

**Consolidated Response to Appeal Points
Gallatin National Forest
Travel Management Plan Record of Decision**

A. Access

A-1. The Forest Service does not have jurisdiction to prohibit or restrict high clearance traffic on Arrastra Road #3274 in the Mill Creek Area, nor to build an ATV connector from this road, across private property, to Emigrant Gulch.

By approving the connector and designating Arrastra Road as an ATV/motorcycle use trail, without first obtaining any rights to the property, the Forest Service is trespassing and knowingly promoting public trespassing.

Response: The Forest has identified those roads and trails which they believe have sufficient rights, either perfected or historic, to show the designated public or administrative uses. Where there are insufficient rights, like historic rights without a written easement, the additional access needs are identified in Table I-3, Forest Access Objectives in the Detailed Description of the Decision document, starting on page I-4. Where no rights currently exist, the maps generally do not display uses on a route, opting rather to describe the access objective in Table I-3. Table I-3 includes a need to perfect road access across patented mineral claims in the Emigrant Gulch area.

In the case of Arrasta Creek, the Forest believes it has the right to manage as displayed on the maps, tables, and discussion. This decision only applies to National Forest recreational users. Standard A-8, which describes prohibitions to off-route travel, also notes exceptions when motorized vehicles other than the designated vehicle type may be allowed to use Forest roads or trails. The Livingston District Ranger may authorize, under permit, private landowners 4X4 access across closed routes to mining claims in the Arrasta area.

A-2. Private lands where Forest Service access is currently allowed should be continued. Future access rights and easements should be pursued by the Forest Service to continue all allowed uses on these trails and areas.

Response: Goal B, Objectives B-1 through B-3, and Guidelines B-4 through B-9 address the Forest's intent to provide and maintain reasonable, legal access to Gallatin National Forest lands to provide for human use and enjoyment and to protect and manage Forest resources and values. Objective B-3 includes a table identifying the locations where the Forest does not believe that reasonable access exists. The Detailed Description of the Decision also includes specific needs for access within each travel planning area.

A-3. Trails #195, 258, and 267 all cross private land owned by the Zimmerman or Guth families, for which no Forest Service easement exists. The Forest Service has no easement across Carroccia property in Section 7, nor does it have any easements across Carroccia property for alleged Trail #115. The Forest Service cannot create property

interests for itself by depicting a trail on a map or discussing an alleged trail in a travel planning document, nor can the Forest Service legally exert rights that have never existed.

The Travel Management Plan and NEPA process cannot divest a property owner of his or her property rights, or create a public or Forest Service right of access or use over private property. If the Forest Service suggests that any statement in the Travel Plan creates any such public or Forest Service rights, then this Travel Plan and the associated ROD violate substantive and procedural due process requirements, the 5th and 14th Amendments to the U.S. Constitution and Article II, Sections 3, 17 and 29 of the Montana Constitution.

A-4. Porcupine Trail #267 has never legally been open to motorized use and crosses a large portion of private land. The Forest Service admits the same in its decision at page 53 of the ROD, “to accommodate this use, however, we must first negotiate an easement for portions of this trail that pass through private land.”

Response to A-3 and A-4: The Forest has not included in the Travel Plan or the record a complete laundry listing of all legal rights on each road and trail. Rather, the Forest has chosen to identify on the maps only those roads and trails that it believes there are sufficient rights, either perfected or historic, to rightfully show the designated public or administrative uses. Where there are insufficient rights, like historic rights without a written easement, the additional access needs are identified in Table I-3, Forest Access Objectives in the Detailed Description of the Decision document, starting on page I-4. Where no rights currently exist, the maps generally do not display uses on a route, opting rather to describe the access objective in Table I-3.

The following is how the Forest asserts its right and needs to manage historic uses on the stated trails.

Ibex TPA: Crazy Mountains Forest Access Objectives (Gallatin National Forest Travel Plan Detailed Description of the Decision, p. I-6).

- Perfect trail access across private in-holdings in the southwest corner of the Crazies. Includes existing trails: Rock Creek North #270, Cottonwood Lowline #272, Horse Creek Tie #269, **Porcupine Lowline #267**, Trespass #268, **North Fork Elk Creek #195**, **Shields Lowline #258**, and Cottonwood Lake #197.

East Crazies TPA: Crazy Mountains Forest Access Objectives (Gallatin National Forest Travel Plan Detailed Description of the Decision, p. I-5).

- Perfect trail access across private in-holdings within Sweetgrass and Big Timber Creek drainages. Includes existing trails: **East Trunk #115**, Sweetgrass #122, Big Timber #119, Sunlight Lake #273, Trespass #268, Middle Fork Sweet Grass #123, and Cottonwood Lake #197.

A-5. The programmatic direction regarding access is subject to a more thorough review under NEPA, if the Forest Service intends for this programmatic direction to form the basis for subsequent actions. A review of the FEIS indicates that no analysis was done

regarding the effects of acquiring or perfecting these additional access points on any of the issues identified during scoping. Nevertheless, the ROD suggests that the recitation of a programmatic direction and listing of 79 areas in the Gallatin National Forest where the Forest Service would like to perfect or acquire some type of access, provides some sort of analytical foundation for site-specific proposals. The Travel Planning documents don't indicate how such a review was conducted, or the analyses used in coming to such a decision.

Certainly, the acquisition of future roaded access, for example, would have effects on all of the issues discussed in the FEIS, as well as issues not discussed (cumulative effects). Thus, the argument that the programmatic access direction can become an "analytical foundation" for future action and a "checkpoint" to ensure that future access comport with the targeted recreational setting, but without any concomitant analysis of impacts, violates NEPA as well as a host of other laws, executive orders, and regulations.

Response: The Gallatin National Forest Travel Management Plan is an in-depth NEPA analysis of the current transportation system that exists on the National Forest lands. Any future construction of new roads or trails on National Forest lands will require a new NEPA analysis and period for public comments and concerns (ROD, p. 25). The Gallatin National Forest Travel Management Plan will provide the ability for the Forest Service to manage and enforce the regulations for the current transportation system more efficiently and effectively. "The proposed Travel Management Plan would identify and establish opportunities for public recreation use and access using the Forest's road and trail system. For each road and trail, it would specify the types of uses that would be allowed and managed for...The Travel Plan would also establish goals, objectives and standards that provide guidance for future management activities related to public access and travel" (Gallatin National Forest Travel Plan FEIS, Chapter 1, p. 1-3). "Final agency decisions to open, construct, or reconstruct routes for future administrative or project activities are not being made through this Travel Management Plan although it would establish direction within which such future proposals must take place (i.e. standards and guidelines)." (Gallatin National Forest Travel Plan FEIS, Chapter 1, p. 1-15.)

A-6. The Forest Service failed to analyze the cost associated with the acquisition of new accesses and the associated difficulties in managing existing and new access.

Response: The administrative cost of pursuing additional access rights is outside of the scope of this project. The costs associated with the Phase 1 of the implementation of the Travel Management plan has been estimated at \$100,000 to \$200,000. Phase 2 would show a substantial increase in cost for implementation with an estimated cost of just over \$1.5 million. Phase 3 of the implementation of the Travel Management Plan would require several million dollars to maintain the roads and trails to standard. Costs will vary depending on the size of the transportation system and is based on a per mile/per type unit cost. (See Gallatin National Forest Travel Plan FEIS, pp. 3-339, 3-340, and 3-345.)

It is apparent from the above issues related to access, and in issues interspersed throughout the rest of this summary, that there are concerns regarding how the Forest will proceed with their identified access needs. As a result, I recommend instructing the Forest Supervisor to clarify how she expects to address the identified access needs in Table I-3 Forest Access Objectives.

Instructions: Access needs, where there are insufficient rights or no existing rights, are identified in Table I-3 Forest Access Objectives in the Detailed Description of the Decision document. As identified in some of the appeals, this has led to concern with adjacent landowners over what rights currently exist or do not exist. While access rights are a very complicated issue, it would be helpful if the Forest Supervisor identified the process she expects to use to clarify some of the identified access needs and to ensure that adjacent landowners are informed of the process.

BC. Bear Canyon

BC-1. National Forest land in the Bear Canyon should all be dedicated to cross-country skiing because there is not enough area around Bozeman. Closing the first 2 miles to snowmobiling is not sufficient for a good skiing opportunity.

Response: The Record of Decision (ROD) states that the rationale for winter recreation decisions is to provide "...well-distributed opportunities for both snowmobiling and exclusive cross-country skiing and snow-shoeing in non-motorized settings." (ROD, p. 20). The ROD specifically states that the decision emphasis for Bear Canyon is to provide "...opportunities for ATV, motorcycle, snowmobile, and mountain bike use" (ROD, pp. 38). However, the ROD also provides rationale that Bozeman Creek, West Bridger South, Bridger Canyon and the South Cottonwood portion of the Gallatin Crest Travel Planning Areas will be managed with more of an emphasis on non-motorized uses (ROD, p. 38).

BC-2. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- Any motorized use restrictions in this area is inconsistent with the stated goal of emphasizing opportunities for ATV, motorcycles and snowmobiles.

Response: The ROD states that the decision emphasis for Bear Canyon is to provide "...opportunities for ATV, motorcycle, snowmobile, and mountain bike use" (ROD, pp. 38) and provides ATV and motorcycle use from July 15th through October 15th Bear Loop Trail. These dates are somewhat limited because the ROD and FEIS identify water quality/fisheries objectives which restrict use until the conditions prevent unacceptable erosion and watershed damage. The ROD states that the rationale for winter recreation decisions is to provide "...well-distributed opportunities for both snowmobiling and exclusive cross-country skiing and snow-shoeing in non-motorized settings" (ROD, p. 20), and snowmobilers can access the Bear Loop Trail (#440) from the Goose Creek Road. "Public comments indicated to me that there was a higher demand for skiing than for snowmobiling from this trailhead" (ROD, p. 39).

BC-3. By incorporating Bear Canyon Road into the Forest Service trail system (as it has done since the release of the 1996 Gallatin National Forest Map), the Forest Service is complicit in violations of Montana State laws by promoting the illegal use of a county road.

Response: The Detailed Description of the Decision (Chapter I-3) states the Access Goal (Goal B) is to “Provide and maintain reasonable, legal access to Gallatin National Forest lands to provide for human use and enjoyment and to protect and manage Forest Resources and values.” This is followed by the following three objectives:

- **B-1. Acquire Perpetual Easements.** Acquire, across non-National Forest System (NFS) lands, perpetual road and trail easements needed to assure adequate protection, administration and management of National Forest resources and values.
- **B-2. Acquire All Rights Needed.** Acquire all interests and rights needed to meet the objectives and future uses of the National Forest System.
- **B-3. Access Locations.** Obtain and protect public and/or administrative access rights in locations as identified in Table I-3 (attached).

Table I-3 (p. I-4) then proceeds to identify an access objective to acquire administrative road access from Newman County Road to National Forest System lands on an existing alternate route. Acquiring this access will resolve the access needs.

BC-4. The Forest Service has demonstrated by its inaction in the Bear Canyon area that it is not capable of complying with the Code of Federal Regulations 36 CFR 295.5 governing ATV use on NFS lands.

BC-5. Motorized use of the Bear Canyon Loop Trail #440 has contributed to a violation of water quality standards under section 303(d) of the Clean Water Act.

Response to BC-4 and BC-5: The Gallatin National Forest OHV Monitoring plan (based on 36 CFR 295.5) is found in Appendix B of the Gallatin National Forest Travel Management Plan Final Environmental Impact Statement. It clearly states that monitoring shall be performed annually with the following objectives:

- Determine if new designated routes and areas are being used as designed.
- Are the OHV opportunities provided effective in mitigating resource and social conflicts identified during the travel planning process? Are the roads and trails functioning as designed for OHV use?
- Were the assumptions made about the suitability for an area to provide OHV opportunities in travel revision valid?

The remedial actions are as follows:

- Improve information/education efforts targeting problem areas.
- Work with user groups to gain compliance and self-police.
- Make minor changes to the configuration of designated routes to gain better compliance.
- Employ different seasonal restrictions as necessary during critical periods.

- Lastly, prohibit OHV use if all other techniques fail to gain compliance, and resource damage or other effects to wildlife, recreation opportunities, etc. as a result trespass is untenable. This action would require public involvement and Forest Plan revision.

In order to insure that 36 CFR 295.5 and the Clean Water Act are met on specific trails like #440, the following Standards 3-2 and Standards 3-3 have been included in the ROD.

STANDARD 3-2: Trails #440, #53, and #508 within the Bear Canyon Creek drainage are not to be opened to summer motorized, mountain bike and horse use until facilities are upgraded to a condition that alleviates sedimentation and water quality impacts from those facilities. (Detailed Description of the Decision, p. II-20.)

STANDARD 3-3: Trails in the Bear Canyon drainage are not to be opened for the summer season to ATV, motorcycle, mountain bike and/or horse use until the trail system is of a condition that prevents adverse erosion and watershed damage. (Detailed Description of the Decision, p. II-20.)

BC-6. The Forest Service violated NEPA by failing to discuss in the ROD an effort independent of the travel planning process, in conjunction with DNRC and Gallatin County to relocate a right-of-way in Bear Canyon. By stating in the ROD that Trail #440 will be managed for motorcycle and ATV uses, the Forest Service has, in effect, limited the ability of tri-agency leaders to formulate a cooperative plan.

The Forest Service has also not adequately addressed numerous impacts of motorized recreation in Bear Canyon, such as cost, growing use, safety, air pollution, overcrowding in parking areas, inappropriate behavior, vandalism, and illegal activities.

Furthermore, negative economic impacts to local businesses located in the immediate vicinity of the trailhead and depreciation of property values have been overlooked.

Response: Ongoing discussions and negotiations with Gallatin County and the State of Montana, DNRC, are outside of the scope of this document. These discussions are projects level work attempting to implement the access goals of this decision.

“It is anticipated that the traffic on these roads and trails will continue to increase over time in all alternatives.” (FEIS, p. 4-18.) Private land along these routes is being subdivided and the value of the properties is increasing. As land is subdivided, homes are being built and the traffic on these routes is increasing. However, it is determined that the increased traffic does not seem to affect the economic potential of these subdivisions as some of the most valuable property is located on highways. “Variations among the Travel Plan alternatives would not change the volume of traffic on the Forest Service roads or trails...” (FEIS, p. 4-18.)

The general effect to the land values is discussed in detail on pages 4-17 and 4-18 of the Gallatin National Forest Travel Management Plan FEIS. It details that in some situations having a road or trail across private land has a beneficial effect on the value of the property. “The effect of the travel plan alternatives on land values would be small, based on the real estate market and on the increasing scarcity of these types of parcels, and will not change by alternative.” (FEIS, p. 4-18.)

The economic analysis for the FEIS is contained in pages 3-102 to 3-154. “The economy can be affected by a variety of factors including population growth, changes in interest rates, location of new magnet industries, recession, growth of new sectors, tax policy, State economic policy, etc. When compared to these kinds of variables, the management of travel and recreation of the National Forest has a relatively small effect...Because the decisions of the Travel Plan will have little direct and indirect effects on the Gallatin Social and Economic Area, there should be no cumulative effects.” (FEIS, p. 3-124.)

BD. Biological Diversity and Ecological Sustainability

BD-1. The entire foundation upon which the Plan evaluates its responsibility for corridor management is invalid.

Response: The scientific rationale why corridors are important is discussed and several scientific sources are cited to note the validity of maintaining corridors (FEIS, Chapter 3, pp. 65-70). Additionally, managing for wildlife movement corridors and linkage areas is desired by the public and was indicated in comments and letters (e.g. CD6: 03 Scoping Comment Period, Public Comments Received, 02.11.19 Letter from Kim Davitt).

