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The following two items make up CSERC's package of comments in response to the Over-Snow Vehicle Use Designation plan.

Item #1 is our written comments.

Item #2 is a scanned map showing the specific boundaries of an area described in the modified alternative proposal that is recommended in our written comments. Please note that the mapped area is only proposed as one part of a suite of middle-ground recommendations that are intended to resolve the OSV Plan's conflicts, and it is not intended to be taken out of that context.

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INTRODUCTION

For 28 years, CSERC staff has monitored winter season conflicts between motorized and non-motorized recreation within the Stanislaus Forest. During the past 15 years in particular, CSERC has intensively engaged in each of the various pulses of winter recreation management planning on the Stanislaus Forest that have started and then paused. Throughout all of those interactions with motorized interests and Forest Service staff, CSERC has expressed deep frustration that local Forest leaders have appeared to narrowly focus on pleasing snowmobilers and their political supporters rather than aiming for a balanced, legally compliant winter recreation management plan that provides for the full range of winter recreational uses while protecting affected resources.

As part of these comments on the Over-Snow Vehicle Plan EIS and the current Preferred Alternative, CSERC re-submits some of our past written input where those points are especially valid and applicable. It is our intent that all our past input to the Stanislaus Forest on the matter of winter season motorized use and the over-snow vehicle planning process (including email communications and all submitted comments) be a part of the legal record.

PREFACE TO THESE COMMENTS

Our staff emphasizes that in deciding where to allow over-snow vehicle use, the Forest Service has an obligation to fully comply with pertinent legal regulations, especially the minimization requirements tied to travel management planning. Compliance with legal requirements would seem obvious. And yet, due to local Forest officials' reluctance to stir up possible political criticism, those leading the Stanislaus Forest have chosen not to

enforce the agency's own legal Forest Plan SPNM regulations for the past 28 years.

Over much of that time, CSERC staff has repeatedly pressed Forest officials to enforce the current Stanislaus Forest Land and Resource Management Plan legal requirement that prohibits motorized use in semi-primitive non-motorized areas (such as Near Natural roadless areas). The choice by Stanislaus Forest line officers to not enforce Stanislaus Forest Plan prohibitions against motorized use in areas designated Near Natural-SPNM cannot be grounds now for justifying snowmobile use to be legalized as an on-going "current use" in those non-motorized designated areas.

Since the adoption of the Stanislaus LRMP in 1991, Forest officials have repeatedly shrugged off their failure to enforce the current, legal Forest Plan requirement that prohibits motorized use in semi-primitive, non-motorized areas. As past Forest Supervisor Tom Quinn bluntly acknowledged in a discussion in his office, it wouldn't take much for the Forest staff to create (and for him to approve) Forest Orders to enforce the Forest's existing legal standards and guidelines based upon Forest Plan requirements. But he bluntly admitted that doing so on the matter of enforcing the prohibition against motorized (snowmobile) use in Near Natural areas might result in political repercussions for the local Forest that would make approving such Forest Orders undesirable. Similarly, acting supervisor Glenn Gottschall and subsequent forest supervisors Susan Skalski and Jeanne Higgins also all chose not to take any action to adopt Forest Orders to enforce existing Forest Plan prohibitions against motorized use in semi-primitive non-motorized designated areas - despite CSERC (and The Wilderness Society) requesting them to do so.

As a result, that lack of enforcement by the agency has resulting in snowmobilers coming to recognize that there are no consequences for trespassing into "non-motorized" roadless areas. Forest staff often reinforced that messaging - in particular, one recreation specialist from the Calaveras District often spread the word to snowmobilers that no enforcement would result from snowmobile trespass into Near Natural non-motorized areas.

When the formal Over-Snow Vehicle Management Plan process started, Open House meetings were held at Bear Valley and at Pinecrest in 2015. District Rangers at both meetings openly encouraged snowmobile riders to mark all of the areas on maps where they liked to ride and where they "desired" to ride - never constraining that invitation with the direction to only identify areas where it is legal to ride, consistent with the Forest Plan. Similar to how Stanislaus Forest staff dealt with the off-highway-vehicle planning process some years ago, Forest staff agreed to consider every desired OSV route and riding area described by motorized users as the starting point for where desired motor travel management areas were to be identified. That eagerness by Forest officials to please snowmobile interests has resulted in the design of the initial Proposed Action and now the Preferred Alternative - both of which would allow extensive snowmobile use to legally intrude into areas where the existing Forest Plan prohibits such motorized use.

Now, with this Stanislaus Forest Over-Snow Vehicle Management Plan, instead of this planning process being the required settlement agreement analysis of how snow grooming does or doesn't affect the environment and non-motorized winter recreation visitors, the Stanislaus Forest is instead using the travel management planning process to attempt to expand desirable, challenging opportunities for OSV users at the expense of quiet recreation and at the expense of those who advocate for preserving pristine Near Natural roadless areas.

As CSERC has shared in previous comments, after allowing illegal snowmobile trespass into roadless areas for 28 years, the Forest Service now aims to reward the trespassing riders by legalizing motorized use into those controversial areas. The resulting Preferred Alternative is "yet another thumb in the eye" for quiet recreation and wilderness proponents.

This OSV Plan also continues to be a revealing reality for the conservation community to keep in mind as we hear encouragement from Forest staff for environmental interests to participate with enthusiasm in forest

stakeholder collaborative group processes that primarily generate funding for projects that produce wood products.

SPECIFIC COMMENTS

There are major NEPA defects that make the EIS legally flawed

Out of the countless NEPA documents that our Center has reviewed over the past three decades, this OSV Plan EIS contains a surprisingly high number of legal defects. As will be described in the following comments, the EIS not only fails to provide an accurate description of baseline conditions (Alternative 2) in both the text and in maps presented to the public, the EIS also contains many other inaccuracies and NEPA violations -- ranging from the Plan deviating from the identified Purpose and Need, to the Plan incorrectly determining that all alternatives require a Forest Plan Amendment. There also other deficiencies as described below.

Defects concerning the identification of "Significant Issues"

Early in the EIS, Table S - 1 identifies the three "Significant Issues" that are to be fully analyzed by this Over-Snow Vehicle Management Plan.

Significant Issue #1 is described as the concern by snowmobilers that proposed OSV-use designations "may eliminate popular, highly desirable areas that have been historically available for public, cross-country OSV use (e.g., some use within Near Natural Areas)". That first Significant Issue discussion goes on to describe the supposed concern that new OSV areas may be less desirable than current use areas, that there may be an insufficient quantity (miles and trails) for OSV use, and that there may be insufficient miles of groomed OSV trails. A final part of that first Significant Issue describes a concern by snowmobilers over the designation of minimum snow depth requirements.

This Significant Issue summary refers to OSV use in Near Natural areas (areas that are legally prohibited from having motorized use) as being a "historically available" use. This wording shows agency bias and a lack of factual accuracy. As discussed below, such use in Near Natural areas is not legally permitted by the existing Forest Plan. That misleading description of the baseline (historic) condition permeates the EIS, and significantly misinforms the interested public. This is a major NEPA flaw.

KEY POINT

As noted previously above, for years Stanislaus Forest supervisors have fully acknowledged to CSERC staff that motorized use is prohibited by the Forest Plan in the Near Natural semi-primitive non-motorized management areas. If a use is "prohibited", then it is not "available," nor is it legal to allow. It is "prohibited."

Accordingly, when the EIS authors describe areas prohibited from motorized use as areas currently and historically "available" for OSV use, that assertion is legally incorrect. When describing the Near Natural areas where motorized use is prohibited by the current Forest Plan -- the EIS repeatedly misleads, fails to acknowledge CSERC's previous comments on this matter, and provides false conclusions concerning OSV use in Near Natural Areas.

THE EIS FAILS TO LIST OR DISCUSS IN DETAIL THE MOST SIGNIFICANT ISSUE THAT WAS RAISED BY CONSERVATION GROUPS

When it comes to identifying "significant issues" for this OSV Plan, the EIS does not even list the highest priority concern raised repeatedly by conservation groups throughout this OSV planning process - that the proposed legalization of intrusion of motorized use into Near Natural semi-primitive non-motorized roadless areas will result

in numerous significant impacts.

There is no listing of that high priority concern as a Significant Issue - even though it was voiced at every open house session or OSV plan meeting and in all written comments - that touched on two significant impacts. Legalizing motorized use in Near Natural roadless wild areas has high potential to permanently eliminate those wilderness-eligible areas from any realistic future designation as wilderness by Congress; and second, legally authorizing motorized use in the Near Natural areas (Pacific Valley, Eagle, and a slice of Night at the upper portion of the Sonora Pass) has potential to have a significant impact on critical habitat for multiple furbearer species of high concern. It is not just the potential significant impacts to wildlife that are the issue, but also the fact that the agency would be doing a land management planning action that would expose at-risk species to legally allowed risks.

That strong concern about opening up roadless Near Natural areas was apparently not judged to be a significant issue by EIS authors, despite representatives from The Wilderness Society and CSERC meeting in person with Forest Supervisor Jeanne Higgins and her staff to emphasize the importance of that issue during the first phase of this OSV Plan process.

It was not judged to be a significant issue even though it has been highlighted by concerned citizens and representatives of environmental groups at every meeting and in every comment period. The issue was even raised in discussions with Regional staff. It is not possible for those from the conservation community to have emphasized to any greater degree that it is a Significant Issue for this planning process. Yet it is not only ignored as a Significant Issue, but the extremely limited discussion of the issue is buried in the EIS text.

Accordingly, the failure of the EIS to list as a Significant Issue the proposed legalization of motorized use in currently designated non-motorized areas over the strident outcry by the conservation community is a legal defect that alters the discussion of impacts throughout the EIS.

In addition, tied to that omission there is a related significant issue that is also not appropriately identified or adequately discussed in the EIS.

Despite CSERC's extremely detailed past comments concerning the choice by Forest officials to not enforce Forest Plan prohibitions against motorized use in roadless areas for 27+ years, the important fact (that there has been failure by the Forest to enforce non-motorized regulations) is ignored - despite it being a key factor in the development of this Plan. Even more than simply failing to discuss it, the EIS misleadingly and incorrectly describes what the baseline situation actually is at this current time, prior to any changes that would come from this OSV Plan.

THERE IS MISINFORMATION AND MISCHARACTERIZATION OF THE EXISTING BASELINE CONDITION IN THE EIS - A CONFLICT WITH NEPA REQUIREMENTS

The EIS contains incorrect and misleading information that biases the document and misleads the public.

On page xi, Alternative 2 is described as the "No Action" baseline for comparison among the alternatives. It asserts that 684,505 acres of NFS lands "would be available" for public cross-country OSV travel on the Stanislaus Forest if the No Action alternative is selected. That is completely untrue for multiple reasons.

First, under the current, existing Forest Plan, all of the Near Natural semi-primitive non-motorized areas ARE NOT LEGALLY PROHIBITED - NOT AVAILABLE -- FOR MOTORIZED USE. Yet their acres are lumped in as "available" under the depiction of current management areas available for OSV USE.

Thus, in this OSV Plan, the EIS puts forward information that is directly in conflict with the existing Forest Plan.

By providing misinformation, the EIS leads snowmobile interests to believe that nearly 700,000 acres of NFS are currently legally available to snowmobile use, which is completely inaccurate. Not only is motorized use prohibited in the Near Natural semi-primitive non-motorized areas, hundreds of thousands of acres of the lowest elevation areas of the national forest never get even a few inches of snow and cannot possibly be "available" for use by snowmobiles. Thus, not only are areas with motorized-use-prohibitions incorrectly identified as available, but areas without the physical possibility of providing snowmobile use are also shown as supposedly available.

