



July 29, 2014

U.S. Forest Service
ATTN: Joseph Adamson
Recreation, Heritage, and Volunteer Resources Staff
1400 Independence Avenue SW, Stop 1125
Washington, D.C. 20250-1125

RE: Over the Snow Travel Rule
(Fed Reg 2014- 14273)

Dear Mr. Adamson;

Please accept this correspondence as the comments of the Off-Road Business Association ("ORBA") and the California- Nevada Snowmobile Association ("CNSA") with regard to the proposed Winter Travel Management Rule ("The Rule"). Prior to addressing the specific comments regarding the Rule, a brief summary of each Organization is needed. ORBA is a national not-for-profit trade association of motorized off-road related businesses formed to promote and preserve off-road recreation in an environmentally responsible manner and appreciates the opportunity to provide comments on this issue. CNSA represents all snowmobilers throughout California and Nevada to promote safety and good will for the snowmobile community and provide a voice for the individual snowmobiler in all matters relating to the sport of snowmobiling. For purposes of these comments, ORBA and CNSA will be referred to as "the Organizations" .

Executive summary of comments.

1. The Organizations support the Rule with the minor modifications noted below;
2. The Rule provides a science based management structure and recognizes the significant NEPA/CEQA based efforts many forests have already taken in the management of winter travel, which remain valid regardless of travel management rule changes;

3. The Rule recognizes the significantly different nature of winter travel provided in the eastern portions of the Country to those that are provided in the Western United States;
4. The Rule properly recognizes that open riding areas for winter travel in the Western United States are significantly larger and more frequent than summer open riding areas due to different regulatory concerns being managed and significant snowfalls that many areas in the west receive;
5. The flexible implementation schedule is necessary to avoid many of the pitfalls encountered in the summer travel process;
6. The Organizations propose that the definition of an over the snow vehicle must be broader in scope to clarify application of the Rule to all vehicles used in over the snow travel;
7. The Organizations support management based on minimum snowfall requirements, which are superior management standards for triggering winter travel management than hard dates; and
8. The Rule retains local control of many issues and decisions, which best available science has concluded are most effectively managed at the local level.
9. The Rule's preservation of local decision making authority is needed address several California specific issues such as CEQA analysis of grooming and snowpark activities and to address statutory mandates such as the Tahoe Regional Planning Association and Sequoia National Monument.

1. Background.

The Organizations have a long and strong history of working with the USFS land managers throughout California and Nevada to provide grooming and maintenance of approximately 2,500 miles of winter multiple use routes since the late 1970s in partnership with the USFS and California OHV registration program; maintains numerous backcountry warming huts and 18 winter parking facilities in partnership with CalTrans, under the Snowpark program. The groomed route network on USFS lands is provided to the public free of charge and is the primary means of access for both motorized and non-motorized users seeking backcountry winter recreational opportunities. This groomed route system, backcountry facilities and grooming equipment provides a significant safety resource for all users of the backcountry, as this route system is the primary means of access to emergency responders, and removal of those that have been injured in the backcountry. Facilities such as backcountry warming huts and yurts provide geographic land marks for search and rescue efforts in areas that are often lacking these spots. The Organizations are also partners with the CalTrans for development, management and operation of 21 SnowPark facilities throughout the region, which play a critical role in access to many winter recreation areas.

As a result of the long time partnerships between USFS land managers in the California/Nevada planning area and the Organizations, the Organizations have significant experience with the winter travel management process. Numerous forests in the California/Nevada region have undertaken winter planning for either relevant portions of the forests or the forest planning area in its entirety. Some of this planning has been highly visible, such as that undertaken the Lake Tahoe basin and surrounding area. The Organizations would note that winter planning in the Lake Tahoe basin is now opening the collaborative process in order to develop a new winter plan for this area.

Our comments will be directed toward concerns for forests where winter travel management is an issue, as the Organizations believe that Forests that never receive snow will undergo a very simple and straight forward review of winter travel as they do not receive snow consistently, if at all. It is the Organizations intent to provide the benefit of some of our experiences with the winter travel planning process in these comments, both with regard to the Rule and to address issues that may be encountered in implementation of the Rule. A smooth rollout of the revised Rule will insure that the high quality winter recreational opportunities provided on public lands continue to be provided next winter and that the Idaho Court's decision that essentially made much ado out of nothing rapidly fades into the past.

The Organizations must note that the California/Nevada planning area provides several concrete examples of issues and management requirements that can only be resolved at the local level including; the CEQA review process, required by California statute, that addresses a far more broad scope of activity and possible impacts than NEPA alone; the relationship of USFS management with the Tahoe Regional Planning Agency; and winter motorized travel in the Sequoia National Monument. The Organizations vigorously assert these are issues that would be poorly suited for management at the national level or with an overly broad national rule.

2. The Rule properly continues application of winter travel management decisions that have been adopted.

The Organizations vigorously support the determination in the Rule that existing winter travel management decisions must not be disturbed and the Organizations would be **vigorously** opposed to any attempts to reset or in any way alter winter travel management decisions that are currently in place. While the winter portions of the travel management rule may have been struck down by the Idaho court, the USFS general planning authority for resources undertaken pursuant to NEPA/CEQA remains a valid and legally sufficient basis for carrying current

management decisions forward. Many of these NEPA/CEQA decisions directly address winter travel issues.

