

Data Submitted (UTC 11): 10/9/2018 7:00:00 AM

First name: Amy

Last name: Granat

Organization: California Off-Road Vehicle Association

Title: Managing Director

Comments: Please accept the attached comments on behalf of the California Off-Road Vehicle Association.

Amy

Please accept the following comments on behalf of the California Off-Road Vehicle Association (CORVA), our members, member clubs and partners, and our business sponsors. The submission of these comment does not prevent the above entities from submitting their own comments thereby obtaining legal standing in this analysis.

There are three issues that must be initially addressed regarding the issuance of this Draft Environmental Impact Statement (DEIS) by the Stanislaus National Forest (forest). The first issue concerns that fact the DEIS was released more than three years after the Notice of Intent was released to the public by the forest in June of 2015. Public scoping for this project was concluded shortly afterwards. No additional scoping was pursued by the forest before the release of the DEIS in 2018, so this document is based on out-of-date information.

Relevant and topical information, including any changes in snowfall patterns which might then dictate changes in areas considered highly desirable for motorized recreational use where therefore unavailable to the forest to help develop the current DEIS and the Proposed Action. To the credit of the forest, the staff was very open to receiving substantive information during the comment period, but this openness, while appreciated, does not make up for the missed opportunity for renewed outreach to the community.

#### Significant Issues

The second problem that must be considered is an apparent disregard for the serious concern that diminishing OSV opportunity represents to OSV enthusiasts. In Volume 1, Table 1, Page x, we note the short list of negative impacts associated with the Proposed Action for motorized enthusiasts, in comparison with the lengthy list of issues identified as high impact or significant to non-motorized over-snow enthusiasts. This Subpart C NEPA document is supposed to be a motorized over-snow opportunity analysis, that should not exhibit a marked preference for non-motorized over-snow enthusiasts or opportunities. This violates the Subpart C supplemental rule released in January 2015 that defined the required procedural framework for all forests. The rule clearly states; "Regulation of non-motorized use[hellip][hellip]is beyond the scope of this final rule, which addresses motorized use, specifically, OSV use."

The forest has failed to produce a valid DEIS because much of the document concerns the effect of OSV on non-motorized opportunities, rather than an analysis that seriously considers negative effects to motorized enthusiasts from proposed loss of area open to OSV travel. This includes the lack of concern for rural community economic viability, and loss of quality for the OSV recreational experience because of the proposed decrease in OSV opportunity in the forest.

Moreover, some of the concerns listed regarding impacts for non-motorized recreation in this DEIS stretch the credulity of the public. "Consuming untracked powder" is a term taken directly from Snowlands Network, an organization dedicated to the removal of OSV on forested lands. According to Dictionary.com, 'consuming' is defined as; "to destroy or expend by use; use up". Snowmobiles, the most popular vehicle used for OSV recreation, do not destroy or expend snow. Snowmobiles do not devour snow. This is manufactured propaganda that has no place in a Forest Service DEIS based on the best available science.

Remedy: The forest must disregard and remove analysis and consideration of non-motorized use because it is clearly outside the scope of this NEPA analysis. The inclusion of this information shortchanges the OSV community and violates

Subpart C Final Rule guidelines. All reference to non-motorized opportunities must be eliminated from the DEIS, otherwise the document fails in all capacities.

#### Lack of No Action Alternative

The third issue that must be addressed is the lack of a true No Action Alternative. The forest has acknowledged the errors contained in Alternative 2, which was referred to as the No Action Alternative in the DEIS. A No Action Alternative is required in all National Environmental Policy Act (NEPA) analyses because it serves as a baseline that enables the public to directly compare the Proposed Action to current conditions. For this forest, the public was unable to engage in meaningful comparison because Alternative 2 contained many areas that had already been closed to OSV travel. NEPA requires a No Action Alternative for a good reason, and the forest failed to provide this to the public.

Remedy: This significant violation in NEPA regulation means this DEIS is not a valid NEPA document because it failed to provide the public with an accurate No Action Alternative.

