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Submitted via email to jennifermarsolais@fs.fed.us

Re: Comments on the Eldorado National Forest Over-Snow Vehicle Designation

To Forest Supervisor Crabtree:

Please accept these comments on behalf of Winter Wildlands Alliance and Snowlands Network on the Draft Environmental Impact Statement (DEIS) for the Eldorado National Forest Over-Snow Vehicle (OSV) Use Designation. Winter Wildlands Alliance (WWA) is a national nonprofit organization dedicated to promoting and preserving winter wildlands and a quality human-powered snowsports experience on public lands. WWA represents over 50,000 members and 41 grassroots partner organizations in 16 states, including Snowlands Network. Snowlands Network is a membership-based organization that advocates for non-motorized backcountry winter recreation. Snowlands and WWA members often visit Eldorado National Forest (ENF) in the winter and spring seeking opportunities for winter recreation in quiet, non-motorized, conflict-free environments. Members of both organizations will be significantly affected by the OSV Use Designation decision.

Our organizations, together with the Center for Biological Diversity, were plaintiffs in the lawsuit that instigated the OSV planning effort, and as part of the settlement of that lawsuit obtained the right in the Settlement Agreement to submit an alternative to be considered in the analysis. This alternative has been incorporated in the DEIS as the basis for Alternative 3.

Summary

We are extremely disappointed in the level of analysis and range of alternatives in this DEIS. Three out of 4 alternatives are essentially the same, designating over 70% of the forest for OSV use despite the fact that the vast majority of the ENF receives little to no snow or OSV use. In addition, with the exception of Alternative 3, none of the alternatives minimize, or even address, user conflict between motorized and non-motorized users. The DEIS barely touches on this topic and does not even mention that there are certain areas on the ENF that were historically non-motorized and are only open to motorized use today because closure orders have expired. We are very disappointed to see that the proposed action designates important and historical non-motorized areas for OSV use despite having provided extensive scoping comments on this topic. According to the DEIS, non-motorized winter recreation visits far outnumber OSV recreation visits to the ENF. Given this, and the clear legal

requirement to minimize conflict between OSV use and other recreational uses, we do not understand why the ENF appears to be disregarding how OSV designations will impact other uses such as cross-country skiing, backcountry skiing, and snowshoeing.

It appears that the Eldorado National Forest is repeating many of the same mistakes that the Lassen made in its original (2016) DEIS and that the Lassen was forced to remedy with a revised DEIS in 2017. These mistakes include:

- A failure to analyze a broad range of alternatives
- A failure to locate the boundaries of designated OSV areas in a manner that minimizes conflict between uses and impacts to wildlife, wildlife habitat, and natural resources
- A failure to apply the minimization criteria in a granular manner
- A failure to designate only those areas that are appropriate and suitable for OSV travel

The ENF should immediately withdraw this DEIS and draft a revised DEIS that addresses the grave deficiencies we note in these comments. The alternatives presented in this DEIS fail to capture the essential middle ground that the ENF must seek in the OSV designation process. We firmly believe it is possible to protect non-motorized winter recreation areas, minimize the impacts of OSV use on natural resources and wildlife, and also designate ample, discrete areas for OSV use on the ENF. We believe it's possible to designate more area for OSV use than proposed in Alternative 3 while also doing far more to protect non-motorized recreation opportunities and meet the minimization criteria than what is proposed in Alternatives 1, 2, and 4.

Given the choices presented in this DEIS, however, we firmly support Alternative 3. Alternative 3 is the only alternative in this DEIS that minimizes conflict between OSV use and other recreational uses on the ENF, minimizes the impacts that OSV use has on natural resources and wildlife habitat, and designates OSV use in areas where there is sufficient snow to support this activity. It is also the only alternative that truly proposes to manage the ENF as "closed unless designated open".

Minimization

The minimization criteria[1] are the heart of travel management planning, yet they are only superficially considered in this DEIS. Appendix B of the DEIS examines the OSV designations with regard to the minimization criteria, but there are a number of issues with this Appendix. For one, it only describes potential impacts and minimization associated with Alternative 2. Nowhere in the DEIS does the Forest Service describe how Alternatives 1, 3, and 4 meet the minimization criteria (or not). Also, because the OSV areas in Alternative 2 and analyzed in this appendix are so large – between 84,574 and 160,504 acres – this analysis in no way meets the requirements for a granular look at minimization. For example, on page B-2 of the appendix we see that TES plants are known to occur in the Amador OSV area and that a 12" minimum snow depth will minimize effects. While this is useful information to know, it doesn't

[1] See Executive Order No. 11644, 37 Fed. Reg. 2877 (Feb. 8, 1972), as amended by Executive Order No. 11989, 42 Fed. Reg. 26959 (May 24, 1977), requiring the Forest Service, when designating routes and areas open to motorized travel, to: 1) minimize damage to soil, watershed, vegetation, or other resources of the public lands; 2) minimize harassment of wildlife or significant disruption of wildlife habitats; and 3) minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.

paint the full picture. For example, if any of the TES species are shrubs, a 12" minimum snow depth may not be sufficient to minimize impacts. Likewise, this table doesn't explain how many TES species are present in the Amador OSV area, whether the TES species are located in areas of high, moderate, or low OSV use, or any other details that might help the public better assess whether Alternative 2 truly minimizes impacts to TES species. Similarly, page B-3 of Appendix B states that there are northern goshawk and California spotted owl activity centers within the Alternative 2 Amador OSV area. Once again, however, there are no details to help the public understand the interplay between OSV use in the Amador area and these activity centers. These are just two examples, but we have similar concerns about almost every line in this table.

Furthermore, neither in Appendix B nor anywhere else does the DEIS explain how the boundaries of each OSV area in each alternative have been located to minimize impacts. In the comments submitted with our alternative (Alternative 3) we suggested designated OSV areas with very specific boundaries and explained in detail why we felt the areas we'd suggested would minimize conflict with other uses. Not only does the DEIS not provide this level of detail for Alternatives 1, 2, and 4, it doesn't even include the rationale that we provided for Alternative 3. The OSV Rule requires the Forest Service to justify why areas are designated for OSV use. Doing so helps the Forest Service to think carefully about where OSV use is appropriate and only designate use in those places. This also helps the public understand the rationale behind the Forest Service's designation decisions and understand the differences between the alternatives. As written, this DEIS simply lays out 4 options, 3 of which are virtually identical, and compares them in terms of how many acres of forest are open for snowmobile use in each.

Just as the DEIS does not explain how the OSV areas comply with the minimization criteria, this DEIS does not explain how or whether designated trails in each alternative have been located to minimize impacts. Not only is there essentially no variation in designated trails between alternatives, making the very idea of alternatives in this regard a moot point, there is no discussion on how OSV trails could or have been located to minimize impacts. Instead, the DEIS lists a handful of mitigation measures, but mitigation is not a substitute for minimization. Many of the mitigation measures listed rely on uncertain future monitoring, are unenforceable, and lack specificity and clear triggers for implementation. Additionally, it is unclear whether these mitigation measures would even be effective in reducing impacts. For these reasons, mitigation cannot be the first line of defense in minimizing OSV impacts. The system of OSV-designated routes and areas on the forest must be *designed* to minimize impacts. Mitigation is a secondary measure.

One of the over-arching issues with how the ENF has approached OSV designation in this DEIS is the size of the OSV areas in alternatives 1, 2, and 4. The ENF has only identified 4 OSV areas for any of the alternatives. In the proposed action the average size of these OSV areas is over 108,000 acres. In contrast, the recently published Tahoe OSV designation DEIS identified 19 OSV areas, averaging 21,416 acres in size for the proposed action. Likewise, the ENF DEIS considers the entire groomed trail network as a single unit of analysis, whereas the Tahoe DEIS considers each proposed designated trail as an individual unit for analysis. Although the questions addressed in the ENF's Appendix B and the Tahoe DEIS' Appendix E are the same, the Tahoe's analysis is far more granular, and, as a result, the Tahoe's

DEIS is far more robust. Indeed, on page 40 of the DEIS the ENF states "The effects of the alternatives in the Eldorado National Forest were aggregated rather than describing the site-specific effect at each area or trail, unless necessary for a particular sensitive resource or concern area." However, the entire purpose of a travel planning DEIS is to provide site-specific information and effects so that decision-making can be informed and transparent. Likewise, the OSV Rule requires that application of the minimization criteria be granular. This was confirmed by the Ninth Circuit Court of Appeals in *WildEarth Guardians v. U.S. Forest Service*[2] in which the Court held that the agency must "provide a more granular minimization analysis to fulfill the objectives of Executive Order 11644, which the [Travel Management Rule] was designed to implement." More specifically, the Court held that "mere 'consideration' of the minimization criteria is not enough." The Forest Service must show not just that impacts have been studied, but specifically demonstrate how effective each of the alternatives presented in the DEIS is in minimizing impacts from OSVs. Not only does the ENF fail to show how the minimization criteria have been applied in each alternative in this DEIS, it muddies the waters and obscures important information by simply aggregating generalized analysis of OSV effects. If the ENF did in fact consider site-specific effects at each area and trail, this information should be disclosed in the EIS. If on the other hand the ENF did not undergo this type of site-specific analysis, it has failed to perform the robust analysis required.