BD-2. The analysis of core habitat is flawed. First, is the exclusion of a table clarifying the mile/mile-squared road densities of all Travel Planning Areas. Not just the three areas deemed “Corridor” areas by the Forest Service. Second, is the percent core habitat analysis and rating in Table 3.9.3, p. 3-251. There are 43 areas rated for quantity of percent core habitat remaining; of these, 23 are rated incorrectly according to the USFS rating system. Of these 23 incorrect ratings, 11 were rated as an underestimation of percent core habitat remaining, and 13 were an overestimation of percent core habitat remaining. Simple math shows that this is actually 24 vs. 23 incorrect ratings, because one of the TPAs had two ratings, both of which were incorrect, on both the low and high side. This brings to question that with a 53 percent error rate, how many of the other calculations within the Plan are also erroneous.

Response: Tables clarifying miles/square mile are presented for the entire Forest for each alternative in 3 separate tables in the description of alternatives (FEIS, Chapter 2, pp. 34-46). Miles/square mile tables are also included by lynx analysis unit and by hunting district (FEIS, Chapter 3, pp. 368, 375, and 639). As stated above, these data were provided for the most vulnerable corridor areas (FEIS, Chapter 3, pp. 72-76). Tables are not provided with miles/square mile by Travel Planning Area; rather miles/square mile calculations were used to facilitate analysis and comparison between alternatives where appropriate.

Core habitat analysis in the FEIS (explained on p. 234; table of results on p. 251) is correct although it is explained rather poorly. The ratings only rate the motorized columns for Alternatives 2M-7M; non-motorized/motorized columns and Alternative 1 are not included in the rating. This is not clear in the discussion on page 234. Comparison of relative motorized use among travel planning areas does not help compare alternatives and could have been omitted. After clarification, there is no reason to believe that serious errors exist throughout the document as contended by the appellant.

BG. Big Game.

BG-1. There are almost universal problems with a lack of big game security at lower elevations across Montana, and it is likely this problem exists on the Gallatin National Forest as well, yet there was no analysis of this problem and how it relates to removal of open road density standards.

Response: The current Forest Plan standard requires a habitat effectiveness rating (HEI) of 70 percent. The Travel Plan proposed to amend the Forest Plan because the HEI rating of 70 percent is unrealistic and based on science that is neither supportable nor logical. “The Forest Service is proposing to amend this direction out of the Forest Plan because scientific literature can become antiquated and therefore its use should not be required by a Forest Plan standard.” (Gallatin National Forest Travel Plan FEIS, Appendix A-1.) Current HEI values by TPA are identified in Table 3.8.1 (Chapter 3, p. 219) and a summary in Table 3.2.4 in the FEIS (Chapter 3, p. 47) also shows that HEI values would vary little among the seven alternatives, with an estimated overall secure cover of 62 percent for the preferred alternative. The Forest Supervisor concludes in the ROD, “... that habitat for elk and other big game is and will remain more than adequate on the Gallatin National Forest” (ROD, p. 78). These analyses support the rationale for amending the Forest Plan standards for elf effective cover.

BG-2. Motorized use restrictions to provide for big game cannot be justified.

- The ROD, page 68, states that Alternative 1 was not acceptable for big game but this alternative is misleading because off-route motorized travel was already prohibited by the 3-State OHV decision (2001).
- The ROD and FEIS speak extensively to the good overall health of big game populations.

Response: Any proposed motorized use restrictions in the Travel Plan are not predicated strictly for the purpose of big game habitat protection. The rationale and issues evaluated to reach a preferred alternative were numerous and complex. The 2001 ROD for Off-Highway-Vehicles only prohibited off-route travel on new routes, but allowed use to continue on any existing routes whether they were specifically designated or not. Moreover, this plan amendment provided the framework and purpose and need for site-specific travel management planning such as the proposed Gallatin Travel Management Plan. Alternative 2 most accurately depicts the current conditions and has a HEI of 60

percent overall. The FEIS demonstrates that the Alternative 7-M provides a HEI of 62 percent overall; a slight increase from the current condition of 60 percent overall (FEIS, Chapter 3, p. 47).

BG-3. The Travel Management Plan and ROD fail to adequately protect ungulate habitat and disturbance.

- The Travel Plan amends the Forest Plan to remove the 70 percent elk effective cover standard without sufficient rationale.

Response: As stated above, any proposed motorized use restrictions are not predicated strictly for the purpose of big game habitat protection. The current Forest Plan standard requires a habitat effectiveness rating (HEI) of 70 percent and is proposing to amend it because the rating is unrealistic and based on science that is neither supportable nor logical. (Please see response to BG-1.) NEPA requires federal agencies to use accurate scientific analysis in evaluating impacts of proposed actions (40 CFR 1500.1).

BS. Big Sky Travel Planning Area

BS-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

Response: Travel planning in the Big Sky TPA will, for the most part, continue current management (ROD, p. 40). Miles of summer and winter opportunities actually increase for both motorized and non-motorized traffic under Alternative 7-M (Detailed Description of Alternatives, Table II-24). One of the major differences include an ATV/motorcycle connector route between the Yellowmule Trails along the Forest Service boundary to provide loop opportunities with the Buck Ridge Trail, thus encouraging users to stay on designated trails.

Continued summer motorized recreation and snowmobile use in the winter is more important in this area since uses are more restricted due to grizzly bear habitat to the south. Wilderness trespass has not been a significant problem in the past; however, Trail #8 will be closed to motorized use due to past experience with resource damage. The Travel Planning Area does have sedimentation problems that are primarily coming from private land. There is also concern about wildlife movement, particularly in the fall. The programmatic direction adopted a goal and objective (Goal 3 and Objective 3-1) to transfer roads and trail easements to the Big Sky community because these trails pass through private land in an urban setting.

BT. Bangtail Travel Planning Area

BT-1. General support that the decision for this Travel Planning Area manages for motorized use.

Response: The ROD, pages 37 and 38, describe the Bangtail area as having an old road system that is conducive to summer OHV use, some backcountry road use, and winter

snowmobiling near Bozeman. Parts of the old road system will be used as connectors to create loops for ATV's, motorcycles and mountain bikes in the summer. This is a popular area near Bozeman for various types of winter and summer motorized recreation, and has public support to remain that way. The new loop trails may help eliminate cross country travel and limit resource damage.

BZ. Bozeman Creek Travel Planning Area

BZ-1 and BZ-2. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- Leverich Canyon Trail (#435) should remain open to motorcycles.
- Planners are ignorant of the consequences of closing the Leverich Canyon Trail to motorcycles. Motorcyclists have used this for many decades.
- Instead of closing the Leverich Canyon Trail to motorcycles, this use could be separated from: (a) mountain bikes, and (b) foot and stock travel.

Response: The decision to manage for non-motorized use is consistent with the overall objective to provide day hiking, biking and skiing opportunities in a non-motorized setting close to Bozeman (ROD, p. 40). This enhances the quality of the experience and maintains public safety for the non-motorized user group (ROD, pp. 19-22). The ROD states it will provide well-distributed opportunities for both OHV and non-motorized use outside of wilderness and recognizes that the decision does result in the reduction of motorized use opportunities over the current situation.

C. Comments and Responses

C-1. The Forest Service failed to adequately respond to comments provided on the DEIS.

Response: In the ROD, pages 131 to 134 provide an overview of the public involvement process, and a discussion of how public and other agency comments were considered. For a specific example, comments from skiers and snowmobilers led to a decision to reconfigure the snowmobile area in the Fairy Lake area. Included on CD2 in the project file, is a spreadsheet with the extracted comments on the DEIS and the Forest's response to them. Also included in CD8 in the project file is a record of open houses, and other public and user group meetings used to solicit comments. Finally, included on CD8 are Responses to Comments that were submitted during the scoping and alternative comment periods.

Sometimes the public comment summary tables would indicate that the letter had "no substantive comment requiring response." Because there was no specific response does not mean the comment was not considered; all comments were read and considered. The Forest received over 10,000 comment letters and emails on the DEIS. Out of those, the content analysis identified about 2,600 specific comments which they provided direct responses to in the FEIS. Some of the comments included opinions for or against the

project or a portion of the project, without providing supporting details. Those types of documents, although read and considered, were identified in the summary table as “no substantive comment requiring response.”

During the appeal review period, the Forest did find one situation where they accidentally failed to respond to some comments. The Forest was communicating with and reviewing comments to one of the appellants (Dr. Kenneth C. Zahn) and realized that they accidentally failed to respond to all of the issues in his August 1st, 2005 letter. The Forest responded with a followup letter on March 14, 2005 which completed their responses. The Forest Supervisor documented in her letter that review of his comments would not have lead to any changes in the decision. While this was an unfortunate mistake, the Forest corrected the situation with a quick reply the Dr. Zahn.

C-2. No opportunity to comment on Alternative 7-M was provided.

- Alternative 7-M was significantly different than Alternative 7, thus violating NEPA because the public didn't have an opportunity to comment on it.
- Further evidence that Alternative 7-M was significantly different than Alternative 7 include: 1. All snowmobile riding areas in the west side of the Bridger Mountains were closed in Alternative 7M. (2) The area that runs along the east side of highway 191 along the Madison River was first restricted to snowmobiles in the ROD. (3) The ROD closes Road #2522 to snowmobiles leaving no access to Carrot Basin.

Response: Alternative 7 was included in the DEIS as the preferred alternative. Alternative 7-Modified (7-M) replaced Alternative 7 in the FEIS, and included some changes (FEIS, Appendix C). The changes made were based in large part, on the public comments received on Alternative 7. Alternatives 7 and 7-M fell within the range of Alternatives 1 through 6 in the FEIS. The DEIS (pp. 2-15 and 2-19) stated that the decision would not be limited to a choice between one of the alternatives studied in detail. Alternatives 1-6 were developed with the understanding that the preferred alternative, and ultimately the final decision, would be made based on a comparison of the merits of each option on a Forest-wide, TPA, and route-by-route scale. In other words, the preferred alternative would likely be some combination of the other alternatives. This alleviated concern that an otherwise desirable alternative could not be chosen because there was some component of it that was unacceptable.

For example: (1) Snowmobile opportunities in the West Bridgers fall within the range of Alternatives 2 and 5. (2) The snowmobile area restriction between Hwy 191 and the Yellowstone Park boundary at the Madison River was a map error (see the decision map for winter use on CD1). (3) The closure of Road #2522, (Seg. 1) to snowmobiles is based on the decision to relocate the snowmobile trail a short distance to the east. The existing access route (Road #2522, Seg. 1) would remain open until the new trail can be established following site-specific analysis under NEPA. In other words, snowmobile access to Carrot Basin from the Taylor Fork Road is included in Alternatives 7, 7-M, and the final decision.

C-3. The response to a comment that skiers do not want to share trails with snowmobiles (because some skiers prefer snowmobile tracks because they do not want to break trail) shows ignorance and insensitivity.

Response: The Forest responded to the above comment with the following: “The Forest recognizes the current shortfall in providing high quality cross country ski trails, and that many of our existing routes are poorly marked or located to be the best opportunities. It is our goal to improve skiing opportunities by providing more high quality opportunities with the implementation of the Travel Plan. Cooperation from clubs and interested groups or individuals will be very important to improve the existing marking and management of ski trails. It is not a fair statement to say that skiers will not use routes that snowmobiles travel - some skiers prefer those routes because they don't have to break trail. The Travel Plan preferred alternative articulates numerous marked ski trails that will be off limits to snowmobiles, and some that will be dual use. All groomed trails will prohibit snowmobile travel - as will many of the marked routes (see the winter map). The travel plan also highlights many new winter access routes with an objective to secure reliable plowing to improve access. Plowing will be a function of available funding, and will rely on community support, local partnerships and club involvement to be successful.” DEIS, Response to Comments; Comment #1842.) This is an appropriate response to her original comment.

C-4. The Forest Service failed to cooperate with Gallatin, Park, and Sweetgrass Counties as a partner or solicit information from them in the planning process.

Response: The Project Record shows that 3 meetings were held with the Park County Commissioners and two meetings included the commissioners from Gallatin County. (CD8: Folder “Open Houses and Meetings”; Document 54, 05.08.01 Travel Plan meetings). No written comments were received on the DEIS from the Gallatin, Park or Sweetgrass County Commissioners during the comment period (DEIS, Response to Comments) or in response to the first two comment periods (CD6: Scoping Comment Period and CD7: Alternatives Comment Period). Although formal documentation of meetings with the Sweetgrass County Commissioners is not in the record, an email from District Ranger Bill Avey recalls that he met with the Sweetgrass County Commissioners on several occasions.

C-5. The Forest Service used comments submitted by Citizens for Balanced Use (CBU) against them to shut down preferred recreation areas.

Response: The ROD (pp. 19-126) provides the rationale for the decision, including the reasoning behind motorized-use restrictions. General rationale can be found on pages 19 through 22. Review of the DEIS Response to Comments indicates that the comments submitted by Citizens for Balanced Use (CBU) were appropriate.

CC. Cabin Creek Travel Planning Area

CC-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- The closure of the Cabin Creek Trail (#207) and the Red Canyon Trail (#205) is excessive in light of other trail closures in the area.
- Providing for secure grizzly bear habitat is not valid rationale for restricting motorized use.

Response: Providing core habitat is a primary focus of access management in the Grizzly Bear Conservation Strategy for the Yellowstone area, with the Cabin Creek Travel Planning Area being within the Madison #1 Bear Management Subunit. The Cabin Creek Travel Planning Area is recognized for its extremely high quality bear habitat and improvements to its core habitat will benefit the Grizzly Bear. Studies have shown varying degrees of negative effects to bears from summer motorized use and are the basis for providing secure habitat (FEIS, pp. 3-255 through 3-275, 3-289 and 3-290).

The Cabin Creek Trail #207, from the Cabin Creek Campground and Trailhead to the Red Cub Trail and a portion of the Red Canyon trail (#205), were closed to motorcycle use (ROD, p. 41). However, the Red Canyon Trail (#205) from Red Canyon Trailhead to the junction with Trail #151 at the Cabin Creek Divide is open to motorcycle use from July 16 to October 14, thereby providing some motorized use (FEIS, Detailed Description of Alternatives, p. II-40).

CCWRMA. Cabin Creek Wildlife Recreation Management Area.

CCWRMA-1. The decision allows four wheel ATVs over 40 inches wide on the Oil Well Trail #68, in conflict with legislation which created the CCWRMA (P.L. 98-140).

Response: The use of wider vehicles on the Oil Well Road is similar to the historic use of Jeeps on this road; and therefore, a continuation of historic uses (ROD, pp. 41-42). The law creating the Wildlife Management Area allows the agency to “permit limited motorized use...such as is compatible with the protection and propagation of wildlife and where such access was established prior to the date of enactment of this Act” (ROD, p. 99). The ROD (p. 41) also states that providing high quality grizzly bear habitat was a high priority and the FEIS (Chapter 30, p. 250) indicates that all alternatives, especially 5, 6, and 7M were consistent with the protection and propagation of wildlife habitat.

CCWRMA-2. The decision allows intense snowmobiling in the CCWRMA, in conflict with legislation which created the CCWRMA (P.L. 98-140). Intense snowmobiling, trail grooming and trail development, is not compatible with the protection and propagation of wildlife and does not maintain wilderness character.

- Restricting snowmobile use in areas of grizzly bear habitat is essential.

Response: Snowmobiling is allowed by P.L. 98-140 within the WMA as long as there is adequate snow cover and it is compatible with wildlife protection and propagation (ROD,

p. 99). Winter recreation development (snowmobiling and trail grooming and development) will not coincide with elk use and has not been documented to be a noteworthy threat to grizzly bears (FEIS, pp. 3-250 and 3-270 to 3-271). The legislation which created the CCWRMA, by P.L. 98-140, specifically allows certain types of snowmobile use to continue.

CCWRMA-3. The plan for managing motorcycle use in the CCWRMA is insufficient to protect wildlife values.

- It is insufficient to protect the grizzly bear in violation of the Lee Metcalf Wilderness Act.
- The open/close dates for trails in this area are inconsistent. See page 40 and 41 of the Detailed Description of the Decision.