#### Wildlife, Yosemite Toad and Sierra Yellow Legged Frog

A resource specialist is referenced in Chapter 2, page 20 in Table 3 of the document in regards to the mating habits of the Yosemite Toad and Sierra Yellow Legged Frog to support the proposed 12" minimum snow depth. The resource specialist points out the[hellip] "species begin to make movements to suitable breeding areas, typically in meadows, and begin vocalizations when snow cover is substantially reduced" [when] "snow cover is discontinuous". Rather than support the need for a minimum snow depth, both these criteria negate the need to impose a minimum snow depth because they define conditions when snowmobiles cannot be operated per manufacturer's safety recommendations as well as due to structural limitations of the machine.

The resource specialist further hypothesizes in Table 3 that noise and/or vibration from snowmobiles may negatively affect both species, but quantifies his statements by including the following statement; "There is very little literature to support adverse impacts". The forest cannot simply invent science when none exists. According to the documentation cited by the resource specialist, snowmobile noise and vibration may just as easily have no negative affect on amphibian species, yet this conclusion is not presented in the document.

Conclusions representing opposite viewpoints can be reached because of the lack of existing scientific documentation in regards to effects on wildlife (including amphibian species) from snowmobile recreation. But only one conclusion has been used by the forest to provide justification basis for minimum snow depth requirement and other proposed closures and restrictions in the DEIS. CORVA has learned through years of experience commenting on Forest Service NEPA analyses that resource specialists have the tendency to present information in the manner they wish it to be true, rather than truthfully attesting to the lack of existing scientific data available to support their presuppositions or presumptions.

As of now, there is no data to support any of the resource specialists' assumptions through the document.

As further stated in Chapter 3, page 71; "[hellip]amphibian species in the Sierra Nevada have seen declines in recent years due to various circumstances including disease, introduction of salmonid species into higher elevation lakes, and airborne pesticide residue". None of these reasons have any connection to OSV recreation, therefore cannot be used as a reason to reduce OSV opportunities.

Remedy: Please remove references by the resource specialist throughout the document that are one-side, based on hypothesis and unsupported by science.

#### Lack of Economic Analysis Regarding Impacts of Proposed Action on Local Economies

The Forest Service touts its '3-legged stool' of sustainability, which requires forests to include an analysis of socioeconomic impacts in all NEPA decisions. The forest arbitrarily excluded a serious analysis of potential negative effects of the Proposed Action to OSV recreation dependent businesses, and failed to list this as a Significant Impact. The forest listed the criteria for evaluation by the socio-economic specialist in Chapter 3, page 59 in Table 14 and was woefully incomplete. Chapter 3, page 60 in Table 15 erroneously concluded there would be no change in socioeconomic conditions for local businesses or communities surrounding the forest regardless of which alternative was chosen. It is clear that the socio-economic specialist did not speak with representatives from the local counties and small towns surrounding the forest. It appears that this chapter in the DEIS, along with much of the other material in Chapter 3, was prepared by the Forest Service Enterprise Team, and not by this forest, because the material does not adequately represent local concerns or local issues.

Remedy: the forest must conduct a true socioeconomic impact study and include the inevitable potential for negative socioeconomic consequences for all alternatives.

#### Snow Depth Restrictions

The Final Rule acknowledges that, when properly operated, snowmobiles "do not make direct contact with soil, water, and vegetation". Rather than use arbitrary snow depth measurements which may change morning to afternoon, the DEIS should simply state 36 CFR 261.15(h) will be used to write citations in cases where there is resource damage. This should include resource damage done by nonmotorized users as well, although a true Subpart C analysis should not concern non-motorized recreation.