Considering that the five forests in Region 5 that are currently undertaking winter travel planning are coordinating their efforts in some manner, we don't understand how or why the ENF would publish such a limited and flawed DEIS. This is especially puzzling given that the Lassen had to revise its DEIS to address many of the same shortcomings that we see in the ENF's DEIS. The Tahoe, by contrast, seems to have noted the Lassen's initial shortcomings and responded appropriately, as the Tahoe NF DEIS is much more in line with, and even an improvement over, the Lassen's revised DEIS and revised FEIS. We have now been working on winter travel planning in Region 5, and on the ENF, for 3 years. We granted the ENF and other Region 5 forests an extension to the initial deadlines agreed upon in our Settlement Agreement with the understanding that the Forest Service would publish robust analyses and a detailed DEIS. It is extremely disappointing to see that the ENF has repeated and expanded upon many of the same missteps that we and the Forest Service addressed in the early stages of Lassen OSV planning.

Beyond the faults we've laid out above, the ENF's broad-brush approach to applying the minimization criteria has led to alternatives that fail to comply with the OSV Rule's requirement to manage National Forests as closed to OSVs unless designated open. The OSV Rule requires each National Forest to designate a system of areas and routes where OSVs are permitted to travel; OSV use outside the designated system is prohibited.[3] Thus, rather than allowing OSV use largely by default wherever that use is not specifically prohibited, the rule changes the paradigm to a "closed unless designated open" management regime.

[2] *WildEarth Guardians v. U.S. Forest Service*, 790 F.3d 920 (9th. Cir. 2015).
[3] 36 C.F.R. §§ 212.81, 261.14.

This paradigm shift entails significant changes in how OSVs are managed on National Forest lands. Forests must apply and implement the minimization criteria when *designating* each area and trail where OSV use is permitted,[4] not as a means of justifying existing management. Any areas where cross-country OSV use is permitted must be "discrete, specifically delineated space[s] that [are] smaller . . . than a Ranger District" and *located* to minimize resource damage and conflicts with other recreational uses.[5] The minimization criteria must come first, followed by drawing lines on the map.

Minimize Damage to Soil, Watershed, Vegetation and Other Forest Resources

The 2015 OSV Rule requires forests to designate roads, trails and areas for OSV use "where snowfall is adequate for OSV use to occur." The ENF should therefore not designate areas that rarely receive adequate snow for OSV travel. Aside from being outside the scope, these areas present the most significant challenges to monitoring and enforcement and are the most susceptible to resource damage and wildlife impact. Furthermore, these areas are even less likely to receive adequate snow in the future. Designating these areas for OSV use ignores the fact that climate change is radically changing—and has already changed—where OSV recreation actually occurs on the ENF.

The Sierra Nevada is already seeing the effects of a changing climate, particularly in relation to the snow season. In a recent study, scientists identified an alarming and statistically significant decline in winter snow levels in the northern Sierra Nevada over the past 10 years.[6] Over this time period, the winter snowline in the northern Sierra Nevada has risen by approximately 1,200 feet. This trend is expected to continue into the future. Due to these impacts, land managers and recreationists cannot assume that areas that supported winter recreation in the past will continue to do so into the future. In winter travel planning the ENF should only designate areas for OSV use that receive consistent and ample snow throughout the winter. We appreciate that all of the alternatives include a minimum snow depth for OSV use so that management is flexible and responsive to changing snowpacks, but the ENF should also set seasonal bookends that define the OSV use season.

The ENF should not designate low elevation areas for OSV use. These low elevation areas provide, at best, low quality OSV riding opportunities and generally don't receive enough snow to support OSV riding at all. However, they do contain other values like important wildlife habitat for species such as the foothill yellow legged frog and mule deer. Considering that climate change is causing the ENF's snowline to move higher, designating low elevation areas for OSV use does not comply with the OSV Rule's requirement to conduct winter travel planning in areas that receive sufficient snow to support over-snow recreation.

[4] 36 C.F.R. §§ 212.81(d), 212.55(b).
[5] 36 C.F.R. §§ 212.1, 212.81(d), 212.55(b).
[6] Hatchett et al. 2017. Winter Snow Level Rise in the Northern Sierra Nevada from 2008 to 2017. *Water*: *9*(11), 899; https://doi.org/10.3390/w9110899. Included as Attachment 2.

Furthermore, the National Core Best Management Practices (BMPs) for OSV use in Forest Service Manual 7716 instruct the Forest Service to designate a minimum snow depth and OSV season dates, and manage by class of vehicle in order to protect underlying vegetation and soil. Although we appreciate that each Alternative includes a minimum snow depth (as required by the Forest Plan), the ENF should do more in its winter travel plan to abide by the agency's own BMPs.

Snow Depth

The DEIS clearly articulates that the 18-inch minimum snow depth proposed in Alternative 3 would do more to minimize impacts to vegetation and soil resources than the current 12-inch minimum snow depth.[7] However, the DEIS also claims that 12 inches is sufficient to minimize these impacts. These assumptions are based more on casual observation than scientific study. As such, we wanted to bring a recent study to the Forest Service's attention. In their research, Fassnact et al.[8] found that snowmobile use on shallow snowpacks (less than 30 cm, or 11.8 inches) had the most impact on snowpack density, hardness, and ram resistance, and recommended limiting snowmobile use on snowpacks with less than 30 cm to protect under-snow resources. This study supports the Eldorado's proposed 12-inch minimum snow depth and adds further evidence to the importance of a minimum snow depth for protecting soil and vegetation resources. To ensure that OSVs do not travel on the forest when there is not sufficient snow (i.e. at least 12 inches), the minimum snow depth should be applied consistently across all of the ENF, regardless of whether OSV users are on or off trail. The ENF should not set a separate, lower, snow depth for on-trail use.

Season Dates

To further comply with the requirement to minimize damage to forest resources and the Forest Service's own BMPs, we urge the ENF to consider setting OSV season dates. The BMPs outlined on pages 92 and 93 of the DEIS state that the agency should "specify season-of-use to be at times when the snowpack is expected to be of suitable depth." Season dates should be considered bookends to the snow seasons, with minimum snow depth dictating more precisely when OSV use is allowed. Season dates help to protect forest resources in the shoulder season – both in the fall when people are eager to start their winter sports and in the spring when they are stretching the winter season to its very end. In both cases it is well documented that people – OSV users and skiers alike – are willing to travel over bare ground or turn a blind eye to very low snow levels in order to reach areas with deeper snow. While skiers have the same impact as a hiker in this scenario, OSVs traveling over bare ground or minimal snow have the same impact as any other vehicle. These impacts include soil compaction, erosion, and vegetation damage.

As we discussed earlier in these comments, the snow season in the Sierra Nevada is changing significantly. On average, snow accumulation at OSV trailheads is now three weeks later than was

[7] DEIS pages 87 and 243

[8] Fassnacht et al. 2018. *Snowmobile impacts on snowpack physical and mechanical properties*. The Cryosphere, 12: 1121-1135. Available at https://doi.org/10.5194/tc-12-1121-2018

common 15 years ago.[9] In considering an appropriate season-opening date, the ENF should consider historic "opening dates" based on snow accumulation as described in the 2017 Hatchett report cited here.[10] We suggest December 1.

As described on page 128 and elsewhere in the DEIS, the ENF uses March 31 as the assumed end to the OSV season for the purposes of wildlife impact analyses. Given the reasons stated in the DEIS[11] we suggest that the ENF winter travel plan set April 15 as the end of the OSV season and prohibit OSV use on the forest between April 16 and November 30. Considering that OSV use drops off dramatically after March 31, an April 15 end-date is quite liberal and accommodates those who desire off-trail spring riding opportunities.

Recommendations:

- Do not designate areas for OSV use that rarely, if ever, receive sufficient snow to support OSV travel. In general, these areas are below 5,000 feet in elevation.
- Mandate a minimum snow depth of 12 inches for all OSV travel on the forest.
- Set an OSV use season of December 1 – April 15.