The Organizations have been active partners in the development and implementation of winter travel decisions in the California/Nevada planning area since our grooming activities started in the late 1970's. As a result of this partnership, that is now approaching 40 years in length, the Organizations can confirm that management of winter recreation was occurring under USFS general NEPA/CEQA jurisdiction for resource management well before issuance of the 2005 Travel Management Rule. This management was more formalized in some areas than other but all decisions were identifying areas where snowmobile usage was not restricted to trails, areas where usage was restricted to trails and where snowmobile usage was entirely prohibited. The identification of snowmobile management standards might have been rather simple when grooming activities began such as: identifying groomed routes with special use permits; identification of parking areas and signage; marking boundaries of Wilderness areas and excluding usage from wildlife winter ranges.

These decisions were undertaken pursuant to NEPA/CEQA guidelines and general planning authorities of the USFS and remain valid management prescriptions that would require NEPA/CEQA analysis to alter. While these older resource management plan decisions may not be as technically advanced in the memorialization of boundaries and other restrictions as decisions made more recently, these decisions remain valid applications of general planning authority of the USFS and done under NEPA/CEQA guidelines, outside any changes to winter travel management rule that was addressed in the Idaho Court decision. As such, the Organizations vigorously assert these decisions must be honored and carried forward.

In addition to

3a. The Organizations support adoption of alternative regulatory baselines for over the snow travel.

The Organizations vigorously support the Rule adoption of management of over the snow travel with alternative baselines for management, mainly adopting both a “closed unless designated open” standard and an “open unless closed” standard to be determined at the discretion of the local land managers. The Organizations would be vigorously opposed to any attempts at revision of the Rule to try to move towards an entirely designated route system in the Western United States and the Organizations are equally aware that many eastern United States associations would be vigorously opposed to changes to the closed unless open standards

applied on eastern united states forests for reasons that are entirely unrelated to public lands management. These alternative baselines are critically important in carrying forward existing NEPA/CEQA decisions and effective local management.

As the Rule discusses, winter conditions in the Western United States are significantly different than those that are found in the Eastern United States, both in terms of the type of snow that falls, frequency of snow fall and amounts of snow that are received. This factor weighs exceptionally heavily in maintaining in the open unless closed standards that predominate winter travel management in the western United States. The significantly higher levels of snowfall that many areas in the Western United States receives mitigate any possible impacts to resources on the ground, which is the primary basis for a designated route system in areas that might receive lesser snowfall. The levels of resource protection provided by the large snowfall are common place in the Western United States and weigh heavily in winter travel management based on large open areas. It has been the Organizations experience that many winter motorized users are shocked when they visit large winter play areas in the summer for the first time. Their shock results from many of these large play areas being boulder fields in the summer and completely unrideable.

The Organizations are also aware that there are significantly different recreational cultures of snowmobile usage and supporting resources between western United States, where snowmobile usage occurs primarily on public lands, and Eastern United States, where snowmobile recreation occurs primarily on private lands with negotiated rights of way that have been obtained by snowmobile clubs. This cultural factor for the snowmobile community factor weighs heavily in many eastern associations desire to maintain a designated route system with only small open areas but is completely irrelevant to the Western United States.

The Organizations vigorously assert that USFS winter travel planning guidance documents and maps issued at the local level **must** clearly and boldly state if the local area is using a "closed unless open" standard or an "open unless closed" standard to avoid confusion of users. This must be clearly provided in each locality to avoid confusion of users who may be on vacation or otherwise unfamiliar with local regulations and in good faith have applied the wrong baseline for management.

3b. The Organizations vigorously support identification that open areas for winter travel are significantly larger than summer designations.

The Organizations **vigorously** support the development of a winter travel specific definition of an "open area" under §212.1 and its recognition that an open area for winter usage is often significantly larger than an open area definition for summer travel management. The Organizations support this decision as the large open areas are a **critical** component of many of the riding areas in the Western United States, and are the real reason that a winter groomed trails, snowpark lots and warming huts for multiple use in the area exists. Any attempts to manage winter travel pursuant to summer boundaries are often of very limited effectiveness in winter conditions, as the summer boundary is often buried under numerous feet of snow and have limited relevance for winter travel management concerns. Posting of arbitrarily small boundaries would be very expensive, difficult and time consuming at local levels in the west simply due to the rapidly changing weather conditions.

The Organizations believe that significant restrictions on large open riding areas in the western United States could have significant unanticipated consequences in terms of user safety. Often mountain passes that are the basis of western riding areas can receive several feet of snow in an afternoon, while lower elevation lands adjacent to the pass never see a flake of snow. With the current large open riding areas in the Western United States, riders are able to avoid areas of groomed trails that might have become drifted across in unexpected storms or heavy wind events or have become blocked by recent avalanches in the area and have not yet been groomed to correct these temporary conditions. These are concerns that an exclusively designated trail system would be poorly suited to address, as most grooming equipment is unable to exceed 10 mph under optimal conditions, there can be a significant delay between a weather event impacting a trail or area and equipment being able to reach these backcountry areas to address these safety issues.

Often these unexpected drifts or avalanche fields can be numerous feet in height and difficult for even the most experienced riders to traverse. The Organizations do not believe the idea of a novice or young rider attempting to drop off a large snowdrifts to stay on the trail presents a safe or desirable scenario for land managers or riders. Large open riding areas allow riders to avoid any localized unsafe conditions and then rejoin the route in an area where the drifts or other safety issues are no longer present, where the worst situation to be encountered. This flexibility of access provided by open riding areas would result in route options being available to riders where largest risk would be getting temporarily stuck rather than the serious injuries that could result from falling off drifts or getting caught in secondary avalanche fields.

3c. Significant negative economic impacts to Western Communities by moving away from large open riding areas that are a cornerstone of the experience.