Enforcement based on resource damage would eliminate the inherent problems with snow measurement throughout the forest which may include:

- \* Lack of personnel to measure snow depths throughout the forest on a daily basis.
- \* Timely posting of snow depth to websites, including weekends and holidays when staff may not be available.
- \* The knowledge that LEOs cannot write a citation based on snow depth merely because it is stated in the ROD. They can only cite 36 CFR 261.15(h). Attempting to use snow depth restrictions only complicates the issue and creates mistrust of the agency.
- \* The term "adequate snow" would more accurately be defined as the depth of snow that is required to operate a snowmobile according to manufacturers' recommendations. Manufacturers recommend a snow depth that will protect the machine, which in reality is the same amount of snow that is needed to protect resources.
- \* Arbitrary snow depth measurements would only be a futile attempt to manage OSV, and could even open up the Forest Service to lawsuits. Such a definitive measurement, when presented as a firm requirement or recommendation by the forest welcomes outside critique confirmation of conditions by opponents of OSV recreation. An argument can be realistically made that opponents of OSV will be conducting independent measurement checks of snow depths on a regular basis, and presenting them to the forest as evidence that OSV enthusiasts may be violating agency policy.
- \* We challenge the analysis that 12" snow depth is necessary for public safety, because snowmobilers are well aware of the risks and avoid unsafe conditions.
- \* The Stanislaus DEIS also fails to provide a definition for fails to define "resource damage", which is necessary to guide OSV users to prevent damage to resources.
- \* ? There is still no analysis of a minimum snow depth for non-motorized over snow recreation that may also have potential to cause resource damage. In shallow snow conditions, it is common to see ski tracks through

muddy areas.

The Subpart C Final Rule issued in January 2015 states; "Unlike other types of motor vehicles traveling cross-country, OSVs generally do not create a permanent trail or have a direct impact on soil and ground vegetation".

Remedy: CORVA objects to snow depth restrictions because they are unnecessary, unenforceable, arbitrary, and not supported by science. More importantly, they are not required by the Travel Management Subpart C Final Rule. The Final Rule only states OSV use may be designated "where snowfall is adequate for that use to occur". Adequate snow to prevent resource damage can range anywhere from a depth of 2 inches of ice to 2 feet of bottomless powder. A simple measurement of depth is inadequate to "protect resources", which is the main purpose of this project as stated in the Purpose and Need.

#### Erroneous Information Regarding Available Funding for Snow Grooming

The DEIS contains a paragraph in Chapter 1, page 7, regarding available funding for grooming and the projection for future funding for the snow grooming program operated in conjunction with the State of California Department of Parks and Recreation, Off Highway Motorized Vehicle Recreation Division. The paragraph states; "[hellip]the Forest Service's current snow trail grooming program on the Stanislaus National Forest is funded by the State of California Department of Parks and Recreation, Off Highway Motor Vehicle Recreation (OHMVR) Division. Current funding allows the Forest Service to mechanically groom approximately 63 miles of snow trail in its OSV trail grooming program for the Stanislaus National Forest. This funding is not likely to substantially increase in future years. Therefore, additional miles of groomed trails were not identified in this analysis".

This is an erroneous statement. CORVA has checked numerous times with the OHMVR Division regarding the funding for OSV trails grooming and found the forest did not contact them regarding the availability of funding. The OHMVR Division is looking forward to receiving a proposal from the forest for additional areas for snow grooming. We can only conclude that this information was reported to the forest by opponents of OSV and taken as fact by the forest and reproduced in the DEIS.

Chapter 3, Volume 1 page 120 contains the following information which is untrue; "OSV trail grooming would follow the California State Parks Off-Highway Motor Vehicle Recreation (OHMVR) Division snow depth grooming standards. The snow depth requirements for grooming are as follows:" [hellip] "Initial grooming of trails (first grooming of the year) shall only occur when there is 18 inches or more of snow present to ensure that no contact with native soil or vegetation occurs or disturbance of the trail or underlying road surface. All subsequent grooming shall only occur when there is 12 inches or more of snow present".

CORVA doesn't understand how the forest can state information that is untrue in the DEIS, when the source quoted denies the existence of these standards.

Remedy: All references to the unavailability of funding for snow grooming through OHMVR must be removed from the document. Because increases in mileage for snow grooming were not analyzed based on this erroneous information, the forest must now go back to the 'drawing board' and correct this crucial error and do an analysis for increased mileage for snow grooming.