Minimize Harassment of Wildlife and Significant Disruption of Wildlife Habitats

The DEIS provides little information about wildlife habitat on the ENF and possible OSV impacts and fails to go into enough detail for the reader to ascertain whether or how each alternative minimizes harassment of wildlife and significant disruption of wildlife habitats. The Forest Service must demonstrate in the EIS how it has located OSV area boundaries to minimize harassment of wildlife and significant disruption of wildlife habitat.

To adequately analyze impacts to wildlife the ENF must divide the forest into more than 4 OSV use areas and include wildlife habitat details for each OSV use area and trail. As written, Appendix B tells us very little about how any of the alternatives actually minimize impacts to wildlife. For example, although Appendix B tells us how many Protected Activity Centers (PACs) are within a particular area, or whether that area contains designated, suitable, or occupied habitat for listed and sensitive species, it doesn't give us any indication of how this information informed the development of each alternative. For example, concerning PACs – were area boundaries drawn to exclude buffered PACs? Likewise, were trails located to avoid these areas? If not, how will the Forest Service enforce mitigation measures if disturbances are detected? And, how will the Forest Service monitor for disturbance in the first place? The answers to these questions should be clearly spelled out in the EIS. At the very least, Appendix B should include information for all of the alternatives under the column headed "If the trail or area is

[9] *Id*
[10] *Id.*
[11] See OSV use assumptions section, DEIS pages 40-41. See also statements such as "Based upon OSV use patterns described in the assumptions section, once OSV trail grooming ends, it is estimated that use of those trails declines by 50 percent" (page 133 and elsewhere). OSV trail grooming ends by March 31.

designated, what measures will be taken to manage OSV use to minimize these effects?", not just for Alternative 2.

As we stated earlier in these comments, addressing the minimization criteria should be part of the system design rather than relying on possibly un-enforceable mitigation measures. Designated OSV areas and trails should be located to avoid PACs, sensitive reproductive habitat, and occupied critical habitat. For amphibian or other hibernating species, if the ENF can demonstrate that OSVs do not impact these species during the hibernation period it may be acceptable to designate occupied habitat for OSV use during the hibernation season. In this case, however, there should be a seasonal restriction wherein OSV use is not allowed in occupied habitat once there is potential for individuals to have emerged from hibernation. Our earlier suggested season end date of April 15 would protect Sierra Nevada yellow legged frogs from potential conflict with OSVs.

The DEIS models functional habitat connectivity for marten on the ENF and considers how each alternative potentially impacts habitat connectivity. However, the DEIS does not explain how the forest intends to protect high quality marten habitat and habitat connectivity. For a sensitive species like marten, considering how to manage the forest to protect the habitat upon which the species depends should be the first consideration, not an afterthought. The Forest Plan lays out standards and guidelines to protect marten den sites from disturbance, as listed on page 127 of the DEIS. However, because the ENF has yet to identify marten den sites on the forest (although it seems extremely likely they are present), it is impossible to ascertain whether OSV use is impacting den sites. The OSV plan should err on the side of caution and protect high quality habitat (4M sites) by designating OSV areas and trail in locations that avoid high quality marten habitat or connectivity corridors.

Without more information beyond what is included in the DEIS we are unable to offer detailed comments regarding specific areas. For example, although we believe the ENF should not designate Sierra Nevada yellow legged frog occupied habitat for OSV use, we cannot provide detailed boundary adjustment comments because we don't know where occupied habitat is located. Likewise, although we would like to see the ENF locate designated OSV areas and trails outside of high value marten connectivity areas, without knowing where those areas are we cannot provide informed suggestions.

Recommendations:

- Do not designate listed species' (particularly amphibians) occupied habitat open for OSV use.
- Include more information in the FEIS to help the public understand how OSV areas and trails are located to minimize impacts on wildlife species and wildlife habitat.
- Design the system of OSV areas and trails with the intent and purpose of minimizing impacts to wildlife rather than relying on mitigation measures to address impacts down the road.

Minimize conflicts between motor vehicle use and existing or proposed recreational uses of Forest Service lands or neighboring Federal lands

Human-powered winter recreationists are all-too familiar with the conflicts that can arise between OSV use and other recreational uses. These conflicts are described in the DEIS and include competition for powder snow, noise, air pollution, as well as multiple safety concerns. Although these concerns are often overlooked, ignored, or dismissed by motorized recreationists, the potential for conflict in the winter backcountry is only increasing with time, as more people discover the joys and solace of off-piste winter recreation, and as new technologies allow motorized over-snow vehicles to push farther and farther into the backcountry.

The number of people participating in backcountry skiing and snowboarding and Nordic skiing is rapidly expanding as backcountry ski and snowboard equipment has become easier to use. In addition, backcountry ski and snowboard equipment gets lighter each year, which allows more people to travel farther into the backcountry than was historically common. The long-standing "5 mile" assumption cited in table S-2 in the DEIS may no longer hold true for significant numbers of non-motorized users. At the same time OSV technology has also improved, facilitating more OSV travel into previously inaccessible terrain. These factors guarantee conflict unless the Forest Service intentionally and proactively manages winter recreation use with the goal of minimizing conflict.

In addition to skiers and boarders, the use of the winter backcountry must include consideration of the needs of snowshoers. Snowshoeing is also an increasingly popular activity, attracting many new winter visitors due to the fact that they can enjoy the experience their first time out. It is an easy activity to learn, attracts participants of all ages, and is an important means of introducing adults and children alike to the natural landscape and to public lands in winter.

The topic of recreation use conflict is well-studied, and researchers generally divide it into two categories – interpersonal conflict and social values conflict.[12] Interpersonal conflict can be direct and face-to-face, or indirect, such as a skier smelling snowmobile exhaust or encountering a rutted and tracked out snow slope. Social values conflict can occur in the absence of direct contact between individuals but occurs when different groups of individuals have differing opinions or values about similar activities. Social values conflict between motorized and non-motorized users has been widely manifest throughout this latest process of OSV planning, as it is often manifest out on the forest in winter. The Forest Service and other land management agencies must manage and minimize such conflict through spatial zoning and active management, both of which are necessary tools on the ENF.

[12] Miller and Vaske. 2016. Winter Recreation Conflict and Management Approaches at Vail Pas, Colorado. *Journal of Park and Recreation Administration*: 34(2), 1-11; http://js.sagamorepub.com/jpra/article/view/6552. Included as Attachment 4.

Researchers have studied the effectiveness of zoning to reduce use conflict in a high intensity winter recreation area: Vail Pass in Colorado. They concluded that spatial zoning is one of the most effective tools that public land managers have to minimize conflict between different winter recreation uses. However, these researchers also found that even with zoning, interpersonal conflict persists in shared use areas such as at trailheads and along access routes. [13]

Based on this research, it is clear that minimizing conflict between uses is a multi-step process. First, the ENF must not designate important and historic non-motorized recreation zones for OSV use.[14] Second, the ENF should also engage in active management, including user outreach and education, monitoring, and enforcement of motorized restrictions.

It is well established that conflict between motorized and non-motorized recreational uses is asymmetrical, with non-motorized recreationists consistently experiencing higher levels of conflict than motorized recreationists.[15] Therefore, to meet the requirement to minimize impacts between recreational uses, it is important that the ENF consider the needs and concerns of the non-motorized community in addition to the stated purpose and need of this project. Not designating high-value non-motorized winter recreation areas is an important component in minimizing conflict between recreational uses.

This asymmetrical conflict is no different than the asymmetrical conflict between bicycles and hikers or snowmobiles and 4x4 vehicles. The Forest Service actively manages 4x4 use in winter with strict limitations on their use for two reasons: (1) 4x4 vehicles gouge trails and routes, and snowmobilers object to that, and (2) in low snow 4x4 vehicles are more likely to trench through the snow to earth. Reason 1 is identical to one of the fundamental reasons that cross-country OSV use, where a landscape is crisscrossed by OSV tracks, represents a direct conflict with human-powered winter recreationists.

Recent research by the Forest Service's Rocky Mountain Research Station, intended to guide winter travel management decisions, shows that backcountry skiers and snowmobilers seek out significantly different terrain.[16] Under the model developed in this study, areas predicted to be used by snowmobilers were farther from highways, had greater forest road densities, more open canopy, and shallower slopes. Meanwhile, the model predicted that non-motorized users select areas that are closer to highways, have denser canopy cover, and have more terrain variability and steeper slopes. These differences in "habitat" preference should make it easier for the ENF to zone the backcountry, separating uses to reduce conflict, while still providing high-quality recreational opportunities for both

[13] Miller et al. 2017. Does Zoning Winter Recreationists Reduce Recreation Conflict? *Environmental Management*: 59(1), 50-67; https://www.ncbi.nlm.nih.gov/pubmed/27734085. Included as Attachment 5.
[14] These areas are identified, mapped, and described in the Snowlands/Winter Wildlands Alliance scoping comments and alternative submitted in April 2015.
[15] Miller and Vaske 2016.
[16] Olson et al. 2017. Modeling large-scale winter recreation terrain selection with implications for recreation management and wildlife. *Applied Geography*: 86, 66-91. https://doi.org/10.1016/j.apgeog.2017.06.023, included as Attachment 6.

motorized and non-motorized uses. For example, the model shows that snowmobilers prefer flatter terrain than skiers, so not designating steep slopes for OSV use can benefit non-motorized uses while having little impact on motorized recreation opportunities.