The inaccuracy and misinformation of the EIS concerning "available" OSV use areas is widespread within the document. Another example is on page xiv. The EIS discusses the Summary of Environmental Impacts tied to Significant Issue #1 and the possible loss of popular, highly desirable areas that "have been historically available for public, cross-country OSV use (e.g., some use within Near Natural Areas)." Alternative 2 shows 33,910 acres defined as highly desirable riding areas as "available under current management" with Near Natural Areas included in that acreage.

That characterization is again misleading and false. The Stanislaus Forest Plan prohibits motorized use in Near Natural Areas, so those areas are NOT "available" for motorized use, and it skews the EIS to include thousands of acres of such non-motorized areas in the description of highly desirable, "historically available" OSV riding areas on NFS lands.

A similar problem exists on page 29 of the EIS, where the No Action Alternative 2 is shown as being "continued current management." Incorrectly and misleadingly, that description claims that if current management is selected, "[hellip]684,505 acres of NFS lands would be available for public cross-country OSV travel[hellip]" Once again the EIS throws in tens of thousands of acres of non-motorized Near Natural Areas into a description of the acres of NFS lands counted as "available" for snowmobile use when, in fact, such use in those areas is prohibited by the Forest Plan. And again, the vast acreage of front-country, low elevation lands that never receive enough snow for snowmobiles to use those areas are also misleadingly shown as available for OSV use, when such use is a physical impossibility.

THE MISINFORMATION CREATED BY FALSELY SHOWING NEAR NATURAL SEMI-PRIMITIVE NON-MOTORIZED AREAS AND "NO SNOW" AREAS AS CURRENTLY "AVAILABLE FOR OSV USE" DIRECTLY UNDERMINES THE ACCURACY OF MANY PIVOTAL ISSUES ANALYZED BY THE EIS.

For "Significant Issue #3" that focuses on concerns related to OSV impacts on Wildlife, Table S-15 (on pages xxi - xxvii) falsely shows acres of Near Natural areas as being "available" for OSV use when considering the effects of the five alternatives.

Alternative 2, current management, is shown as having highest number of acres available for OSV use in areas critical for the marten and the Sierra Nevada red fox, when as elsewhere, the EIS incorrectly throws in acres contained within semi-primitive non-motorized Near Natural Areas. The EIS then misleadingly claims that the Proposed Action and the Preferred Alternative each will result in a significant "decrease" in areas of habitat impacted compared to Alternative 2's baseline condition - when in fact that baseline condition does not legally allow motorized use in non-motorized areas.

In reality, the current Stanislaus Forest's Land and Resource Management Plan's legal requirements should have been shown as the basis for current management and the baseline for showing the existing condition. The Forest Plan is the legal mandate for management on the local Forest. If that Plan's legal requirements were accurately presented by the EIS, then Alternative 1 and Alternative 5 would both be shown as INCREASING disturbance of habitat for both the marten and Sierra Nevada red fox, rather than DECREASING disturbance as the EIS claims.

THE FAILURE OF THE EIS TO BASE COMPARISONS ON EXISTING FOREST PLAN DIRECTION COMPLETELY MASKS THE TRUE LEGALLY ALLOWED INCREASE IN DISTURBANCE TO AT-RISK

WILDLIFE THAT WOULD OCCUR UNDER THE PREFERRED ALTERNATIVE.

The EIS is fatally flawed due to the intentional choice by the Forest team authoring the EIS text to disregard what the existing Forest Plan legally requires, and to instead define the baseline as if existing Forest Plan requirements do not have legal meaning.

THE OSV PLAN MAPS PRESENTED AT OPEN HOUSE SESSIONS AND PROVIDED ONLINE ALSO CONTAIN FALSE AND MISLEADING INFORMATION

The map for Alternative 2 shows not only front-country, low elevation areas that do not receive snow as "open and available for over-snow vehicle use," it even shows isolated patches of USFS lands that are foothill inholdings surrounded by private land as being available for OSV use. That is blatant misinformation, since in many cases there is not even public road access to such parcels. But even more misleading, Alternative 2 shows as open and available lands that the current Forest Plan have allocated to Recommended Wilderness, as well as Near Natural.

Such misinformation is especially troubling for the environmental community to accept as accidental, since the misinformation related to the actual baseline condition is so widespread and pervasive throughout the EIS. To provide the comment that it undermines trust is an understatement.

So, in addition to showing SPNM non-motorized Near Natural areas as "open and available" for OSV use, Alternative 2 (the BASELINE CONDITION) also falsely shows Recommended Wilderness areas as being currently available for OSV use, when in fact, the Forest Plan inarguably prohibits such motorized use in Recommended Wilderness areas. This is deeply frustrating to find in a NEPA document that is supposed to present accurate information.

THIS IS A SIGNIFICANT NEPA VIOLATION, AND IT UNDERMINES THE SUFFICIENCY OF ENTIRE EIS AND OVER-SNOW MANAGEMENT PLAN. A decision to adopt the Preferred Alternative cannot be based on such a legally deficient EIS and Plan and associated defective maps.

BEYOND THE MATTER OF MISINFORMATION, THE FALSE AND MISLEADING CHARACTERIZATION OF THE BASELINE CONDITION SIGNIFICANTLY ALTERS HOW THE COMPARISON OF IMPACTS IS CALCULATED BETWEEN ALTERNATIVES THROUGHOUT THE EIS. THE MISINFORMATION IS SO SIGNIFICANT, NEARLY ALL OF THE EIS STATISTICAL COMPARISONS BETWEEN ALTERNATIVES ARE SKEWED.

THE PURPOSE AND NEED DOES NOT MATCH THE PROPOSED ACTION

As presented to the public in the original Proposed Action document, the Purpose was described as twofold: first to effectively manage OSV use by providing access, ensuring that OSV use occurs when there is adequate snow, promoting the safety of all users, enhancing public enjoyment, minimizing impacts to natural and cultural resources, and minimizing conflicts among the various uses. Underlining done for emphasis

Secondly, the project aims to identify OSV trails where the Forest Service or its contractors would conduct grooming.

Nowhere in those two portions of the Purpose and Need statement was there any "need" identified to legalize new, expanded motorized snowmobile use into areas that the existing current plan specifies for non-motorized management.

Now in the EIS with the Preferred Alternative promoted as Alternative 5, the EIS shows the Purpose of the

project as intended to provide for a system of trails and areas on NFS lands where snowfall is adequate for OSV use to occur. A "need" tied to the purpose includes providing public OSV access. But nowhere in the EIS's Purpose and Need statement is there any identification of any proven need to expand OSV areas of use or to provide for more extreme-terrain OSV riding in remote, high-elevation Near Natural non-motorized areas.

CSERC strongly disputes that there is any evidence in the EIS to justify any such "need." Yet the Preferred Alternative (page xi) would designate "a proportion of the high-quality and desirable cross-country OSV-use areas and trails identified by OSV enthusiasts." Designating an expansion of legal OSV cross-country use areas into Near Natural areas that are currently prohibited to have motorized use does not in any way match the Purpose and Need.

In reality, the claimed "need" to provide "high-quality and desirable cross-country OSV-use areas and trails identified by OSV enthusiasts simply reflects the desire by forest management staff to expand the legal use areas available for OSV riders. Given that there is no evidence on the matter of any "need" for such an expansion of OSV use into non-motorized areas provided in the EIS one way or the other, the EIS and Purpose and Need could just as easily be written to read that, based upon internal and public input, there is a need to reduce access for OSV users in order to minimize conflicts with resources and other recreational users.

There is no evidence that justifies using the Settlement Agreement that was intended to analyze snow grooming to now instead shift the Stanislaus Forest OSV planning process to propose opening up non-motorized Near Natural areas to snowmobile use to "improve access for OSV users."

CSERC re-emphasizes the fact that there is no evidence in the EIS that justifies using the Settlement Agreement to analyze the effects of snow grooming as an excuse to open up off-limit areas to legally approved OSV use. The only surveys of recreational use done on the Stanislaus Forest identified snowmobile users as being only a tiny percentage (1.7%) of overall recreational visitors to the Forest. In contrast to the fact that most winter visitors are families coming to the forest for snow-play or are quiet recreation snowshoe users or cross-country skiers, snowmobiler use tends to be limited to concentrated use areas along the upper Highway 4 near Bear Valley and along the Highway 108 corridor.

AN ENVIRONMENTALLY SUPERIOR/PREFERABLE ALTERNATIVE MUST COMPLY WITH MINIMIZATION CRITERIA OBJECTIVES

NEPA requires that the alternative or alternatives which were considered to be environmentally preferable: be identified. Environmentally preferable is defined as the alternative that will promote the national environmental policy as expressed in Section 101 of the National Policy Act, meaning the alternative that causes the least damage to the biological and physical environment. In addition, it also means the alternative that best protects, preserves, and enhances historic, cultural and natural resources" (Council on Environmental Quality 1981). Although Council on Environmental Quality regulations require the identification of the environmentally preferred alternative, it is not required that this alternative be adopted.

At this time, there is no identification of the environmentally preferable alternative in the EIS. The identification of the Environmentally Preferable Alternative in the Record of Decision will be especially important for this Over-Snow Vehicle Management Plan due to the legal mandate for travel management decisions to comply with Minimization Requirements. If an Alternative is not judged to be the Environmentally Preferable Alternative, then it will be difficult for the agency to explain how compliance with the Minimization Criteria justifies an alternative other than the Environmentally Preferable Alternative. If an alternative that is judged to be feasible and viable by the agency would best reduce environmental impacts to soil, watershed values, forest resources, wildlife, and wildlife habitats, then the objective to minimize impacts to those values should lead to its selection as the Preferred Alternative or final adopted action.

CSERC asserts that it is inarguable that of the five alternatives provided for public input, Alternative 3 is the environmentally superior/preferable alternative. It provides the lowest risk to the wildlife species that are the most vulnerable, with the most threatened populations. It provides the greatest protection for soil, watershed values, forest resources, wildlife, and wildlife habitat - especially if unrealistic "enforcement" assumptions for Alternatives 1 and 5 are scrutinized for feasibility and accuracy.

ALTERNATIVE 5'S FOREST PLAN AMENDMENT TO ALLOW OPENING ROADLESS AREAS TO MOTORIZED USE FAILS TO PROVIDE A PUBLIC OPPORTUNITY TO CONSIDER A FULL RANGE OF MANAGEMENT OPTIONS FOR ROADLESS AREAS

On page 17 of the EIS, the claim is made that "designating OSV areas and trails under the Travel Management Rule is not a land management plan decision, but rather a project-level decision[hellip]" CSERC strongly rejects that incorrect assertion due to the fact that this OSV Plan would weaken non-motorized regulatory requirements affecting thousands of acres within Near Natural roadless areas that are currently fully eligible for being designated in the future by Congress as Wilderness.

Altering the land management policy for roadless areas that are explicitly identified as non-motorized by the existing Stanislaus Forest Plan is clearly a land management action.

That is especially true in this Plan because doing so has a significant potential to permanently alter the potential for the Pacific Valley roadless area and the Eagle roadless area to be realistically designated as additions to the Carson-Iceberg Wilderness and the Emigrant Wilderness at some point in the future by Congress. As the staff representative for Congressman Tom McClintock agreed in a conversation with CSERC staff at the October 2, 2018 Open House meeting, it is fairly certain that once an area has motorized use legally approved in an area up for Wilderness consideration, Congress is unlikely to withdraw that motorized use to then establish an area as Wilderness. While the Congressman's representative did not share that as being a concern, he agreed that it was accurate. Numerous individual Forest Service staff members have also given their personal agreement that a decision to allow legal motorized use within an area that is eligible for Wilderness designation would significantly decrease that area's chance of gaining Congressional approval for Wilderness designation.