#### Arbitrary and Capricious Decision to Eliminate All OSV Opportunity Under 5000ft

There is no scientific information presented in the DEIS to support the decision to eliminate OSV opportunities under 5000 ft elevation. This is an arbitrary and capricious decision by the forest. To justify this decision, Chapter 1, page 18 of the DEIS states; "[hellip]the interdisciplinary team eliminated all restricted OSV-use areas and all NFS lands occurring below 5,000 feet in elevation. The 5,000-foot elevation was in no way a hardline requirement, but rather an initial screening tool to narrow our efforts to NFS lands most likely to receive snowfall

in adequate amounts to support OSV use".

In one fell swoop, the forest eliminated OSV opportunity throughout the forest with no scientific basis for the decision. Since other forests in Forest Service Region 5 proposed the same restriction, rather than conclude this proposal was based on site specific information for the Stanislaus National Forest, as presented in the document, CORVA is forced to conclude this was a proposal made by the Enterprise Team that supplied information for much of the DEIS.

Without a care, the forest showed complete disregard for OSV enthusiast enjoyment and opportunity. No one has a crystal ball that will indicate where snow is likely to fall or when snow is likely to fall. California experienced 4 years of drought followed by a year of record snowfall, confounding all previously stated expert opinions on projected snowfall. Eliminating OSV under any predetermined elevation is a solution in search of a problem. It is unconscionable for the forest to restrict access simply based on an office exercise.

Subpart C of Travel Management does ask the responsible official to designate areas with adequate snow depth. The term 'adequate snow depth' is often misunderstood. The agency is not asking the responsible official to know what the future has to hold in regards to snow patterns or snowfall amounts. Rather the responsible official must designate all areas that have historical use for OSV recreation, regardless of elevation. To do otherwise would indicate the responsible official has inside information in regards to future weather patterns. If snowfall is sparse during any given year, snowmobile recreation will not occur.

Remedy: Restore OSV access to all areas of the forest regardless of elevation. Snowfall amounts will dictate when and where OSV activity can safely occur based on manufacturer's recommendation for operation of snowmobiles.

#### Unscientific Reference Material Cited in DEIS

In Chapter 3, the forest references a Snowlands Network 2014 study in 4 separate instances. This study is not peer-reviewed, but rather hypothesis and opinion. Snowlands Network is a vocal and stated opponent of OSV and their material should not be used or cited as reference material in the DEIS. Any conclusions reached in the Snowlands Network study can be referred to as hearsay, opinion or ideology, but not used as a scientific reference by the forest.

Similarly, the forest references a study done by Adams in 1975 regarding snowmobile exhaust and emission in Chapter 3, page 88; "Adams (1975) showed that high concentrations of lead and hydrocarbons were found in pond water adjacent to snowmobile trails during the weeks following ice melt". Close to 44 years have passed since that study was conducted on snowmobiles vastly different than machines with current technology. Any conclusions drawn from this study are so out-of-date to be rendered irrelevant and the use highly suspect. The forest cannot invent science when none exists to support the Proposed Action.

Chapter 3 also contains references to the Adams and McCool study (2010) that are erroneous in their conclusions. A careful reading of this study paints a different picture. It describes an ideology common to non-motorized enthusiasts finding motorized recreation incompatible with their viewpoint of what types of activities belong on public land. The opposition state in the study to motorized recreation is not based on fact; rather it is based on personal opinion.

Adams and McCool (2010) describe allocation of motorized activity as a 'zero-sum-game'. In other words, one side gains only if another side loses. In this case, the study states non-motorized recreation enthusiasts will not choose to accept any motorized recreation opportunities as appropriate uses of public land. The only way for non-motorized enthusiasts to 'win' is if motorized recreation enthusiasts lose. This is an inappropriate consideration in a FS document and furthermore encourages misappropriation of opportunity from motorized

recreation. NEPA land use analysis must be based on site specific evaluation using the best available science. The Adams and McCool (2010) study is based on a non-motorized ideology.

Remedy: The above comments are some of the same made by CORVA on Subpart C NEPA analyses released by other forests in Region 5. It has become obvious all these analyses were prepared with information supplied by the Forest Service Enterprise Team and were predetermined to close and/or restrict OSV opportunities. This NEPA analysis is fatally flawed because of the inclusion of material strictly to support closure and/or restriction of OSV opportunities.