In addition, this study highlights where thoughtful spatial zoning may be necessary to reduce and minimize interpersonal conflict. Zoning is most important in areas where both use types overlap (e.g., near access points). The study also highlights the emerging conflict between backcountry skiers and hybrid skiers (those who use snowmobiles to access ski terrain), as hybrid skiers seek out the same terrain as backcountry skiers, but the snowmobiles they use for access lead to the same types of interpersonal conflict that occurs between backcountry skiers and snowmobilers. As hybrid skiing is growing in popularity in the Sierra Nevada, it's crucial that the Forest Service consider this use and how it fits in with traditionally motorized and non-motorized forms of winter recreation in shaping the final OSV plan.

The potential effects indicators that the ENF used to consider how to address recreational use conflict (Table S-2, pages viii-ix) are a good start to identifying possible areas of recreational use conflict. However, it is unclear from this table whether the Forest Service considered how OSV use may impact or cause conflict with non-motorized winter recreation uses in areas that are currently open to OSVs but are also high-value non-motorized recreation areas, such as Van Vleck Bunkhouse area and Carson Pass Corridor South. These areas were previously closed to OSV use, but the relevant forest orders expired – a fact that is not mentioned in the DEIS but could help the public understand why use conflict is an issue in these places.

In addition, on page 57 of the DEIS the Forest Service discusses inventoried roadless areas in the context of high-value non-motorized winter recreation areas. This is puzzling. Although inventoried roadless areas can provide very high-value non-motorized winter recreation experiences, because there are currently no restrictions on OSV use within these areas on the ENF, in general the fact that they are roadless is not a significant consideration for skiers, snowshoers, and snowboarders. Inventoried roadless areas provide significant ecological value and are important for recreation, but winter recreation is more influenced by accessibility, snowpack, and terrain than by the presence or absence of roads. During scoping we identified many high-value non-motorized winter recreation areas on the ENF and highlighted these areas in the Alternative we submitted. The ENF should specifically consider potential conflict in these areas when analyzing the effects of OSV use on non-motorized recreation uses.

The ENF attempts to compare alternatives in this DEIS by quantifying motorized and non-motorized winter recreation opportunities in each alternative and then comparing these figures. This approach is marginally useful and often misleading, as acreage is not necessarily indicative of the quality of recreation experience provided for non-motorized or non-motorized activities. Certain areas of the forest, even in just comparing areas within 5 miles of plowed trailheads, are more valuable for recreationists than others. The TNF's analysis should focus on the quality of the recreation experience – both motorized and non-motorized – over quantity.

Recommendations:

- Do not designate important non-motorized winter recreation areas for OSV use. These areas were mapped and described in the scoping comments submitted by Snowlands Network and Winter Wildlands Alliance in April 2015 and are not designated for OSV use in Alternative 3. They are also described in the next section of these comments.
- Utilize best available science – much of which is conducted by Forest Service scientists with the intent of informing winter travel planning – to inform the OSV area use designation process.

Important human-powered winter recreation areas on the ENF

The following non-motorized winter recreation areas were described in the Alternative we submitted in April 2015 and are not designated for OSV use in Alternative 3. These areas are depicted on the map included with these comments as Appendix A. In order to minimize conflict between OSV use and non-motorized winter recreation uses these areas should not be designated for OSV use. Several of these areas were historically closed to OSVs. When the temporary closure orders lapsed the ENF took no action to renew them, and OSV use has subsequently become established. This change occurred with no public input or intentional planning and should be rectified in this winter travel plan.

Ludlow Hut

Ludlow Hut experiences about 600 registered visitor-nights a year and is occupied every weekend during the winter. To provide visitors to Ludlow Hut a quality winter experience the area around the hut should not be designated for OSV use. The hut's proximity to the Pacific Crest National Scenic Trail to the west and an area closed to OSV use on the adjacent Lake Tahoe Basin Management Area to the east provide further rationale for not designating the area around the hut for OSV use. This area is not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Loon Lake Winter Recreation Area, Van Vleck Closure, and Van Vleck Bunkhouse

These three areas have historically been managed as non-motorized in winter, but the ENF has recently allowed the temporary closures protecting their non-motorized status to lapse.[17] The areas include approximately 20 miles of trails marked and patrolled by the El Dorado Nordic Ski Patrol for the use and enjoyment of skiers and snowshoers. These three areas are very popular with skiers and are unique in that the Loon Lake Chalet and Van Vleck Bunkhouse provide overnight accommodations for the area. The Loon Lake Chalet accommodates 20 overnight visitors, is usually rented on weekends and holidays plus some mid-week times, and is open during the day to the general public on weekends. The Van Vleck Bunkhouse accommodates 6 overnight visitors and has a very high occupancy rate. These areas have historically been closed to OSV use, are not designated for OSV use in Alternative 3, and should not be designated in the final plan.

[17] The 2000 "Triple Threat Map" shows the Van Vleck Closure and Bunkhouse areas managed contiguously with the SPNM area to the east. The designation stipulates that no motorized travel is permitted.

To reduce impacts to OSV recreation, we support designating the road[18] that runs across the west-most dam on Loon Lake to where it exits the Loon Lake Winter Recreation Area for OSV (or OHV) use. Likewise, we would support designating the short stretch of road within the Van Vleck Bunkhouse area as an OSV route in order to provide motorized access to the facility.

Barrett Lake Road

This small area threads between two semi-primitive, non-motorized (SPNM) areas and ends at the boundary to Desolation Wilderness. The two SPNM areas on either side of the road are non-motorized. These areas and the Barrett Lake Road are not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Nordic ski areas north of Highway 50

The two existing Nordic ski areas north of Highway 50 are currently managed for non-motorized recreation and should not be designated for OSV use. They are accessed directly from the Echo Lakes Sno-Park or from the nearby Johnson Pass Road that leads to Echo Lakes. These areas have historical significance for non-motorized winter recreation and the 149-acre parcel adjacent to the Sno-Park contains marked ski and snowshoe trails. These areas are not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Nordic ski area south of Highway 50

This area, which includes Lake Audrain, was historically accessed from the Echo Summit Sno-Park. With the conversion of that Sno-Park to the commercial Adventure Mountain operation, the main access is from the Echo Lakes Sno-Park. We believe that a parking area on the south side of Highway 50 should be available to skiers and snowshoers wishing to explore the backcountry south of Echo Summit, without payment of a large facility use charge. This is one of the most important winter access issues on the ENF. The historical importance of this area to backcountry non-motorized users needs to be appreciated in this winter travel planning process. This area is currently managed for non-motorized recreation and should not be designated for OSV use. This area is not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Highway 50 South

This area knits together the Echo Summit Nordic Area South and the nearby SPNM area to form a contiguous area accessible to backcountry skiers and snowshoers. The road to the microwave towers provides historical access to the ridgetop and farther south including Bryan Meadow. It is also part of the classic Echo-Carson Pass tour and historically has been very popular with non-motorized users engaging the backcountry exploring type of activity.

[18] This road is under the management jurisdiction of El Dorado County and constitutes a designated route through the Forest Service managed lands.

The Sayles Canyon area can be accessed from Highway 50 at the Sayles Canyon Tract, 0.4 mile east of Camp Sacramento. The little parking available here is typically used by the residents of the Tract.

The last part of this area is the part to the south of the SPNM area. This area can be approached by OSVs staging at the 42 Mile Picnic Area and traveling along the Strawberry snowmobile trail, but the snowmobile trail does not enter the closure area, and therefore not designating this area for OSV use does not impact motorized use of the trail.

The Sierra Crest part of the Highway 50 South area is also part of a citizen proposed wilderness area stretching from Highway 50 down to Highway 88, cherished for its wilderness values. Designating this area for OSV use threatens to degrade wilderness character in this area and would squash any hopes of ever seeing this area designated as Wilderness.

This area is not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Carson Pass Corridor North

The Carson Pass Corridor North area has a long historical significance to backcountry non-motorized winter travel. At one time, guided overnight trips to the hut in Meiss Meadow were available, and a one-day, one-way tour from the Big Meadow trailhead at Highway 89 to the Meiss Sno-Park is popular. The Pacific Crest Trail runs from Carson Pass north to Echo Summit in this area.