The Organizations are very concerned that any large scale movement away from current NEPA/CEQA decisions for winter travel management, such as requiring significant restrictions or limitations on the size of winter open area designations and would have serious economic implications to local economies throughout the western United States. While there are trail networks in the riding areas, often these western trail networks are merely a resource for gaining access to the large open riding areas that the Western United States has become famous for. It has been the Organizations experience that while many of the snowmobiles used in the Western United States are exceptionally good in the deep snow found in off trail areas, they are also not well suited for extended trail usage or traveling long distances. Many riders from the western United States simply have no interest in trail riding opportunities, regardless of how developed they may be and are also poorly equipped to trail ride.

Snowmobile recreation is a significant economic driver for many western states and provides \$34 billion in annual economic contribution to the US and Canada.¹ USFS research indicates that motorized winter recreational usage provides a similar per day economic contribution to local communities as downhill skiing.² Economic contributions from winter motorized travel are frequently centered in small communities that might be otherwise economically unsustainable in the winter. Often these local communities have lost more traditional sources of revenue, such as timber and mining revenues, making the community overly dependent on recreational income. The loss of winter motorized revenues could seriously impair these communities ability to provide basic services, such as winter road maintenance and schools, to that community. These impacts must not be overlooked.

The National Park Service experiences with snowmobile usage in Yellowstone National Park provide concrete proof of the negative economic impacts that would accrue to local communities if large open areas were closed in favor of a designated route system in the Western United States. Prior to 2004, snowmobile usage in Yellowstone was an active economic driver for many of the local communities. In 2004, Yellowstone National Park moved to an entirely designated trail system and other significant restrictions on usage, after implementation of these new rules many of these communities adjacent to the Yellowstone

¹ http://www.snowmobile.org/facts_econ.asp

² See, USDA Forest Service; White and Stynes; *Updated Spending Profiles for National Forest Recreation Visitors by Activity*; November 2010 at pg 6.

National Park entrances are now summarized a winter time ghost towns, as other user groups have not been drawn to the Park in sufficient numbers to offset the lost visitation of the motorized community.

Wyoming State Parks recently studied the decline in Yellowstone winter visitation and determined that users simply have no desire to recreate on a designated trail system without the large open areas. This study clearly stated the overwhelming preference of winter motorized users as follows:

Table 6. Have Taken a Snowmobile Trip in Yellowstone National Park

Response	Ever	Since 2004*
Yes	48.1%	3.4%
No	51.9%	96.6%
Total	100.0%	100.0%

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The Organizations vigorously assert that the economic impacts that would result in any movement of existing areas that are managed under an open unless closed standard or closures of existing large winter open areas must be addressed. Motorized winter recreation is a significant economic driver for many western communities and states and it has been conclusively proven by management changes of winter motorized recreation in Yellowstone National Park, that moving to an entirely designated route system would have massive negative impacts to local communities, which have become overly reliant on recreational usage of adjacent public lands for economic activity.

4a. The Organizations believe the flexible implementation schedule will allow managers to avoid pitfalls of summer MVUM development

The Organizations have noted that there is no hard deadline for the final release of winter travel management maps for those forests or districts who may need to more fully develop or memorialize existing winter travel decisions. This is a significant change from implementation of the summer travel management process, where a hard release date for these materials was provided as a result. Some forests provided less than defensible maps and information for summer travel management in an attempt to comply with this deadline, and these forests are

³ See, Wyoming Department of Parks and Cultural Resources; Nagler et al; *2011-2012 Wyoming Comprehensive Snowmobile Recreation Report*; October 2012 at page 8.

still struggling with the ramifications of these decisions both in terms of lawsuits and frustration of users.

The Organizations believe the flexible implementation schedule for development of winter MVUM maps makes good sense for three reasons. First, many forests with snowmobile usage do have sufficient maps in place to satisfy the new Rule requirements, minimizing any concerns about resource impacts in these areas. The Lake Tahoe Basin would be such an area. Secondly, a major driving force for the hard deadline for summer travel, mitigating resource impacts from user created routes, is a minimal concern for winter travel management due to the buffer of snow between recreational users and any resources that could be impacted. Risks of resource impacts from user created routes is further mitigated in the Western United States with the previous identification of large open riding areas where usage has already been subject to NEPA/CEQA review for possible impacts.

The final reason that the flexible implementation schedule makes sense is that winter travel management boundaries are probably more difficult to map than summer routes. It has been the Organizations experience that often natural boundaries, such as ridges, draws or small canyons and treelines, are used as the boundaries for open riding area designations. Reflecting these types of natural boundaries on a paper map will require additional information to be provided on any winter MVUMs. The Organizations believe that compiling and coordinating this information with existing decisions will be more complex and time consuming than mapping of routes did for summer. The Organizations are aware that merely mapping summer routes was a standard easily stated on paper but proved to be far more difficult to apply on the ground. Providing this information in the proper format for users will be an important step in implementation of these maps. Rolling out high quality information will be a significant step in obtaining effective implementation of any rule, as winter travel designations are not as easily mapped as the summer routes are.

It has been the Organizations experience that some forests, such as the Lake Tahoe Basin have already fully addressed winter travel with the application of modern mapping and analysis methods. Other Forests continue to apply older forest plans with site specific management of areas used for winter motorized travel. Many forests operating under older forest plans have performed necessary NEPA/CEQA analysis as boundary areas for winter travel are identified and routes have been designated, albeit with hand drawn boundaries on USGS maps or other technology that has become outdated.

The Organizations are concerned regarding the USFS ability to fund implementation of winter MVUM production in light of other localized management issues. National Forests are continually dealing with flooding and wildfire impacts and as a result may not have resources available in the short term to provide quality mapping information. The flexibility in deadlines will allow these flood and fire impacts to be addressed and maintain winter motorized access under existing management to the opportunities available.

