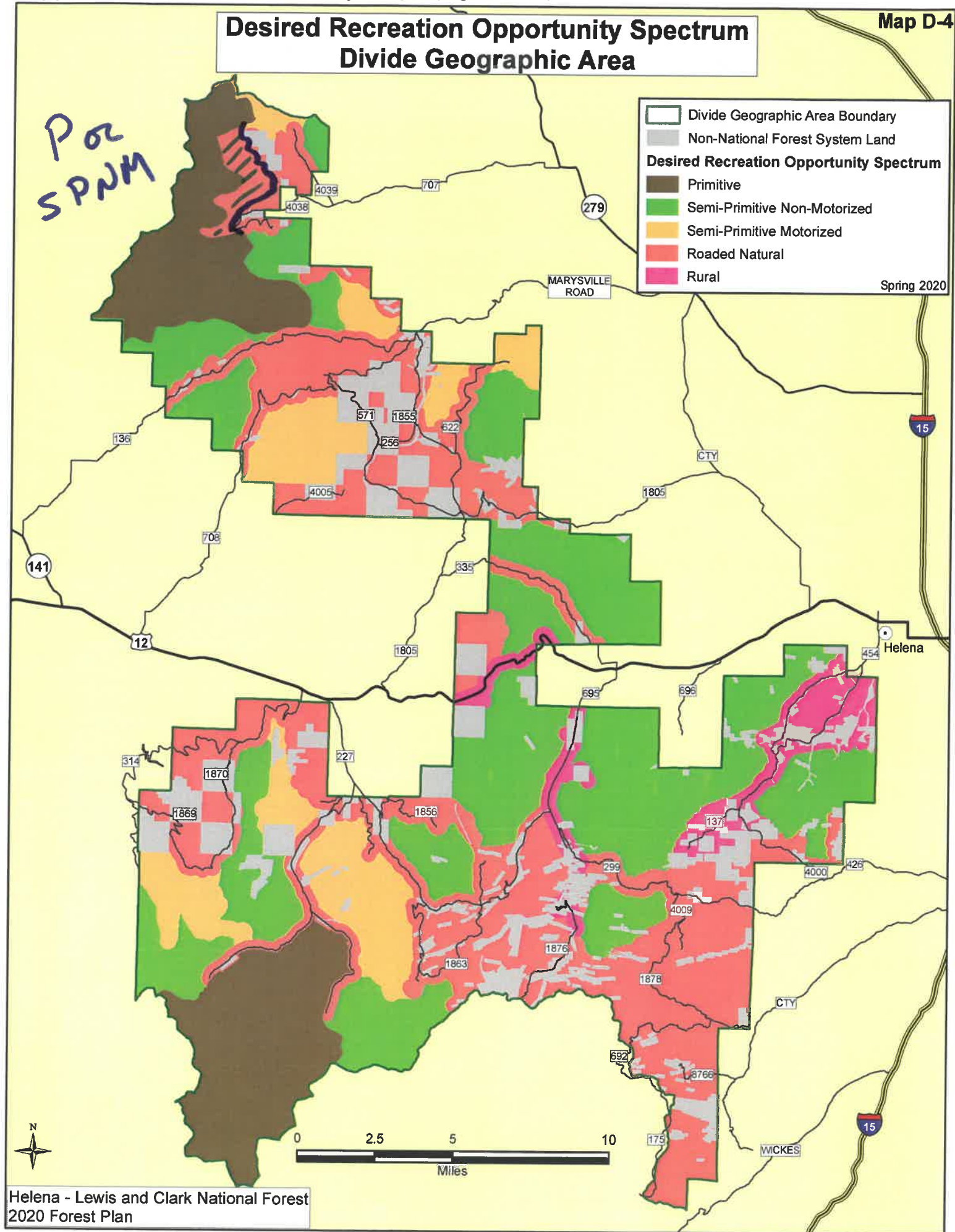
Scapegoat Recommended Wilderness Areas

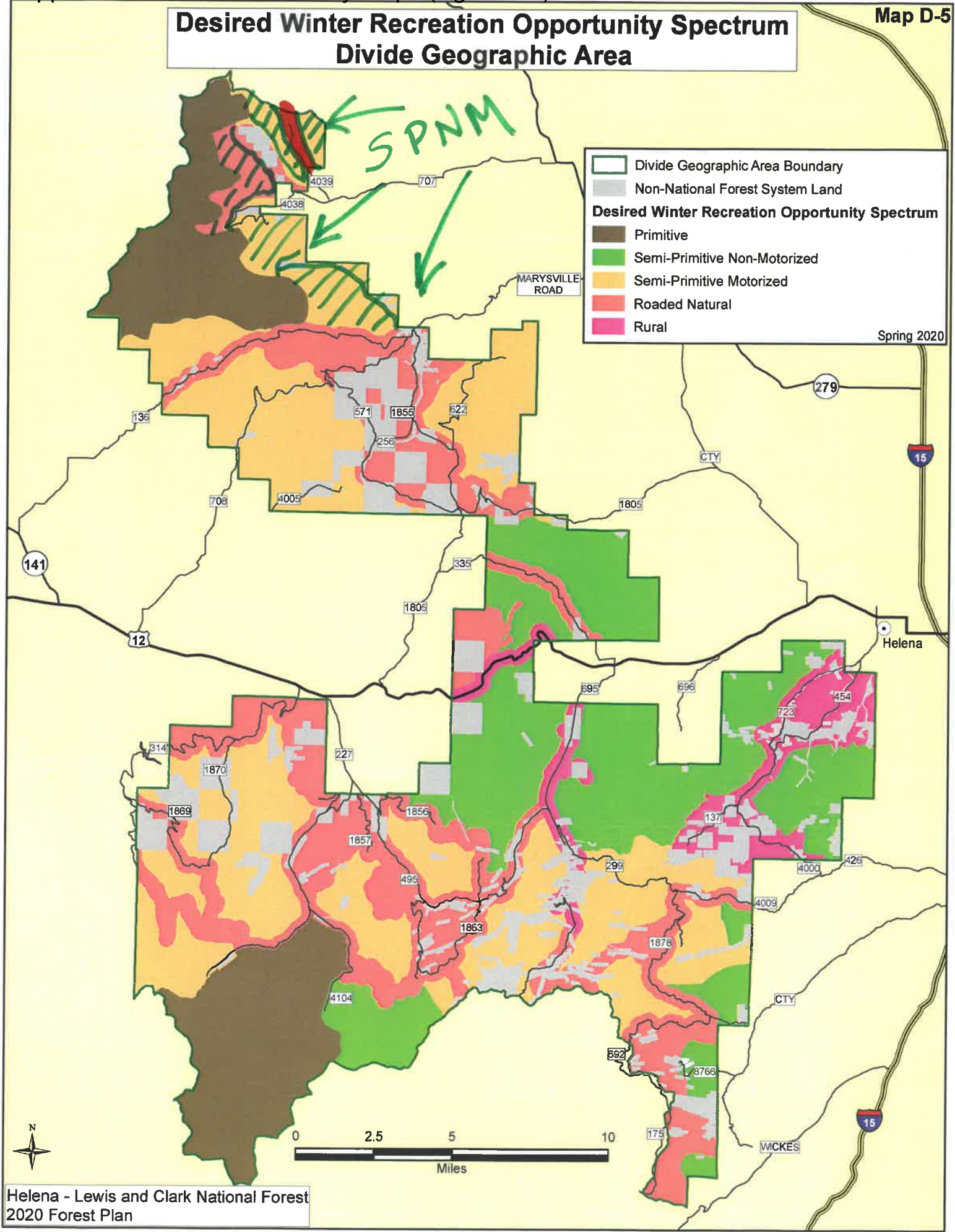


*slight variations in some boundary lines are caused by polygon geometry errors between FS and MWA shapefile projections

Upper Blackfoot
 Stemple-Lindholm
 ROS CHANGES
 ① SPM → SPNM
 ② SPNM → SPM
 ③ SPM → P
 Nevada MW
 (this is an error)







Plan Components—Wilderness Study Area (WSA)

Introduction

The Custer Gallatin National Forest manages one congressionally designated wilderness study area, the 155,000-acre Hyalite-Porcupine-Buffalo Horn Wilderness Study Area in the core of the Gallatin Range. The entire wilderness study area is inventoried roadless area. About 144,000 acres of the wilderness study area are national forest system land. The 1,280-acre Palace Butte Research Natural Area is located within the wilderness study area.