The southernmost part of this area, which lies between Highway 88 and the ridge to the immediate north, was managed as non-motorized until the Forest Order lapsed and was not subsequently reviewed or renewed by the ENF. Both the Meiss and Carson Pass Sno-Parks prohibit snowmobile staging, which confirms the intent and current practice that this area be limited to non-motorized recreation. This is also the gateway to the popular ski and snowshoe area of the Meiss drainage and beyond.

The part of this area that lies on the ridge to the southeast of Little Round Top includes only one side of the ridgetop; the other side of the ridgetop is part of a non-motorized area on the LTBMU. The ridgetop is notorious for its windswept conditions, and for much of the winter season the soft volcanic rock surface is exposed on much of the ridgetop. When snow is present it is most likely not adequate for OSVs to travel without impacting the underlying soil and low-lying vegetation. Allowing OSVs on the ENF half of the ridge would facilitate trespass onto the closed (LTBMU) part of the ridge and would undoubtedly result in damage to the environment.

The part of this area that lies to the north of Little Round Top is accessed by skiers and snowshoers who choose to traverse the ridgetop or circumnavigate the ridge via Meiss Meadow and Showers Lake. This is a highly popular non-motorized backcountry touring area that has at times been served by the Meiss backcountry hut, and the area still sees substantial use in winter.

The final part of the Carson Pass Corridor North is the area that lies to the north of Highway 88 between Kirkwood Nordic and Martin Meadow. This area is less than one square mile and surrounded by the

Caples Creek Proposed Wilderness, where motorized use is prohibited; it is too small to effectively support motorized winter recreation, and there is no reason to designate it for OSV use.

The Sierra Crest part of the Carson Pass Corridor North area is also part of a citizen proposed wilderness stretching from Highway 50 down to Highway 88, cherished for its wilderness values.

This area is not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Carson Pass Corridor South

The Carson Pass Corridor South was managed as non-motorized until the Forest Order lapsed and was not subsequently reviewed or renewed by the ENF. Both the Meiss and Carson Pass Sno-Parks prohibit snowmobile staging, which confirms the intent and current practice that this area be limited to non-motorized recreation.

The area contains two very important ski and snowshoe destinations: Woods Lake and the Mokelumne Wilderness to the south of the area. Woods Lake is an exceptionally popular tour on a snow-covered road. Winnemucca Lake and beyond, all within the Mokelumne Wilderness, is accessed from Carson Pass through this area and is a very popular destination for skiers and snowshoers. Some visitors combine the two by making a loop first to Winnemucca Lake and then to Woods Lake before returning to the highway. Approximately 3 miles of marked ski and snowshoe trails lie within this area. In addition, on a busy weekend dozens of skiers traverse this area to access alpine slopes on Elephant's Back and the shoulders and chutes of Round Top. This area has become one of the most heavily used places in California for backcountry skiing.

The third part of the Carson Pass Corridor South area is on the south side of Highway 88 near Martin Meadow. This area has limited staging. This area draws skiers of all abilities because it can be combined with visiting Castle Point on the north side of the highway and contains some of the best, easily accessible, powder snow along the Highway 88 corridor.

This area is not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Anderson Ridge

The Anderson Ridge area contains approximately 13 miles of marked ski and snowshoe trails. This trail system was developed by volunteers with the permission of the Forest Service.

Currently no quality access exists along Highway 88 for snow play. A landing area, 0.2 mile from Highway 88 at Foster Meadow Road, has the potential to be an excellent Sno-Park and could serve snow play on the adjacent slopes as well as being the trailhead for the Nordic trail system in the Anderson Ridge area. Thus the Anderson Ridge non-motorized area can serve two distinct communities: human-powered backcountry traveler and family snow play.

The local snowmobile club had in the past agreed to foster this area for non-motorized winter recreation, and the ENF posted signs at two locations asking snowmobilers not to enter the area; unfortunately, compliance with the voluntary closure was not good. This OSV plan is an opportunity to formalize the closure and minimize conflict between recreational uses in this area.

In several locations, the Anderson Ridge trail system shares the snow-covered roads with the Silver Bear Snowmobile Trail, but the non-motorized area described here does not include any of these roads. Due to the proximity of the motorized and non-motorized trail systems here, it is important that the OSV area boundary be delineated specifically and accurately. To that end, it is important that the western boundary of the non-motorized area be located on the eastern side of the Silver Bear Snowmobile Trail from where the Trail is closest to Highway 88 (approximately 0.5 mile from Highway 88) until the boundary of the non-motorized area leaves the Silver Bear Snowmobile Trail at Forest Road 9N14d.

This area is not designated for OSV use in Alternative 3 and should not be designated in the final plan.

Other Non-Motorized Areas

In addition to the areas described above, there are several existing non-motorized areas on the ENF that should not be designated for OSV use. These areas are non-motorized per Forest Plan direction and include semi-primitive high country areas, the Caples Creek Recommended Wilderness Area, and several research natural areas and special interest areas. Many of these areas contain high-value backcountry ski zones, including Ralston Peak and Shaelor Lakes.

Pacific Crest Trail

We support the Pacific Crest Trail management outlined in Alternative 2. No area within 500 feet of the trail would be designated for OSV use. Two trails each 0.5 miles in length crossing the PCT would be designated to allow OSVs to travel between the areas on either side of the PCT.

Recommendations:

- Manage the Pacific Crest Trail as described in Alternative 2
- Do not designate the important non-motorized areas listed above for OSV use (see descriptions above, and GIS files submitted along with our scoping comments and alternative in 2015 for exact locations of these areas)
- Continue to prohibit OSV use within existing non-motorized areas

Designated OSV Areas

The OSV Rule requires each National Forest unit with adequate snowfall to designate and display on an OSV use map a system of areas and routes where OSVs are permitted to travel; OSV use outside the designated system is prohibited.[19] Thus, rather than allowing OSV use largely by default wherever that use is not specifically prohibited, the rule changes the paradigm to a "closed unless designated open"

[19] 36 C.F.R. §§ 212.81, 261.14.

management regime. This paradigm shift entails significant changes in how snowmobiles are managed on National Forest lands. Forests must apply and implement the minimization criteria when designating each area and trail where OSV use is permitted,[20] not as a means of justifying existing management. Any areas where cross-country OSV use is permitted must be "discrete, specifically delineated space[s] that [are] smaller . . . than a Ranger District" and located to minimize resource damage and conflicts with other recreational uses.[21] The minimization criteria must come first, followed by drawing lines on the map. We have already discussed minimization in these comments; now, we turn our attention to the second step – determining the actual boundaries of OSV use areas.

The ENF should designate areas for OSV use where that use makes practical sense – areas that have the terrain, vegetation cover, and snowpack to allow for OSV travel. Doing so is an important component of complying with the OSV Rule's "closed unless designated open" requirement. The ENF must be able to justify the boundaries and locations of OSV areas, and there is no justification for designating places that don't support OSV travel. Common sense instructs the Forest Service not to designate areas or routes for motorized recreation in places where there is no demand or need. The DEIS repeatedly notes that most OSV use in the ENF is on groomed OSV routes and that there is little-to-no use of OSVs more than 1.5 miles from an OSV trail.[22] Accordingly, there appears to be little reason for the ENF to designate the vast majority of the forest as open to OSVs. It appears that the ENF has elected to designate areas as open to OSVs on its own confidence that OSV use will nevertheless be extremely limited or non-existent beyond the designated route system. Such rationale is contrary to the minimization criteria and the winter travel management rule, which require designation of areas as open to OSVs only where and when appropriate.

We encourage the ENF to better utilize the use analysis model described in the DEIS. In general, OSV area designations should be located in areas with moderate to high quality OSV use opportunities. In order for the public to understand better the OSV use potential for areas designated in each alternative, the FEIS should include a map that overlays the use assumptions map with each alternative.
The ENF should approach the OSV designation process in a series of steps. First, it should identify areas that should not be designated for OSV use: sensitive wildlife habitat, areas adjacent to the PCT, the important non-motorized areas described above, or other areas where the public has identified conflicts with potential or existing OSV use. Next, the ENF should consider where on the forest there is enough snow to support winter recreation. Based on these initial steps, the ENF can identify the areas on the forest where OSV use is appropriate. Finally, the ENF should identify and locate the exact locations for OSV areas using topography and other obvious physical features on the ground to create easily identifiable and enforceable boundaries. The ENF should go through a similar process when designating OSV routes. The end result of this process should be designated OSV routes and areas that are justifiable and located in a manner that minimizes impacts, per the minimization criteria.

[20] 36 C.F.R. §§ 212.81(d), 212.55(b).
[21] 36 C.F.R. §§ 212.1, 212.81(d), 212.55(b).
[22] See, for example, DEIS pages 40-41

Once again, the ENF should not designate an area open to OSV use that is larger than a ranger district, as this is prohibited by the OSV Rule. This includes not designating areas that are adjacent to each other when, combined, they are larger than a ranger district.