A Regional recreation representative for the Forest Service seemed dismissive of the concern raised about the eligibility of Near Natural roadless areas - arguing that the OSV Plan would not have an impact because the Pacific Valley and Eagle roadless areas are not currently Recommended Wilderness. CSERC strongly rebuts that argument. Under the current Stanislaus Forest LRMP, not only are the Pacific Valley, Eagle, Night, Waterhouse, and other Near Natural areas not recommended as Wilderness nevertheless still eligible for Wilderness designation, but as Forest supervisors have repeatedly shared to CSERC staff over the years - it is the role of Congress to make such a determination. If the Forest Service, by a management action (such as opening an area eligible to Wilderness to motorized use) significantly alters the potential for a roadless area to be so designated by Congress, that action results in a significant land management effect.

It may be that Forest staff disagrees with that strong concern from CSERC and the breadth of conservation interests who are commenting on the OSV Plan. But the EIS fails to provide any detailed discussion of that "Wilderness eligibility" issue, despite the fact that it has been raised repeatedly by CSERC, by representatives of The Wilderness Society, and by others - as an issue of strong concern. Thus, there is no EIS discussion to point to as grounds for dismissing the concern. In CSERC comments, both written and verbal, the concern has been raised that the Proposed Action and the Preferred Alternative would each imperil the potential for the Pacific Valley roadless area and the Eagle roadless area to eventually be considered as additions to the Carson-Iceberg and Emigrant Wilderness areas.

The proposal by the OSV Plan would change the motorized status of those two large, highly popular roadless wild areas without having a full Forest Plan evaluation of the cumulative effects that action would have for the

overall roadless, wild areas within the overall Stanislaus Forest. At the very least, there is a failure to consider the cumulative effects such a change would have on the overall Wilderness-eligible lands within the Stanislaus Forest. But more important, the change would clearly be a land management policy action, not solely a project action.

It would be one thing for the Forest Service to choose to downgrade the eligibility potential of two large roadless, wild areas within the Stanislaus Forest if, in that same planning process, the general public also has the opportunity to support or oppose increasing the eligibility status potential of other roadless areas within the Forest by having them potentially recommended for Wilderness by the Forest Service. But no such opportunity for considering the status or a change in status of ALL of the roadless areas within the Stanislaus Forest is provided by this this Over-Snow Vehicle Plan process. Instead, the Forest biases the process by simply looking at where opening up Near Natural semi-primitive non-motorized roadless areas can expand legally accessible desirable riding opportunities for snowmobile enthusiasts.

THE ALTERING OF THE LEGAL STATUS OF MOTORIZED USE (THAT AFFECTS NEAR NATURAL ROADLESS AREAS THAT ARE ELIGIBLE FOR WILDERNESS DESIGNATION) IS A FOREST PLAN LEVEL DECISION THAT SHOULD NOT BE MADE PIECEMEAL IN A RECREATION PLAN. This is another significant legal defect.

Furthermore, the EIS is further flawed by claiming on page 17 that all of the action alternatives, including Alternative 3, would require a Forest Plan amendment to be implemented. CSERC, The Wilderness Society, and the quiet winter recreation advocacy organizations that collectively recommended Alternative 3 commented in opposition to doing a Forest Plan Amendment as part of this OSV Plan. Our collective groups did not specify any desire to amend standards and guidelines in the Forest Plan to allow OSV over a Special Interest Area (SIA) road. Yet that is the sole claim made in the EIS to support the assertion that - similar to the other action alternatives -- Alternative 3 would also require a Forest Plan Amendment. Correcting that misinformation in the FEIS would result in Alternative 3 shown as needing no Forest Plan Amendment to be approved and implemented.

It is also important to re-state previous comments that doing a Forest Plan Amendment to change Near Natural management from non-motorized to motorized would conflict with Regional direction that identified the Stanislaus Forest as being in the next group of national forests the Region has chosen to do Forest Plan revision. While political and staff capacity reasons have delayed the launch of that new Forest Plan process for the Stanislaus Forest, Regional staff have made it clear that the Stanislaus and Eldorado National Forests will be next in line for forest planning. Accordingly, opening a percentage of Wilderness-eligible roadless areas to motorized use in this OSV plan would be an act taken without full analysis of or consideration of the suite of management options for all of the Stanislaus Forest's roadless Near Natural areas that will be required to be considered in the upcoming Forest Plan revision process.

To open two roadless areas (and a portion of a third) would pre-judge and limit the next, upcoming Forest Plan land allocation and management direction analysis that occurs during a Forest Plan processes. CSERC again asserts that making land allocation changes that would significantly diminish the Wilderness eligibility of large roadless areas is a Forest Plan level decision, not a decision to be made in a recreation plan.

THE PROPOSED ACTION IS INCONSISTENT WITH THE CLEAR MANAGEMENT DIRECTION SPELLED OUT AND SUBSTANTIATED IN THE CURRENT EXISTING STANISLAUS FOREST LRMP EIS AND RECORD OF DECISION

Forest staff have shared their perspectives that the OSV Plan does not need to be consistent with the existing Stanislaus Forest Plan because the Forest aims to alter (amend) that Plan to make it consistent all that is proposed in Alternative 5. CSERC asserts that -- above and beyond the points raised above that underscore the

inadequacy of public opportunity to recommend a full range of land management options for the affected Near Natural areas - the Preferred Alternative for this OSV conflicts with the existing determination in the current Forest Plan ROD concerning the Pacific Valley roadless area. That Stanislaus LRMP 1991 ROD language includes the determination by Stanislaus Forest Supervisor Jan Wold, the Forest Plan decision-maker for the existing LRMP plan, that the Pacific Valley roadless area "presents a unique opportunity to provide an outstanding area for semi-primitive non-motorized (SPNM) recreation outside of the designated Wilderness system. It is perhaps the best opportunity for this type of recreation area in the Sierra Nevada."

That quote from the ROD was the rationale Forest Supervisor Wold presented for not recommending the Pacific Valley roadless area for Wilderness designation, despite it receiving the highest amount of public support for Wilderness in the Forest Plan process. She spelled out that non-motorized management was justified for this unique, outstanding area.

Cited below is additional pertinent text in the existing Stanislaus National Forest Land and Resource Management Plan EIS or ROD that supports non-motorized management in the Pacific Valley, Eagle, and Night "Near Natural" SPNM "roadless" areas.

The 1991 Stanislaus Forest LRMP very specifically allocated roadless areas created by RARE II planning analysis into either Semi-Primitive Non-Motorized or Semi-Primitive Motorized designations. Roadless areas that were designated for SPNM were inarguably intentionally assigned to non-motorized use because the Forest Service chose to designate them as SPNM rather than SPM. (This is a key legal point that the agency must now carefully consider when it comes to jumping the gun to change Forest Plan management direction prior to a Forest Plan revision process.)

The Pacific Valley Near Natural roadless area, the Eagle Near Natural roadless area, and the Night Near Natural roadless area were all very clearly designated SPNM (semi-primitive non-motorized).

The Pacific Valley, Night, and Eagle roadless areas were all designated not only as SPNM, but were designated as Near Natural Management Area 3 land allocations.

Under Near Natural management direction on page IV-108 FEIS, under "General Direction":

"Give consideration to Threatened, Endangered and Sensitive species in the management of unroaded and Near Natural Areas, with special attention to Fisher and pine marten habitat areas over 7000 feet elevation (see Map 3, Appendix I)."

That Map 3, Appendix I shows that the areas now being proposed for OSV use (by the OSV Plan's proposed action and preferred alternative) actually completely overlap with mapped fisher and marten Habitat in the Eagle roadless area and overlap completely with both fisher and marten Habitat or marten Habitat in the Pacific Valley roadless area. In addition, a majority of the Night roadless area is also shown as marten Habitat.

The current existing Stanislaus Forest LRMP designates the Pacific Valley, Eagle, and Night roadless Near Natural areas as areas to be managed with consideration for special attention for rare furbearers such as fisher and marten; yet the new OSV plan proposes to allocate these wildlife areas for winter season motorized snowmobile use. This is a clear "conflict" with resource protection and a conflict with minimization.

A Forest Plan determination was already made that these areas are closed to motorized uses in part to protect sensitive wildlife habitat, quiet forms of recreation, potential future wilderness recommendation, etc. If there is now a Forest Plan Amendment done to counter the clear rationale provided in the current LRMP and ROD for why these areas should be managed as SPNM, then there must be clear compliance with the requirements of the 2012 planning rule under which the amendment must be done.

On page IV-111 of the Forest Plan FEIS, under Near Natural management direction, the Forest Service wrote for Near Natural areas: "Standards and Guidelines - Manage to ROS Class of SPNM. This is the adopted ROS level for Near Natural as shown on the ROIS Map (I-5)."

Again, the specificity of the standards and guidelines is clear. Near Natural areas are to be managed as non-motorized.

In describing the Pacific Valley roadless area (a "further planning" roadless area) on page III-164 of the Forest Plan's FEIS, the Forest Service stated: "Mountain peaks, glaciated valleys with meadows, and scattered timber typify the area. Hiking and hunting are the main recreation uses. This area has been identified as a potential alpine ski area."

But as already noted above, in the Record of Decision signed on October 28, 1991 by Janet Wold, Forest Supervisor, page 28 contains the following information for the Pacific Valley roadless area:

"Pacific Valley: Although this area is considered by many to be highly suitable for Wilderness designation, I am not recommending that it be designated. The Pacific Valley region presents a unique opportunity to provide an outstanding area for semi-primitive non-motorized (SPNM) recreation outside of the designated Wilderness system. It is perhaps the best opportunity for this type of recreation area in the Sierra Nevada."

Again, CSERC points out that the rationale provided for not designating this highly suitable area for Wilderness was that by managing it as a non-motorized area, outside of Wilderness, it presented a unique opportunity as an outstanding area for non-motorized recreation outside of the designated system.

Wold continued: "A great deal of public comment supporting Wilderness designation for Pacific Valley focused on the identified potential for construction of a major ski resort in the area. Commenters pointed out that the area was highly inappropriate as a ski area site because of its inaccessibility, its valuable wildlife habitat, its outstanding scenery, and the primitive recreation opportunities currently available."

"After further study of the ski area, potential, I have concluded that the area is, indeed inappropriate for a ski resort and I am removing Pacific Valley from the Region's listing of potential Sierra Nevada ski areas. Adjustments have been made in the final Plan, Chapter III, to reflect this determination. The final Forest Plan allocates Pacific Valley to Management Area 3, Near Natural, which will ensure that the area's primitive characteristics are retained."

Pages 28-29 ROD, Stanislaus National Forest LRMP.

THE OSV PLAN AND THE PREFERRED ALTERNATIVE FAIL TO COMPLY WITH THE MINIMIZATION CRITERIA WHEN IT COMES TO THE POTENTIAL FOR SIGNIFICANT DISTURBANCE OF THE SIERRA NEVADA RED FOX AND THE AMERICAN MARTEN

Over recent years, a considerable amount of new information and status change has occurred for the Sierra Nevada red fox (SNRF). The potential significant impact of motorized use effect on the SNRF and the American marten is the single most pivotal natural resource issue that the conservation community has raised in this years-long planning process.

The potential impact that OSV use is likely to have on the SNRF as well as the American marten has been a high priority issue cited in CSERC's opposition to the initial Proposed Action, and now, to the Preferred Alternative. Each of those Alternatives proposes to legalize motorized use in high elevation habitat areas that are suitable for, and/or often occupied by, the elusive and rare SNRF and the marten.