Response: The plan actually increases secure grizzly bear habitat about 4 percent over existing conditions (ROD, p. 41). Maintaining wildlife values was addressed in the FEIS, and the conclusion was that all alternatives met the intent of the law and Alternatives 5M-7M would best provide the wildlife protection required by the law (FEIS, Chapter 3, p. 250). Open/close dates for roads and trails in Alternative 7 were inconsistent because of an error. This was supposedly corrected in Alternative 7M to make fall motorcycle closure dates more consistent. In the ROD, the Forest Supervisor tried to clarify some of the changes and corrections; however, the final decision and rationale relating to motorcycle and ATV use is still confusing as related to motorcycle and ATV use. As a result, I recommend the following instructions:

Instructions: Review the ROD and Detailed Description of the Decision (Cabin Creek Travel Area Table, pp. 40 and 41) and clarify motorcycle and ATV use.

CCWRMA-4. Eliminating the restriction on trail vehicles to less than 40 inches in width is improper without a rational reason or justification. See Volume 1, Appendix A-19. Eliminating this standard is blithely done, despite warnings that changes in motorized technologies will increase pressure to the Forest from motorized recreationists.

Response: The FEIS discusses why the 40” rule language in the 1987 Forest Plan is no longer necessary, by virtue of designating routes within the CCWMRA appropriate for specific vehicles and dates when routes are open (Appendix A, p. 20). Vehicles 40 inches wide are still prohibited from the CCWMA except on the Oil Well Road where historic jeep use existed (ROD, p. 41). The specific nature of the Travel Plan and its discussion of each individual route actually enables better management of the high recreational pressures received by the Forest (ROD p.10; FEIS Summary, p. 9).

CH. Cherry Creek Travel Planning Area

CH-1. The restriction on motorcycles on the Cherry Creek Trail #401 was a surprising change from the preferred Alternative 7 and is unjustified.

Response: The ROD (pp. 16 and 42) provides the rationale for the decision to restrict motorized use on Trail #401. Most of the trails in the Travel Management Area lead into the Spanish Peaks Wilderness Area and the decision designates them for non-motorized uses. In the preferred alternative it was recommended to be open for motorized use. However, during further public involvement motorcycle users stated the trail had limited opportunity and little use, while in contrast stock users had considerably more use of the trail and used it to access additional trails in the Wilderness. The trail system is also served by only one trailhead facility. By precluding motorcycle use of this trail it provides for a higher quality non-motorized experience for hikers and stock users on the trail, and makes the trail management compatible with management of the Beaverhead-Deerlodge National Forest trail management.

CH-2. The decision to close Trail #315 was misleading. While the area is being considered for recommended wilderness by the Beaverhead-Deerlodge National Forest, allowing a mountain bike corridor on this route or Trail #368 should be done.

Response: There was an error in the published table in the Detailed Description of the Decision. An Erratum was issued and posted on the Forest website to correct the error. Trail #315 is intended to be open to mountain bikes to the Beaverhead-Deerlodge NF boundary (www.fs.fed.us/r1/gallatin/travelplanning/misc/Errata).

CMC. Climate Change

CMC-1. The Forest Service fails to recognize the problem of climate change which results in shorter milder winters with less snowfall. The decision to allow/expand snowmobiling from the DEIS preferred alternative and/or failure to set a cut-off date in the spring will have a heavier impact on flora and fauna.

Response: Climate change was not previously mentioned in comments received by the appellant. However, if changed conditions result, future changes in travel management requirements and prohibitions can be considered and may be adopted, pursuant to CFR Part 261, to provide resource protection.

CR. Cultural Resources

CR-1. The ROD designates no motorized use north of the Corbly/Tom Reese Creek Divide, for the protection of cultural resources, but there is ample data that the West Bridgers south of this area have equal or greater archaeological significance, the same area at which the ROD does designate a motorcycle trail. This area will likely receive greatly increased motorcycle traffic due to closures elsewhere. The FEIS does not address cultural resource impacts south of the Corbly/Tom Reese Creek Divide and therefore the decision is based on incomplete information in violation of NEPA Sec. 102 [42 USC 4332](C).

Response: A motorized route north of the Corbly/Reese Divide was not designated because it did not previously exist, not because sites north of the Corbly/Reese Divide

were considered more important than sites south of that same Divide. The ROD also directs to keep use on existing systems and to not pioneer new trails into areas with high-site densities. The FEIS addresses trail impacts in TPAs with high-site densities, including vandalism and illegal collecting. (ROD, p. 72; FEIS, Chapter 3, pp. 3-393, 3-395, and 3-395 through 3-100.)

CR-2. Since the FEIS does not address cultural resource impacts south of the Corbly/Tom Reese Creek Divide in the Bridger Mountains, this area is not afforded the same protection from motorcycle impacts as the area to the north. The West Bridgers contain significant cultural resources in the form of prehistoric sites and connecting trails. This makes the Bridger Mountain archeological sites in the upper basin of the west Bridger Mountains potentially eligible for inclusion in the National Register of Historic Places under Criterion D, NHPA Section 106, Advisory Council of Historic Preservation [36 CFR Part 800] and NPS regulations [36 CFR 60]. Furthermore it is not apparent that these procedures as well as NHPA, Sec 110 have been carried out, or addressed to the extent necessary, to properly complete the Forest Service Travel Plan.

The FEIS does not acknowledge the significant cultural resource areas south of the Tom Reese Creek/Corbly Canyon Divide, and the ROD is based on incomplete information. By allowing motorcycle travel through these sensitive areas, there could be irreparable damage to these areas of irreplaceable cultural resources if any deviation occurs from said trails.

Response: Some cultural resource survey and management reports specific to the analysis of the West Bridgers Travel Planning Area were not copied in the FEIS/ROD because they contain site-specific information inappropriate for public dissemination (ARPA, Sec. 9, Confidentiality). As stated in CR-1, the area south of the Reese/Corbly divide was not overlooked, rather the issue analyzed was that there was not an existing motorized use north of the Reese/Corbly Divide, whereas an existing motorcycle (not ATV) use already existed south of the Reese/Corbly Divide. Direction for this can be found in the ROD emphasizing decision to avoid new access into areas with high-site potential, and by using adaptive management to bring facilities to a condition to adequately accommodate uses in a manner that prevents resource damage (ROD, pp. 26, and 71-72).

CR-3. I have never heard of or was never informed of Indian cultural sites or areas of integrity in the Crazy Mountains. The ROD was the first time this came up. This rationale for closing routes to motorized use seems rather vague and of unsubstantive value. Certainly there would be other options to address tribal concerns other than closure to motorized use.

Response: Numerous meetings were conducted with the Crow Cultural Committee officially representing the Crow Tribe in an attempt to understand Crow values and how they relate area by area to the Crazy Mountains. Discussions at these meetings included the affected environment, traditional cultural areas, travel planning issues in the Ibex and

East Crazies Mountain ranges, and impacts to traditional cultural properties. (FEIS, Chapter 2, p. 2-4; Chapter 3, pp. 3-93 to 94, and Reference 2-6 and 7; and ROD, pp. 71-72).

CR-4. NHPA must be considered in the Programmatic Direction on access. If the programmatic access direction has some future bearing on the desired access sites, which includes a stated objective or goal by the Forest Service to acquire roaded access across lands owned by all appellants, then such programmatic direction must also be reviewed in light of the National Historic Preservation Act.

Response: The Programmatic Direction for Access is simply a device for identifying future NF System access needs as directed in the FEIS. This Programmatic Direction does not go into sufficient specificity to know the Area of Potential Effect in order to meet the definition of an ‘undertaking’ for NHPA Section 106 Process (36CFR800.2), but does establish goals of managing for access (ROD, pp. 28-29; FEIS, Chapters 1-8).

DC. Deer Creeks Travel Planning Area

DC-1. Motorized use restrictions in the Deer Creeks Travel Planning Area are excessive and unjustified.

- If the Forest Service agrees that stream crossings result in minimal disturbance and/or can be mitigated, why are there so many motorized closures in Deer Creeks?
- I appeal the decision to close the Deer Creek Trail #5 to motorcycles. The fish biologist said he would be hard pressed to say that a motorcycle causes more stream impact than horses or cattle.

Response: Standard 3-1 (Detailed Description, p. II-52) recognizes that motorized impacts are currently occurring on Deer Creek and Placer Gulch trails and that there is a need to improve trail conditions and upgrade facilities to meet the standards. The preferred alternative will reduce impacts from the existing condition though impacts may not be completely mitigateable, especially if sensitive soils and unconsolidated banks increase sediment delivery and erosion into the stream (FEIS, p. 3-187). Certain stream crossing designs can be implemented that will significantly reduce sediment impacts.

Because of unstable tributary stream crossings on Deer Creek Trail #5 south of the cabin, crossings sufficient to reduce impacts to Yellowstone cutthroat trout would be difficult to construct (FEIS, pp. 3-187 through 3-188; ROD, p. 44). This is coupled with need to prevent "deadheading" of motorized use to a non-motorized area on the Custer National Forest, and the need to provide a small non-motorized experience in the Deer Creek Mountains. As a result, this portion of the trail under Alternative 7-M was restricted to non-motorized use.

However, Lower Deer Creek Trail #5 from the its junction with Trail #156 to its junction with the Placer Gulch Trail #256 will be open to motorcycles to provide a loop connection with Red Mountain Trail #156. And, because of the number of creek

crossings in this area, they will be cheaper and less impactful to harden for motorcycle use, as opposed to ATV use. Lower Deer Creek Trail #5 will be open to ATVs from its junction with the Placer Gulch Trail #256 south to the Deer Creek Cabin.

The Tie Cutter Gulch connection trail will be proposed for construction to an ATV trail standard to allow a motorcycle and ATV loop opportunity connecting the West Bridger area, the Lower Deer Creek Trail #5, and the Placer Gulch Trail # 256. This negates the need to have a motorized route on the Jims' Gulch Trail #129. Leaving Jims Gulch non-motorized will provide a non-motorized access into the Lower Deer Creek Area, while preventing the need for expensive reconstruction activities in this unstable area.

Under Alternative 7-M, Lodgepole Trail #124 will be open to motorcycles to its junction with the connector trail to the Iron Mountain road system. This will allow access to the Wepler Cabin area, but maintain non-motorized opportunities to the Lower Deer Creek Trail #5.

E. Economics

E-1. The GNF travel plan analysis did not include an adequate benefit-cost analysis of non-motorized versus motorized trail use. This analysis should have included the annual cost of the non-motorized trails per the actual and documented number of non-motorized trail users. The economic analysis should have also compared the annual benefit-cost per non-motorized user versus the annual benefit-cost per motorized user if the trails and funding was used as multiple-use/motorized trails. Motorized trail users outnumber non-motorized trail users at least 25 to 1 (*Note: See issues R-1 through R-14*). Motorized recreationists need approximately 5 times the miles of trail per day compared to non-motorized recreationists (CBU analysis). Therefore, motorized recreationists need 125 times (25 x 5) the miles of trails as do non-motorized recreationists. However, the current allocation of resources in the forest is significantly weighted towards non-motorized and is nowhere near this ratio. Additionally, the allocation is moving in the wrong direction towards more non-motorized opportunities with the GNF travel plan decision. An increased allocation of exclusive non-motorized trails is not a good use of the taxpayers' money. Additionally, non-motorized trails benefit a very limited number of recreationists who already have more than adequate recreational resources when compared to motorized recreationists. Moreover, motorized recreationists have a strong track record of trail maintenance as demonstrated by the lack of downfall on motorized trails. A more reasonable decision would have focused on multiple-use trail projects and directed the investment of our limited financial resources in those types of projects. Therefore the decision should be remanded so that an adequate economic analysis can be done on a reasonable multiple-use trail alternative.

E-2. The benefit-cost analysis should also recognize the significant economic benefit associated with motorized recreation. Motorized economic benefits far exceed the economic benefit of non-motorized recreation because there are more motorized recreationists, and each of them has a considerable investment in their recreation. Economic benefits to the local economy associated with motorized recreation include

sale of OHVs, parts and service; sale of tow vehicles, parts and service; sale of camping units, campground fees, parts and service; fuel; meals; and motels, etc.

E-3. The Forest Service originally had two pages in the DEIS on the economic impact of the proposed closures, which was not sufficient. After pressure from Rep. Rehberg, and Sen. Burns, the Forest Service released an “expanded social and economic analysis.” The supplemental analysis was found to be false. The Forest Service states that the data put into the analysis program was “generated and estimated.” An effort should have been made by the Forest Service to collect true data from recreational users and businesses that are supported by outdoor recreation in the GNF that would be affected by the closures.

Response to E-1, E-2, and E-3: The economic analysis generated was an economic impact analysis, not a benefit/cost analysis of the Travel Plan to address the issues raised during the DEIS comment period. “The economic analysis in Chapter 3 of the DEIS was felt to be inadequate so immediately upon release of the DEIS and feedback from the public the Gallatin did an Expanded Social Economic Analysis and released it for public review and comment. This analysis is contained in Chapter 3 of the FEIS. It shows the effects of summer motorized recreation on the Gallatin, including OHV use. The analysis concluded there was no evidence to show increases or decreases of actual use between alternatives even though there were differences in mileages of open routes between alternatives. Therefore, we could not project differences in economic effects.” (DEIS, Response to Comments from Letter #1032.) “Updated recreation use data from the 2004 National Visitor Use Monitoring report were used and the latest personal income, employment, and earnings from the U.S. Department of Commerce, 2005, was used. These data were analyzed using the latest economic input/output model, IMPLAN 2004. This report was made available for public review on June 9, 2005. There have been no changes to this report since that time.” (Gallatin National Forest Travel Plan FEIS, Chapter 3, p.102.)

E-4. The social-economic analysis did not adequately address the effects to Big Sky, Cooke City, and West Yellowstone.

Response: The decision considers the economic impact across the three counties within the Gallatin NF; West Yellowstone and Cooke City were specifically addressed (ROD, p. 3; FEIS, Chapter 3, pp. 102-154). West Yellowstone was considered as having the potential to be highly impacted because of its dependence on tourism (ROD, pp. 50 and 61). Economic and social impacts of the decision were considered primarily in designing travel management in the Cooke City Planning Travel Area (ROD, pp. 42-44). Although economic impacts around Big Sky were not specifically considered, they were considered at the Forest- and county-level, and the Travel Plan makes few changes to travel management in that area (ROD, p. 40).

E-5. The economic impact to the availability of minerals was not evaluated in the travel planning process.

Response: The availability of minerals was beyond the scope of this analysis and this is explained in the Scope of the Decision (FEIS, Chapter 1, pp. 14-16).

EB. East Boulder Travel Planning Area

EB-1. Motorized use restrictions in the East Boulder Travel Planning are excessive and unjustified.

EB-2. The Custer NF has only two trails open to motorcycles on the Beartooth District, #22 and #24. The rationale for closing Trails #13 and #124 on the Gallatin to motorcycles because the Custer wants to keep their side closed, is a lie.

Response to EB-1 and EB-2: The ROD (pp. 17, 45 and 46) provides rationale for the decision for the East Boulder Travel Planning Area. The summer recreation use goal is to provide opportunities for summer recreation use with an emphasis on challenging high-clearance vehicle, ATV, and motorcycle use. The winter recreation use goal is to provide opportunities for dispersed snowmobile use. (Detailed Description of the Decision, pp. II-59 to II-62.) Dry Fork Trail #13 is only closed to motorcycles beyond Moccasin Lake (ROD, p. 17). Under Alternative 7-M, Lodgepole Trail #124 (in the Deer Creek PTA) will be open to motorcycles to its junction with the connector trail to the Iron Mountain road system. This will allow access to the Wepler Cabin area, but maintain non-motorized opportunities to the Lower Deer Creek Trail #5.

EC. East Crazies Travel Planning Area

EC-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- The new agenda is to follow the social agenda on the Crow Tribe.

EC-2. The Supervisor's decision to open more of the west slope of the Crazies to snowmobiling than in the Preferred Alternative 7 is arbitrary, capricious and has no basis in biology, resource protection, nor any of the laws that are supposed to govern management of national forests.

EC-3. Emphasizing motorcycles on Rock Creek Trail #270 and snowmobile play area in Ibex violates Crow cultural values. In accordance with the Crow people's rights to sacred ground, and in keeping with the National Historic Preservation Act as it pertains to native peoples' cultural and spiritual claims, the Forest Service must recognize that permitting motorized use of these areas is a violation of sacred ground to the Crow people.