Amador OSV Area

Most of the OSV use on the ENF occurs in the Amador OSV Area, and it makes sense to focus OSV designations in this area. However, within this area there are several important non-motorized recreation areas that should remain and be protected with non-motorized designation: Anderson Ridge, Carson Pass Corridor North, and Carson Pass Corridor South. The southernmost part of the Carson Pass Corridor North and all of the Carson Pass Corridor South were managed as non-motorized until the forest order lapsed and was not subsequently reviewed or renewed by the ENF. Both the Meiss and Carson Pass Sno- Parks prohibit snowmobile staging, which confirms the intent and current practice that this area be limited to non-motorized recreation. This is also the gateway to the popular ski and snowshoe area of the Meiss drainage and beyond. These areas should NOT be designated for OSV use. In addition, unless the ENF can adequately explain and justify why it is necessary to designate low elevations (below 5,000 feet) in the western part of this area for OSV use, these areas should not be designated. However, it may be possible to designate an area that is a compromise between Alternatives 2 and 3 – not designating any of the important non-motorized areas listed above but expanding the designated area beyond what is provided for in Alternative 3.

Georgetown OSV Area

This area should not be designated for OSV use in the selected alternative. It receives minimal snowfall, no marked OSV trails currently exist in the area, and it is not considered conducive for OSV use.

We see no reason to justify designating this area as open for OSV use. Designating this area as open (even if only when there is more than 12 inches of snow) provides very little to no OSV recreation benefit but increases the Forest Service's management responsibilities. If the area is shown as open on the OSVUM the Forest Service will have to determine when minimum snow depth is or is not present and patrol for OSV use when there is insufficient snow. Designating an area as open on the OSVUM will likely attract use to the area if and when it snows, even if the snowmobiling opportunity is sub-par and the possibility of resource impact high.

Pacific OSV Area

This area currently receives low OSV use[23] yet contains very important non-motorized winter recreation areas: Van Vleck and Ludlow Hut. Alternative 3 proposes a compromise for the Van Vleck area in which the Van Vleck area would be closed to cross-country OSV use, yet the road to the bunkhouse would be a designated OSV route so that OSV users can continue to access and use the bunkhouse. This would be in keeping with the condition prior to the Forest Service allowing the forest order for the area to expire. It is only reasonable that the Selected Alternative reinstate the historic closure and not designate this area for OSV use.

[23] DEIS page 7

It is only reasonable that the Selected Alternative reinstate the historic closures and not designate these areas for OSV use. In addition, the Barrett Lake Road is a small motorized corridor between two otherwise non-motorized (per the forest plan) areas. Not designating this small area for OSV use will help ensure that OSVs do not trespass into the Desolation Wilderness. In addition, unless the ENF can adequately explain and justify why it is necessary to designate low elevations (below 5,000 feet) in the western part of this area for OSV use, these areas should not be designated. However, it may be possible to designate an area that is a compromise between Alternatives 2 and 3 – not designating any of the important non-motorized areas listed above but expanding the designated area beyond what is provided for in Alternative 3.

Placerville OSV Area

As with the Pacific OSV Area, much of the Placerville OSV Area receives little OSV use but contains all or part of the following important non-motorized recreation areas which should NOT be designated for OSV use: Carson Pass Corridor North, Highway 50 South. The nearby developed ski areas (Nordic and alpine) draw skiers to this area, as does the easy access to snow afforded by Highway 50 and Carson Pass. In addition, unless the ENF can adequately explain and justify why it is necessary to designate low elevations (below 5,000 feet) in the western part of this area for OSV use, these areas should not be designated.

It may be possible to designate an area that is a compromise between Alternatives 2 and 3 – not designating any of the important non-motorized areas listed above but expanding the designated area beyond what is provided for in Alternative 3.

Recommendations:

- The FEIS should include a map that overlays the use analysis model with each alternative.
- Designated areas, including the combined size of adjoining areas, must be smaller than a ranger district.
- The Selected Alternative should not designate areas with low/no OSV use, including any parts of the Georgetown OSV Area.
- The Selected Alternative should not designate any of the Important Non-Motorized Recreation Areas identified by Snowlands Network and Winter Wildlands Alliance.[24]
- The ENF should consider possible compromises between alternatives 2 and 3 that would not designate Important Non-Motorized Areas or low elevation areas that don't receive snow, but would designate larger areas for OSV use than what is proposed in Alternative 3.

[24] See maps and area descriptions in the scoping comments and Alternative submitted by our organizations in April 2015

Designated OSV Trails

It is not apparent from the DEIS that the ENF considered the minimization criteria in advance of designating OSV routes in each alternative. Indeed, considering that the groomed routes in each alternative are identical and do not vary from the status quo, it seems extremely unlikely. We understand that the mitigation measures listed in Appendix B are intended to address the minimization criteria, but this approach is problematic. Listing mitigation measures instead of demonstrating how trails have been located with the objective of minimizing impacts does not comply with the OSV Rule's requirements.

Our review of the DEIS left us with several questions and concerns regarding how designated routes in the different alternatives may or may not comply with the minimization criteria. The DEIS does not demonstrate that OSV routes have been *located* to minimize impacts, it merely lists the adverse effects of OSVs using particular trails and steps the Forest Service might take to mitigate these adverse effects under Alternative 2. The DEIS does not explain what mitigation measures, if any, would be implemented for alternatives 3 and 4, although we assume the mitigation measures would be consistent across alternatives.

The DEIS shows that the Silver Bear trail system will pass within a quarter mile of northern goshawk and California spotted owl nesting sites. According to Appendix B the Forest Service will monitor for disturbance to these nest sites and implement management changes if disturbance from OSV use is detected. The DEIS does not include a monitoring plan, nor does it explain what sort of management changes might be implemented. The FEIS should include detailed monitoring plans for all species that the Forest Service believes OSVs have the potential to disturb. The FEIS should also clearly articulate what actions the ENF will take if disturbance is detected.

Recommendations

- The FEIS must explain how OSV routes in each alternative have been *located* to minimize impacts.
- The FEIS should include detailed monitoring plans for all species that the Forest Service believes OSV use on designated routes has the potential to disturb and clearly articulate what actions the ENF will take if disturbance is detected.

The DEIS Does Not Consider a Full Range of Alternatives

The DEIS does not consider a full range of alternatives. Regardless of whether it is referred to as a "no action" or "baseline" or "non-motorized emphasis" alternative, the EIS should include an alternative under which no areas or routes would be designated as open to recreational OSV use, or at least an alternative that considers a scenario where OSV use is restricted comparable to current restrictions on

wheeled vehicle use.[25] This alternative is necessary to provide an accurate comparison for analysis of the impacts associated with all of the area and route designations made in this winter travel plan—including those allowing continued OSV travel on existing routes. Unlike in a typical NEPA analysis where the no action alternative provides the baseline for comparison, the no action alternative for most winter travel planning efforts reflects a current management status quo that is contrary to the Forest Service regulations requiring a closed unless designated open regime.

This lack of baseline is similar to the situation in *Western Watersheds Project v. Abbey*, in which the Ninth Circuit overturned a BLM NEPA analysis that failed to analyze an alternative that would eliminate grazing in the Upper Missouri River Breaks National Monument.[26] Where both the no action and action alternatives permitted continued grazing, the court found the agency was "operating with limited information on grazing impacts," in violation of NEPA.[27] Likewise, in *New Mexico ex rel. Richardson v. Bureau of Land Management* the Tenth Circuit invalidated a NEPA analysis that failed to analyze an alternative that would close the entire area to oil and gas development because, "[w]ithout substantive, comparative environmental impact information regarding other possible courses of action, the ability of an EIS to inform agency deliberation and facilitate public involvement would be greatly degraded."[28] Here, an alternative that designates no areas or routes for OSV use is necessary to facilitate a fully-informed decision regarding the impacts of each action alternative.

While we are not suggesting that the ENF must adopt such a restrictive alternative, consideration of such an alternative is necessary for a robust analysis. With the current DEIS the ENF has not fulfilled its obligations under either NEPA or the winter travel management rule. The requirement to consider a full range of alternatives is also set forth in the Settlement Agreement, and thus the ENF has also failed to fulfill its obligations under the Settlement Agreement. As the DEIS is currently written, there are very few differences between 3 out of 4 alternatives, as is evidenced in the various tables throughout the DEIS where one is supposed to be able to compare how each alternative affects different resources. In almost every table each column is identical, making a comparison between alternatives, or robust analysis of any single alternative, nearly impossible.