The status of furbearers such as the Sierra Nevada red fox, the American marten, the Pacific fisher, and the wolverine ranges from the species likely being already extirpated from the Stanislaus Forest (the wolverine), to only having a single animal documented with a proven detection in the Stanislaus Forest in recent years (the fisher), to having extremely low population numbers and very high risk for near-term extirpation (the Sierra Nevada red fox), to having low population numbers that continue to make the species sensitive and at-risk (the American marten).

Forest carnivores, such as marten and fisher, tend to be wilderness species and are largely intolerant of human activities (Buskirk and Powell 1994; Buskirk and Ruggiero 1994; Lyon et al. 1994; Slauson et al. 2006; Zielinski et al. 2005a; Zielinski et al. 2005b; USDA Forest Service 2001; Spencer and Rustigan-Romsos 2012).

In particular, the Sierra Nevada red fox is "extremely sensitive to human disturbance" (Buskirk and Zielinski 2003).

Research has made it clear the areas where marten populations occur in the Sierra Nevada today coincide with protective regulatory requirements, including management direction such as wilderness or national park (no motorized disturbance) management. On national forest lands, marten threats such as the legacy of road building, loss of late succession/old forest cover, and trapping (Zielinski et al. 2005a, p.1394). Recommendations for protecting marten populations have consistently noted the need for protecting high quality habitat such as in roadless and non-motorized areas, and minimizing disturbance.

Where they persist across their range, marten show a trend toward areas of lower human influence (Laliberte and Ripple 2004). For example, in the Sierra Nevada, marten showed a preference to areas without vehicle traffic (Kirk 2007). Occupied areas had significantly fewer roads ($p < 0.001$) than sites without marten detections; road density was lower in areas with higher density of marten (Id.). The OSV Plan EIS did not consider this research. To the contrary, the OSV EIS makes the debatable judgment determination that because marten occur in the project area, they are likely habituated to OSVs (p.171). There is no evidence to support this claim.

In the published literature, the impact of roads on marten is most significant at the home range or landscape scale. Interpreting presence/absence data to extrapolate habituation to roads or OSV disturbance is too simplistic. For example, marten avoidance of roads is measurable in landscapes with less human disturbance and road avoidance is more pronounced in areas of intact old forest; by comparison, in landscapes with logging, marten presence/ absence data may not show roads as a deterrent, but roads are likely to be a cumulative factor (Chapin 1998; Chevau et al. 2013).

The 2001 impact analysis upon which the 2004 Forest Plan Amendment is based identified high elevation recreation (such as snowmobile use) as a non-habitat threat to the Sierra Nevada red fox (USFS 2001 FEIS Chapter 3, part 4.4, p.38). The Forest Plan sought to limit such activities within 5 miles of fox sightings in order to protect the fox from the most adverse negative impacts of USFS activities, and in order to support a determination of "may impact individuals, but not likely to lead to a loss of viability or a trend toward Federal listing" (Id.). The USFS has not completed an adequate species viability analysis as a result of violating these assumptions in the Forest Plan.

For the marten, the Stanislaus OSV project has the potential to interfere with key areas identified as supporting forest carnivore populations on the Stanislaus NF. These areas include non-motorized portions of the project area that have been highlighted for Sierra Nevada wildlife conservation because of their wilderness attributes and proximity to larger protected areas (Stanislaus LRMP 1991; Zielinski et al. 2005a). Such non-motorized areas also are important because there are concerns over potential gaps in marten distribution (Zielinski et al. 2005a), and because of the importance of non-motorized areas as movement corridors and for habitat connectivity (Spencer and Rustigan-Romsos 2012).

In 2008, Dr. Zielinski and colleagues highlighted the importance of non-motorized areas being protected in order to support marten persistence across the landscape:

"[hellip]maintenance of wilderness and non-motorized areas, where motorized human impact is minimal, in close proximity of areas where martens are subjected to less benevolent conditions, may allow martens to persist in diverse landscapes." (p. 1569).

At the original Summit District OSV Plan Open House session, reference was made to the motorized study by Zielinski et al, 2008, by a Forest Service representative, suggesting that martens apparently were not shown to have negative impacts caused by exposure to off-highway-vehicle use. CSERC actually communicated in the past with Dr. Zielinski concerning assertions made by those referencing his study. As CSERC shared in our previous comments, the study compared occupancy rates between undisturbed areas and areas with low levels of disturbance. The authors clearly state: "[hellip]although we found little evidence for negative effects of OHVs on martens, our results can be applied to other locations only if OHV use at the other locations is no greater than we measured "(1568). The amount of use, particularly in high quality marten habitat, has not been analyzed, thus the study should NOT be directly applied to the STF.

Additionally, the study also openly admitted that measuring occupancy is not the best measure of impacts on wildlife. Instead, they cite Gill et al. 2001, that the "most useful responses to measure are those that affect populations, such as reproduction, mortality and turnover rates." All that this study revealed was that at low levels of disturbance, there was not a reaction by the marten in the study area to disperse away from the study area. This could be explained by many factors, such as a lack of suitable habitat to disperse into. Even if the study could be directly applied to the Stanislaus Forest habitat areas of greatest concern, the study does not conclude that snowmobile use does not degrade the habitat quality. The study does not prove that there are no detrimental effects of snowmobile disturbance on American marten, only that low levels of snowmobile use did not cause them to leave the study area.

Zielinski et al. also noted "maintenance of wilderness and nonmotorized areas, where motorized human impacts is minimal, in close proximity of areas where martens are subjected to less benevolent conditions, may allow martens to persist in diverse landscapes" (1569). The Near Natural areas proposed to be opened to OSV use provide these refuges that the marten likely needs to persist, despite other threats and pressures.

Again, as shared in our previous comments on this OSV plan, CSERC acknowledges that at this time, there are not applicable scientific studies that conclusively prove that snowmobiles do or don't diminish hunting success by the Sierra Nevada red fox or affect its travel movements or affect the fox's prey species. That lack of proven negative impact also cuts both ways. Without evidence to prove that snowmobiles are a benign influence upon the Sierra Nevada red fox (and potentially upon the wolverine, fisher, and marten that also could or do inhabit the various Near Natural areas), it would be problematic for the agency to approve the legal use of motorized snowmobiles intruding into the exceptionally quiet, remote, and often frigid landscapes of the existing non-motorized Near Natural designated areas.

The substantive obligation under the executive order minimization criteria - which courts have repeatedly affirmed - requires the agency to minimize impacts to those species (and to other forest resources). Given how sensitive the species are and how limited their habitat is, permitting OSV use in their habitat inarguably will fail to minimize impacts. CSERC also reiterates the point that doing so is inconsistent with governing Forest Plan direction, which allocates those areas as non-motorized -- in part to protect those species.

CSERC notes the following selected quotes from the Zielinski study's ABSTRACT:

"Martens were ubiquitous in use and non-use areas in both study sites, and there was no effect of vehicle use on

marten occupancy or probability of detection. We predicted that females might be less common and martens more nocturnal in use than in non-use areas, but neither occurred. Martens were exposed to low levels of noise in our study sites. We estimated that a marten might be exposed to 0.5 vehicle passes/hour and that this exposure had the greatest effect on <20% of a typical home range. Furthermore, vehicle use usually occurred when martens were inactive. We did not measure behavioral, physiological, or demographic responses, so it is possible that vehicles may have effects, alone or in concert with other threats (e.g., timber harvest) that we did not quantify. We encourage additional studies to determine whether other montane species that are year-round residents demonstrate the same response to motorized vehicles." JOURNAL OF WILDLIFE MANAGEMENT 72(7):1558-1571; 2008" (underlining and blue highlighting added for emphasis)

Also in that Zilienski et al study:

"We add, however, that our approach did not measure the potential direct effects of OHV on individual marten behavior and, thus, we do not know how they would react in the presence of OHVs or their sound or whether marten exposure to OHVs generated a stress response that could produce deleterious effects on reproduction or survival." p 1566, Zilienski et al, 2008

CSERC emphasizes that the study was done to determine primarily if martens abandoned use of an area due to exposure to infrequent OHV use. Thus, even that referenced study does not attempt to conclude that martens may not be negatively affected by the presence of motorized vehicles or their sound. It instead clarifies that the study approach did not measure the potential direct effects of the vehicles on martens, and directs managers to apply the study only to areas that receive the same low levels of use documented in their study areas.

Accordingly, in the Stanislaus OSV plan, the agency cannot assume that sensitive species such as the marten, wolverine, and fisher do not suffer from noise and disturbance when speeding snowmobile riders attempt to high-mark up steep slopes or race along groomed routes toward distant destinations at use levels that are currently undetermined. Furthermore, the priority management consideration in the areas identified by the Stanislaus LRMP on a map of furbearer habitat clearly identifies both fisher and marten habitat across all of the Near Natural areas being advocated for legal OSV use by the Proposed Action.

MULTIPLE RISKS TO FURBEARERS IDENTIFIED IN EIS, YET ARE NOT MINIMIZED

Because our staff has been working with biologists with the Stanislaus National Forest for over two decades, CSERC has helped to prove that martens are present in the Pacific Valley, Night, and Eagle roadless areas, including in areas proposed to be converted to legally open to OSV use. Our staff scientists have also gained photo-detection evidence of Sierra Nevada red fox presence in the vicinity of the Pacific Valley roadless area and in the Sonora Pass area as well as in other areas extending out from the Pass. In addition, as key Forest wildlife biologists know from requesting CSERC to do surveys in the Highland Lakes and Tryon Peak areas, multiple credible reported sightings of wolverine have been given to Forest biologists - describing sightings on two sides of the Pacific Valley roadless area. In addition, as CSERC has communicated to Forest biologists in the past, an unverified potential sighting of a wolverine by CSERC staff years ago was close to the Eagle roadless area.

Despite a lack of evidence that wolverine definitively can be proven to utilize habitat within the Sonora Pass area, the Pacific Valley-Highland Lakes roadless area, and Eagle roadless area, there is no debate that suitable habitat exists for the wolverine and for the SNRF in all three of those locations and across substantial areas connecting those areas with the Emigrant Wilderness and wild areas in Yosemite Park. One of the greatest potential threats to the wolverine has been described as disturbance during the period of time when a female wolverine may be attempting to locate an ideal den site in deep snow at moderately high to high elevation. It would be disheartening for Stanislaus Forest biologists choose not to advocate for Alternative 3 in this OSV Plan process, since that is the only alternative that would minimize the potential for motorized disturbance of wolverine habitat during months of the late fall, winter-spring season.

CSERC identifies that point as a particularly strong issue of consequence when it comes to evaluating whether or not the OSV plan actually complies with the Minimization Criteria and wildlife risk.

Given that there is no evidence provided in the EIS that snowmobilers need to be allowed additional legal OSV use access beyond the use they already have -- the entire upper network of the Spicer road system, Highway 4, Highland Lakes areas and the Clarks Fork, and the Highway 108 area -- CSERC asserts that there is no need established for the project to propose OSV use to be legalized in Near Natural habitat that provides suitable habitat for the SNRF, marten, and possibly wolverine. Those wild, non-motorized habitat areas inarguably provide high value sanctuary for sensitive furbearers from motorized noise and disturbance.

Despite uncertainty as to whether or not all four of the highly vulnerable furbearer species are all still presently inhabiting the higher elevations of the Stanislaus Forest, there is absolutely no debate that the four species are at-risk and in need of protection in the national forests of the Sierra Nevada. From a legal perspective, allowing snowmobile disturbance to intrude into very limited areas of suitable habitat for an at-risk furbearer species would not be "minimizing" a resource conflict, but would instead be clearly exacerbating a resource conflict.

As our staff shared in our previous CSERC comments, the Forest Service is obligated under Executive Order 11644 and agency regulations (36 CFR 212.55(b), 212.81(d)) to ensure that OSV designations minimize impacts to furbearers and other resources.