Response to EC-1, EC-2 and EC-3: As explained in the ROD (p. 46), the decision for the East Crazies TPA attempts to provide for a variety of uses and experiences. The areas' checkerboard ownership and easements across private land on the east side limit opportunities to non-motorized travel. On the west side there are more options but there are still private land issues and the high peaks area of the Crazies holds significant

cultural value to the Crow Tribe that must be respected. The need to acquire public roaded access to National Forest land was recognized with Objective 1-2 (Detailed Description of Decision, p. II-63).

The decision in preferred Alternative 7-M differs from DEIS Alternative 7 in that it reconfigures motorized uses by not allowing ATVs or motorcycles on the Trespass Trail #268 and re-routes north-south traffic along the Porcupine Lowline #267 to preserve tribal interests and cultural sites. Motorized opportunities remain on the Rock Creek (#270) and Cottonwood Lake Trail (#197), though motorized access to Smeller Lake (#220) was removed in response to Montana Fish and Wildlife Parks recommendations (ROD, p. 46). Additional ATV and motorcycle loop opportunities will be provided in the Shields area of the Crazies.

To provide a variety of winter recreation use including both cross country skiing and snowmobiling, Alternative 7-M reconfigures snowmobiling in the Crazies by providing groomed routes as well as other opportunities in the Cottonwood/Ibex, Shields, and South Rock Creek areas. Winter closures provide segregated quiet skiing opportunities out of Porcupine Cabin as well as into the Sunlight drainage and restrict access so that cultural values of the high peaks area will not be threatened. Cultural integrity of the high peaks and unsuitable access through private lands were the rationale for snowmobile closures in the Rock Creek drainage.

Alternative 7-M was created through consultation with the Crow Tribe and is aimed at balancing reduced motorized use into the core high-country area and protecting established snowmobile use (FEIS, p. 3-98). Through meetings, field review and literature research, the Forest and the Crow Tribe both recognize a need to share the landscape and that some areas in the Crazies are more important to traditional use than other areas (ROD, pp. 71-72).

EG. Effects Analysis General

EG-1. The Forest Service failed to consider the impacts of more concentrated (increased volume of) snowmobile use in open areas due to the added area restrictions of the Travel Plan decision.

- The Forest Service should have conducted an experiment by monitoring use in a smaller area (e.g. Taylor Fork) before and after adding restrictions to assess impacts.

Response: Chapter 3 of the FEIS provides effects analyses for all issues for all alternatives, each of which concentrate snowmobile use over current condition to some degree. The differences of “concentrating snowmobile use” can be found in the FEIS, Chapter 3, pages 3-450 and 3-453. Additional information is provided on CD9: Specialist Analysis & Reports, Documents 32d and 32e.

EG-2. The decision will be harmful to the Forest because it will concentrate motorized use and will lead OHV users to engage in illegal off-trail activity. It will also result in more safety issues.

Response: The Gallatin National Forest is "...focused more on taking actions to improve compliance with the Travel Plan, rather than on enforcement alone. This includes such things as providing better maps, better signing, use guides, improved information and education, and a route configuration that minimizes trespass." (ROD, p. 74.) "In addition, there are other solutions that can be executed wherever problems may arise. We can concentrate law enforcement personnel in those areas, establish temporary use restrictions, or even propose modifications to the Travel Plan for a more permanent solution if necessary." (ROD, p. 74.)

EG-3. The Travel Plan EIS and ROD disproportionately presents motorized recreation as responsible for resource damage and effects compared to stock use.

Response: The purpose for the Gallatin National Forest Travel Plan is to "Establish objectives and/or restrictions to correct any unacceptable resource damage that is occurring due to the use of Forest roads, trails and areas open to cross-country travel." (ROD, p. 10, Item #3.) Regardless of the source of the damage, the goal of the Plan is to correct the resource damage and enforce and control measures necessary to insure that the resources are not damaged further. This includes, but is not limited to the management of motorized vehicles, non-motorized transportation, and stock.

EG-4. The Forest Service used biased studies and information in all of their research for the new Travel Plan.

Response: NEPA requires federal agencies to use accurate scientific analysis in evaluating impacts of proposed actions (40 CFR 1500.1). Chapter 3 of the FEIS includes supporting information regarding scientific methods, data analysis and effects analysis by issue. A list of references used for all the analyses can be found on CD1.

EG-5. The FEIS/ROD does not document the presence of significant resource damage from present motorized use.

Response: The purpose for the Gallatin National Forest Travel Plan is to "Establish objectives and/or restrictions to correct any unacceptable resource damage that is occurring due to the use of Forest roads, trails and areas open to cross-country travel." (ROD, p.10, Item #3.) The Record of Decision mentions the significant trail damage caused by 4X4 and OHV use in the Bear Canyon Travel Planning area (p. 38) as reasons to close existing trails until the trails can be maintained to standard. It also specifically mentions time use restrictions implemented in the Big Sky Travel Planning area because of historic resource damage caused by motorized use. Alternative 1 was not a feasible alternative because it did not accurately address how to correct the unacceptable resource damage that has been occurring.

EG-6. Snowmobiles should be allowed to travel off-trail unless there is special wildlife consideration.

Response: The Record of Decision (ROD) states that the rationale for winter recreation decisions is to provide "...well-distributed opportunities for both snowmobiling and exclusive cross-country skiing and snow-shoeing in non-motorized settings. Again, public comments indicated that there was a need for both." (ROD, p. 20.) Accessibility, terrain and snow conditions, and resource issues were contributing factors in the decisions made for each travel planning area. The goal was to maintain snowmobile access for those areas that were historically used for snowmobiling. Some of these areas include the southern Gallatin Mountain Range, west slopes of the Crazy Mountains, and Fairy Lake Travel Planning Area. The Forest Supervisor recognizes that other issues influencing her decision included compliance with the Montana Wilderness Study Act, Forest Service policy on management of recommended wilderness areas, respect for the traditional values of the Crow Tribe in the Crazy Mountains, and protection of winter habitat for lynx and wolverine (ROD, p. 20).

EG-7. Human presence disturbs wildlife, not just motorized vehicles. Noise related wildlife disturbance is a non-issue.

Response: Human presence is a disturbance factor, but noise associated with human presence is a primary mechanism that triggers a response in wildlife. Noise associated with motorized use travels further, and motorized users are able to cover more area in a shorter time than non-motorized recreationists. Motorized use is acknowledged as having an adverse effect on wildlife in numerous places in the ROD (See pp. 12, 67, 69, 70, 71, 81, 89, and 110-111).

EG-8. The Forest Service failed to properly evaluate the impact of both motorized and non-motorized use on wildlife.

- The ROD states the following when explaining the rationale for motorized restrictions: "What I've been able to conclude from reviewing the General Wildlife section of the FEIS is that the more restrictive on human use of the Forest I would get with my Travel Plan decision, the better it would be for wildlife." Yet there is no corresponding statement for non-motorized use. Information indicates that human impacts to wildlife are decreasing. See research conducted at the Starkey Experimental Forest and Range conducted on deer and elk in relation to human travel modes such as ATVs and trail bikes, bicycles, hiking, and horseback. Nothing in this research proves the existence of motorized trails actually decreases the habitat effectiveness.

Response: The Record of Decision summarizes the evaluation conducted (pp. 81-82) and the FEIS (pp. 3-225 to 2-253) provides detailed analyses related to wildlife. The potential impacts resulting from non-motorized activities were addressed for all alternatives throughout the General Wildlife section of the FEIS. The referenced document referring to the Starkey Experimental Forest analyzed the effects to only captive elk and deer from human travel modes. This experiment did not address other

species of wildlife and did not have comparable data for effects in a non-captive situation. Therefore, the results of the referenced study were not used to support or refute the travel plan decision.

EG-9. The wildlife science is flawed and incomplete, and the EIS did not follow the correct procedure of obtaining wildlife information from State and federal agencies. The species mentioned include grizzly bear, lynx, bald eagle, mountain goat, cutthroat trout,

Response: The appellants raise the issue that mountain goats are not native to the Gallatin National Forests; they meet the standards for invasive species, and that the Forest Service should not manage habitat for them or encourage their continued viability. This issue was not previously raised and it is not reasonable for the Forest Service to consider. The FEIS does disclose that mountain goats are not native to the Forest (p. 3-17).

The appellants also raise issues relative to bald eagles that were not previously raised or are not relevant. A proposed definition of the term “disturb” from a draft U.S. Fish & Wildlife Service EA is described and used to make the case that the travel management alternatives over-manage trails and terrain to protect bald eagles. It is not reasonable that the Forest Service would consider this draft definition of the term “disturb” in the bald eagle effects analysis because it was not previously raised, and in fact only became available in December 2006, at approximately the same time the ROD was released.

Additionally, the appellants claim that an unspecified route in the Moonlight area is being closed to protect a nesting pair of bald eagles. The final decision maps for summer motorized and winter travel do not show any routes in the Moonlight area that are currently open (Alternative 2) that would be closed under the decision (CD1: Decision Maps, “final winter” and “final motorized”). The FEIS (p. 3-10) discusses the fact that the Moonlight territory has been the most productive one in the analysis area despite the fact that there is an open road (that would remain open in all alternatives including the decision) through all nest management zones.

The appellants cite a list of 12 studies not utilized or mentioned in the FEIS. The Forest Service did not need to consider these studies as they were not raised as an issue in previous comments.

EG-10. The analysis of such issues such as implementability, noxious weeds, and law enforcement is wholly inadequate. The FEIS tries to avoid the issues by discussing “perceived” inability of the Forest Service to enforce restrictions, stating that weeds would exist under all alternatives, and arguing that law enforcement is a managerial situation, not an environmental effect. However, an analysis of “effects” under NEPA requires consideration of effects to the human environment as well, including socio, economic, and public safety. Law enforcement issues are an integral part of this analysis.

Response: The appellant raises three concerns with the Gallatin National Forest FEIS. The first concern is specific to the implementability of the decisions made in the FEIS.

“The current Travel Plan that governs use of roads and trails on the Gallatin National Forest is a confusing mix of regulations and special closures, with a large number of seasonal restrictions and complex maps, legends, and displays. The map is very difficult for some readers to understand and interpret. This situation contributes to innocent violations of travel restrictions.” (ROD, pp. 73-74.) In order to solve this issue, the Gallatin National Forest is “...focused more on taking actions to improve compliance with the Travel Plan, rather than on enforcement alone. This includes such things as providing better maps, better signing, use guides, improved information and education, and a route configuration that minimizes trespass.” (ROD, p. 74.) Alternative 7-M was not selected based on an enforcement issue.

Secondly, the appellant is concerned with control of noxious weeds on the Gallatin National Forest. The FEIS states, “The common elements associated with most weed infestations are ground disturbance and use of motorized vehicles. Once the weeds are introduced into an area they generally continue to spread into adjacent areas.” (Gallatin National Travel Plan FEIS, Chapter 3, p. 358.) Currently the Gallatin National Forest treats 2,000 to 3,000 acres of weeds annually out of the 12,000 acres that are inventoried. “Weeds will continue to be spread as a result of resource management and other human activities. The recently developed mitigation measures that are addressed in the Forest Service Manual 2080 are being implemented and will help to slow the spread of weeds.” (Gallatin National Travel Plan FEIS, Chapter 3-358.)

Lastly, the law enforcement issues will be managed by implementing the above cited implementation actions, rather than using law enforcement alone. “In addition, there are other solutions that can be executed wherever problems may arise. We can concentrate law enforcement personnel in those areas, establish temporary use restrictions, or even propose modifications to the Travel Plan for a more permanent solution if necessary.” (ROD, p. 74.)

EG-11. The Forest Service does not actually go out to see who really uses the Gallatin National Forest.

Response: “From the outset of travel planning one of our objectives was to get input from groups and individuals who actually use specific roads and trails. We believe that we accomplished this objective. This was not the only factor in the equation however. Public input had to be weighed along with projected environmental consequences and other higher level direction applicable to the management of travel.” (DEIS, Response to Comments, Response to James Brown, Letter #1209.) Page 1 of the Starting Benchmark document clearly states that in part the alternatives will be developed based on participation of interested groups and individuals.

ENF. Enforcement

ENF-1. The summary of enforcement data (FEIS, p. 3-158) does not justify the mass closures to motorized use resulting from the decision.

ENF-2. The Gallatin National Forest will not be able to adequately enforce motorized use restrictions, such as the requirement to stay on designated trails, thus leading to continued resource damage.

- The Forest Service is naïve in assuming that once motorcycle riders reach upper meadows and basins they will stay on the trail.
- Education will not work for the 15 percent “bad apples,” as well as others, as long as motorized riders are under the misconception that it is their “God given right” to travel anywhere in the Gallatin National Forest.

Response to ENF-1 and ENF-2: The issue of “Enforcement” was not a significant factor in the choice between alternatives (ROD, p. 74). The summary of the enforcement data (FEIS, p. 3-158) reflects an increase in violations due to having more officers on duty and/or confusion or ignorance of the rules and regulations. This brings forth the need to have a Travel Plan that is easy to understand and interpret by the public, while reducing innocent violations and travel restrictions. The decision, therefore, focuses on taking actions to improve compliance with the Travel Plan rather than on enforcement. This will include providing better maps, better signing, use guides, improved information and education, and a route configuration that minimizes trespass (ROD, pp. 73 through 74).

The new national OHV rule and enforceability of designated routes discloses how our new authority under 36 CFR 212.56 improves enforcement capabilities and legal authority that will greatly enhance the Agency’s ability to enforce regulations associated with motor vehicle travel on National Forests (FEIS, p. 3-161). In addition, an intuitive review of each alternative utilized a ranking of the physical parameters of the landscape that would contribute to enforceability and indicates that the preferred alternative would be the most “enforceable”. Goals, objectives, and standards apply to the Travel Plan and allow officers to handle and ticket trespass situations or other illegal inappropriate use on trails (FEIS, p. 3-176). Restrictions or prohibits on trails also greatly improve officer’s abilities to address user created trespass and disturbances.

FL. Fairy Lake Travel Planning Area

FL-1. The Forest Service was arbitrary and capricious in the decision to prohibit snowmobiles in the Frazier Lake area near Trail #540 and in the Middle Fork Brackett Creek area, near Trail #6948 by failing to understand and consider the use this area receives.

FL-2. National Forest land in the Brackett Creek area should all be dedicated to cross-country skiing because there is not enough area around Bozeman.

FL-3. The Supervisor’s decision to open more of the Fairy Lake area to snowmobiling than in the Preferred Alternative 7 is arbitrary and capricious and has no basis in biology, resource protection, nor any of the laws that are supposed to govern management on national forests.

Response for FL-1, FL-2, and FL-3: Public comments indicate that the Fairy Lake Travel Planning Area is a very popular area that attracts a large number of families due to its proximity to the city of Bozeman. The decision therefore attempts to provide well-distributed opportunities and rationale for summer and winter recreation in the Fairy Lake TPA. It identifies the need to provide and maintain balanced opportunities for non-motorized and motorized access and recreation, while also addressing wildlife needs. Several public comments support Alternative 7M as providing the best option for wildlife and fisheries resources and offered additional input in the form of maps and revised closure and boundary adjustments that incorporated backcountry access for skiers and snowmobilers. These comments were used to fine-tune the decision to provide for balanced opportunities for skiers and snowmobile users. (ROD, pp. 46-47.)

The change from the DEIS to the FEIS provides an opportunity for high quality “challenge” snowmobile opportunities but limits overall acreage. Groomed snowmobile routes are provided from the North Fork of Bracket Creek Road to the South Fork of Flathead Creek Road. Snowmobile restrictions in the higher elevations to the west of these areas are due to potential effects on wildlife (ROD, p. 47).