The Organizations support for the flexible implementation schedule for winter travel is based on experiences with implementation of the summer travel management rule, where a hard deadline was put in place for development of maps and no flexibility to address higher priority management issues was provided. While this hard deadline made sense in the short term, it has been the Organizations experience that often Forests that did not have as vigorous summer travel management process in place, or were allocating limited funds to other local issues, could not provide the same quality resource and supporting analysis for why routes were on maps to the public for travel management as other forests. This rush to comply with deadlines resulted in several forests being sued in relation to the sufficiency of MVUMs and previous NEPA/CEQA analysis that was undertaken to support routes that were on the maps. The Organizations are currently an intervenor with the Forest Service in one such lawsuit where the sufficiency of that Forests MVUM analysis has been challenged.⁴ This simply must be avoided.

An additional example of the problematic implementation that plagued the summer MVUM process is that the Organizations are aware of several areas where only designated summer routes were shown on the summer MVUM and closed routes were simply omitted from the map. These standards resulted in massive confusion of users, who reviewed the map which told them to take the next left turn but failed to tell them there were several closed routes between their current location and the next legal left turn. Again these oversights must be avoided with the implementation of the winter travel mapping development. The Organizations believe that resources should be directed toward providing the most detailed and high quality resources to the public as are possible and that often these resources are not provided in litigation.

The Organizations believe that all factors relied on for designation of boundary areas **must** be reflected on the maps that are going to be produced in order for the public to be able to understand and comply with these maps. While some boundaries, such as groomed routes, are easily reflected on an MVUM other boundaries relied on for open riding area designations,

⁴ See, *Wilderness Society et al v. United States Forest Service*, Civil Action No 11-cv-246-JLK-AP (Dist of Colorado) Complaint filed January 28, 2011.

such as creeks and ridgelines, are either not on summer MVUMs at all or are poorly reflected. Winter MVUMs **must** provide sufficient information to the public to convey these boundaries accurately and allow them to comply with these boundaries. This will require an improved mapping standard than currently used for summer MVUM process and will take time to develop.

4b. The flexible implementation schedule will allow for increased leveraging of technology.

Implementation of mapping requirements under the Rule will require presentation of information on winter travel decisions in a manner that is different than the current summer MVUMs, which are currently large black and white paper maps. While technology will not replace these large paper maps, the smart phones, satellite based communication devices and GPS units that are common place with winter motorized users, provide an excellent opportunity and resource to be leveraged in the winter travel process. This leveraging of resources will allow users to fully understand boundaries of areas and other restrictions as these devices are far more capable of displaying many types of complex data in comparison to a black and white paper map.

The Organizations are aware that many summer motorized users simply carry a copy of the large paper MVUM with them on rides. The Organizations are concerned that this management model may not work well for winter travel, as winter travel occurs on water and often in adverse weather conditions. The Organizations believe that merely opening a large paper map once in winter weather conditions would result in destruction of the map on its first use. Either maps need to be provided with some type of weather protective coating or in a small mapping scale that reflects areas where the snowmobiler is going to be riding, or in a non-paper format for users to utilize with smart phones or hand held GPS units

The Organizations believe that the Rule provides a unique opportunity for USFS and those local Forests, who may not have as technologically advanced forest plans to partner with the snowmobile community in order to develop technological resources for the public to understand and comply with winter travel decisions. Many local clubs provide far more detailed maps of riding areas, in partnership with the USFS managers, to identify groomed routes, snowpark locations, warming hut locations and other guidance based on existing NEPA/CEQA decisions. Polaris Industries is developing its Rider X application⁵ for use throughout the country that will be available for the public in the near future and will provide similar information for both winter and summer travel as is currently being provided by the

⁵ <https://www.riderx.com/>

Stay the Trail Application. The Organizations feel these resources can be highly effective in the management of winter travel as well, given the large amount of information that can be provided by these devices.

The Organizations are aware that there are USFS efforts in place to develop similar apps for the public use, but the Organizations are not aware of the status of this project. The Organizations are aware that the development of this app did require significant efforts to obtain consistency of information and formatting in order to make the app function on the ground. The Organizations believe that there are many other efforts similar to these in place throughout the snowmobile states and imposition of an arbitrarily short deadline on these projects would result in significantly increased costs in the long run as paper MVUM would have to be printed and then applied to the technology that is required to modern technology. The imposition of a short deadline would also force the USFS into some of the same pitfalls that plagued the summer travel management process, such as maps being released without critical information.

5a. The definition of an Over the Snow Vehicle in the Rule does not reflect the wide range of vehicles used for over the snow travel.

The Organizations have ongoing concerns with impacts to trails and other resources that arise from use of wheeled vehicles on winter trails, however the Organizations experiences with conversion summer vehicles has been significantly different. The Organizations welcome these conversion vehicles, after they have complied with State OHV registration regulations for use of motor vehicles on groomed winter trails. Our initial research indicates that these conversion vehicles exert similar pressures on the snow as traditional snowmobiles, making any risks of resource damage from usage of these conversions similar to that of snowmobiles. These impacts have already been well documented as minimal to entirely non-existent. These conversion vehicles also allow entirely new classes of public users into the winter backcountry to experience the exceptional opportunities these areas provide, either by accessing their local lake for winter ice fishing opportunities or by making the more traditional winter backcountry motorized experience available.