It is especially important to consider the cumulative impacts of opening the Near Natural areas (noise, disturbance, snow compaction, increased access for coyotes, etc.) because those impacts will be cumulatively combined with snow grooming that would also continue to intrude into highly suitable habitat for the four at-risk furbearers (Highway 4, Highland Lakes Road, Clarks Fork Road, Highway 108). By allowing that grooming to continue, the proposed action results in the potential for coyotes and other competing carnivores to travel on packed snow high into otherwise difficult-to-access Sierra Nevada red fox habitat, threatening that vulnerable species. Noise and active disturbance by the snowmobiles themselves, especially in newly legalized use areas, would further aggravate the cumulative effects of the overall OSV management plan on furbearers.

As those on the I.D. Team should know, the U.S. Forest Service over recent years has been coordinating with the U.S. Fish and Wildlife Service, university research scientists, scientists with the State Department of Fish and Wildlife, CSERC, the National Park Service, and others to attempt to increase scientific understanding of exactly where the Sierra Nevada red fox still persists, what the status of its small population is, and what risks continue to threaten the SNRF. OSV use and its disturbance of SNRF during late fall through early spring is one factor of many that cumulatively threaten the extremely limited population of SNRF.

As noted on page 166 of the EIS, the most common interactions between snowmobiles and wildlife (besides trapping, which is not a known threat in this region) include both disturbance-based displacement and avoidance by populations or individual animals away from OSV use location, and displacement from a specific location being used for reproduction or rearing of young, usually wintering areas. At a lower level of risk, habitat loss and fragmentation can occur.

The EIS also acknowledges that OSV use can result in alteration of competitor/predator communities as a result of snow compaction of the subnivean sites used by small animals.

In terms of disturbance, the EIS notes that many of the species affected by snowmobiles that may be present during OSV use periods are nocturnal, but the EIS cites that 29% of snowmobile riders report some night-time riding. In addition, trail grooming can occur at night, resulting in animals avoiding area frequented by snowmobiles and groomers. "Single or repeated interactions between OSVs and wildlife could lead to energy expenditures from flight or vigilance reactions. The energetic cost of flight can be significant for predatory

animals." Pg 166

However, based on CSERC staff's years of involvement with photo-detection surveys searching for the rare Sierra Nevada red fox in upper elevation areas of the national forest and Yosemite National Park, our staff's greatest concern is the compacting of snow by snowmobiles that enables aggressive intrusion into high elevation suitable SNRF habitat by coyotes.

Not only is that threat to the SNRF identified by USFWS in its listing document, but even the EIS notes: "Packed trails resulting from snowmobile use facilitate coyote incursion into deep snow areas (Brunnel et al. 2006) and can negatively impact marten, Sierra Nevada red fox, fisher or other mammal populations through increased competition and predation. A study in Utah found that 90 percent of coyote movement was made within 1,150 feet of packed trails. Whether or not this is occurring or the extent to which it is occurring, as a result of OSV use and related activities on the Stanislaus Forest, is unknown." Page 167

While the discussion cited above is valid and consistent with the best available science, the EIS then unreasonably and illogically shifts to a speculative dismissal of the risk of competition and predation by coyotes by asserting that the use of OSVs is restricted to areas in the immediate vicinity of trails. That false assumption is contradicted by the proposal for both Alternative 1 and Alternative 5 to open OSV use areas to broad roadless areas such as the Eagle roadless area and the Pacific Valley roadless area - where there are no established or defined OSV trails. The misleading claim is then made that in the OSV plan, no new trail expansion is proposed, and thus, coyote incursion, if occurring, would continue, but would not increase in size of area as a result of OSV program activities.

This is incorrect, misleading, and a solid wildlife reason for concerned organizations to challenge this plan. The Proposed Action and the Preferred Alternative each propose to legally authorize OSV cross-country use into Near Natural high-elevation roadless areas that are currently explicitly not open to motorize use by the current Stanislaus Forest Plan. Even if this EIS illegally considers the baseline to be the allowed illegal trespass that has been done on a fairly limited basis for two decades - (primarily into one long finger on the western edge of the Pacific Valley roadless Near Natural area and on a limited basis into scattered locations into upper slopes of the Eagle roadless Near Natural area) -- legalizing OSV use into the heart of the Pacific Valley roadless area and into a large portion of the Eagle roadless area will inarguably encourage a higher level of OSV use that will increase disturbance for the fox and marten.

Furthermore, if the Forest Service actually acknowledges that the baseline condition should and legally must be the management direction spelled out in the existing Forest Plan, then neither the Pacific Valley or Eagle Near Natural areas are open and available for OSV use. Thus, the proposal by the Preferred Alternative to invite/allow OSV use up into the Pacific Valley roadless area (including the side of Henry Peak, the upper canyon slopes above Pacific Creek, the extensive suitable SNRF habitat areas surrounding Black Dome and Lookout Peak, and the Willow Flat area) will legally authorize snowmobile use into SNRF occupied habitat at higher levels of use.

This would be legalizing an unnecessary, significant, and avoidable impact on the "warranted, but precluded from listing" SNRF, when a logical, feasible alternative would be to NOT allow OSV use in the Pacific Valley and Eagle Near Natural areas.

MEASURES IDENTIFIED IN THE EIS CANNOT POSSIBLY RESULT IN COMPLIANCE WITH THE MINIMIZATION REQUIREMENT

There is no science-based rationale to claim that the weak mitigation measures listed in Table D-14 on pages 70-71 concerning impacts to the SNRF and the marten will measurably "minimize" impacts to those at-risk species.

Prescribed Management Requirement: "Retain nonmotorized status of Near Natural to the extent possible." Page

70. That caveat undermines the measure. In reality, it is fully, rationally "possible" for the Forest to withdraw the agency's Preferred Alternative proposal to allow legal riding of snowmobiles up into the Near Natural areas that contain the suitable habitat for the SNRF and extensive suitable habitat for the marten. MINIMIZATION OF THE POTENTIAL IMPACT TO THE SNRF WOULD BE TO WITHDRAW ALTERNATIVE 5'S PROPOSAL TO LEGALIZE OSV USE IN THOSE PRIME HABITAT AREAS WHERE EVIDENCE HAS PROVEN SNRF PRESENCE.

IN REALITY, COMPARED TO THE LEGAL DIRECTION OF THE EXISTING FOREST PLAN, ALTERNATIVE 5 (AND ALTERNATIVE 1) WOULD INCREASE, NOT MINIMIZE, IMPACTS TO THE SNRF AND THE MARTEN IN THE ALPINE, EAGLE, HIGHWAY 108, HIGHWAY 108 EAST, AND HIGHWAY 108 WEST AREAS OF SUITABLE HABITAT FOR THE SNRF AND THE MARTEN.

As we have emphasized in CSERC's previous comments, approval of the Proposed Action or the Preferred Alternative would cause numerous negative impacts for furbearers in these ways:

* Opening the vast, diverse high elevation habitat area of the Pacific Valley Near Natural area would pose significant risk for furbearers because:

1. The area is supposed to be given special consideration protection for fisher and marten as per the Stanislaus Forest LRMP and Map 3, Appendix 1; thus it is specifically identified as an area of importance to those two furbearers. Thus the Forest cannot simply dismiss such impacts and advocate for opening up the area to currently illegal motorized use.
2. The roadless Near Natural area contains a proven population of marten based on CSERC and FS photo-detection stations;
3. The area contains some areas with valuable middle elevation as well as high elevation suitable winter habitat for furbearers, including habitat for Sierra Nevada red fox;
4. (The Pacific Valley Near Natural area has proven detections of the Sierra Nevada red fox at the edge of the area, and
5. Once snowmobilers are legally allowed into the upper ridges and slopes of the Pacific Valley Near Natural Area in areas around Lookout Peak and Black Dome, there is no realistic agency capacity to keep trespassing riders out of the directly adjacent Carson-Iceberg Wilderness and its high value furbearer habitat.

* Similarly, opening a large portion of the extremely diverse, upper elevation habitat area of the Eagle Near Natural area also poses significant potential risks for furbearers because:

1. (The area is specified for special consideration protection for fisher and marten as per the Stanislaus Forest LRMP and Map 3, Appendix 1,
2. The Eagle roadless area contains a proven population of marten based on CSERC and FS photo-detection stations,
3. The area contains some middle elevation as well as high elevation suitable winter habitat for furbearers;
4. The Eagle Near Natural area is located directly adjacent to the Emigrant Wilderness, so legalizing snowmobilers to ride to the undefined boundary of the Wilderness assuredly increases potential for increased levels of trespass into Wilderness areas that are suitable habitat for not just Sierra Nevada red fox, but also for wolverine and marten.

* [bull]As noted previously in this section of our comments, the proposal to open up a slice of the Night roadless area at the top of the Sonora Pass is highly in conflict with the requirement to minimize conflicts with resources:

1. The area is supposed to be given special consideration protection for marten as per the Stanislaus Forest LRMP and Map 3, Appendix 1,
2. The area contains a proven population of marten based on CSERC and FS photo-detection stations, plus it

contains proven scat evidence of Sierra Nevada red fox and is adjacent to acres with proven photo evidence of Sierra Nevada red fox; and

3. The area contains very little attractive riding for snowmobilers down along the flatter terrain along the Highway corridor itself, so most riders would push high into the upper slopes where habitat suitability is highest for the Sierra Nevada red fox.

As part of CSERC's comments for this OSV Plan and EIS, we re-emphasize that over the years CSERC biologists and other staff have provided Stanislaus National Forest wildlife biologists with proven photo evidence of the presence of SNRF and marten in numerous scattered locations in proximity to where OSV cross-country use is now planned for approval in the Preferred Alternative. In the last week of September (2018), the latest photo-detection camera result from one of CSERC's photo-stations revealed the most recent evidence of a marten - photographed within the area proposed for legalized OSV use within the Eagle Near Natural non-motorized area (shown in this OSV Plan as a portion of Hwy 108 West).

IT WOULD BE DISINGENUOUS FOR FOREST SERVICE STAFF TO CLAIM THAT THE AGENCY WOULD BE COMPLYING WITH THE MINIMIZATION CRITERIA REQUIREMENT IF IT APPROVES PREFERRED ALTERNATIVE 5'S EXPANSION OF LEGAL OSV USE INTO NEAR NATURAL AREAS WHERE SUCH USE DIRECTLY INTRUDES INTO SUITABLE AND OCCUPIED HABITAT OF THE MARTEN AND THE SNRF.

As rationalized in the EIS, the Preferred Alternative appears to be yet another example of the agency pre-selecting a project outcome and then attempting to rationalize the impacts. In this case, impacts would include a significant increase in legally allowed OSV use into desired "off-limits" wild areas that would certainly not be mitigated by listing totally meaningless mitigation measures.

As one example why EIS mitigation would not reduce impacts to a level "less than significant" despite claims made in the EIS: For the Preferred Alternative's impact to the SNRF in suitable habitat, the mitigation would be to "increase signage and compliance patrols of Wilderness trespass." Whether or not snowmobiles trespass into the Emigrant Wilderness (which is indeed a realistic threat that adds to our concerns), motorized trespass into the Wilderness does not address the fact that the Forest would be authorizing OSVs to travel through occupied marten habitat up to the suitable SNRF habitat around Castle Rock, Cooper Peak, and east toward East Flange. Signing a boundary at the outside edge of the Near Natural suitable habitat area would -at best -- simply keep snowmobiles within the Near Natural area. That would do nothing to mitigate for that motorized use in that Near Natural area. Thus, there is no realistic mitigation benefit even possible from implementing the prescribed management requirement to sign the Wilderness boundary. The "mitigation" does not in any way comply with the intent of minimization of impacts to at-risk wildlife species. It would not reduce the significance of the impact, nor comply with Minimization Criteria.