Direction for the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area states the need to manage the area consistent with the Montana Wilderness Study Act of 1977, which specified that, “subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System” (Public Law 95-150).

Per the Wilderness Study Act of 1977, the use of motor vehicles, aircraft and mechanical means of transport are allowed at levels in existence prior to the enactment of the act; as long as the uses maintain the presently existing wilderness characteristics and potential for inclusion into the National Wilderness Preservation System. Permitted livestock use is allowed in those portions of wilderness study area where grazing had been established prior to the area’s designation.

Until Congress makes a final decision on designation, the wilderness study area will be managed per the plan direction identified for the wilderness study area in this section. If Congress acts to release the wilderness study area, the wilderness study area direction would no longer apply and management of the area would continue under forestwide, applicable geographic area, and applicable land allocation direction. The plan applies land allocations of recommended wilderness area, backcountry area and recreation emphasis area for most of the wilderness study area if it were to be released by Congress. The Forest Service can apply more restrictive guidance than the wilderness study area act. The Forest Service cannot apply less restrictive guidance, unless the wilderness study area were to be released by Congress. Therefore, recommended wilderness area guidance will be applied in the wilderness study area. If the wilderness study area were to be released by Congress, the research natural area and inventoried roadless area designations would remain. Where these designations overlap plan allocations, the most restrictive guidance would apply.

Desired Conditions (MG-DC-WSA)

01 The wilderness study area is characterized by a natural environment where ecological processes such as natural succession, wildfire, avalanches, insects and disease function as the primary forces affecting the environment.

Goal (MG-GO-WSA)

01 The Custer Gallatin National Forest works with Montana Fish, Wildlife, and Parks to consolidate ownership at the southern end of the Gallatin Range.

Standards (MG-STD-WSA)

01 New permanent or temporary roads shall not be allowed.

02 New energy or utility structures shall not be allowed.

03 New commercial communication sites shall not be allowed.

04 New developed recreation sites shall not be allowed.

05 New recreation events shall not be authorized.

06 Extraction of saleable mineral materials shall not be allowed. This standard does not apply to permitted collection of petrified wood in the Gallatin Petrified Forest Special Management Zone.

Guidelines (MG-GDL-WSA)

01 To maintain the wilderness study area as when established, restoration activities (such as prescribed fire, active weed management) should protect or enhance the wilderness characteristics of the area.

11. Custer Gallatin WSA Plan Components (Page 2 of 2)

02 To allow efficient project implementation, motorized and mechanized equipment (such as use of chain saws to clear trails) may be used to accomplish restoration activities or to accomplish administrative work.

Suitability (MG-SUIT-WSA)

01 The wilderness study area is not suitable for timber production or timber harvest. The area is suitable for limited hazard tree removal.

02 Permitted livestock use and infrastructure maintenance is suitable in those portions of the wilderness study area only where grazing had been established immediately prior to the area's wilderness study area designation.

03 The wilderness study area is not suitable for recreational and commercial drone launching and landings.



For tips or corrections: Call
City Editor Dan Hollow at 791-1491
or (800) 438-6600; Fax: 791-1431;
e-mail: tribcity@sofast.net

MONTANA

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Big Snowies plan skates through court

By SONJA LEE
Tribune Staff Writer

A winter travel plan, hammered out by snowmobilers, skiers and other users over the past two years, can be implemented in the Big Snowies 15 miles south of Lewistown.

