

March 11, 2016

Joe Alexander  
Shoshone National Forest  
808 Meadow Lane Avenue  
Cody, WY 82414

Cc: Olga Troxel, Rob Robertson, Rick Metzger, Sue Stresser, Steve Schacht

Dear Supervisor Alexander,

After attending the Shoshone National Forest's winter travel meetings this February, our organizations are collectively concerned that the Forest Service may not fully understand the substantive requirements of winter travel planning under revised subpart C of the Travel Management Rule. While these requirements are the same as those pertaining to summer travel planning, the unique nature of winter travel management – where over-snow vehicles (OSVs) are rarely restricted to designated routes – can cause some confusion.

Winter travel planning under the 2015 Over-Snow Vehicle Rule (revised subpart C of the 2005 Travel Management Rule) represents a major shift from historical winter travel management. Rather than allowing OSV use largely by default wherever that use is not specifically prohibited, the OSV Rule changes the paradigm to a “closed unless designated open” management regime. The requirements are further outlined in detail in comments submitted by the Winter Wildlands Alliance (attached again here).

Under the OSV Rule the Shoshone National Forest must designate and display on an OSV use map a system of areas and routes within the landscapes that were allocated for winter motorized use in the 2016 Land Management Plan.<sup>1</sup> Once this map is published, OSV use outside the designated system is prohibited.

In designating areas for OSV use the Forest Service must comply with the minimization criteria, which are spelled out in Executive Orders 11644 and 11989.<sup>2</sup> These executive orders are at the heart of travel planning and require the Forest Service to locate areas or routes that are designated for motorized use in a manner that:

- (1) minimizes damage to soil, watershed, vegetation, and other resources of the public lands;
- (2) minimizes harassment of wildlife or significant disruption of wildlife habitats; and
- (3) minimizes conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.<sup>3</sup>

The environmental impact statement should clearly describe how each specific OSV area and designated route has been located to comply with these criteria.

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<sup>1</sup> 36 C.F.R. §§ 212.81, 261.14.

<sup>2</sup> 36 C.F.R. §§ 212.1, 212.81(d), 212.55(b).

<sup>3</sup> Exec. Order No. 11644, § 3(a), 37 Fed. Reg. 2877 (Feb. 8, 1972), *as amended by* Exec. Order No. 11,989, 42 Fed. Reg. 26,959 (May 24, 1977).

We appreciate that the Shoshone National Forest allocated areas where motorized winter use is suitable in its recently revised Forest Plan. However, these allocations are not a substitute for the area designations made during winter travel planning using the minimization criteria. While the Final Environmental Impact Statement (FEIS) that accompanies the Forest Plan makes note of Executive Order 11644 in relation to roads, there is no mention in the FEIS that this order also applies to OSV areas or trails.<sup>4</sup> Likewise, there does not appear to be any indication in the FEIS that the Forest Plan land allocations for winter motorized use were based on the minimization criteria. The Forest Plan has created a good foundation for over-snow vehicle travel planning but we expect to see additional analysis and more refined OSV area designations during this travel planning process.

To satisfy legal requirements of the OSV Rule during this travel planning process, the Forest Service must look closely at the lands allocated for winter motorized use and designate discrete, delineated OSV use areas *within* these allocations where OSV impacts on the environment, natural resources, and other uses are minimized. Open areas should have easily enforceable boundaries using topographic or geographic features such as a ridgetop, highway, or watershed boundaries. All other areas within the Forest Plan's land allocation for winter motorized use that are not determined to be appropriate for open designation after applying the minimization criteria must be closed.

After closely reviewing the amended OSV rule and recent court cases<sup>5</sup>, it is clear that the Shoshone National Forest will need to incorporate the minimization criteria and develop reasoning for designated OSV areas during this winter travel planning process. However, during winter travel meetings this February, Shoshone National Forest officials explicitly assured winter motorized recreational users that the Forest Service sees no need and has no intention of altering winter motorized availability on the forest. But those decisions cannot be made before the Forest Service has fully evaluated the areas using the minimization criteria.

Our organizations believe that it is imperative to the success of the travel management planning process that the Forest Service clearly communicate this requirement to the public: under the amended OSV rule, the Shoshone National Forest must revisit the OSV use areas and routes incorporating the minimization criteria, which may lead to some modification of the OSV use areas within the Forest Plan's land allocation for winter motorized use.

Once the public understands this mandate, all interested parties may see greater benefit in working more cooperatively toward a final Travel Plan that meets the needs of all forest users. In particular, winter motorized and non-motorized users may discover opportunities to reduce conflict in shared front country areas under the third minimization criterion.

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<sup>4</sup> FEIS Ch. 3, page 474

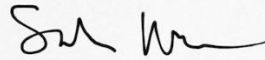
<sup>5</sup> OSV Rule available at <https://www.federalregister.gov/articles/2015/01/28/2015-01573/use-by-over-snow-vehicles-travel-management-rule> See also: *WildEarth Guardians v. U.S. Forest Serv.*, 790 F.3d 920, 929-32 (9th Cir. 2015)

We appreciate your review of our concerns. Travel management is a necessary tool, especially as the number of users and variety of recreational activities continue to grow on the forest. A successful outcome is more likely if the Forest Service educates the public about the requirements of winter travel planning under revised subpart C of the Travel Management Rule, and carefully follows those requirements throughout the planning process.

Sincerely,



Connie Wilbert  
Director  
Sierra Club Wyoming Chapter



Sarah Walker  
Shoshone Wildlands Coordinator  
Wyoming Wilderness Association



Jenny DeSarro  
Wyoming Conservation Associate  
Greater Yellowstone Coalition



Charlie Manganiello  
Togwotee Backcountry Alliance



Hilary Eisen  
Recreation Planning and Policy Manager  
Winter Wildlands Alliance