The Organizations are very concerned that the current Rule is attempting to manage all OSV travel but by definition is only applicable to traditional snowmobiles. It has been the Organizations experience that every year there is a new method or vehicle developed to access the backcountry winter recreation areas throughout the west. Often these vehicles are a types that are more traditionally associated with summer motorized travel that has been significantly modified to effectively travel over snow. For purposes of these comments, the Organizations

are referring to this broad category of vehicles as conversions. The Organizations and local land managers have struggled with management of these new vehicles as often they do not fit well into existing categories of vehicles or usages. The Organizations submit that many of these issues could be resolved with the adoption of a slightly larger scope definition of an OSV management which would clearly apply winter travel management restrictions. While the Organizations do not see these conversions as replacing the more traditional snowmobiles, the Organizations believe these units do have a place in the spectrum of winter motorized recreation.

These conversion vehicles include motorcycles where the front tire has been removed in favor of a snowmobile like ski and the rear wheel is exchanged in favor of a large track. Photos of some of these types of motorcycle conversion vehicles are below:



The Organizations are aware that there has been similar vehicles, designed specifically for over the snow travel, to these motorcycle conversions in production for a long time under the Snow Hawk brand. The following picture represents the Snow Hawk vehicle:

⁶ Picture credit to timbersled industries and more information is available regarding these products here <http://www.timbersled.com/snowbike.htm>



It has been the Organizations experience that while the Snow Hawk may have struggled in the market place for reasons that are unclear, the conversion motorcycles have rapidly developed a strong customer base and are frequently seen in the backcountry. It is the Organizations position that permitting a Snow Hawk to be managed under winter travel management guidelines, while prohibiting the motorcycle conversions as they are not designed for winter travel could easily appear arbitrary and lead to difficulties for local managers and partners. Removal of the requirement of the vehicle being designed for over the snow travel would remove these issues.

The Organizations are also aware that many traditional ATVs and side by side vehicles exchange tires for track assemblies that allow these vehicles to easily travel over snow. It has been the Organizations experience that these conversions are frequently used by landowners to carry supplies to cabins on private lands that are surrounded by USFS lands. Often these conversions are more effective for hauling freight due to larger carrying capacity of beds and rack systems in comparison to traditional snowmobiles. The following photos represent an ATV that has undergone this conversion:

⁷ More information on these vehicles is available here: <http://www.motosportsthibeault.com/>



Clarity in management of these ATV conversions is further made necessary by recent industry actions regarding the sales and support of tracked conversions. Both Polaris Industries and BRP are now selling track kits for delivery on ATVs and Side by Side vehicles with full warranties and OEM parts availability for both the tracks and vehicle being provided from Polaris or BRP.⁹ In addition, the Organizations understand that several models include provisions for the operator to choose if the vehicle is using tracks or wheels in the vehicles operation system. This provision allows accurate information on data, such as vehicle speed to be automatically compensated for the use of tracks or wheels. With these provisions, data on vehicle speed could be off by as much as 30%. The Organizations believe that these industry actions provide a credible argument that these traditional OHVs are also designed to be OSVs.

Enforcement of travel restrictions based on the source of these pieces of equipment would be problematic and could lead to management being based on if the manufacture of the track system was by the vehicle manufacturer or if the tracks came from a third party. Clearly, precluding a Kawasaki ATV with a Camoplast track kit while allowing a Polaris ATV with Polaris tracks would lead to nothing but conflict with users and arbitrary standards that had no relationship to mitigation of damages to resources. This should be avoided and a broad OSV definition would resolve this issue.

The Organizations are concerned that the overly narrow definition of an OSV could impact permitted grooming activities in some portions of the country. Farm tractor conversions are

⁸ <http://www.atvtracks.net/>

⁹ <http://www.polaris.com/en-us/rzr-side-by-side/shop/accessories/tracks> or http://store.can-am.brp.com/products/683518/APACHE_TRACK_SYSTEM

now frequently used for trail grooming activities in certain parts of the country, as the track conversion kits allow for use of the grooming equipment throughout the year by adding or removing tracks depending on the season.



While these grooming conversions are not heavily used in the Western United States due to exceptionally steep terrain and deep snow conditions, it is our understanding that clubs or state agencies in other areas of the Country that are utilizing these conversions can significantly reduce overall costs incurred in grooming activities. While most questions regarding the use of a conversion farm tractor for grooming could be resolved in the permitting process, the Organizations believe that providing clarity and a broad scope in the definition of an OSV would be a step towards avoiding any issues that might arise. The inability of a grooming organization to use a tracked farm tractor based groomer on federal lands could be a major barrier to a club or organizations that grooms large tracts of non-federal lands, where the farm tractor on tracks would be a cost efficient and acceptable alternative to dedicated grooming equipment. These types of conflicts or questions should be avoided.

The Organizations are not aware of the background or viability of non-motorized bicycle based conversions for winter use, such as that pictured below, but the Organizations are aware these vehicles are growing in popularity and will probably be seen in increasing numbers in the winter backcountry areas in the near future.

¹⁰ <http://www.soucy-track.com/en-CA/products/grooming/groomers/st-600wt/photos>



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The Organizations would welcome the proactive guidance from the USFS regarding management of these types of uses that could be provided under the current Rule, as frequently the Organizations are partners in educating members of the public who are seeking to recreate with these new types of devices.

The Organizations believe that laying the ground work for management of these conversion vehicles is sound policy and good management. These summer based OHV conversions provide the winter backcountry experience at reduced cost to users as multiple vehicles are not needed. Under certain conditions, these conversions provide a more durable recreational experience than a traditional snowmobile on warmer days, or days when the snow has become very firm, as these conversions do not rely on loose snow contacting any portion of the vehicle for the reduction of operating temperatures. These vehicles are designed to cool without any external assistance from snow contacting the vehicle.