Furthermore, on page 71 the EIS identifies the risk as "high" for the SNRF in the Highway 108 area due to snowmobile disturbance at the Sonora Pass Area above Kennedy Gate. The prescribed management requirement 1a requires the agency to retain Near Natural and Recommended Wilderness management areas above Kennedy gate as non-motorized, which would do nothing for all the suitable habitat SNRF areas along both sides of the highway corridor where snowmobiles could ride daily throughout the winter season.

But beyond that impact, September online Updated Map for the Sonora Pass OSV-Use Designation map shows the Alt. 5 OSV motorized use area intruding across at least 40 acres or more of Near Natural non-motorized area - a direct contradiction with the requirement.

As our staff has communicated directly to Forest staff, the OSV play area mapped on the south side of the highway directly below the Sonora Pass has no feasible way to allow for enforcement so as to restrict intrusion into the Near Natural semi-primitive non-motorized area or to restrict snowmobiles from going into proven occupied habitat for the SNRF.

The map shows this theoretical invisible boundary as being located somewhere along the middle slope of the mountainside in the entire lower area of the OSV play area. No one, including USFS enforcement personnel, could accurately know when snowmobile riders are or aren't violating the boundary and trespassing into occupied SNRF habitat and the Near Natural area based on that nebulous boundary. Signs that would be located in an area that gets more than 10' of snow depth might protrude up above the snowpack, but if the signs are covered with snow and are not readable, then enforcement could not be applied to riders who could not read the signs.

This "top of the Sonora Pass" area is within the very heart of the most heavily used habitat for the core population of SNRF that resides in the vicinity of the Sonora Pass. The fox is already at risk due to packed snow allowing for the potential of non-native foxes to further dilute the genetic integrity of the SNRF population in the Sonora Pass area by allowing packed snow on the highway on both sides of the Sonora Pass right on up to the crest. A seasonal LOP (which creates its own legal violation due to the EIS not being consistent with a regional January to June LOP directive) will not reduce the potential for snowmobiles to pack the snow on the highway and allow for months of easier intrusion by non-native foxes as well as coyotes. This potentially significant impact cannot simply be shrugged off, and yet there is no mitigation for this threat to the SNRF identified in the EIS.

This is yet another legal conflict with the requirement to minimize conflicts between project use and resources such as at-risk wildlife.

The Forest Service has made clear the agency's desire to provide extensive OSV snow-play opportunities for the extremely small percentage of recreational users who engage in that activity at remote locations from groomed routes. Sadly, the Preferred Alternative would cater to those motorized interests even if their desired "high-marking" OSV snow-play areas are directly located within the highly suitable habitat of the rare SNRF and the elusive marten. This conflict by the Preferred Alternative with resource protection for at-risk furbearers directly conflicts with the requirement for minimization of project impacts.

End-of-Season & Denning/Pup Emergence Period

Wherever potential conflicts occur (based on the final selection of an Alternative), CSERC staff are very concerned with OSV use near SNRF den sites at the time leading up to and during pup emergence. This is a critical period for the success of the SNRF population. As described in Appendix C and D of the DEIS, opening certain areas to legal OSV cross-country use would increase the risk of coyote movement into areas otherwise inaccessible to the species. This will provide access to SNRF habitat that would otherwise be inaccessible to coyote, and as such, that would create a potential threat to the population of SNRF (Perrine et al. 2010), by increasing the risk of coyote predation on SNRF pups and possible competition with SNRF adults for food and habitat.

Increased recreation resulting in increased exposure to people and vehicles is also suggested to be a potential threat to SNRF (Perrine et al. 2010). Our Center requests that forest staff redefine the end-of-season requirement for OSV use in SNRF occupied habitat to end March 1, in order to close the OSV season just prior to the period when young are known to be born (March-May) (Perrine et al. 2010).

Based on all the points raised above relative to furbearer impacts, Alternative 5 should not be approved based on extensive flaws in the EIS, failure of the Preferred Alternative to comply with the minimization requirement, and the failure of mitigation measures to meaningfully reduce the potential for a significant impact for the marten and the SNRF.

DESPITE THE POTENTIAL NEGATIVE IMPACTS THAT EXISTING GROOMING NOW MAY HAVE FOR AT-RISK WILDLIFE SPECIES SUCH AS THE FOUR MOST AT-RISK FURBEARERS, CSERC IS NOT PRESSING FOR AN END TO THE CONTINUED GROOMING IN MOST AREAS NOW GROOMED (although we do not

support grooming in the Clark Fork Road area for wildlife reasons). CSERC IS NOT ASKING THAT SNOWMOBILE USE OR GROOMING BE CURTAILED ALONG HIGHWAY 4, ALONG THE HIGHLAND LAKES ROAD CORRIDOR, IN THE SPICER AREA, OR IN THE EAGLE MEADOW TO SARDINE MEADOW AREA.

CSERC IS ALSO ACCEPTING OF ALLOWING MOST OF THE LEGAL "STATUS QUO" OSV USE AREAS TO CONTINUE TO HAVE SNOWMOBILE USE IN RECOGNITION OF THE NEED FOR BALANCED TRADE-OFFS WITH FOREST MANAGEMENT PLANS. BUT WHEN IT COMES TO IMPACTS ON FURBEARERS, CSERC BELIEVES THAT THE PROPOSED ACTION AND THE PREFERRED ALTERNATIVE ARE BOTH HIGHLY VULNERABLE TO A LEGAL BASED ON THEIR FAILURE TO MINIMIZE SIGNIFICANTS POTENTIAL IMPACTS TO WILDLIFE.

THE PREFERRED ALTERNATIVE FAILS TO MEET MINIMIZATION REQUIREMENTS TO AVOID CONFLICTS BETWEEN RECREATIONAL USERS DUE TO ALTERNATIVE 5 PROVIDING INSUFFICIENT AREAS FOR NON-MOTORIZED RECREATIONAL USE

The preponderance of areas open to snowmobiles along the two main Highway corridors creates a key conflict between recreational visitors who feel negatively affected by noise, safety concerns, the smell of OSV exhaust, and infringement of motorized use upon their attempt to experience a quiet national forest setting.

Snowmobilers under the Preferred Alternative would continue to have approval for motorized use along nearly the entire upper Highway 4 corridor, the entire upper Highway 108 corridor, the Clark Fork Road corridor, and numerous areas away from the highway corridors.

The Preferred Alternative would continue to allow the dominance of snowmobile use along all of the most easily accessed paved roads serving the upper elevation of the Stanislaus Forest. In ALTERNATIVE 5, that vast amount of OSV opportunity serves a relatively small number of motorized users at the expense of the quiet recreation members of the public who also desire winter recreation experiences within the snow-covered portion of the Stanislaus Forest.

Accordingly, due to so much dominance of accessible recreation areas by motorized use as proposed in the Preferred Alternative, the Preferred Alternative fails to comply with the Minimization Criteria. As noted previously, the bias of the EIS frequently misleads in statistical or descriptive comparisons of recreation impacts by assuming that the baseline (current existing Alternative 2 conditions) allows for motorized use in Near Natural SPNM areas and SIA's, when in fact the Forest Plan does not allow such use.

Page xvii of the EIS lists very appropriately an excellent list of conflicts that are created between motorized and non-motorized winter recreation. HOWEVER, PROVIDING A WRITTEN LIST OF SUCH RECREATIONAL CONFLICTS IN THE EIS DOES NOTHING TO EVALUATE WHETHER AN ALTERNATIVE HAS ADEQUATELY ACHIEVED MINIMIZATION OR AVOIDANCE OF SUCH CONFLICTS.

Focusing on how the EIS measures a summary of effects on the issue of lands available for quiet, non-motorized recreation provides a compelling illustration as to how strongly biased (and factually misleading) the EIS is.

On page xcvi, Table S-12 provides a single measurement concerning the desired need for quiet, non-motorized recreational opportunities. Instead of measuring acres of snow-cover areas that are typically available during most winters along the main highway corridors where families or individuals have vehicle access to reach snow-covered areas, the Table instead quantifies areas within 5 miles of ski resort parking areas and within 5 miles of the road in areas along the two main highways and the Dodge Ridge Road. In fact, such a statistical summary is wildly skewed because a high percentage of that "non-motorized" acreage along both highway corridors is composed of steep, dangerous terrain (especially under icy conditions) sloping downslope to the south off Highway 4 or both uphill and downslope off Highway 108. In a majority of the statistically counted acreage, there

is no feasible possibility of cross-country ski use or snowshoe use across a high percentage of the acreage.

A realistic assessment of the differences between alternatives and whether an alternative "minimizes" conflicts between non-motorized and OSV use is whether there are substantial easily-accessed areas off the main highway corridors where quiet snow-play or back-country snow play can be accessed without conflict with motorized use. ONLY ALTERNATIVE 3 PROVIDES THREE SUCH QUIET RECREATION OPPORTUNITY AREAS ALONG THE MOST HEAVILY VISITED WINTER RECREATION CORRIDOR - THE HIGHWAY 4 CORRIDOR.

Accordingly, none of the other Alternatives actually "minimizes" conflicts between recreational uses - a direct legal conflict with the minimization requirement. The supposed mitigation measures discussed to minimize overlap between motorized and non-motorized recreation (as referenced in appendix D) provide classic example of theoretical mitigation measures that are highly unrealistic, far beyond the staffing capacity of the Stanislaus Forest, and simply infeasible in many instances.

Examples of unrealistic mitigation measures that are supposed to reduce or eliminate conflicts between noisy, smelly, and fast-moving snowmobiles and the majority of forest winter recreational visitors who are seeking quiet recreation experiences:

Page 80: For the Alpine area -- "having a FS Patrol presence[hellip] may discourage speeding or reckless behavior[hellip]. Advertising an area as 'multi-use' may reduce the risk of injury or mortality of recreationists in the area[hellip]"

Having a patrol presence does not in any way diminish the presence of OSVs in areas desired by quiet recreation visitors. In addition, the Forest Service does not have staffing or capacity to patrol more than a small percentage of the major areas available for accessible recreation along the Highway corridors. Advertising an area with a sign or advertising it on a map as "multi-use" does nothing to seriously minimize conflicts between those seeking a quiet non-motorized recreation experience and those desiring to ride snowmobiles. Yet the EIS falsely assumes that such advertising an area as multi-use will meet minimization requirements needed for those seeking quiet recreation opportunities.

In contrast, Alternative 3 provides for the designation of non-motorized "no OSV" areas on the north side of Highway 4 in order to actually physically minimize locational user conflicts between motorized and non-motorized users. Alternative 3 complies with the minimization requirement, whereas Alternative 5 fails to do so.

On page 83, where conflict between uses is highly acknowledged in the Dodge Ridge winter sports area where rutting of alpine trails, safety concerns, noise from snowmobiles, and a long list of other negative conflicts are identified, what does Alternative 5 provide as the "solution?" The strategies listed in the EIS simply repeat the same inadequate actions that the Forest Service has already shown to be ineffective for the past two decades: "Consistent Patrol," "installing multi-use signs," "installing No Motorized Use" signs," etc.

Similar to the challenge faced by the agency to even implement such "supposedly effective" mitigation measures for the Highway 4 corridor, the Forest Service has extremely limited staff and capacity to patrol the tens of thousands of acres where recreational conflicts are fully acknowledged to occur along Highway 108, the Dodge Ridge Road, or other areas with conflicts that are identified under the Preferred Alternative. Second, "posting signs" as a solution to recreational conflicts in winter conditions is a strategy that cannot possibly be effective if (a) it is snowing and snow covers the signs enough to prevent easy reading of their message, or (b) if snow depth is deep and the signs are actually partly or fully buried, or (3) if signs are only placed at locations infrequently along a boundary - which is certain to be the case due to cost and maintenance concerns.