Objectives 1-2 and 2-2 (Detailed Description of the Decision, p. II-67) were adopted to provide a system of 1 to 3 designated ATV and/or motorcycle routes, 2 to 4 snowmobile loop trails, and a connector route to the Flathead Pass area. The decision also emphasized cross-country skiing on marked ski trails, on the east side of the southern Bridger Mountains and the Middle Fork of Bracket Creek, due to superior terrain and snow conditions for skiing.

G. Gardiner Basin Travel Planning Area

G-1. Motorized use restrictions in the Gardiner Basin Travel Planning Area are excessive and unjustified.

- The Bear Creek Trail #363 and Palmer Creek #67 do not lead into Wilderness and therefore should not be closed to motorized use.
- The alleged effects on bear habitat security are inconclusive (ROD, p. 49) and consequently do not warrant further motorized use restrictions.

Response: The ROD (pp. 49 and 50) describes the situation in the Gardner Basin Travel Planning area as mostly unchanged as far as access, with no compelling reason to change it during this planning effort. The Detailed Description of the Alternatives (Chapter II, pp. 93-97) shows that trails Bear Creek Trail #364 and Palmer Creek #67 are both trails that provide wilderness access. They are limited to hiking and horse travel to prevent wilderness trespass. The ROD (p. 21) describes that mechanized use was restricted on some trails leading into Wilderness, and that summer motorized use is limited within the Grizzly Bear Recovery zone based on a Memorandum of Understanding and a Conservation Agreement with the USFWS.

GB. Grizzly Bear

GB-1. The cumulative impacts of the proposed deletion of new road construction restrictions in the Amendment on the grizzly bear were never identified or evaluated.

Response: The cumulative effect impacts of the deletion of new road construction restrictions was discussed in the cumulative effects section for Grizzly Bear in the FEIS, pages 3-226 to 3-228. Proposals to open or close new routes is discussed on page 3-326, and in the Grizzly Bear Recovery Zone, proposals to construct or open new motorized routes must be offset by closing other motorized routes, such as there will be no increase in Open Access Route Density.

GB-2. There are current problems with excessive open road and total road densities, such as in the Darroch-Eagle project area. There is also a problem of barrier effects of too much motorized access in the Mill Creek drainage, a problem that may inhibit movement of grizzly bears across this landscape into available wilderness areas beyond Yellowstone Park. With implementation of the Travel Plan, these site-specific problems are ignored while public demands for access are primary. This is an imbalance that the Travel Plan created and did never address.

Response: The analysis of the effects of the various alternatives of the Travel Plan on the grizzly bear was discussed in the affected environment section in the FEIS, Chapter 3, Issue 10, Grizzly Bear, pages 3-256, 3-296 & 3-297, and page 3-311. The Mill Creek drainage is discussed in the areas outside of the recovery zone located in the Absaroka Beartooth section at the bottom of page 3-296. Mill Creek is also a TPA discussed in the FEIS, Chapter 3, Issue 10, Grizzly Bear, pages 3-296 through 297. The Bear Creek/Eagle Creek area is referred to in the cumulative effects and includes Darroch Creek. (FEIS, Chapter 3, Issue 10, Grizzly Bear, p. 3-311.)

GB-3. Bear Management subunit Gallatin #3 is given only marginal consideration by closing trails bordering Yellowstone National Park to motorcycles and snowmobile play. The subunit boundary extends much farther north than the closed area and should have been accommodated with more closures.

Response: The Bear Management subunit Gallatin #3 is discussed in the affected environment of the FEIS. This is an analysis of the effects of the various alternatives of the Travel Plan on the grizzly bear with numerous references to Bear Subunit Gallatin #3, and addresses in detail the relation to summer motorized use (FEIS, Chapter 3, Issue 10, Grizzly Bear, pp. 3-254 through 3-329 and pp.3-284 through 3-286). Discussion of effects of motorized winter use on grizzly bears, as well as summer motorized use, can be found in the FEIS, Chapter 3, Issue 10, Grizzly Bear, pages 3-270 through 3-274.

GB-4. The rationale of needing to reduce or not increase motorized route density in the Grizzly Bear Recovery Zone is unjustified. It does not logically follow the evidence that bears are flourishing and they are on the verge of being de-listed.

Response: Various efforts have been made to aggregate and interpret abundant data related to the effects of human activities on grizzly bears. The FEIS, Chapter 3, Issue 10, Grizzly Bear, page 3-262 analyzes the effects of the various alternatives of the Travel Plan on the grizzly bear with numerous references to Bear Subunit Gallatin #3. It also includes a section focusing on the scientific literature on the effects of summer and winter use (motorized and non-motorized) on grizzly bears (FEIS, Chapter 3, Issue 10, Grizzly Bear, pp. 3-255 through 3-275). The BO from the FWS also includes current direction on motorized access on grizzly bear in the Gallatin Travel Plan (CD9: Non comment period correspondence, 1. Incoming. 30_BO.pdf).

GB-5. The Forest Service failed to analyze or cite the best available science regarding the impacts of snowmobiles on grizzly bears during the pre-denning period, as required by the 1995 U.S. Fish and Wildlife Service amendment to their Biological Opinion on the Travel Plan.

Response: The Affected environment section of the FEIS focuses on the scientific literature on the effects of summer and winter use (motorized and non-motorized) on grizzly bears (FEIS, Chapter 3, Issue 10, Grizzly Bear, pp. 3-255 through 3-275). The 2002 BA written by the Gallatin NF describes the effects of snowmobile use on grizzly bears (CD1: Lit. Cited, Issue 10, 10.Griz Bear/03.doc). Also, the 2002 BO from the FWS concurred with the Forest's 2002 BA. Additional documentation includes meeting notes from grizzly bear expert meeting on 3/2005 (CD11: Reference for BA, Appendix D, Bioassess 03). Additional current science discussing grizzly bear denning and snowmobile relationships is located in the letter from the GNF to the USFWS on grizzly bear denning/snowmobile use with passage regarding current science (CD10: Lit. Cited, Issue 10, 10.Griz Bear/46.pdf).

GB-6. The Supervisor failed to set a Forest-wide standard for open road-density in occupied grizzly bear habitat, which includes all motorized travel-ways as required by the 1995 U.S. Fish and Wildlife Service amendment to their Biological Opinion on the Forest Plan.

Response: The GNF BA mentions requirements of motorized access but focuses on the preferred/selected alternative in the Travel Management Plan (FEIS, Appendix D, Biological Assessment). The 1995 FWS BO on the GNF plan does not mandate a Forest-wide standard for open-road density (CD11: USDI, 1995. FWS BO on the Gallatin National Forest Plan. Bioassess 21) and the GNF Travel Management Plan provides current direction on motorized use with no requirement for Forest-wide open-route density.

GB-7. The Travel Management Plan and ROD as they relate to grizzly bears are based on Forest Plan Amendment 19, a Memorandum of Understanding and Conservation Agreement with the U.S. Fish and Wildlife Service, the 2003 ICST Conservation Strategy, and the recent amendments to the Forest Plans of the Greater Yellowstone area national forests (April 2006). Those documents, and their direction, fail to adequately ensure the recovery of GYA bears and fail to meet the legal standards set forth in the

Endangered Species Act, NEPA, and APA. See e.g. Appeal of the April 2006 Forest Plan Amendments filed by Greater Yellowstone Coalition and others.

Response: The Travel Management Plan ROD summarizes grizzly bear issues. It describes the legal constraints that must be adhered to in the Travel Plan to meet grizzly bear population recovery goals. It also explains how the decision accomplishes these objectives.

The Travel Plan FEIS describes grizzly bear recovery zone and motorized access. It notes that the purpose of the Travel Plan is, in part, to evaluate the need for changes in motorized routes in the grizzly bear recovery zone (FEIS, Chapter 2, pp. 5-6).

The summary of significant issues for grizzly bear notes the importance of travel management for grizzly bear conservation and also notes that the Travel Plan contrasts alternatives relative to percent secure habitat and identifies grizzly bear management subunits in need of improvements (FEIS, Chapter 2, p. 5-6, and Comparison of Alternatives Studied in Detail, pp. 37-38).

The monitoring of grizzly bear secure habitat describes a strategy for monitoring implementation of the Decision to ensure that the legal constraints stipulated in Forest Plan Amendment 19 and the final grizzly bear Conservation Strategy are met. It also monitors winter use in relation to grizzly bear. The Travel Plan describes a strategy for monitoring implementation of the Decision to ensure that the direction provided by the FWS is met (including reasonable and prudent measures and terms and conditions) in response to a GNF 2001 Biological Assessment (FEIS Appendix B, pp. 1-2; Monitoring grizzly bear secure habitat and FEIS, Appendix B, pp. 9-11, Monitoring winter use in relation to grizzly bears).

The assessment of Travel Plan effects on grizzly bears, focusing on the preferred/selected alternative, notes that a lengthy assessment of the effects of the Decision on grizzly bears was conducted, with every effort made to meet the direction in the Conservation Strategy. This section meets the necessary legal standards for addressing grizzly bear recovery (FEIS, Appendix D, Biological Assessment, p. 24-84, see also errata sheet, CD11: Bioassess 11).

It should also be noted that the FEIS contains a detailed analysis of the effects of the Decision on grizzly bears, including description of the affected environment; an assessment of habitat effectiveness; effects of summer and winter human use; direct and indirect effects; effects of summer motorized use by grizzly bear subunit; summary of winter motorized use effects; cumulative, net, and projected combined effects; effects to the grizzly bear in the context of proposed Forest-wide direction; and consistency with laws regulations and policies (FEIS, Chapter 3, pp. 254-327, 10-grizzly bear).

Current management direction can also be found in the BO from the FWS on the Gallatin Travel Plan. It provides current direction on motorized access and shows that the documents used are adequate to ensure grizzly bear recovery including the legal

standards for recovery (CD9: Non comment period correspondence, 1. Incoming. 30_BO.pdf, p. 5).

GB-8. The Forest Service failed to examine opportunities to improve habitat security by working with adjacent national forests and taking steps to offset impacts on adjacent private lands. The Forest Service failed to consider the positive consequences of working across the border with the Caribou/Targhee National Forest.

Response: The FEIS discusses the fact that all road jurisdictions, including private roads, are included in motorized access route density calculations (FEIS, Chapter 3, Issue 10, Grizzly Bear, p. 3-254). It also has a section which discusses cumulative effects of private roads on grizzly bear habitat (FEIS, Chapter 3, Issue 10, Grizzly Bear, pp. 3-308 to 3-313). The record also addresses working across forest boundaries in notes from a meeting between staff from the Hebgen Lake District, Gallatin NF, and the Island Park District, Targhee NF. The discussion involved coordinating Travel Plan issues across the Forest boundaries, especially road closures (CD9: Folder 10, Forest Service Meetings, Document #11).

GB-9. The Forest Service failed to examine the positive consequences of further restricting motorized access on the Gallatin portion of bear sub-units, so as to off-set the mounting adverse effects of roads on adjacent private lands.

Response: The analysis of the effects of the various Travel Plan alternatives on the grizzly bear, including a range of motorized access densities that occur in the various subunits does address road effects on adjacent private lands (FEIS, Chapter 3, Issue 10, Grizzly Bear). It discusses the fact that all road jurisdictions, including private roads, are included in motorized access route density calculations (FEIS, Chapter 3, Issue 10, Grizzly Bear, p. 3-254). The section goes on to discuss the cumulative effects of private roads on grizzly bear habitat (FEIS, Chapter 3, Issue 10, Grizzly Bear, pp. 3-308-313).

GB-10. Regarding the Madison #2 sub-unit, the Travel Plan FEIS states that “improvement of secure habitat and road densities in this area are of questionable value due to the risk to grizzly bears when they venture into the sub-unit that is so heavily used by humans (FEIS, p. 3-291). This undermines the intent of the Conservation Strategy and does a disservice to its own grizzly bear/human conflict reduction program.

Response: The ROD identifies 3 subunits needing improvement regarding the amount of secure habitat. The Travel Plan highlights the need to improve the amount of secure habitat available within 3 grizzly bear analysis subunits. It also describes the outcome by alternative, including 7M, on the amount of this habitat component available. This Decision increased secure habitat for all 3 subunits (ROD, pp. 82-84).

The FEIS further identifies 3 subunits needing improvement in the proportion of secure habitat. The Biological Assessment compares the amount of secure habitat for each subunit and provides a strategy for improvement. These findings are also placed in a cumulative effects context. Pages 55-57 of the BA explain why improving secure

habitat is of questionable value for Madison #2 (FEIS, Appendix D, Biological Assessment, pp. 6, 26-33, 47-63, and 68-81; and Errata, pp. 121-123). In addition, there is an effects analysis by alternative, and a rationale for improving the situation respective to each subunit and travel plan area, including rationale as to why the improvement the secure habitat proportion in Madison #2 is considered of questionable value (FEIS, Chapter 3, pp. 254-269 and 277-298, 10-year grizzly bear).

GB-11. The Travel Plan fails to aggressively improve the amount of secure grizzly bear habitat on the Forest. The Conservation Strategy itself stresses the need for improvement in three of the bear management units. If it is not done now, then when?

Response: The GFEIS identifies 3 subunits needing improvement. The Travel Plan highlights the need to improve the amount of secure habitat available within 3 grizzly bear analysis subunits. It also describes the outcome by alternative, including 7M, on the amount of this habitat component available. The Decision results in an increase in secure habitat in all 3 subunits (ROD, pp. 82-84). It also identifies these same subunits needing improvement in the proportion of secure habitat. As evidenced by this reference, you will note that the Biological Assessment compares the amount of secure habitat for each subunit and a strategy to increase the quantity available. These findings are also placed in a cumulative effects context of bear (FEIS, Appendix D, Biological Assessment, pp. 6, 26-33, 47-63, and 68-81; and Errata, pp. 121-123). It further recognizes by the 3 subunits to increase in the amount of secure habitat. In addition, there is an effects analysis by alternative, and a rationale for improving the situation respective to each subunit and Travel Plan area (FEIS, Chapter 3, pp. 254-269 and 277-298, 10.grizzly bear).

GB-12. The Forest Service failed to adequately examine the effects of snowmobiling on grizzly bears.

Response: The FEIS contains a detailed analysis of the effects of winter use on grizzly bears, including direct and indirect motorized effects and cumulative, net, and projected combined effects (FEIS, Chapter 3, pp. 270-274, 307, and 307-322). The FEIS describes a strategy for monitoring implementation of the Decision to ensure that the direction provided by the FWS is met under Reasonable and Prudent Measures and Terms and Conditions; in response to a GNF 2001 Biological Assessment (FEIS, Appendix B, pp. 9-11, Monitoring winter use in relation to grizzly bears). It goes on to describe a detailed analysis of the effects of winter motorized-use on grizzly bears, pointing out that a detailed analysis was conducted in the BA using relevant literature, findings in the 2002 BA addressing the effects of winter motorized-effects on grizzly bears, and a quantification of acres affected by closures and other legal prohibitions (FEIS, Appendix D, Biological Assessment, pp. 33-47 and 63-68; also Errata sheet, CD11: Bioassess 11).

The BA and BO for the Travel Plan describe the effects of snowmobiling on grizzly bears in the GYA Forest, which thoroughly address this issue (CD10: Literature, Grizzly Bear, Items #3 and #48).

GC. Gallatin Crest Travel Planning Area

GC-1: The Forest Service was arbitrary and capricious in the decision to prohibit snowmobiles on the Hyalite Creek and East Fork of Hyalite Creek trails by failing to understand and consider the use this area receives. The appellant(s) claim that the area is more heavily used by snowmobilers and that these trails are too far from a plowed road to be used by skiers.

Response: The decision (ROD, p. 20) emphasizes family-oriented cross-country skiing in the Hyalite drainage. The decision will also allow plowing of the main road to the Blackmore Day Use Area. The area around the reservoir will be managed for cross-country skiing. The decision provides a separate route accessing the Grotto Falls Trailhead from Moser Creek Road to accommodate ice climbers.

To meet the requirements of the Montana Wilderness Study Act (WSA) and maintain the pre-existing Wilderness character as it was in 1977, the Forest Supervisor limited the proliferation of snowmobile use in the WSA by geographically reconfiguring the use. The approximate acres used by snowmobiles pre-1977 were reconfigured to similar acreage that better matches the areas that are more desirable for snowmobilers to use today. The decision concentrates snowmobile use is less than 12 percent of the WSA, while preserving a large portion of it to non-motorized use (ROD, p.15).