It is our understanding that The Wilderness Society submitted detailed scoping comments outlining specific conservation concerns, and that these comments were submitted in the form of a proposed alternative. However, we see nothing in this DEIS that reflects those comments or those from other conservation interests. An alternative that considers conservation values could be similar to the LNF's current restrictions on wheeled vehicle use: it would designate specific routes for OSV travel that do not interfere with non-motorized recreation and would designate extremely limited areas where OSV travel is permitted cross-country. Such an alternative might have strong reasons for adoption as the preferred

[25] Specifically authorized or permitted OSV uses to, for example, access valid existing rights would still be allowed. *See* 36 C.F.R. § 212.81(a) (describing exempted uses).
[26] *Western Watersheds Project v. Abbey*, 719 F.3d 1035 (9th Cir. 2013).
[27] *Id.* at 1050-53.
[28] *New Mexico ex rel. Richardson v. Bureau of Land Management* 565 F.3d 683, 708-11 (10th Cir. 2009).

alternative and, moreover, would demonstrate that Alternative 3, in fact, strikes a fair balance between over-snow motorized and non-motorized recreation.

In most forests across the country, including on the ENF, cross-country OSV travel has been allowed by default across vast portions of the national forests, with the associated impacts never being subjected to a thorough NEPA analysis or application of the minimization criteria. The NEPA analysis for the travel plan must analyze – and minimize – the impacts of designations that allow continued OSV travel in those areas. Similarly, the Forest Service must analyze and minimize impacts associated with designating existing OSV routes that have not previously been subject to NEPA or the minimization criteria. To facilitate this required analysis and comply with NEPA, the EIS must include an alternative under which few, if any, areas and limited routes would be designated as open to recreational OSV use.

Recommendations:

- Revise the DEIS to include at least one additional alternative that emphasizes wildlife habitat and wildland protection

Alternative 3 is the Alternative Best Supported by the Analysis in the DEIS

Alternative 3 meets the desired conditions better than the other alternatives because it best addresses the minimization of conflict between non-motorized and motorized users and provides enhanced protection to the environment without significantly impacting non-motorized recreation opportunities. Throughout the DEIS, the ENF acknowledges the impacts of OSV recreation, the incompatibility of OSV recreation with non-motorized recreation, the importance of non-motorized recreation,[29] and the resulting importance of confining OSV impacts so that non-motorized recreationists can obtain the experiences they seek.[30] The DEIS acknowledges that the additional closures included in Alternative 3 would improve recreation opportunity for non-motorized winter recreation users[31] with no substantive impact to the recreational experience of motorized users.[32] The DEIS also concludes that the closures included in Alternative 3 will not result in a negative socioeconomic impact[33] and will not reduce snowmobile tourism or overall recreation opportunity. On the contrary, Snowlands and WWA believe that the additional restrictions included in Alternative 3, by significantly increasing non-motorized

[29] National Visitor Use Monitoring data indicate that demand for just one type of non-motorized winter recreation – cross-country skiing – has in the past substantially exceeded demand for snowmobiling. See DEIS at p. 52. These numbers do not appear to include the types of non-motorized winter recreation that are seeing the most dramatic growth in recent years: snowshoeing and backcountry alpine skiing.
[30] For example, DEIS page 53
[31] DEIS page 253
[32] Because the majority of OSV recreation on the ENF occurs on the Silver Bear trail system, and Alternative 3 would designate this trail system as-is, Alternative 3 does not change this element of OSV use on the forest. Likewise, Alternative 3 only designates 11,600 fewer acres of high-moderate use OSV terrain than Alternative 2.
[33] DEIS at page 253

recreation opportunity, will provide *increased* socioeconomic benefits, given current trends in recreation demand.[34]

The DEIS notes that the great majority of OSV recreation on the forest is on the Silver Bear OSV trail system, and Alternative 3 does not close any of these trails. The additional restrictions imposed by Alternative 3 are important to non-motorized recreationists and relatively unimportant to motorized recreation opportunity. Other than stating that Alternative 3 designates fewer acres for OSV use than the other alternatives, the DEIS does not indicate a single respect in which keeping the important non-motorized areas we've identified open is important to motorized recreation opportunity. However, prohibiting OSV use in these areas would restore historically non-motorized skiing opportunities and protect existing high-value non-motorized recreation areas. Alternative 3 clearly meets the mandate to minimize conflicts between uses better than the other alternatives, including the Proposed Action. It also meets the mandates to minimize impacts to wildlife and other forest resources far better than any of the other alternatives.

Alternative 3 is preferable in several significant respects to Alternatives 1, 2, and 4.

Alternative 1
The Forest Service must reject Alternative 1 as it does not comply with the purpose and need of this project, nor does it comply with the OSV Rule.[35]

Alternative 2 (The Proposed Action)
Alternative 2 fails to comply with the OSV Rule: it does nothing to minimize conflicts between uses, nor does it adequately meet the other aspects of the minimization criteria. It also fails to present a management plan wherein the ENF is closed to OSVs except in designated areas. While the ENF proposes 4 "designated areas" these are little more than the entirety of the forest, minus those areas that are currently closed or should be closed per the Forest Plan. The 4 OSV areas designated in this alternative are not "discrete, specifically delineated space[s]" nor are they *located* to minimize resource damage and conflicts with other recreational uses.[36] The OSV areas are simply ENF ranger districts, which have little or no relation to the actual areas designated for OSV use. Alternative 2 presents a management plan in which the ENF would be open to OSVs except in areas where OSV use is prohibited. Although the ENF attempts to camouflage this by referring to the majority of the forest as "designated areas" it is clear that Alternative 2 (and 4) violates the OSV Rule in much the same way that the Lassen National Forest's Alternatives 2 and 4 violated the OSV Rule in that forest's initial DEIS. Due to this fact, the Lassen had to issue a revised DEIS that presented alternatives that complied with the OSV Rule. The revised Lassen DEIS also had to include a new, conservation-focused, alternative to expand the range of alternatives because the range of alternatives in the original Lassen EIS was insufficient.

[34] See Snowlands/WWA scoping comments.
[35] DEIS at p. 15.
[36] 36 C.F.R. §§ 212.1, 212.81(d), 212.55(b).

The Lassen was intended to be a model for other forests in Region 5 to follow in OSV travel planning. As such, when the Forest Service requested we modify the Settlement Agreement deadlines we agreed not only to give the Lassen time to revise its EIS as described above, but also to provide additional time for the Tahoe, Eldorado, Stanislaus, and Plumas to ensure their alternatives and analyses did not repeat the same mistakes the initial Lassen DEIS contained. The Tahoe DEIS followed through on that expectation, and we are disappointed to see that the Eldorado DEIS did not.

While we appreciate that Alternative 2 would formalize existing temporary closure orders and bring winter travel management into compliance with the Forest Plan, Alternative 2 is unacceptable in many respects. Chief among the reasons we cannot support Alternative 2 are that:

1. It fails to recognize historic non-motorized areas such as Van Vleck, Woods Lake and others in the Carson Pass area that were previously managed as non-motorized but the ENF considers open today because it let the relevant closures lapse. Snowlands Network has been working for many years to get the ENF to re-issue these closure orders.
2. It designates OSV use in areas with designated and managed ski trails – including Anderson Ridge and Carson Pass.
3. It designates the vast majority of the forest for OSV use despite the fact that OSV activity accounts for a miniscule amount of the winter recreation use on the ENF. Similarly, Alternative 2 protects very few areas for non-motorized winter recreation use despite the fact that non-motorized winter recreation visits to the ENF are several orders of magnitude more common than OSV visits. [37]
4. It proposes to manage the forest as open to OSVs with the exception of a few small areas that are already closed or should be closed to comply with the Forest Plan. The OSV Rule requires the ENF to manage the forest under a "closed unless designated open" paradigm.
5. It designates extensive areas below 5,000 feet in elevation for OSV use even though the Forest Service acknowledges that these areas rarely get sufficient snow for OSV use, OSV use is low to non-existent in these areas, and the OSV Rule requires forests to designate areas and trails for OSV use in places that get sufficient snow.[38]
6. It designates OSV areas that are not distinct from each other and combined are larger than a ranger district.
7. It designates lands within the Georgetown OSV area for OSV use despite the fact that this area rarely gets sufficient snow for OSV use, OSV use is low to non-existent in this area, and the OSV Rule requires forests to designate areas and trails for OSV use in places that get sufficient snow.[39]

[37] DEIS pages 51-53

[38] 36 C.F.R. §212.81(a): "OSV use on NFS roads, on NFS trails, and in areas on NFS lands must be designated by the Responsible Official on administrative units or Ranger Districts, or parts of administrative units or Ranger Districts, where snowfall is adequate for that use to occur and, as appropriate, must be designated by class of vehicle and time of year."