Signage and enforcement would both be positive to at least some degree by showing that at least on occasions,

patrol staff are present and visible; or if/when signs are posted, that at least at locations where the signs are actually seen, they would provide something to educate those who are willing to abide by invisible restrictive boundaries. But there is no validity in claiming that such weak, limited mitigation strategies will minimize recreational user conflicts under Alternative 5 to the same degree that Alternative 3 would reduce recreational conflicts by establishing large, non-motorized blocks of forest areas along Highway 4 (where conflicts are greatest).

Unless Alternative 5 is modified to provide for meaningful quiet recreation snow-use areas along the Highway 4 corridor, the Preferred Alternative will not measurably reduce the potential for recreational user conflicts. Accordingly, just on the issue of recreational use conflicts, Alternative 5 cannot be rated as meeting the minimization criteria.

In summary -- on this key issue that is supposedly one of the Significant Issues addressed by this OSV Plan - the Preferred Alternative does not comply with the clear intent of Minimization Criteria. Despite pages and pages of tables repeating the same weak mitigation requirements separately for user conflicts at individual use areas or routes, the reality is that the inadequacy of mitigation measures in the EIS and the designation of areas as proposed by the Preferred Alternative would result in continuing significant conflicts between recreational uses -- in direct violation of the intent of the minimization criteria.

THERE ARE ADDITIONAL POINTS OF CONCERN IN THE EIS

PAC Area of Influence & Nesting Season

Our Center agrees with monitoring for OSV use in the [frac14]-mile Area of Influence for CSO and goshawk, especially during nesting season. Groomed nor un-groomed trails should not occur within known CSO or goshawk PACs, to minimize the risk of nest site disturbances. However, our Center realizes that OSV cross-country use will most likely lead to OSV intrusion into PACs and even in Areas of Influence. Any OSV use in these core areas is in conflict with wildlife protection. Therefore, to minimize risk of nest site disturbances, regular monitoring of known, occupied CSO or Goshawk PACs and Areas of Influence should occur during the OSV season that overlaps with nesting season (beginning in February or March, depending on the species). If OSV use is occurring in these areas, Forest staff should assess any direct or indirect negative impact of OSV use on these species.

AQUATIC WILDLIFE -- Minimum Snow Depth Requirement

CSERC staff is concerned with several aspects of the prescribed minimum snow depth requirement for OSV use in overwintering and early-season breeding areas of federally listed amphibian species, including Sierra Nevada yellow-legged frog (SNYLF) and Yosemite toad (YT).

First, as the literature suggests, amphibians can travel across snow to reach breeding sites (Pope 1999a, Vredenburg et al. 2005 in Brown et al. 2014). Therefore, there may be instances of amphibian strikes and kills if OSV use is permitted in proximity to overwintering and breeding habitats for the species during the period of adult emergence from hibernation/early breeding season. So a minimum snow depth requirement is completely meaningless, when you consider that listed amphibians may come out of hibernation during the OSV season of use.

Second, the prescribed minimum snow depth requirement for cross-country OSV use may not be adequate to minimize noise disturbances generated by OSVs in the vicinity of amphibian occupied locations. Even during hibernation, the noise generated by OSVs can cause elevated stress levels in amphibians throughout the OSV season.

In addition, the representativeness of the location where the minimum snow depth measurements will be taken is of concern for our staff. We realize that with limited staffing and funding it may be next to impossible acquire an accurate representation of actual snow levels across the designated OSV-use areas. Because it is so critical to know whether snow depths are at levels below minimum depths requirements in SNYLF or YT habitat, our staff insist that there be language in the Final OSV plan that requires determination of minimum snow depths in OS overwintering and early-season breeding areas of federally listed amphibian species, in order to assure that OSVs are not traveling in these areas when snow levels are lower than minimum requirements.

Finally, since little research has looked into the potential direct impacts of OSV recreation on SNYLF or YT, our Center suggests erring on the side of caution in terms of OSV cross-country in known SNYLF and YT breeding habitats. Therefore, in order to better protect federally listed amphibian species, CSERC urges that to the extent feasible the 24" minimum snow depth (and no contact with native soil or vegetation) be required in the specific OSV cross-country areas that are known/proven SNYLF or YT occupied habitat (not just in Stanislaus Meadow and the Highland Lakes area.

Open/Flowing Water Management Requirement

Our Center is in agreement with the language in the DEIS that OSVs should be prohibited from traveling over any open or flowing water.

SOILS, WATERSHED & VEGETATION - Minimum Snow Depth Requirement

Our Center supports a minimum 12" snow depth requirement to protect soil, watershed and vegetation resources. As mentioned earlier in these comments, our staff are wary that Forest staff will have the capacity to enforce this proposed management requirement, or have the means to identify an accurate representation of actual snow levels across the highly diverse, designated OSV-use areas.

This question of capacity has been underscored in previous CSERC comments. The Forest does not have staffing or resources to systematically monitor and patrol OSV use areas on a daily basis throughout the fall, winter, early spring season when OSF use takes place. Accordingly, measures within the EIS that depend upon Forest Service capacity to patrol, enforce signage, educate riders, and result in consequences for violators are measures that will be weakened by the limited capacity of the agency. THIS IS A PIVOTAL POINT THAT THE I.D. TEAM SHOULD HONESTLY ACKNOWLEDGE AS COMMENTS ARE CONSIDERED AND A FINAL CHOICE OF MANAGEMENT DIRECTION IS RECOMMENDED.

COULD THE FOREST ACTUALLY COMPLY WITH LEGAL REQUIREMENTS BY APPROVING AN OVER-SNOW VEHICLE PLAN THAT PROVIDES FOR EXTENSIVE OSV OPPORTUNITIES WHILE MINIMIZING RESOURCE AND USER CONFLICTS?

In CSERC's previous comments, we submitted a recommended middle ground solution that would still result in some degree of negative impacts to wildlife, resources, and quiet recreation, but which would greatly reduce negative impacts compared to the Proposed Action, Preferred Alternative, and even the No Action Alternative. Based on what we have heard from Forest staff, we now have adjusted our proposed compromise solution.

In an attempt to provide a clear path forward, with these comments, CSERC describes the following recommendation for a modified Alternative 3.

1. Non-motorized designations now in the existing Stanislaus Forest Plan would remain

In contrast to the Proposed Action and the Preferred Alternative, there would be no revision of semi-primitive non-motorized management direction in this alternative, and there would be no change from the current

Stanislaus Forest LRMP for management direction in Near Natural areas except for one exception described below. In all areas currently designated for non-motorized use, no over-snow vehicle use would be legally allowed (and the management direction would be enforced with Forest Orders) for all existing Near Natural SPNM areas except to the extent spelled out in detail for a portion of the Pacific Valley Near Natural roadless area, as explained further below in this description of a recommended modified Alternative.

Areas designated as roadless and non-motorized in the existing Forest LRMP would remain in that non-motorized use designation -- except that winter recreation season OSV use that would be legally allowed in the western portion of the Pacific Valley Near Natural roadless areas as described in detail below in these comments.

Existing Stanislaus Forest LRMP use designations would be enforced

In this Modified Alternative 3 proposal, as part of the Record of Decision for the Stanislaus Forest Over-Snow Use Designation planning process, Forest Orders and enforcement would be fully approved (with a commitment for the regulations to be fully implemented and enforced) for all related existing Stanislaus National Forest LRMP and ROD land use designations, SPNM management direction, and restrictions against OSV use in Special Interest Areas, Research Natural Areas, Near Natural areas, proposed or existing Wild and Scenic River areas, and recommended Wilderness. The ROD would contain a commitment to aim to enforce Forest Plan management requirements as they exist with the modifications recommended in this section.

Forest Plan Amendment actions will not be initiated until the Forest Plan Revision

Potential land management direction changes that would require a Forest Plan Amendment will be analyzed when the Stanislaus Forest Plan revision process proceeds as determined by Regional Forest staff based on funding/staffing resources and competing priorities. That Stanislaus Forest Plan revision process will provide for in-depth analysis and the inclusion of multidisciplinary assessments as part of the "big picture" consideration for all Near Natural roadless areas and Recommended Wilderness areas, and any other areas that are most appropriately evaluated on a forest-wide basis, rather than in a narrowly-focused wintertime motorized use plan.

There would be no Forest Plan Amendment action taken prior to the completion of the Forest Plan LRMP revision planning process for the Stanislaus Forest (except if it is determined that an Amendment is needed to implement the suggested solution for the Pacific Valley Near Natural roadless area).

User conflicts would be minimized by the Forest Service approving Alternative 3's three non-motorized recreation use areas

To ensure a minimization of user conflict between OSV use and non-motorized winter recreation, the three Highway 4 corridor non-motorized snow use areas mapped and described in Alternative 3 would be designated for non-motorized recreation. Establishing those areas for non-motorized use allows for highway access by a range of quiet recreation interests for both close-in recreation and recreation out in distant snow-covered forest landscapes.

For the Herring Creek non-motorized recreation area proposed in Alternative 3, Forest Staff have shared with CSERC a description of a claim made by snowmobilers that 4N12 provides the only snowmobile access up the Herring Creek Road to the Herring Loop, Pinecrest Peak, etc. In reality, OSV parking and trailhead opportunities at Cow Creek allow straightforward access along 5N40Y south to 5N17 and to the intersection with 4N12. Beyond that intersection, motorized use on 4N12 would be fully allowed.

CSERC staff knows that Herring Road area intimately and can point to some winters when there has not been a single week with a 12" snow depth at Herring Creek Road's end adjacent to Highway 108 -- not only because of

the relatively low elevation, but also because so much of the first few miles of the Herring Creek Road are fully exposed to sun. In contrast, the Cow Creek access point has forest cover providing shaded conditions along the roads, and the snow stays far longer and snow depth accumulates far more often.

Highland Lake Rd - Conflicts with furbearers need to be minimized, but compromise can occur

Previously CSERC strongly recommended against the Forest Service partnering with Alpine County to acquire snow grooming funding and to assist with grooming for the 5 miles of the Highland Lakes Road that runs south from Highway 4. With this attempt to craft a palatable, compromise proposal consistent with minimization criteria, CSERC drops our previous opposition. If other key components of this compromise proposal are accepted, CSERC would support a final plan that would approve a grooming partnership by the Forest Service and Alpine County to collaboratively seek funding and to cooperate with grooming for the Highland Lakes Road.

Sonora Pass - minimizing conflicts with at-risk furbearers

As identified in CSERC's previous comments, the Highway 108 area of greatest conflict between at-risk furbearers and the desires of OSV users is along the south side of the Highway for the final two miles of the road below the top of Sonora Pass. Maps provided at Open House meetings and shown online define a broad area extending to (and into) the Near Natural boundary as being open to OSV use. That mapping is in direct conflict with the 1991 released Stanislaus Forest LRMP land use allocation maps that showed no motorized use beyond 300' from the edge of the Highway. For the purpose of this OSV planning process, that debate over mapping is not worth pursuing, but the need to protect critical habitat for both the American marten and Sierra Nevada red fox is high. Under ideal management direction that aimed to truly minimize risk to the Sierra Nevada red fox in particular (but also for marten), no snowmobile use would be allowed above the Kennedy Gate. That scientifically justified strategy would be best for the truly threatened population of the SNRF.