A designated route from Hyalite through a closed area, to a small open area in the East Fork of Hyalite (Heather/Emerald) was considered, but it was concluded that opening up both this area and the Windy Pass/Rock Creek area would not maintain the wilderness character as it existed in 1977 (ROD, p. 108).

Chapter 3 of the FEIS (pp. 3-440 to 3-472) compares the effects of the alternatives on recreational opportunities on the forest and the winter alternatives map display a variety of winter use configurations. Chapter 3 (pp. 580-586) summarizes the different management options for roads, trails and snowmobiling areas in the Hyalite/Porcupine-Buffalo Horn Wilderness Study Area and their effects.

GC-2. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

Response: The decision for the Gallatin Crest Travel Planning Area was largely influenced by the fact it falls within the Hyalite Porcupine Buffalo Horn Wilderness Study Area, and management must maintain the pre-existing wilderness character as it was in 1977 (ROD, pp. 22-24 and 47). The decision will restrict use to appropriate levels to meet the legal requirements of the Montana Wilderness Study Act and provide for resource protection.

GR. Gallatin Roded Travel Planning Area

GR-1. The final decision closes 22 miles (15 percent) of roads and 5.5 miles of motorized trail (14 percent) of this travel planning area to summer motorized use, which is inconsistent with the stated goal to emphasize motorized use.

Response: The decision emphasizes motorized use in this area; however, there is a need to provide habitat for cutthroat trout and to protect soil and watershed conditions (ROD, p. 49). Under Goal 3, Chapter II-177, four objectives were adopted to improving westslope cutthroat trout in the West Fork of Wilson Creek and to eliminate erosion and measurable sediment from roads in Wilson Creek, West Fork of Wilson Creek, Shenango Creek, and Line Creek. Goal 4 provides a road and trail system that accommodates traffic consistent with protecting soil and watershed condition.

The FEIS (Chapters II-175, Table II-68), Summary of Summer Opportunities, indicates that the miles of open roads for pleasure driving increases from 35 miles under the existing condition (Alternative 2) to 44 miles under the decision (Alternative 7-M), backcountry roads were decreased from 77 miles to 64 miles, ATV total miles increase from 25 to 95, while motorcycle use decreased from 13 miles to 7 miles. Some modes of motorized use increased while others decreased.

GW. General Wildlife

GW-1. There are contradictions in scientific thought within the documents regarding biological diversity/ecological diversity, and general wildlife. See American Wildlands Notice of Appeal (#07-01-00-0063), pages 3 and 4 for cited passages. The logic used to support motorized use in the Bear Canyon, Cabin Creek, Big Sky, Fairy Lake, West Bridgers North, and North Bridgers Travel Plan Areas is flawed.

Response: There are differences in scientific thought regarding biological diversity, and they are presented within the Biodiversity Issue in the FIES (page 2-4, and pages 3-65 through 3-71). This information was used for disclosure of potential effects in the effects analysis, and was not used to support or not support different types of recreational use. See also response to Issue BD-1.

H. Hyalite Travel Planning Area

H-1: General disagreement with the decision to establish an area restriction to snowmobiles in the Hyalite Travel Planning Area.

- The Forest Service failed to understand that snowmobiles are the preferred winter vehicles in the Hyalite drainage.

Response: An objective in providing winter recreation opportunities is to provide well-distributed opportunities for both snowmobiling and exclusive cross-country skiing and snow-shoeing in non-motorized settings. Accessibility, terrain and snow conditions, resource issues, proximity to communities, and compliance with the Montana Wilderness

Study Act were factors in identifying winter use opportunities. The decision emphasizes family-oriented cross-country skiing in the Hyalite drainage while providing a separate snowmobile route accessing the Grotto Falls Trailhead from Moser Creek Road (ROD, pp. 20-21). The decision does remove a popular snowmobile use area for the snowmobiling community. However, public comments received overwhelmingly supported the plowing of the Hyalite Road to manage the area for cross-country skiing. Opportunities were maintained for high-marking and other back country snowmobile use in the southern Gallatin Mountain Range.

H-2: General disagreement with the decision to plow the main Hyalite Road to the Hyalite Reservoir in the winter.

- The Forest Service is capricious by trying to plow the Hyalite Road. Ice and speed will hurt people and the spawning cutthroat trout in the reservoir will be almost cleaned out by ice fisherman.

Response: Public safety on Forest roads and trails is achieved by three basic means: maintaining facilities in good condition, managing the mixture of user types on the same facility and expecting reasonable user behavior. The ROD (pp. 17 and 52) provide 3 potential plans to manage the plowing of the Hyalite road based upon available funding.

The FEIS (p. 3-184) discusses the potential exploitation of recreational and native fisheries by virtue of travel decisions, and dismisses the issue from further consideration. Management of the fisheries resource is the state of Montana Fish, Wildlife and Parks responsibility.

H-3. The snowmobile trail in Hyalite was never proposed in any alternative and therefore it violates both NEPA and NFMA. This trail was never presented for public comment.

- The trail should be removed because the ice climbers don't want it and it interferes with favorite ski routes.
- It is also impractical due to rough terrain.
- Area topography will necessitate a circuitous route.
- The decision for this snowmobile trail violates 36 CFR 212.52.

Response: Please refer to H-1 on some of the rationale for the decision. The snowmobile trail was not specifically proposed in any alternative. However, Alternative 1 and 2 were studied in detail in the DEIS and FEIS, and allowed snowmobile use in this area. Therefore, the effects of this use were analyzed and considered in the FEIS and in the Decision.

In the FEIS (Chapter 1-15, Scope of Decision) it states that Final agency decisions for road and trail construction, reconstruction, maintenance and decommissioning are not being made through this Travel Management Plan. Item 6 clarifies that the decisions made for individual routes are "corridor" decisions. The Plan identifies objectives for future proposals and site specific NEPA would have to be completed for those proposals

to be implemented. A future analysis would consider in detail the terrain and topography for a snowmobile trail.

H-4. The decision artificially shortens the ski season in Hyalite by shutting the gate on the road on March 30.

Response: The ROD (p. 52) closes the Hyalite road to motorized use in the spring from March 30-May 15. Plowing makes roads more susceptible to damage during the spring break-up and closing the road will protect the road from damage. Closure in the spring will provide an opportunity for biking and roller-blading on a paved road without motorized traffic.

H-5. The decision should close the gate on the Hyalite Road in early November rather than early December because the ATV traffic ruts ski trails and makes it difficult to negotiate.

Response: The date was selected to allow late fall access to popular ice climbs, to harvest Christmas trees and during the general big game hunting season until average snowfall would typically eliminate wheeled vehicle traffic, and the route converts to a ski trail. The rationale for seasonal and yearlong restrictions for Winter Routes is given in the ROD on pages 33 & 34. Wheeled vehicle access above the Blackmore Day Use site on the Hyalite Road was proposed to be prohibited after January 1 to protect the ski surface.

H-6. The whole area north of the Moser Road has been set aside as a snowmobile play area contrary to winter goal of emphasizing family-oriented cross-country skiing.

Response: The winter use goal identified for the Hyalite Travel Planning Area (Chapter 2, p. 102 of the Detailed Description of the Alternatives) is to provide for a variety of winter recreation opportunities, with an emphasis on family-oriented cross-country skiing and snowshoeing. In the recreation effects analysis (FEIS, p. 3-462), Alternative 7-M would reduce the amount of best snowmobile-friendly terrain by approximately 71,000 acres from current conditions. Most of this use is located in the Gallatin Range and the northeast Bridgers.

Alternative 7-M would add an open snowmobile area lower in the canyon between the Moser Road on the south, the Bozeman Creek Divide on the east and the main Hyalite Road on the west. Snowmobile parking would be provided only at the Moser Creek Road turn off, and a designated snowmobile trail through a closed area provided to the reservoir, Grotto Falls Trailhead, and East Fork of Hyalite Creek. (See the Alternative 7-M winter map.) This alternative would still provide high quality non-motorized ski trails throughout a large portion of the Hyalite drainage, while providing snowmobile access for ice climbers to Grotto Falls Trailhead, and challenge snowmobiling opportunities in the Heather/Emerald Basins (FEIS, p. 3-463).

H-7. There was no alternative considered that shows the Hyalite area as being shared between skiers and snowmobiles.

Response: Tables II-81 and II-82, Summary of Winter Opportunities and Summary of Area Restrictions for the Hyalite Travel Planning Area (Detailed Description of the Alternatives, Chapter II-211), shows that in Alternatives 1 and 2 both snowmobile use with no restriction in the non-wilderness areas and cross-country skiing were considered. In Alternative 3 a small portion of the area is considered open to snowmobile use without restriction, along with cross-country skiing use. The winter alternatives maps also depict the consideration of both snowmobile and cross-country skiing in the Hyalite Travel Planning Area.

H-8. General opposition to summer motorized use restrictions included in the decision for this Travel Planning Area.

- The Blackmore Trail #423 should be left open to motorcycles.

Response: The Decision (ROD, p.23) indicates that it will provide for a mix of summer motorized and non-motorized recreational opportunities. The configuration of open routes for motorcycles and mountain bikes was developed to provide a mix of motorcycling and mountain biking options, and to provide areas dedicated to hiking and horseback riding. In Alternatives 1 and 2 for summer opportunities the Blackmore Trail (#423) was considered to be open for motorized use.

H-9. Option C for Hyalite plowing should be scrapped because it requires skiers to have to share several miles of the Hyalite Road with snowmobilers to get to the Moser Road junction. Skiers don't want to do this so it then is contradictory to the goal stated for Hyalite which is to provide for family-oriented cross-country skiing.

Response: The decision is to allow plowing of the Hyalite Road to the Blackmore day use area to provide a variety of winter recreation opportunities. The extent of plowing that will be done is dependent upon funding (ROD, p 17). Plan C may be the least desirable option from a recreational experience for skiers but still provides a means to accommodate the variety of users desiring to recreate in the area.

H-10 and 11. The Decision to close Hyalite Road #62, segments 4-6, after January 1 was arbitrary, capricious, and an abuse of discretion.

- Her choice to severely curtail access to the ice climbing areas did not bear a rational connection to the facts that she found, including the fact that Hyalite Canyon is a "world class ice climbing opportunity."
- The Supervisor failed to consider the impact of closing the road on access to the ice climbing area.

Response: The decision emphasizes providing family-oriented cross-country skiing opportunities in close proximity to forest communities like Bozeman. Snowmobiling is mostly prohibited in the area to favor maintaining a non-motorized recreation experience for users. A designated snowmobile route beginning at Moser Creek has been approved to provide ice climbers a means to access the ice fall. The impact to the climbing community in closing the road to motorized use was considered in the decision.

H-12. The Forest Supervisor failed to meet the planning goals that she established for winter use of the Hyalite Travel Planning Area.

Response: The winter recreation use goal for the Hyalite Travel Planning Area is to provide for a variety of winter recreation opportunities with an emphasis on family oriented cross-country skiing (ROD, pp. 51-52). The decision emphasizes family oriented cross-country skiing in the Hyalite drainage and provides for a separate snowmobile route accessing Grotto Falls Trailhead from Moser Creek Road to accommodate ice climbers. An area north of Moser creek is still open to snowmobile use. The decision meets the winter use goals for the Hyalite TPA.

H-13. The reasons stated by the Forest Supervisor for closing Hyalite Road #62 are a pretense for the actual reason underlying her decision, namely the Bozeman Ranger District fear of incurring legal liability. This rationale was not present or made part of the administrative record.

Response: See response to issues H-9 through H-12 above. The Forest Supervisor clearly presents her rationale for closing Hyalite Road #62 in the ROD (pp. 17, 20-21, 51-52 and 90-96).

HB. Hebgen Basin Travel Planning Area

HB-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- Decommissioning of the Ridge Lookout Road #2530 is unwarranted because the bear/road effects are inconclusive

Response: The ROD (pp. 50 and 51) states that this road (Ridge Lookout Road #2530) does not provide access directly to the shores of Hebgen Lake and that closing it will result in some improvement to grizzly bear secure habitat. This road is in the grizzly bear recovery zone, and this TPA in general has high road density. Most of the area will be left open to motorize and snowmobile use, so decommissioning of this road within the high use area, will provide some secure habitat for grizzly bear.

HB-2. The decision includes a snowmobile restriction along the east side of Highway 191 near Baker's Hole that was not included in any alternative.

Response: The snowmobile area restriction between Hwy 191 and the Yellowstone Park boundary at the Madison River, which was added in Alternative 7-M, was originally just a map error in the DEIS (See the decision map for winter use on CD1). A marked ski trail was added with a corresponding area restriction to snowmobiles from the Hebgen Lake Ranger Station north to Baker's Hole Campground. This was done in response to comments made between the draft and final EIS and is included under Alternative 7-M of the FEIS (ROD, pp. 50-51). The Forest Supervisor believes it was acceptable to include this in the decision based on: (1) Cross-country skiing in this area was allowed in any

alternative; (2) The narrow strip of land between Hwy. 191 and Yellowstone Park was not popular for snowmobiling and there is a groomed snowmobile trail running parallel to and adjacent to this area just west of Hwy. 191; (3) There were no environmental effects of this change; and (4) It was not controversial.

HPBH. Hyalite/Porcupine-Buffalo Horn Wilderness Study Area (WSA)

HPBH – 1: The Gallatin Forest Travel Management Plan fails to maintain the wilderness character and potential as it was in 1977.

- The Supervisor’s decision fails to maintain the option of designating the HPBH WSA by reducing the possibility of future Wilderness designation.
- The summer recreation decision authorizes an intensity of mechanized uses that exceeds 1977 impacts on wilderness character.

Response: The decision is designed to maintain the ability of the HPBH to be designated wilderness (ROD, pp. 22) by keeping mechanized and motorized use to approximately that present in 1977. Snowmobile use is limited to less than 12 percent of the HPBH, though it is permitted in a different location than used in 1977. Principle legal direction for WSA’s is contained in the Montana Wilderness Study Act (S. 393). Section 3(a) of the Act states: “...wilderness study areas designated by the Act shall, until Congress determines otherwise be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System” (FEIS, p. 3-597). Litigation (Montana Wilderness Association v. United States Forest Service, CV 96-152-M-DWM, pp. 12-13) has interpreted that congress didn’t expect that all uses would remain the same, or that uses be “frozen”. Uses could be changed, moved, etc. through the normal travel planning process to accommodate social or resource concerns so long as wilderness character is retained circa 1977 (ROD, p. 23).

Region 1 Forest Service Manual Supplement (FSM) 2320-2006-1 (CD11: Issue 21 Wilderness, Wilderness Study Area, Recommended Wilderness/Document #12/ Forest Service Manual) states that ATVs are appropriate on routes that were used as four-wheel drive jeep routes in 1977, but are not appropriate on what were single-track motorcycle trails in 1977. Accordingly, ATV use is not permitted in the HPBH WSA. The manual also states that mountain bikes are appropriate on all trails that were open to motorcycles in 1977. Thus mountain bike use is permitted in specific areas.

The ROD, pages 24 and 106, states that uses can be adjusted or modified to meet resource or recreation objectives as long as it does not diminish the integrity of the WSA.

Mountain bike use has become established on two trails that were closed to motorcycles in 1977 (Blackmore/South Cottonwood, and Big Creek) (ROD, p. 107). The selected alternative continues to allow that use. Mountain bike use on these trails has not altered the physical wilderness characteristics originally inventoried in the HPBH WSA using the Wilderness Attribute Rating System (WARS) during the congressionally mandated study of the WSAs. The total number of motorcycle and mountain bike trails taken

together in Alternative 7M are 20 miles less than the total number of open motorcycle trails in 1977, resulting in an improvement of wilderness character as it existed in 1977 (ROD p. 107).

HPBH – 2: The Travel Plan ignores public comment which overwhelmingly favored non-motorized use of the Wilderness Study Area.