The Organizations have significant experience in partnering with USFS to educate users of these conversions, and often this partnership has been difficult as confusion in classifying these conversion vehicles makes it difficult for both local land managers and partners to educate winter recreational users of these conversions as to when they can and when they cannot use particular vehicles, which leads to frustration to users. The Organizations have struggled with assisting the public in identifying if a particular vehicle is allowed in a particular Ranger District at a particular time of the year. The public has struggled with acceptance of standards that would allow a particular vehicle in some areas of a forest and exclude the same usage in other parts of a forest due to administrative issues such as definitions. This frustration is often more

¹¹ More information on this conversion is available here: <http://www.ktrak.es/indexeng.htm> The Organizations are not taking a position as to the management of these vehicles, as we have never seen one or are aware of any research on pressure the vehicle applies to snow. The Organizations are providing this portion of our comments as an example of the rapidly changing nature of this class of vehicles.

intense than opposition to a closure under traditional travel management due to the perceived arbitrary nature of its application. The Organizations are also concerned that a lack of clarity regarding the application of either winter or summer travel management regulations for the conversion vehicles could result in a situation where the rider could be told the conversion vehicle is subject to winter travel designations by a Ranger District office staff. The rider is then relying on this information in good faith and then is stopped by Law Enforcement officers in the backcountry who believe the conversion is subject to summer travel management requirements. This will only result in conflicts that should be avoided.

The Organizations are aware that in some areas of the country groomed routes and other facilities such as bridges may not be of sufficient size to accommodate some of the conversion vehicles. While these situations exist, they certainly are not the norm. The Organizations believe local managers are able to easily address any site specific issues either with weight or width restrictions for vehicles using trails in these areas. Summer motor vehicle management has proven these types of local decisions addressing width or weight restrictions highly effective. The public awareness of these types of standards will allow weight or width restrictions to translate easily to winter travel management process and decisions in areas where they might be necessary.

The Organizations believe a broad definition of over the snow vehicle for travel management purposes would be a significant step towards resolving these issues and possible conflicts. The Organizations are not opposed to these user groups accessing trails as long as their vehicle is properly registered with the state for over the snow usage. The Organizations are concerned that the narrow scope of definition of an OSV that the Rule provides will become a barrier to these new types of uses and the effective management of these activities if it should be necessary. Currently, the Rule provides:

“a motor vehicle that is designed for use over snow and that runs on a track and/or ski or skis, while used over snow.”¹²

The Organizations are concerned that the requirement of a vehicle needing to be “design” is unnecessarily narrow and precludes clear management of these new classes of conversions made from traditional summer usage vehicles that are now being utilized to gain access to the backcountry on public lands from legal usage of routes and areas being provided in the winter travel process.

¹² See, Proposed Rule Section 212.1

The Organizations vigorously support the amendment of the OSV definition in the Rule to the following:

“vehicles that are either designed or significantly modified to run over the snow with a combination of tracks and/or skis”

The Organizations believe that such a definition would avoid both conflicts between user groups and between the general public and land managers as the public would now be able to identify the proper management standards and guidelines for usage of these vehicles during winter months. This definition would also avoid any problems or issues that might result from attempts to clarify design criteria to address that the OEM manufacturers now offering ATVs and SxS vehicles with tracks designed, sold as original equipment and warranted by these companies.

5b. Local registration regulations are far more broad than the OSV definition currently provided.

Many States have embraced the registration of conversion units as part of their snowmobile registration programs in an effort to provide management of these units and maintain the high quality recreational experiences that are currently provided to users of the groomed trail networks they provide. Some states have adopted informal policies allowing these vehicles to be registered as over the snow vehicles while other states have memorialized these policies by adopting state legislation that specifically allows usage of these vehicles on groomed snowmobile routes. The following examples are provided for discussion only and are not intended to be an exhaustive list of relevant statutes.

The South Dakota State Legislature has specifically adopted the following statute regarding registrations of conversions as OSVs:

"32-20A-25. Permit to operate motorcycle as a snowmobile. Any resident owner who has titled a motorcycle which has been modified to comply with the definition of a snowmobile for use as a snowmobile on a state snowmobile trail or area established pursuant to the provisions of chapter 41-19 may purchase an annual permit valid from December first to March thirty-first, inclusive, for a fee of twenty dollars. The permit shall be affixed to the motorcycle on the right side of the unit and shall be clearly visible. The Department of Game, Fish and Parks

shall collect the annual permit fee imposed by this section and shall deposit the fees in the snowmobile trails fund established by § 32-5-9.2."

The Idaho Legislature has specifically adopted the following statute regarding registration of conversions, which provides:

"67-7112. GROOMED SNOWMOBILE TRAILS. Counties shall have the option to allow all-terrain vehicles and snowmobiles over one thousand (1,000) pounds unladen gross weight, if numbered as a snowmobile, to use snowmobile trails in the county. No other vehicles shall operate on groomed snowmobile trails unless specifically allowed by the county. Any all-terrain vehicle and snowmobile over one thousand (1,000) pounds unladen gross weight operating on groomed snowmobile trails during the winter snowmobiling season when the trails are groomed shall be numbered as a snowmobile under the provisions of section 67-7103, Idaho Code. Violation of the provisions of this section shall be an infraction."

The Organizations vigorously support amendment of the OSV definition that is currently in the Rule to include these conversion vehicles that many states are allowing to be registered as OSV vehicles. The clarity and consistency of the single standard for management of all OSV will benefit State grooming programs with additional funding and will allow for consistent enforcement of regulations for OSV usage and improve user experiences while avoiding unnecessary conflicts between user groups and user groups and land managers.