U.S. District Judge Don Molloy on Friday denied the

Central Montana Wildlands Association's request for an injunction that would have blocked the implementation of the winter travel agreement, which several organizations spent more than two years working on.

The Wildlands Association filed the injunction — along with a lawsuit challenging the Big Snowy

Mountains travel plan — in Missoula Federal Court four months ago.

The Montana Wilderness Association and the Montana Snowmobile Association, along with other organizations, challenged the injunction. Representatives of both organizations said Molloy's decision was welcome news.

"We are extremely pleased," said Alan Brown, legal affairs director and past president of the Montana Snowmobile Association.

The Wildlands Association filed its lawsuit only a few months after winter recreationist organizations, including the MWA and the snowmobile association,

found a way to protect snowmobile paths in some areas in exchange for travel changes that reduced their interests in other spots.

The agreement was hailed as one of the first times the organizations worked out their differences outside the courtroom.

The compromise included a map showing areas recom-

mended open for cross-country snowmobiling and areas restricted to snowmobiles during the winter season. The Forest Service hopes to implement the plan this winter, said John Gatchell with the Montana Wilderness Association.

The Wildlands Association claims the entire travel plan fails to protect the Big

Snowies Wilderness Study Area, a classification placed on a majority of the range in 1977.

A court decision on the overall travel plan is pending.

Tom Woodbury, an attorney with Forest Defense in Missoula who is representing the petitioners, was not available for comment Friday afternoon.

For comments, tips or corrections:
Call Managing Editor Gary Moseman
at (406) 791-1465 or (800) 438-6600

OPINION

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Snowies/Little Belts travel pact an inspiration

Wouldn't it be nice if it always worked so well?

It was a genuine pleasure this week to read about the consensus reached among winter recreationists in the Lewis and Clark National Forest.

After a decade of contention and almost two years of negotiation and over-the-snow grunt work, ski organizations, snowmobile clubs and the Montana Wilderness Association Tuesday signed an agreement about winter travel rules in a big chunk of the L&C's Jeffer-

son Division.

The agreement takes in part of the Little Belt and Big Snowy mountains, which range from south of Lewis town to just southeast of Great Falls.

OUR OPINION

It preserves a number of snowmobile trails, and it blocks the machines out of a number of roadless, wilderness study areas.

If adopted as a travel plan, the compromise also will underscore restrictions on motorized travel in some popular ski areas, most notably around the Silver Crest Ski

Area and the Deadman and O'Brien Creek areas south of Neihart. It doesn't change the rules in much of the area, but it may lead to more monitoring and enforcement of the existing rules.

Clint Dahlhausen of the Little Belt Snowmobile Club said riders gave up a few routes in the Big Snowies, but maintained their main trails and play areas in the Little Belts.

Spokesmen for both sides said the agreement "blocks up" recreation areas so that everyone has sizable areas in which to pursue their sport.

Comments on the Little

Belts/Big Snowies winter plan are being accepted for the next two months (see right).

"It's really great that we were all able to work together," said Linda McMahon, president of the Great Falls Snowmobile Club.

It is great, and we hope — against hope probably — that similar agreements can be reached on other parts of the Lewis and Clark travel plans.

Those plans are in various stages of pending — on the Rocky Mountain Front and in the Crazy and Castle mountains, and non-winter travel plans throughout the forest.

To comment

The Forest Service is taking comments for 60 days on the interim restrictions based on the group's recommendations. Comments should be sent to Dick Schwecke, Winter Recreation/Travel Proposal, P.O. Box 869, Great Falls, MT, 59403. Electronic comments may be sent to comments-northern-lewisclark@fs.fed.us.

Comments must be received by July 6.

There also will be addi-

tional comment periods on travel plans for the forest.

For more information call Forest Service travel planner, Dick Schwecke, 791-7747.

To see maps

Maps of the recommendations are available at www.fs.fed.us/r1/lewisclark.

Maps also are posted at the Belt Creek, Judith, Musselshell and White Sulphur Springs ranger stations and the Forest Supervisor's Office in Great Falls.