To bolster the science-based concerns CSERC has raised about disturbance to the SNRF, especially at the Sonora Pass site, CSERC provides this additional summarized information:

The USFWS summarized the threats to the Sonora Pass DPS of SNRF as:

"In summary, we find that the significant threats to the Sierra Nevada DPS both currently and into the future are hybridization with nonnative red fox, and the negative effects of reduced genetic diversity, inbreeding, and reproduction deficiency. These threats appear to be having significant impacts on the single remaining population in the DPS at Sonora Pass. These impacts are evident from the best available scientific and commercial information that shows a combination of range contraction of greater than 90% from its historical range, an apparent declining population, inbreeding depression, hybridization and no clear indication of successful native Sierra Nevada red fox reproduction since at least 2011. These stressors cumulatively impact the DPS[hellip]. We find that the petitioned action to list the Sierra Nevada red fox DPS of the Sierra Nevada red fox is warranted." (USFWS 2015b, p.61022).

"Coyotes have recently become year-round residents at Sonora Pass and pose an additional threat through competition and predation, furthering the risk of reproductive deficiency (Id. p.50)." (CSERC note - this was written during drought conditions when coyote access was highest[hellip])

"Any additional negative impacts or any exacerbation of existing threats to this critically endangered SNRF population could potentially lead to extinction (Sacks et al. 2010; USFWS 2015a; Linnell et al. 2018)."

Inarguably, minimization of impacts to the at-risk, threatened SNRF would avoid establishing packed highway snowmobile trails that could be accessed by coyote to travel up to this core, critical habitat area surrounding the top of the Sonora Pass.

However, the Toiyabe National Forest allows for OSV use all the way to the crest of the Sonora Pass on the east side. It is not logical to assume that snowmobilers will simply stop as their machines reach the crest and turn around obligingly. Accordingly, in the Sonora Pass area that has such high value habitat for the Sierra Nevada red fox, CSERC recommends -- as a compromise strategy -- that (a) no snow grooming on the Stanislaus Forest side of Sonora Pass be allowed past the Kennedy Gate, and (b) that only conditional OSV use be approved in the Sonora Pass OSV use area that is proposed to be accessed from the un-groomed Highway 108 route. We recommend conditional approval that allows OSV use in that two-mile long stretch of area on the south side of Highway 108 if it is approved with the clear caveat that the Forest will seriously apply its best possible level of enforcement in order to restrict OSV use to within the OSV Plan boundaries as mapped in the Updated Maps provided online. We also recommend that the conditional approval be done with the condition that the entire area outside of the highway strip itself can be closed to OSV use if the Forest finds that persistent or significant trespass beyond the open OSV area boundaries justifies closing all but the highway itself.

Minimizing risk to SNRF and marten in the Long Valley (EAGLE) area

Rather than totally eliminating all motorized use in the Long Valley area and the area that defined by EIS authors on the maps as the EAGLE AREA, this modification of Alternative 3 would authorize OSV use in the EAGLE AREA stretching along 5N01 from Martins Cow Camp out to Red Rock Meadow as shown in the Preferred Alternative. However, instead of the Long Valley area permitting OSV off both sides of the Long Valley road, this modified Alternative 3 would require OSV use to be limited to the road itself. If OSV use is allowed (as would happen in Alternative 5) off the road into areas west and east of the road, it will result in OSV riders pushing upslope into important habitat for the SNRF and marten, plus it will invite trespass to occur into the non-motorized Eagle Near Natural Area. By allowing the Long Valley Road to be open for riding, OSV users would have another scenic riding option in this modified version of Alternative 3.

Aiming for compliance with OSV users along Clark Fork Road

Similar to the recommendation made above, CSERC supports an OSV Plan decision that approves the Forest's intent to partner with Tuolumne County (and Alpine County) to find grooming funds and to enable grooming to be done along 9 miles of the road. However, we recommend that such approval also be constrained with the conditional caveat that if pervasive or significant trespass occurs into areas adjacent to or accessible from the groomed Clark Fork Road, then the Forest shall close the Road to OSV use for whatever period is deemed appropriate in order to assure that there are consequences tied to any significant lack of compliance.

Minimizing risk to threatened and endangered amphibians

In addition to the mitigation language tied to the intent to provide minimization of OSV user risk to at-risk amphibians by establishing a snow depth requirement of 24" at Stanislaus Meadow and at the Highland Lakes area, this modified Alternative 3 would include all other mitigation measures identified in Alternative 3, with the condition that after 5 years, the Forest staff would evaluate whether the 24" snow depth is feasible to enforce. If not, the condition of approval should provide for "fall back" management option of posting (and enforcing) a policy of no snowmobile use protective areas at the portions of the Highland Lakes area and Stanislaus Meadow area with the greatest potential for harm to the at-risk amphibians.

Despite CSERC's strong advocacy for establishing a OSV Plan requirement to minimize motorized OSV use impacts to important suitable habitat for the YOTO and SNYLF, CSERC withdraws our Center's previous request for OSV Plan management direction to snip off proposed "open to OSV use" delineated areas overlapping Eagle Creek and Long Valley Creek on the south side of the main 5N01 route.

CSERC'S RECOMMENDED COMPROMISE FOR RESOLVING THE PACIFIC VALLEY ROADLESS AREA

CONTROVERSY

Legalizing motorized entry into Wilderness-eligible Near Natural roadless areas that have such high habitat value for at-risk wildlife species is the single most controversial aspect of the Over-Snow Vehicle Plan and the Preferred Alternative. The apparent reason for the Forest Service to propose authorizing such legal access into areas designated as non-motorized by the existing Forest Plan is purportedly to provide OSV enthusiasts with desirable, challenging opportunities as well as to provide legalized access to remote sites for OSV snow-play options.

From the perspective of the environmental community and those representing quiet winter recreation, opening up such areas would not only eliminate realistic political feasibility for those highly popular roadless wild areas to eventually be considered and approved for Wilderness designation by Congress, but allowing motorized use in the Near Natural areas has high potential to disturb suitable, critical habitat for at-risk furbearers that are vulnerable to noise, disturbance, and the impacts associated with the creation of packed snow trails (that can allow coyotes to access into high elevation habitat essential for SNRF and marten).

In an attempt to openly benefit OSV enthusiasts while actually meeting the intent and letter of the law concerning Minimization Criteria and travel management, CSERC provides the following recommendation.

For all the reasons provided in these comments, CSERC strongly opposes this OSV Plan opening up any portion of Near Natural areas to motorized use. However, to move past polarizing positions, CSERC steps away from that strong position in order to put forward the following compromise proposal: IF the Stanislaus Forest adopts the middle-ground compromise recommendations spelled out above for Near Natural areas, Highland Lakes Road, the Sonora Pass, the Clark Fork Road, Eagle-Long Valley, and defining appropriate snow depth at the Highland Lakes and Stanislaus Meadows sites, then CSERC believes that the following proposal could resolve the controversy associated with the Pacific Valley Near Natural roadless area.

CSERC recommends that the Forest Service modify Alternative 3 to allow ungroomed OSV travel to continue past the end of 19EV43 (which parallels Pacific Creek) in Section 33 (T8N,R19E) on into Section 4 and the northern portion of Section 9 (T7N, R19E) to the slopes where the headwaters of Pacific Creek are defined on the north slope of Bull Run Peak and the west-facing slope of Henry Peak drains down to Pacific Creek. THIS AREA WAS SPECIFICALLY IDENTIFIED PREVIOUSLY BY BEAR VALLEY SNOWMOBILE ENTHUSIASTS AS THE SINGLE MOST IMPORTANT, MOST DESIRABLE AND CHALLENGING RIDING TERRAIN THAT THEY BELIEVED OFFERED THE BEST HIGH-MARKING OPPORTUNITIES IN THE ENTIRE HIGHWAY 4 REGION.

CSERC proposes this desirable OSV snow-play destination - that is located adjacent to the Carson-Iceberg Wilderness and Henry Peak -- be retained as a Near Natural roadless area in the Forest Plan, but that the semi-primitive non-motorized ROS management designation for this defined area be changed to semi-primitive motorized - with the intent to strictly allow winter season over-snow vehicle use and not to allow any legal off-highway-vehicle use within the Near Natural area. It is proposed with this recommended compromise that OSV use would be allowed to occur within an area now designated as a pink finger of use in the Alternative 5 map, but that the upper slopes above that pink area would also be authorized for OSV use for extreme riding opportunities as desired by snowmobile enthusiasts years ago at a winter recreation stakeholders field session in this controversial area.

Specifically, this proposal would result in a OSV use area that allows for a corridor 500' wide along both sides of 19EV43 to allow a 1,000' travel corridor for OSV use to the point just south of Marshall Canyon where an unnamed tributary to Pacific Creek drains the north side of Henry Peak. Following on the southern side of that tributary to the section boundary of Section 3 and Section 4, and extending south along the west side of Henry Peak, the OSV use area would allow riding to within 300 feet of the Wilderness Boundary in Section 4 and Section 9. The OSV use area boundary on the west side would parallel the Wilderness Boundary at a distance of

300' downslope until reaching the boundary between Section 4 and Section 33.

As proposed, this would provide for 650-700 acres of challenging high-marking OSV riding in an area that up to this time has been designated for non-motorized use by the current Stanislaus Forest Plan.

A key aspect of this CSERC compromise proposal is that this strategic recommendation does NOT propose authorizing OSV use to travel into Marshall Canyon (T8N, R19E, Section 34) nor into any other portion of the Pacific Valley Near Natural Roadless Area except for the area contained within the road corridor and the large OSV use area south of the end of 19EV43.

The result of this modification of Alternative 3 would provide OSV riders a legally accessible, challenging, and remote OSV play area that is highly desired. It would still keep legal OSV use out of the remainder of the Pacific Valley Near Natural Area as well as the Eagle Near Natural Area - thus providing the capability for the Forest Service to enforce prohibitions against motorized entry into those two high-value furbearer habitat areas.

While there would be the concession of having some OSV use occur in highly suitable SNRF habitat on the affected slopes of Bull Run Peak and Henry Peak, compensatory benefits of enforcement of no motorized use in the remaining high elevation Near Natural Areas would justify the Forest Service determining that minimization of impacts to the most vulnerable furbearer species had honestly been achieved.

To provide a detailed description of this overall proposed modified Alternative 3 compromise recommendation, CSERC is providing an accompanying map - delineating a mapped boundary that depicts the area recommended to be opened to OSV use as described by this compromise proposal.

CONCLUSION

Without a significant modification of the Preferred Alternative, conservation organizations and quiet winter recreation organizations will Object/Appeal and likely litigate in order to protect roadless wild areas and at-risk furbearers along with basic needs of those seeking quiet winter recreation.

The modified Alternative 3 as recommended will not please interests who hold strong entrenched positions. However, if approved, it would meet the Purpose and Need, while actually moving the Forest forward towards adopting a balanced over-snow vehicle and winter recreation plan that complies with the minimization criteria of travel management. It would also have a strong chance of avoiding litigation. CSERC prefers a strict adoption of Alternative 3, but if that is not deemed sufficient by the Forest decision-maker, our staff urges careful consideration of this modified Alternative 3 recommended solution.

As noted previously above, for years Stanislaus Forest supervisors have fully acknowledged to CSERC staff that motorized use is prohibited by the Forest Plan in the Near Natural semi-primitive non-motorized management areas. If a use is [ldquo]prohibited[rdquo], then it is not [ldquo]available,[rdquo] nor is it legal to allow. It is [ldquo]prohibited.[rdquo]

Accordingly, when the EIS authors describe areas prohibited from motorized use as areas currently and historically [ldquo]available[rdquo] for OSV use, that assertion is legally incorrect. When describing the Near Natural areas where motorized use is prohibited by the current Forest Plan -- the EIS repeatedly misleads, fails to acknowledge CSERC[rsquo]s previous comments on this matter, and provides false conclusions concerning OSV use in Near Natural Areas.

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