



July 5, 2018

Sonny Perdue, Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Ryan Zinke, Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretaries Perdue and Zinke,

Our organizations are dedicated to promoting and preserving winter wildlands and quality human-powered snowsports experiences on public lands. We represent backcountry skiers and snowboarders, cross-country skiers, snowshoers, winter hikers, ice climbers and all others who enjoy human-powered winter recreation and appreciate winter wildlands. Our members deeply value the quiet winter recreation experiences afforded by recommended wilderness areas (RWAs) and Wilderness Study Areas (WSAs). We visit these areas when snow blankets the landscape, seeking solitude and silence. For human-powered winter recreationists, the soundscape and snowscape are key components of wilderness character. Over-snow vehicle (OSV) use has a direct and immediate impact on this character. Although OSV tracks in the snow eventually melt, snow compaction caused by OSV recreation impacts wildlife, vegetation, and the pace of natural snowmelt,¹ altering natural systems and the natural environment. More immediately, OSV use within these areas shatters the natural soundscape and displaces those seeking solitude and quiet recreation. When OSV use occurs within these areas it eliminates wilderness character in the winter months, even if there are few visible impacts come summer.

It has recently come to our attention that snowmobile groups in Montana and Idaho are advocating for an Executive Order concerning motorized and mechanized uses within RWAs and WSAs. The proposed Executive Order would require the U.S. Forest Service and Bureau of Land Management to allow motorized recreation and other non-conforming uses within RWAs and WSAs unless the agency can show that these uses would cause direct and long-term impairment of the physical resources and attributes that qualify these areas for Wilderness designation. It discounts the impact that non-conforming uses have on other aspects of wilderness character, including the potential for Wilderness designation.

Motorized Recreation Directly Impairs Wilderness Character: A Montana Case Study

We have seen time and time again that when motorized recreation is allowed within a RWA it impairs the area's wilderness character and potential for Wilderness designation. The saga of Mt. Jefferson on the Beaverhead-Deerlodge National Forest illustrates this point quite clearly. Mt. Jefferson is a small but

¹ Switalski, 2016. Snowmobile Best Management Practices for Forest Service Travel Planning: A Comprehensive Literature Review and Recommendations for Management. Journal of Conservation Planning Vol 12: 1 – 28



significant area located in the Centennial Mountains along the Idaho/Montana border. Although snowmobiling was not well established in the area when it was first recommended for wilderness in the 1990's, because the Forest Service did not prohibit snowmobile use within the recommended wilderness area, snowmobiling increased over time. Eventually, Mt. Jefferson became known as “the Crown Jewel of Western snowmobiling” and ever-increasing snowmobile use displaced backcountry skiers, lynx, and wolverine.

In the early 2000's, the Beaverhead-Deerlodge began forest plan revision. As part of this process the Forest Service evaluated Inventoried Roadless Areas for wilderness suitability. Mount Jefferson was determined to have the highest wilderness suitability score of all IRAs on the forest and the Final Environmental Impact Statement included it as a recommended wilderness area in the preferred alternative. However, upon Regional Office review and in response to outcry from the snowmobile community, the Regional Forester changed the final forest plan to only recommend a small portion of Forest Service lands on Mt. Jefferson for wilderness. Motorized recreation was the sole reason for “un-recommending” the majority of Mt. Jefferson for wilderness designation. Furthermore, snowmobile use on Mt. Jefferson later caused the area to be withdrawn from Wilderness legislation.² It is quite clear that over-snow vehicle recreation impaired the area's wilderness potential even as the physical landscape remained unchanged.

Recommended Wilderness Areas vs. Wilderness Study Areas

As much as we are concerned about allowing non-conforming uses within RWAs, our concerns with this potential Executive Order are much broader. The potential Executive Order conflates Wilderness Study Areas – a Congressional designation - with recommended wilderness areas – an administrative designation. While this may be convenient for the interest groups advocating for this Executive Order, WSAs and RWAs are very different designations, with very different management. Non-conforming uses within Forest Service WSAs are governed by Congressional legislation, and the level of motorized and mechanized use within them varies depending upon the legislation that established each area. Motorized and mechanized recreation is generally allowed at historic levels. The decision of whether or not to allow non-conforming uses within BLM WSAs, which were designated under Sections 603 and 202 of FLPMA, varies. Decisions of whether or not to allow non-conforming uses within BLM WSAs vary depending on the unique circumstances of each area. Likewise, decisions of whether or not to allow non-conforming uses within RWAs is up to the discretion of an individual forest - and vary by forest. As advocacy organizations, we advocate the Forest Service prohibit non-conforming uses within RWAs. But the ultimate decision for how to manage these areas rests with the relevant forest supervisor and is not constrained by legislation or any official Forest Service policy. Where the Forest Service has decided to