6. Minimum snowfall requirements reduce confusion on applicability of winter travel management.

The Organizations support provisions of the Rule that trigger application of winter travel management regulations when there is sufficient snowfall on the ground locally to protect resources. The Organizations support Rule provisions that determinations of sufficiency be made at the local levels, as sufficient snow levels for a groomed trail may be less than that necessary to allow for usage of open areas and the amount of water and makeup of snowfall varies greatly throughout the country. These minimum snowfall requirements provide superior resource protection in comparison to hard start dates and finish dates (ie: November 15 - April 15) for winter travel as there is no guarantee that there will be any snow in place to protect the resources on the ground regardless of what the calendar says. These minimum snowfall levels

also allow for flexible management of over the snow usage as often significant snowfall can occur in non-traditional times in the Western United States.

The Organizations believe the minimum snowfall management standard is superior to hard date for distinguishing summer and winter travel management seasons. The Organizations have worked with trying to establish hard start and stop dates for many areas that have undergone winter travel management in the California/Nevada planning area. Looking back at this process, the Organizations would classify the success of these efforts as marginal and probably overly dependent on the summer travel management structures. It has been the Organizations experience that early heavy snowfalls, falling before the hard start date specified for application of winter travel, have resulted in confusion of users regarding applicability of winter or summer travel plans. Riders see 6 or 7 feet of snow on the ground, more than enough to protect the rider, his equipment and any natural resources, but are sometimes not aware that the opening day for application of winter travel activities may remain a long ways in the future. The converse of this situation is also true due to a lack of snow after the start date of winter travel regulations.

7a. Effectiveness of landscape or national level planning in addressing local issues.

The Organizations are aware that there has been vocal concerns raised by those opposed to winter motorized recreational usage that many local issues must be addressed with the revised winter travel management Rule, such as wildlife issues, user conflicts and possible resource impacts. The Organizations vigorously support the USFS determination not to try and address local management issues with the development of the national rule. The Organizations vigorously assert that any national efforts to address these local issues would be of limited success and would be drawing limited resources away from the effective management of these issues at the local levels. This should be avoided.

Many of these groups also are asserting the USFS has never undertaken winter travel management previously, as winter travel was "exempt" from travel management. Clearly this position lacks any factual or legal basis, as exemplified by the brief examples that are provided in these comments and vividly exemplified by the fact the Lake Tahoe basin is now entering its second round of winter travel planning. Many of these groups now asserting these local issues must be addressed nationally are the same groups that asserted that the USFS has not done winter travel management previously, despite many of these groups being actively involved in the stakeholder groups that the USFS convened to address specific issues in specific areas. The Organizations have directed significant time and resources to meaningfully participating in

stakeholder process with representatives of these groups to address a wide range of issues in several locations. To assert that these stakeholder and collaborative efforts should now be cast aside is offensive to the Organizations and should be to the USFS who has also devoted significant time and resources to these collaborative efforts seeking to protect resources and minimize any local management issues.

As the Organizations have previously noted, there is extensive USFS planning and NEPA/CEQA analysis done under USFS general planning authority already in place for the management of winter travel, which must be addressed. Any need for changes to these NEPA/CEQA decisions would be governed by NEPA/CEQA guidelines for changes in management, and a court decision striking down the winter travel management rule falls well short of the change in circumstances necessary to trigger new NEPA/CEQA analysis of management already in place. These winter travel management decisions were undertaken under a different regulatory process for a different regulatory issue than summer travel management and clearly was not the basis of management by exemption as the Organizations are sure will be asserted by those that are opposed to winter motorized travel and strive to see it removed entirely from USFS lands.

The Organizations long term experience with winter travel planning has provided concrete proof that almost all resource issues are best resolved at the local level, including wildlife issues, user conflicts and possible resource related issues. The Organizations are aware that attempts to manage many issues even at the Forest level have not been successful and returns on any efforts to manage these issues at a regional or national level have not been highly successful. The Organizations vigorously support managing local issues at the local level regardless of the basis for the concern.

The conclusions of USFS Research Stations addressing landscape level attempts to manage sensitive or endangered species support the position that local issues should be managed at the local level as the Research Station conclusions specifically stated as follows:

"Actions such as limiting grazing or closing OHV trails have historically been some of the primary tools used by land managers in southern Nevada to reduce the effects of anthropogenic stressors on species of conservation concern..... It is evident from this body of research that very little is known about the relative threats posed to, or the mitigation actions needed to protect, virtually any species, except perhaps the desert tortoise. Too often research jumps immediately to mitigation strategies without first determining what specific factors pose the greatest threats and are the most important to mitigate. In

addition, the evaluation of potential threats typically focuses upon the usual anthropogenic suspects (e.g. OHVs, livestock grazing, invasive species, and climate change) without first carefully considering which factors are most likely to pose the greatest threats."¹³

It is the Organizations position that management techniques that are not effective at the regional level have even less possibility of success when these same management techniques are applied to larger landscapes, such as the development of a nationally applicable rule.