[39] DEIS page 7

Alternative 2 fails to meet the purpose of the OSV Rule and does not comply with the Rule's requirements. The Forest Service must not adopt Alternative 2 as the Preferred Alternative.

Alternative 4

We respect our motorized counterparts' right to submit an alternative of their design just as we did. However, we are disappointed that their alternative is little more than a snowmobile wish list, with no regard for other uses on the forest. Alternative 4 is untenable for several reasons. As with Alternative 2, Alternative 4 continues to allow OSV use across the vast majority of the ENF with little regard for how this use may impact other uses, natural resources, or wildlife. Furthermore, Alternative 4 proposes to amend the Forest Plan to allow OSV use in existing non-motorized areas. Not only is travel planning not an appropriate time to make forest plan amendments of this magnitude, especially considering that the ENF is on pace to begin forest plan revision shortly, amending the forest plan is far more complicated than the DEIS belies.

If the ENF were to proceed with a forest plan amendment, the amendment is subject to the 2012 planning rule provisions at 36 C.F.R. part 219, and not the provisions of the 1982 planning rule under which the current forest plan was developed.[40] In addition, the amendment would need to comply with the amendment provision of the 2012 planning rule, which outlines how to amend forest plans written under the 1982 rule.[41] The proposed plan amendments in Alternative 4 would be directly related to the substantive requirements within §§ 219.8 through 219.11 of the 2012 Rule and therefore the Forest Service must ensure that the amendment satisfies these requirements. These requirements include providing for ecological sustainability by "maintain[ing] or restor[ing]": (a) "the ecological integrity of terrestrial and aquatic ecosystems and watersheds," including "structure, function, composition, and connectivity;" (b) air and water quality, soils and soil productivity, and water resources; and (c) "the ecological integrity of riparian areas," including their "structure, function, composition, and connectivity."[42] Plans must also provide for: (a) "the diversity of plant and animal communities;" (b) "the persistence of native species;" and (c) "the diversity of ecosystems and habitat types."[43] In providing for social and economic sustainability, plans must account for "[s]ustainable recreation; including recreation settings, opportunities, and access; and scenic character."[44] The decision document for the plan amendment "must include . . . [a]n explanation of how the plan components meet [those substantive] requirements."[45]

In addition to its substantive provisions, the 2012 planning rule prescribes the process for a plan

[40] 36 C.F.R. § 219.17(b)(2) (following a 3-year transition period that expired May 9, 2015, "all plan amendments must be initiated, completed and approved under the requirements of this part").
[41] 36 C.F.R. § 219, https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd527654.pdf
[42] 36 C.F.R. § 219.8(a).
[43] 36 C.F.R. § 219.9.
[44] 36 C.F.R. § 219.8(b)(2).
[45] 36 C.F.R. § 219.14(a)(2).

amendment: The process for amending a plan includes: Preliminary identification of the need to change the plan, development of a proposed amendment, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed amendment, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan amendment. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects.[46] All of these 2012 planning rule prescriptions would need to be complied with if the ENF chooses to adopt the proposed plan amendments in Alternative 4.

The DEIS does not explain how any of the OSV use areas in Alternative 4 have been located to meet the minimization criteria. The Forest Service must designate OSV use areas based on these criteria and not merely allow OSV use everywhere except where expressly prohibited by law — to do otherwise, as proposed in Alternative 4, is in direct contravention of the OSV Rule.[47]

Alternative 4 fails to meet the purpose of the OSV Rule and does not comply with the Rule's requirements. In addition, the only respects in which Alternative 4 significantly differs from Alternatives 1 and 2 is that it proposes to amend the forest plan to expand OSV recreation on the ENF above the already very high baseline of 75% of the forest open to OSV use. The Forest Service must not adopt any part of Alternative 4 as the Preferred Alternative.

In submitting Alternative 4 asking that most of the forest be designated open to OSV use, the authors have failed to identify areas of importance to OSV users. Without this, the Forest Service has no way of determining which areas should be designated for OSV use as part of a viable system of routes and areas for motorized recreation. In asking for everything, Alternative 4 asks for nothing, and leaves it up to the Forest Service to determine which areas are important for OSV recreation.

Finally, we are concerned by the bias apparent in this DEIS against Alternative 3 and non-motorized recreation. In describing Alternative 3 the DEIS frames the discussion as one of taking away OSV opportunity even though the vast majority of un-designated areas in Alternative 3 are areas with low or no OSV potential. The DEIS also states that designated OSV areas provide a variety of opportunities for motorized and non-motorized users, while areas that are not designated are just for non-motorized uses. This ignores the fact that OSV use displaces non-motorized users, essentially closing high-use OSV areas to non-motorized uses. The DEIS also fails to recognize that many of the areas not designated for OSV use in Alternative 3 would still be open to wheeled motorized recreation in accordance with the MVUM. They are not purely non-motorized areas. A more balanced and fair discussion and comparison of alternatives would consider and compare in more detail the number of acres of high value OSV area open to OSVs in each alternative. In general, the DEIS analysis should focus on how many acres of moderate to high-value OSV areas are designated in each alternative rather than the number of acres "lost" to OSVs.

[46] 36 C.F.R. § 219.5(a)(2)(ii); *see also id.* § 219.13(b)(1) (explaining that "[t]he responsible official shall . . . [b]ase an amendment on a preliminary identification of the need to change the plan").
[47] This criticism, as noted previously, applies to the entire DEIS.

Recommendation:

- Select Alternative 3 as the preferred alternative and final plan

Climate Change

It is well documented that climate change is leading to a reduced snow season in the Sierra Nevada. Not only is the season getting shorter, the physical footprint of where snow occurs is shrinking.[48] This means that in the future winter recreationists will have less space in which to recreate. Even in the high Sierra, where climate impacts are projected to be less severe than other locations, scientists predict that the snow season will decrease by at least 20 percent by 2050.[49] This change is already happening. As we've already discussed in these comments, recent research in the Tahoe region reveals that snow accumulation is now occurring 3 weeks later than it did just 10 years ago, and the average winter snowline has moved significantly uphill.[50]

Climate change and accompanying changes in snow accumulation and snowpack on the ENF will have significant repercussions for winter recreationists. As the total acreage covered by deep snow decreases there will be less space for recreationists to spread out to avoid conflict. Likewise, as traditional winter trailheads lose snow cover for all or part of the traditional winter season, use patterns will change.

The ENF winter travel plan should be forward-looking and proactively address the conflict and access issues predicted to occur as snowpack continues to retreat.

Recommendations:

- Do not designate low elevation areas (below 5,000 feet) for OSV use.
- Include a minimum snow depth restriction of at least 12 inches for OSV use on the forest.
- Make thoughtful designations based on quality of experience and minimization criteria rather than numbers of acres.

Economic Impacts

According to the ENF's visitor use monitoring surveys and the DEIS, significantly more winter visitors to the ENF engage in cross-country skiing than in snowmobiling. In addition, OSV registrations in California are on the decline. For these reasons, we find it curious that the economic impact section in the DEIS does not include details on the economic benefits of non-motorized winter recreation on the ENF. In

[48] Wobus et al. 2017. Projected climate change impacts on skiing and snowmobiling: A case study of the United States. *Global Environmental Change* 45 (2017) 1–14. https://www.sciencedirect.com/science/article/pii/S0959378016305556. Included as Attachment 7.
[49] *Id.*
[50] Hatchett et al. 2017. Winter Snow Level Rise in the Northern Sierra Nevada from 2008 to 2017. *Water*: *9*(11), 899; https://doi.org/10.3390/w9110899.

fact, non-motorized winter recreation is a primary factor in the region's winter economy and a key piece of the economic puzzle. The DEIS concludes that alternatives 3 would not measurably decrease OSV visitation to the ENF and therefore would not change the economic picture relative to today. However, if the DEIS more fully considered the economic benefits of non-motorized recreation it might also conclude that improving recreation opportunities for skiers and snowshoers, and minimizing user conflict, as Alternative 3 does, would significantly benefit the region's economy.

Concluding Thoughts

To address the concerns and issues we've raised in these comments we believe the ENF has no choice but to withdraw this DEIS and issue a revised DEIS that includes a broader range of alternatives and a granular analysis of OSV impacts across the forest. Short of doing so, however, the ENF must select Alternative 3 as its Preferred Alternative. Alternative 3 is the only alternative in the DEIS that minimizes conflict between OSV use and other recreational uses, minimizes OSV impacts to wildlife and other natural resources, and designates specifically delineated – and justifiable - areas for OSV use.

Sincerely,

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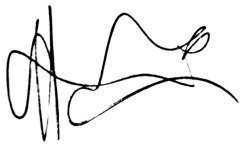

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