Response: The ROD (pp.15, 22-25, and 106-110) addresses how public comment and legal requirements for WSA's are addressed in the decision. The FEIS (p. 2-7) summarizes the issues related to recreation, including the desires of non-motorized users. Information provided to the public during comment periods explained that the decision would not be the result of "voting". The desires of any specific user group would not be chosen over any other group as a result of a larger volume of comments. These documents include a letter from Forest Supervisor Heath to the public soliciting comments from the public on the draft alternatives (CD7: Alternatives Comment Period/FS Outgoing info and correspondence/doc. 2 08/01/03 Heath Alternatives Cover Letter), and a question and answer sheet that was provided to the public at open houses (CD7: Alternatives Comment Period/FS Outgoing info and correspondence/doc. 4 03.08 Final Q&A's for Alternatives Comment period).

In addition, Alternative 6 considered managing the HPBH WSA completely non-motorized and non-mechanized (no mountain bikes) in response to these comments. The ROD (p. 107) and FEIS (p. 3-597) discuss that the Montana Wilderness Study Act (S. 393) does not dictate elimination of motorized use. It simply requires that motorized use remain as it was in 1977 unless the normal Forest Service travel planning process determines that motorized use is inappropriate in an area. Alternative 6 was not chosen for implementation because it would not be consistent with Congressional intent for the management of the WSA (ROD, p. 107).

HPBH – 3: The motorized use restrictions included in the decision is not consistent with the intent of Congress that current multiple use continue until a decision was made on the wilderness status of this area.

Response: As discussed in responses 1 and 2 above, S. 393 does not require that motorized use be eliminated, but that it be maintained at pre-1977 levels of use unless the Forest Service travel planning process determines that use is inappropriate (ROD, p. 107). A specialist report on wilderness study areas documents wilderness characteristics and history circa 1977, and changed condition through 2003 (CD11: Folder 21 References/Issue 21 Wilderness, Wilderness Study Area, Recommended Wilderness/Document #4, 2003 Schlenker HPBH WSA Character Assessment).

ATV use is not appropriate in the HPBH WSA due to the lack of two-track jeep routes in the area in 1977. Motorcycle use is permitted to continue on single-track trails with established use in 1977 as long as it does not degrade wilderness character (ROD, pp. 22-23 and 106).

HPBH – 4: The ATV restriction in the Wilderness Study Area based on the reason that they were not used in 1977 is not true.

- Executive Order 11644, May 26, 1977, speaks to all-terrain vehicles.

Response: Please see the response to HPBH-3 above regarding motorized use restrictions. The ROD (pp. 15, 22-25, and 106-110) describes the rationale for restricting ATV's from the HPBH WSA. Specifically, the Forest Supervisor's decision "precludes ATV use because these vehicles were not used in 1977 and they require more than a single track trail to operate on." The ROD (p. 24) describes FSM ID-2320-2005-1 which states that ATV use is appropriate on jeep roads that were open to that sort of travel in 1977. It goes on to say that there were no jeep routes or double track routes open to vehicles larger than 50 inches wide in the HPBH WSA in 1977 except for private roads accessing timber harvest on private land and/or access to private land.

The FEIS (p. 3-562) contains Table 3.21.2 that shows 27 miles of road existed within the WSA in 1977. Table 3.21.3 (p. 3-569) describes the current condition of 34.24 miles of road in the WSA. Many of these roads were constructed to access timber harvest on private lands in the WSA or to access grazing on private or NFS lands.

HPBH – 5: It is inconsistent to allow mountain bikes in the WSA (not used in 1977), while at the same time using this rationale to restrict ATVs.

Response: Region 1 Forest Service Manual Supplement (FSM 2320-2006-1) provides clarity on the issue of ATV, mountain bike, and motorcycle use in WSA's (CD11: Issue 21 Wilderness, Wilderness Study Area, Recommended Wilderness/Document #12/ Forest Service Manual). The manual states that ATV's are appropriate on two-track routes that were used as four-wheel drive jeep routes in 1977, but are not appropriate on what were single-track motorcycle trails in 1977. Accordingly, ATV use is not permitted in the HPBH WSA. Motorcycle use is permitted to continue within the WSA within the limitations of the Montana Wilderness Study Act. The Manual Supplement also states that mountain bikes are appropriate on all trails that were open to motorcycles in 1977. Thus, mountain bike use is permitted in specific areas.

HPBH – 6: The Travel Plan with its complete elimination of winter motorized access and recreation is not in agreement with the intent of the Montana Wilderness Study Act of 1977, which specifically stated that motorized use would be allowable until formally designated as wilderness.

- The Forest Service was arbitrary and capricious by not considering snowmobilers' objections.

Response: The selected alternative would allow snowmobile use to continue within the HPBH WSA at a reduced level from current use in order to meet the requirements of the Montana Wilderness Study Act (i.e. to maintain the pre-existing Wilderness character as it existed in 1977). Snowmobile use would be restricted to less than 12 percent of the WSA but adjusted to areas more desirable to today's snowmobile users (ROD, pp. 15, 22, and 24).

HPBH – 7: The court case of Norton v. Southern Utah Wilderness and Judge Molloy’s ruling does not call for reducing mechanized uses below what existed in 1977. Nothing in S. 393 prohibits the use of off-road vehicles. The HPBH WSA was open to OHV use in 1977. The existing level of motorized access and recreational roads does not diminish the potential for designation of these areas as wilderness.

Response: According to a letter from Wilderness management specialist Kimberly Schlenker to Forest Supervisor Becky Heath (CD9: Non comment period correspondence/internal/doc. #117 Schlenker HPBH Rationale), no jeep access was in place in the WSA in 1977, even though roads had been constructed and used prior to that time. Please also see response to Issue 4 above.

In addition, analysis determined that the current level of motorized use is contributing to a loss of wilderness character circa 1977. The FEIS (p. 3-583) analyzes Alternative 1, the continuation of access as it existed in the 1999 Travel Plan. Continuation of this use would “result in continued trail degradation, widened trails, weed encroachment and soil and vegetation damage. All of these changes to summer trail system would negatively affect apparent naturalness and natural integrity.” Apparent naturalness and natural integrity are measures of wilderness character.

The FEIS (p. 3-588) also states Alternative 1 would “allow the continued use of ATV’s – an activity not present historically, therefore inconsistent with the law and Forest Service policy. This alternative would not be responsive to WSA legislative language that mandates the Agency “maintain existing wilderness character.”” Page 3-589 goes on to say that “Wilderness character (particularly apparent naturalness) would degrade from 1977 conditions, which would make this alternative inconsistent with the law.”

Document #4 in the project record (CD11: Folder 21 Wilderness, Document #4, Schlenker HPBH WSA Character Assessment) states that trail damage from ATV use was becoming apparent in the late 1990’s prior to implementation of trail closures enacted in recent years. Soil and vegetation damage caused a loss of wilderness character, which is now healing. The same report also indicates that a loss of remoteness was occurring due to increases in ATV use.

HPBH – 8: The Supervisor’s decision to open more of the HPBH WSA to snowmobiling than in the Preferred Alternative 7, upper Big Creek, and upper Rock Creek is arbitrary, capricious and has no basis in biology, resource protection, nor any of the laws that are supposed to govern management of national forests.

- The Forest Service failed to consider the effects of snowmobiling in this area on wintering wildlife such as mountain goat, wolverine, and lynx.
- The decision fails to recognize that snowmobile high-marking was a non-existent activity in 1977.

Response: As addressed in issues HPBH-1 and HPBH-6 above, snowmobile use permitted by the selected alternative meets the requirements of the Montana Wilderness

Study Act. The effects of snowmobiling on wildlife are described in Chapter 3 of the FEIS.

Effects to mountain goats are analyzed under big game wildlife in the FEIS on pages 3-15 through 3-63. Specifically, page 3-21, third paragraph, discusses effects of winter travel on mountain goats. Table 3.2.7 displays percentages of big game (including mountain goat) winter range closed to snowmobiles off designated routes, by alternative.

Lynx analysis is found in the FEIS (pp. 3-359 to 3-395) with winter use specifically analyzed on pages 3-371 to 3-373, and 3-376 to 3-387. Table 3.13.8 in the FEIS (p. 3-385) displays that Alternative 7-M complies with LCAS standards. Appendix D of the FEIS contains the biological assessment for lynx. A finding of “may affect, not likely to adversely affect” is made for the selected alternative.

Analysis of effects to wolverine is included in the FEIS on pages 3-598 to 3-635. A detailed specialist report is also included on CD9 (analysis and reports/specialist analysis and reports/36_dixon). The effects of snowmobiling are included in the FEIS on pages 3-617 to 3-629.

While the type of snowmobile riding that is currently typical, such as high marking, was not specifically addressed, the quantity of snowmobiling was clearly determined to be less than 12 percent in 1977 (ROD, p. 15; FEIS, pp. 3-565 details pre-1977 snowmobile use in the HPBH WSA; the ROD (p. 24) does not allow snowmobile use on 88 percent of the WSA to remain consistent with the use level in 1977.

HPBH – 9: The Forest Service failed to take a hard look at historic use of snowmobiles in this area.

- Citizens for Balanced Use submitted proof that snowmobiles used the HPBH WSA in 1977 in its 1,000 page EIS.
- This area has been used by snowmobiles for nearly 30 years.
- The premise that snowmobiles were incapable of reaching Heather and Emerald Lakes in 1977 is false.

Response: A thorough analysis of snowmobile use circa 1977 is included in the FEIS (p. 3-565). A map of estimated snowmobile use from 1977 is included in the FEIS on page 3-567. Interviews were conducted with a Montana Fish, Wildlife and Parks Warden that patrolled the area on snowmobile in the 1970’s (FEIS, p. 3-565). The full specialist report, contained in the Project File (CD11: Folder 21, Document #4, Schlenker HPBH WSA Character Assessment) also goes into a great deal of detail regarding 1977 and present levels of snowmobile use in the WSA.

Areas approved for use under the selected alternative are different than those used in 1977 but are areas more desirable for snowmobile users today while approximating the total acreage of use (ROD, p. 15).

HPBH – 10: Concerning the southern portion of the Gallatin Crest Trail (ROD, p. 24), “Additionally, the southern portion of this trail would have to be reconstructed to be passable to motorcycles – which would be in conflict with 2329 1(c).” Certainly the Crest Trail is not located on an unauthorized route. Otherwise, a trail suitable for horses is suitable for motorcycles.

Response: 2329 1(c) refers to a section of Forest Service Manual Supplement 2320-2006-1. This section states, “In general, trails should not be upgraded to a more-developed standard than existed in 1977, unless necessary to address resource damage that has degraded the wilderness character that existed in 1977.” This FSM direction is included in the project file (CD11: Folder 21 - Wilderness, Document #12).

The stated rationale for managing the southern portion of the Gallatin Crest Trail as non-motorized has two primary facets – to improve grizzly habitat and provide non-motorized recreation opportunities. The current condition of the trail south of Eaglehead Mountain is impassable to motorcycles or stock. Stock may by-pass the impassible section by going cross country – motorcycles are prohibited from going cross country to by-pass this barrier by virtue of the Montana Dakota OHV decision. In order to make the section passable for motorcycles - the trail would have to be reconstructed to a more developed standard than existed in 1977 to meet current engineering requirements, which appears to be in conflict with stated directions in FSM ID-2320-2006-1.

The ROD (p. 47) gives the rationale for decisions made within the Gallatin Crest Travel Planning Area. The response to issue HPBH–1 above gives the basic rationale for decisions made within WSA’s in relation to the Montana Wilderness Study Act and Forest Service direction interpreting appropriate uses within WSA’s.

HPBH – 11: The Forest Service failed to consider actual motorcycle use levels and distribution in the HPBH WSA in 1977 in violation of the Montana Wilderness Study Act.

Response: A thorough analysis of motorized uses in the HPBH WSA was completed for the Travel Plan (FEIS, pp. 3-565 to 3-567), and the HPBH WSA Character Assessment includes a detailed analysis of 1977 uses (CD11: Issue 21, Document #4, 2003, Schlenker). The agency concluded that having accurate use information was not critical to judging effects to wilderness character as defined by FSM ID-2320-2006-1.

The analysis of uses on the WSA reviewed road and trail use allocations and associated management for their potential effects on inherent characteristics of Wilderness (natural integrity, apparent naturalness, remoteness/primitive recreation opportunities, solitude, management and boundaries) (FEIS, p. 3-570). Pages 3-571 and 3-572 go on to say “40 CFR 1502.22 clarifies an Agency’s obligations when there is “Incomplete or unavailable information” relative to evaluating reasonably foreseeable significant adverse effects on the human environment.” This direction is relevant where the agency’s estimate of motorized uses of WSA’s in 1977 is disputed or described as inaccurate. Because it is

not possible to go back to 1977 and complete inventories of motorized use, precise data would be considered unavailable information.

Continuing in the FEIS, page 3-572, “Clarification of several points relative to 40 CFR 1502.22 is outlined below:

- 1502.22 (b) says that when “the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained”...because the “means to obtain it are not known” that the Agency will include in the EIS a statement that such information is not available. Historic recreation use data specifically for the HPBH WSA is not available, nor is it possible to acquire such data at the present time.
- 1502.22 (b) (2) directs the Agency to provide a statement of relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse effects on the human environment. Changes in recreation use have certainly occurred within the HPBH since 1977, as they have in designated Wilderness on the Forest. However, the volume of recreation use was not a component of the original [Wilderness Attribute Rating System]WARS evaluations....” “Rather the WARS analysis required consideration of the physical parameters of the area. Size, distance from roads, topographic and vegetative screening were the primary factors used to evaluate opportunities for solitude. Thus, discrete data that tracks changes in the volume of use over time are not necessary for evaluation of the effects of proposed travel plan changes relative to WSA physical characteristics that provide opportunities for solitude.”

HPBH – 12: The Forest Service failed to consider the aggregate impact of mountain bike and motorcycle use on wilderness character in the WSA.

Response: Aggregate impact of mountain bike and motorcycle use on wilderness character for the HPBH WSA are specifically addressed in the FEIS (p. 3-586). This section states, “The total mileage of mountain bike and motorcycle trails taken together in this alternative is less than the total mileage of motorcycle trails that were available in 1977.”

In the project file, a letter from Wilderness specialist Kimberly Schlenker to Forest Supervisor Heath (CD9: Non comment period correspondence/internal/doc. #117 Schlenker HPBH Rationale) summarizes effects within the HPBH from the final decision, provides a brief comparison of effect from 1977 to the decision, and provides updated information on the management of mechanized uses, in addition to what was presented in the FEIS Chapter 3 Effects Analysis. This supplemental information considered the aggregate effects of mountain bike and motorcycle routes on wilderness character. The letter concludes that the decision will maintain or improve wilderness character within the WSA circa 1977.

HPBH – 13: The winter recreation decision expands snowmobiling into new landscapes and thereby degrades 1977 wilderness character.

Response: Please refer to the response to HPBH-6 above. While snowmobile use is permitted in different areas than those used in 1977, the total area permitted for snowmobile use is reduced as compared to that used in 1977 (ROD, p. 22) but better matches areas most desirable to snowmobilers today (ROD, p. 15). Snowmobile use in less than 12 percent of the WSA meets requirements of the Montana Wilderness Study Act (S. 393). The decision closes approximately 88 percent of the HPBH WSA to snowmobiling (ROD, p. 24). The details of those closures are included in the ROD on pages 24 and 25.

I. Ibex Travel Planning Area

I-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

I-2. Big Sky Snowriders request that our grooming continue in the Cottonwood Drainage from the parking area to Ibex Cabin up to Grassy Hill. Also where did the snowmobile trails go in Cottonwood drainage? Trespass, Rapid Creek?

I-3. The ROD is confusing and contradictory. According to the route-by-route tables depicting Prohibited, Allowed and Encouraged uses, Shields Low Line Trail #258 Segment 1 now encourages motorcycles while segment 2 prohibits motorcycles. Similarly, Porcupine Trail #267 is now designated as encouraging motorcycle use. However, the ROD at page 53 states, “My decision does designate the Shields-Lowline route for motorcycles.” As no mention is made of 267 Porcupine Trail’s designation for motorcycles, the selected alternative remains unclear.