The National Park Service has additionally conducted extensive research for benefits to wildlife living in the Park as a result of the changes in the Parks winter travel management process. This research has uniformly concluded usage of OSV's has little to no impact on wildlife specifically stating:

“Based on these population-level results, we suggest that the debate regarding effects of human winter recreation on wildlife in Yellowstone is largely a social issue as opposed to a wildlife management issue.”¹⁴

The Organizations believe that this position again calls into question any assertion that such localized issues can be effectively managed at the national level. However the Yellowstone management situation does highlight the double loss that can occur when local issues are attempted to be managed nationally. The Organizations respectfully agree with the National Park Service, that many of the objections to winter motorized usage are a surrogate for socially based conflicts regarding usage and have little to do with an asserted concern for the animal. As Yellowstone National Park has provided concrete proof of, and previously noted in these comments, landscape level usage restrictions are not effective in protecting wildlife but are highly effective in damaging local economies. The Rule effectively avoids this double loss situation as the Rule allows local issues to be managed locally.

7b. Many California specific statutes and management mechanisms highlight the need for local control of winter travel management.

¹³ See, USDA Forest Service, Rocky Mountain Research Station; *The Southern Nevada Agency Partnership Science and Research Synthesis; Science to Support Land Management in Southern Nevada; Executive Summary*; August 2013 at pg 38.

¹⁴ PJ White & Troy Davis. *Wildlife responses to motorized winter recreation in Yellowstone. USFS 2005 Annual Report* at Pg 1.

Throughout these comments, numerous references are made to local or state level winter travel planning concerns related to winter travel in California/Nevada planning area. These include: the review process mandated by California environmental protection statutes, commonly known as CEQA; the Tahoe Regional Planning Agency; the Snowpark program that has been developed with CalTrans; and the Sequoia National Monument. Each of these issues is a very specific and often a localized issue that would heavily impact winter travel management concerns and issues that can only be balanced at the local level. As such the Organizations believe that a brief history and summary of these issues is needed.

The Tahoe Regional Planning Agency ("TRPA") is an inherently local organization that addresses planning for the Lake Tahoe Basin that was created when the governors and lawmakers in California and Nevada approved a bi-state compact to create a regional planning agency to oversee development in the Lake Tahoe basin. In 1969, the United States Congress ratified the agreement and created the Tahoe Regional Planning Agency. The TRPA has been actively involved in all facets of recreational usage of all lands in the Lake Tahoe Basin since the TRPA was adopted. This Organization was actively applying NEPA type analysis to the Lake Tahoe Basin well before NEPA was enacted by Congress. The Compact, as revised in 1980, gave TRPA authority to adopt environmental quality standards, called thresholds, and to enforce ordinances designed to achieve the thresholds. The TRPA Governing Board adopted the thresholds in 1982. TRPA was the first bi-state regional environmental planning agency in the country. These thresholds are entirely outside the requirements of USFS national standards for winter travel that must be addressed, as the TRPA is a highly localized management structure. As a result local flexibility must be provided to address these local thresholds in winter travel planning.

The Snowpark system, which has been hugely successful in addressing chronic parking issues for winter recreational visitors, provides an expanded parking and maintenance program. Under this program, users purchase a \$25 per year pass that allows them access to a network of winter specific parking areas throughout multiple states. In California, the SNO-PARK program is coordinated and administered by the OHMVR Division of California State Parks, in conjunction with the U.S. Forest Service, the California Department of Transportation, the California Highway Patrol, and various community organizations. Through this collaborative effort, winter recreation opportunities are provided at 18 SNO-PARK sites along the Sierra Nevada Range.

While the Snowpark program has been hugely successful for recreational usage of backcountry areas on federal public lands, this program provides an additional review and management that must be addressed in Winter Travel planning. While some of these parking opportunities

are provided on federal public lands other are provided on lands that are managed by State and local governments. These resources would be opportunities that would fall outside the traditional scope of analysis of a strict winter travel management plan. The Snowpark program and associated analysis provides the basis for local management at a regional level as these passes are honored in Washington, Idaho, Oregon and California.

The Sequoia National Monument management plan represents another local issue that weighs heavily in favor of retention of local control and the implications of this issue are the direct result of the limited nature of the Presidential Proclamation regarding national monuments. Currently the Sequoia National monument is the only National Monument that the Organizations are aware that is not managed by the Department of Interior. While the Organizations are not aware of other national monuments that are under USFS management, the Organizations have to believe that it will only be a matter of time until additional monuments are designated for USFS management. As a result the Organizations believe this is a concern that may be of limited concern currently but is a concern that winter travel management will have to deal with more frequently in the future. The Organizations partner with the USFS and California OHV grant program to provide a groomed snowmobile trail in the designated Monument area.

8. Conclusion.

The Organizations support the Rule with the minor modifications addressed in these comments. The Rule provides a science based management structure and recognizes the significant NEPA/CEQA based efforts many forests have already taken in the management of winter travel, which remain valid regardless of travel management rule changes. The Rule recognizes the significantly different nature of winter travel provided in the eastern portions of the Country to those that are provided in the Western United States. The Rule properly recognizes that open riding areas for winter travel in the Western United States are significantly larger and more frequent than summer open riding areas due to different regulatory concerns being managed and significant snowfalls that many areas in the west receive.

The flexible implementation schedule is necessary to avoid many of the pitfalls encountered in the summer travel process. The Organizations propose that the definition of an over the snow vehicle must be broader in scope to clarify application of the Rule to all vehicles used in over the snow travel. The Organizations support management based on minimum snowfall requirements, which are superior management standards for triggering winter travel

management than hard dates. The Rule retains local control of many issues and decisions, which best available science has concluded are most effectively managed at the local level.

Please feel free to contact Scott Jones, Esq if you should wish to discuss any of the issues that have been raised in these comments further. His contact information is Scott Jones, Esq., 508 Ashford Drive, Longmont Colorado 80504; phone 518-281-5810 ; email Scott.jones46@yahoo.com

Respectfully Submitted,

A handwritten signature in cursive script that reads "Fred M. Wiley".

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