#### Conflict

Chapter 3, Volume 1 contains voluminous information regarding supposed conflict between OSV and non-motorized enthusiasts that is rife with negative innuendo, supposition and ideology. The forest has presented no true factual information but has succeeded in painting a negative picture of OSV recreation and OSV enthusiasts.

The DEIS fails to prove there is a problem with the existing OSV system and fails to prove there have been any reported instances of true conflict other than ideological concerns. A NEPA analysis has to be based on the best available science, and the forest fails to prove that conflict is anything more than hearsay. While the Travel Management Rule does compel the forest to consider public safety and conflict concerns, if the forest finds there are no problems with the existing system in regards to public safety and conflict the forest must conclude that no justification exists for changing the current OSV system.

Remedy: All changes in the Proposed Actions base on hearsay regarding conflict must be removed from the document. Decisions based on hearsay, innuendo and ideology are inappropriate for a NEPA document based on the best available science.

#### Site Specific Information

1. The entire Herring Creek Loop area should be a designated area for OSV, not only the designated roads. Local riders use the slopes for riding, not just the trails. Willow Meadow, Hammil Canyon and the surrounding area needs to remain open.
2. Alternative 5 designates no high alpine, big mountain terrain for snowmobile use. Sonora Pass isn't always accessible from the Hwy 108 Snopark. So it is important that the Lookout Mountain and surrounding area from Bull Run to Henry Peak to the Wilderness boundary by Peep Sight Peak be designated as open for OSV. The Eagle meadows area must be kept open to the very obvious ridge that defines the Wilderness boundary from Waterhouse lake, to Cooper Peak to Castle Rock to the Three Chimneys. The boundary along the ridge is easy for the public to understand. Eagle Peak and Bull Run Rock must be kept open.
3. The Bridgeport Winter Recreation area is great OSV riding but is difficult to get to sometimes. Grooming this route would help access to the pass and reduce the potential impact of use on the rest of the Hwy 108 riding areas. This portion of 108 must be designated for grooming and to provide for public safety.
4. Alternative 5 closes Jelmini Basin from open to snowmobiles. This is not acceptable. The entire North Hwy 4 area should be managed as presented in Alternative 4.
5. The Proposed Action designates the Bear Valley ski area as closed to OSV use. There's a long history of locals and visitors having this area open for snowmobiling after the ski area closes. This must be designated as a seasonal use area. Families have a long tradition of great spring days spending time with neighbors riding the hill after the ski area closes. Please let family traditions continue.
6. Alternative 5 designates the area just west of Sonora Pass as closed on April 15 to match the Bridgeport Winter Recreation area. After the pass opens and the hundreds
7. Alternative 5 only designates the Long Valley lowlands as open to OSV use. The slope around Long Valley must be designated open to OSV so use is not concentrated in the meadow areas. The ridge up to the three chimneys and the ridge overlooking Relief Reservoir area is a logical boundary. The valley must be designated

as open.

8. The area west of Whittaker's Dardanells provides an endless network of roads and meadows that sit above 7000 ft. elevation and provide great low consequence riding in high avalanche conditions, which is a public safety issue. Access from the small bridge under Spicer Meadows Reservoir and from FS52/5N14 from Dorrington provides access to this area. It must be designated open as it appears in alternative 4. This would help take some of the stress off of the Alpine snopark in big winter years.

9. The Cabbage Patch/Mattley Ridge area should be designated as demonstrated in Alternative 4.

CORVA has grave concerns regarding the Proposed Action in the DEIS because so much of the justification for the proposal is based on erroneous or misquoted information, as we have presented in our comments. There remains no scientific basis for much of the presumption evident in the document, and we propose that the forest strongly consider keeping the current OSV system in place absent sufficient cause for closure. In closing we must remind the forest that non-motorized recreation already has access to 100% of the forest. In comparison, motorized recreation has access to few areas, all of which are highly prized by enthusiasts. It is inappropriate for one group to have so much, and another groups constantly being penalized by the Forest Service for their chosen form of recreational enjoyment.

Sincerely,

Amy Granat Managing Director

California Off-Road Vehicle Association Amy.granat@corva.org

916-710-1950