² In 2013 Senator Tester removed the proposed Mt. Jefferson Wilderness Area from his Forest Jobs and Recreation Act to secure support from Idaho's Senators Risch and Crapo. The Idaho delegation would not support the bill if it closed Mt. Jefferson to snowmobiling.



prohibit non-conforming uses within RWAs to preserve wilderness character, the Courts have upheld the agency's discretion to do so.³

Because there are distinct legal requirements governing non-conforming uses within Congressionally-designated WSAs, the Forest Service must comply with the applicable legislation when addressing forest or travel management planning within a WSA. This legal duty has been affirmed by the Ninth Circuit Court of Appeals.⁴ For example, under the Montana Wilderness Study Act of 1977, non-conforming uses are allowed within WSAs so long as those uses are kept to the manner and extent of which they occurred at the time of designation (1977). During travel planning on the Bitterroot National Forest the Forest Service took every step possible to determine the manner and extent that snowmobiling and mountain biking occurred within the WSAs on the forest in 1977. Upon concluding that mountain biking *did not* occur in 1977 and snowmobiling was so rare as to be unmanageable, the Bitterroot National Forest lacked discretion to allow motorized use. This was not an arbitrary decision and it was just recently upheld by the Courts.⁵

In every recent forest plan revision or travel management plan that we have participated in, the agencies thoughtfully consider whether or how to allow motorized and other non-conforming uses within RWAs and WSAs. In the case of RWAs, where the Forest Service is not bound by strict legal standards, we have seen that the Forest Service works hard to identify the areas that are valued for motorized and mechanized recreation and avoids recommending them for wilderness unless there is a very compelling reason to do so. For example, on the Flathead National Forest, the Forest Service considered alternatives that allowed non-conforming uses within RWAs and alternatives that did not. After an extensive NEPA process the Forest Service chose not to allow non-conforming uses within RWAs on the forest but modified boundaries to exclude valued mechanized/motorized recreational areas. Furthermore, on the Flathead, the Forest Service only designated RWAs in areas where non-conforming uses do not predominate.

In cases where the Forest Service has recently restricted motorized recreation within WSAs, it has been because current use levels greatly exceeded the level of use present at the time of designation. Any restrictions on these uses that the Forest Service has put in place within WSAs have been made to comply with the laws enacted by Congress and upheld by the Courts.⁶

³ See most recently *Ten Lakes Snowmobile Club v U.S. Forest Service*, No. CV-15-148-M-DLC (D. Montana Oct. 18, 2017).

⁴ *Greater Yellowstone Coal. v. Timchack*, No. CV-06-04-E-BLW (D. Idaho Nov. 21, 2006).

⁵ *Bitterroot Ridge Runners Snowmobile Club v. U.S. Forest Service*, No. CV 16-M-158-DLC (D. Montana Jun. 29, 2018).

⁶ See for example Bitterroot National Forest travel plan Record of Decision page 6, available at https://www.fs.usda.gov/nfs/11558/www/nepa/39018_FSPLT3_3043255.pdf



Conclusion

We understand that snowmobile organizations are frustrated by some Forest Service decisions. We, too, get frustrated when the Forest Service makes a decision that is contrary to our interests but we recognize that in a public process one group does not always get their desired outcome. We have followed closely as motorized interest groups have repeatedly and unsuccessfully challenged Forest Service decisions pertaining to over-snow vehicle management within WSAs and RWAs. It appears that these organizations, having failed to show that any of the Forest Service's decisions on this matter are outside the bounds of existing law, are now seeking to change the law. However, recognizing the intense unpopularity such a change will face, they are attempting to circumvent Congress and utilize the powers of the Executive Branch to achieve their goals.

We urge you to reject this potential Executive Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Hilary Eisen", with a stylized flourish at the end.

Hilary Eisen
Winter Wildlands Alliance
Boise, ID

Signing on behalf of:

Brian Okonek
Alaska Quiet Rights Coalition
Anchorage, AK

Gus Bekker
El Sendero Backcountry Ski and Snowshoe Club
Wenatchee, WA

Mike Rolfs
COOP Skis
Wenatchee, WA

Jora Fogg
Friends of the Inyo
Bishop, CA

Maria Povec
American Alpine Club
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