I-4. The travel planning for the trails crossing Zimmerman/Guth property is also at odds with the general assertions in the ROD. The route-by-route analysis now encourages motorcycles on trails #267 and #258. This is inconsistent with the ROD, page 21, which states:

Response to I-1, I-2, I-3 and I-4: The Forest Supervisor’s decision for the Ibex Travel Planning Area was largely based on attempting to provide for a variety of uses and experiences within the mountain range as a whole (ROD, p. 52 to 53). A large part of the Crazy Mountains is in checkerboard ownership and easements across private land on the east side limit opportunities to foot and horse travel only.

The Forest Supervisor closed the Trespass Trail #268 to summer motorized use and terminated ATV/motorcycle traffic at the end of the Road on Cottonwood Trail (#197) out of respect for traditional Crow Tribal practices. Consultation with the Crow Tribe indicated that the high elevation areas within this TPA are the most sacred and that motorized use may adversely affect traditional practices in the summer.

Her decision designates the Shields-Lowline route for motorcycles. To accommodate this use however, the Forest Supervisor identifies that she must first negotiate an easement for portions of this trail that pass through private land and that she will also look for ways to

re-route the trail on to National Forest System lands. Her objective is to provide a north-south motorcycle route on the west side of the Crazy Mountains. A seasonal motorized use restriction will be implemented on this trail from September 5th through June 15th. The ROD specifically mentioned the Shields-Lowline route for motorcycles because it represents a change from Alternative 7-M to the decision, but only on a portion of the route. The maps and tables are correct in their description.

In the winter, her decision maintains current use patterns except for a snowmobile area closure north of Ibex Cabin, around Porcupine Cabin to the Deep Creek area. This is to provide a high elevation non-motorized opportunity on the west side of the Crazy Mountains, and it will be difficult to keep snowmobiles on a designated route through checkerboard private lands given the open terrain in the Lowline Trail area. In addition, snow quality on the Porcupine-Lowline Trail is marginal.

Big Sky Snowriders has been grooming the Cottonwood road #198 from T3N9E to Section 9 (private lands), and the Ibex Road #2510 to Ibex Cabin. This existing grooming will continue under the Travel Plan. There was a map error that has been corrected via the Errata sheet posted on the Gallatin Forest Travel Plan website. However, there are no “snowmobile” trails in the Cottonwood drainage (e.g., Trespass and Rapid Creek), so the ROD does not change the current situation. The snowmobile closure immediately adjacent to the Ibex Cabin was dropped to allow snowmobilers access to the Cottonwood-Trespass snowmobile trails from the cabin. This change provides for a more enforceable snowmobile area configuration. In addition, plowed road access to the Porcupine Cabin will be continued.

IW. Invasive Weeds.

IW-1. A study done at Montana State University shows that wind and animals are the main cause of weeds spreading on public lands. However, the Forest Service chose to use studies done in Australia showing that the major source of the spread of noxious weeds was from off road vehicles use. We believe that the Forest Service should have used local studies that reflected actual facts rather than studies that support the Forest Service’s agenda of closing more access to multiple uses.

Response: The FEIS (pp. 3-351 and 3-352) has a literature discussion on several studies on the cause of local weed spread. Forcella and Harvey (1983), which studied spread of Eurasian weeds in western Montana, concluded that weed spread varied by forest type and amount of disturbance. Tyler and Worley (1992) conducted a study in Glacier National Park finding spotted knapweed and yellow toadflax along primary and secondary roads, but not along backcountry non- motorized trails. The Gallatin weed inventory shows that most of the weed infestation is highest next to motorized travel routes.

IW-2. Weeds are not a problem associated with snowmobile use.

Response: The FEIS (pp. 351 and 352) discusses the fact that any type of vehicle which drives through weed patches can transfer weeds (Shelley and Petroff, 1999). Since the seed heads of knapweed remain upright they can become stuck to snowmobiles during low snow depth.

IW-3. All modes of travel have the potential to carry weeds so why are OHV users the only ones taking a big hit on the use of the Forest.

Response: The ROD (p. 86) discusses that the majority of mapped weed patches are within 100 feet of a motorized route, with only 3 percent located on non-motorized routes. The types of travel routes were not limited to ATV's, but include all motorized routes. The direct effect of motorized routes was determined with GIS, by laying a 200-foot buffer over the travel route (FEIS, p. 3-355). All motorized routes were used for analysis for direct effects, not just OHV routes.

L. Lynx

L-1. Much of the information that the Forest Service is using to justify the proposed closures is based on theories and assumptions. The information concerning the Canada Lynx comes from studies that have no conclusions. The Forest Service admits that they are closing some areas to protect Lynx habitat; however, the Lynx has not been found in these areas. This is arbitrary and capricious.

Response: Directions for evaluating federal actions relative to lynx habitat are provided in the Canada Lynx Conservation Assessment and Strategy (LCAS) per the Conservation Agreement between the U.S. Forest Service and the U.S. Fish and Wildlife Service. The LCAS specifies that, on federal lands in lynx habitat, there should be no net increase in groomed or designated over-the-snow routes and designated snowmobile play areas by Lynx Analysis Units (LAU's) unless the designation serves to consolidate unregulated use and improves lynx habitat through a net reduction of compacted snow area. This direction helped form the basis of need to develop a travel management plan and was used as a factor to determine if an alternative was consistent with current direction applicable to the management of lynx. However, there were many other issues influencing the decision for winter recreation opportunities. Alternative 5 met the LCAS but the level of snowmobile restriction was unacceptable. The selected Alternative 7-M also follows current direction applicable to the management of lynx. References from the Record of Decision clearly demonstrate why, where, and how the Canada lynx was considered in the Travel Management Plan. (ROD; pp. 5, 9, 12, 14, 17, 20, 22, 30, 33, 41, 86-88, 94, and 117-126.)

It should be noted that the analysis for lynx defines the issue and regulatory framework from which to determine effects. It includes a description of the affected environment including potential habitat where conservation measures apply, analysis methodology with identified effects parameters which tier to the LCAS, predicted effects of the proposed travel opportunities and programmatic management direction, and a discussion of consistency of the alternatives with laws, regulations, policy, etc., including the Forest

Plan. (FEIS, Chapter 3; Issue 13 – Lynx; pp. 3-359 to 3-395, and Folder 11_Analysis and Reports; Specialist Analysis and Reports, Documents #41b, 61, and 77).

It was also determined that Alternative 7-M met the intent of the LCAS and lynx were given a determination of “may affect, not likely to adversely affect”. The biological assessment (BA) describes the current regulatory framework and the LCAS and future higher level direction (Northern Rockies Lynx Amendment or NRLA). The U.S. Fish and Wildlife Service concurred with this determination in the Biological Opinion (FEIS, Appendix D - Biological Assessment, pp. Appendix D-3, D-7 and Non-Comment Period Correspondence; Incoming, Item 30 (BO), p. 20).

The Response to Comments articulated how Alternative 7-M met the LCAS for the LAUs. Other comments expressed concern about the increase, or the insufficiency, in snowmobile closure areas. The responses explained that each alternative had various levels of winter and summer route configurations, and snowmobile closure areas, which were proposed in each alternative to address various resource issues, but were not solely based on lynx. Attention was drawn to the analysis in Chapter 3 presenting current research and various perspectives in literature on identified risk factors. Alternative 7-M met the LCAS due to the increase in over-the-snow routes coupled with the snowmobile closure area acres and other qualitative factors that were considered. No mitigation for lynx was needed to ameliorate adverse effects (Response to Comments on the DEIS; Comments #107, 619a, 881, 906, 955, 1190, 1302, 1441, and 1617).

The cited references in Chapter 3 of the FEIS demonstrate a thorough review, analysis, disclosure, and documentation of peer-reviewed research, management direction, and interagency coordination regarding the Canada lynx (FEIS, Chapter 3; References, pp. 18-22).

L-2. The statement about inability to increase ski terrain because of lynx is misleading. The way to increase ski terrain is to reduce snowmobile terrain.

Response: The statement referenced was not misleading rationale so much as it was further framing the issue of lynx and snow compaction created by both skiing and snowmobiling, around which the analysis was conducted based on direction in the LCAS. This may be a recreational experience issue rather than a lynx issue. The decision provides rationale for including snowmobile area closure in the Bridger Canyon TPA and for limiting marked or groomed routes for skiers in a non-motorized setting outside of wilderness. The discussion references direction in the LCAS which specifies that, on federal lands in lynx habitat, there should be no net increase in groomed or designated over-the-snow routes and designated snowmobile play areas by LAU unless the designation serves to consolidate unregulated use and improves lynx habitat though a net reduction of compacted snow area (ROD, pp. 41, 86-88, and 94).

The effects analysis defined dispersed vs. designated winter use, which may also be pertinent. It also identifies effects parameters for winter travel based on LCAS direction. There was no differentiation between snowmobile routes and ski routes relative to effect

on lynx. Key to the analysis was consistency in snow compaction and consolidation of use through the compensatory effect of closures relative to increased marked or groomed routes (FEIS, Chapter 3; Issue 13 – Lynx, pp. 3-366-3-367, and 3-371-3-373).

L-3. The analysis for lynx is not adequate to support winter snowmobile closures.

Response: As evidenced by the documentation referenced in L-1 above, the analysis and decision demonstrate why, where, and how the Canada lynx was considered in the Travel Management Plan. No studies on the Gallatin National Forest were done, however the decision for the Travel Management Plan relied on the analysis of how the alternatives compared to conservation measures contained in the Canada Lynx Conservation Assessment and Strategy (LCAS).

L-4. Alternative 7-M removes a standard meant as protection for the Canada lynx to allow no net increase in any groomed or marked snowmobile or ski routes or designated play areas. The Plan instead refers to the Northern Rockies Lynx Amendment for management direction; however, this rule is still pending. Increasing snowmobile trails by 20 percent is a blatant disregard for lynx conservation.

Response: The actual wording of the referenced standard (proposed programmatic direction Standard F-2 in the DEIS) was developed from the current LCAS standard on which the analysis was based: S1 - On federal lands in lynx habitat, allow no net increase in groomed or designated over-the-snow routes and designated snowmobile play areas by LAU *unless the designation serves to consolidate unregulated use and improves lynx habitat though a net reduction of compacted snow area.*

The Gallatin Forest is obligated to meet current direction, whether in the LCAS or revised LCAS, until such time that the proposed Northern Rockies Lynx Amendment (NRLA) supercedes it. A Conservation Agreement between the Forest Service and the U.S. Fish and Wildlife Service committed the Forest Service to use the LCAS when considering the effects of actions on lynx until the Forest Plans are amended.

According to the decision documentation, the ROD used consistency with existing or anticipated conservation strategies as part of the resource protection decision criteria. The decision included additional potential movement wildlife corridors and added this direction in the North Bridgers and Shields TPAs. Some additional programmatic direction proposed in the DEIS for management of the lynx was not adopted in the decision because this species is currently being addressed through separate planning processes covering areas much larger than the Gallatin National Forest.

As noted in the decision documentation referenced above, the effects analysis also demonstrates that the proposed programmatic management direction was considered. The proposed Standard F-2, specific to lynx, would basically duplicate the current direction in the LCAS. (ROD, pp. 12, 30, 33, 41, and 86-88; FEIS, Chapter 3, Issue 13 – Lynx, pp. 3-359 to 3-395; and CD9: Folder 11_Analysis and Reports, Specialist Analysis and Reports, Documents #41b, 61, and 77).

Some comments on the DEIS were relative to lynx and the perceived insufficiency in snowmobile closure areas and/or increased over-the-snow routes. The responses explained that the effect of Alternative 7-M would be a net increase of 75 miles and an increase in snowmobile closure area of 318,427 acres from Alternative 1. Alternative 7-M met the LCAS due to the increase in over-the-snow routes coupled with the snowmobile closure area acres and other qualitative factors that were considered (CD2: Response to Comments on the DEIS; Comments #619a, 1441, and 1617).

The cumulative effects worksheet displayed the effects of the proposed NRLA direction. The Gallatin Forest will comply with the LCAS as directed by the Conservation Agreement until a final decision is made on the NRLA. When the final decision is made on the NRLA, the Gallatin Forest Plan will follow that direction, which is based on the LCAS and more current research (CD9: Folder 11_Analysis and Reports; Specialist Analysis and Reports; Document #61 – Lynx Cumulative Effects, pp. 10-14, and 17-20).

A monitoring plan was developed for winter use in relation to Canada lynx. Mapping and monitoring location and intensity of snow compaction is a standard in the LCAS. Monitoring results may require additional consultation with the USFWS. It is not known what the NRLA may require relative to monitoring but a Canada lynx winter use monitoring item is expected to be retained in the lynx NRLA (FEIS, Appendix B, Monitoring, pp. B-7 through B-8).

L-5. There are two linkage areas (under the Lynx Conservation Agreement) in the Bridger Mountains, where currently core habitat overall has been reduced to just 11 percent of the total. It is unclear how increasing snowmobile trails and allowing snowmobiling play in areas immediately adjacent to TPAs designated as “Wildlife Corridor Areas” is following Guidelines G-2 and G-3, much less the original Lynx Conservation Agreement.

Response: The decision incorporated programmatic direction establishing Forest-wide Goal F, Wildlife Corridors and Objective F-1. The rationale for including this direction is to facilitate wildlife movement by linking mountain ranges. The decision also incorporated goals into the North Bridgers (and Shields) TPAs for wildlife movement. (ROD, pp. 25, 30, 58, 70-71, and 86-88).

The effects analysis identified landscape scale connectivity of lynx habitat as a concern. It also identifies the applicable LCAS conservation measure and how habitat connectivity will be addressed with the effects parameters. The winter effects by LAU discussion point out that allowing snowmobile use in the Fairy Lake area in the Bridger/Bangtails LAU may appear to break up the connectivity north to south, but would still serve to concentrate use on marked and groomed routes and reduce overall compaction across the landscape, thus meeting the intent of the LCAS (FEIS, Chapter 3, Issue 13 – Lynx, pp. 3-363-367, 3-373-375, 3-380, and 3-387).

The FEIS displays the selected programmatic direction with a Forest-wide goal of adding more potential wildlife corridors relative to movement between the Crazy Mountains and the Castle and Little Belt Mountains, as well as any additional linkage or wildlife movement corridors recognized through interagency coordination. (FEIS, Detailed Description of the Decision, Chapter 1, p. I-13). There were comments on the DEIS relative to wildlife migration corridors or connectivity. The response(s) pointed out where the analysis for Chapter 3 considered habitat connectivity, summarizing literature and addressing LCAS identified linkage areas. (Response to Comments on the DEIS, Comments #619a, 1617, and 1302.)

The TPA programmatic direction for North Bridgers and Shields TPAs included a goal for wildlife corridors. This direction was already included in the Lionhead and Bear Canyon TPAs in the DEIS. (ROD, Detailed Description of the Decision, 11_Decision_Bear Canyon, 53_Decision_Lionhead, 61_Decision_North Bridgers, 67_Decision_Shields and Folder 11_Analysis and Reports, Specialist Analysis and Reports, Document #61 – Lynx Cumulative Effects.) A cumulative effects worksheet considered lynx movement and habitat connectivity as it relates to past, present, and reasonably foreseeable programs and activities.

LH. Lionhead Travel Planning Area

LH-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

Response: Rationale for the Forest Supervisor's decision in the Lionhead Travel Planning Area can be found on pages 54 and 55 of the ROD. The Forest Supervisor tried to balance opportunities for motorized use, non-motorized use, and the need to improve grizzly bear habitat in this area. She tried to provide and improve ATV/ motorcycle opportunities using the road system in the eastern portion of the TPA, existing trails and new connectors to create loops. Her decision did however restrict summer motorized use on the trails in the Watkins Creek, Sheep Creek, and Mile Creek drainages. The reasons for these restrictions are to manage this area more consistently with the Forest Plan recommendation that this become wilderness; to increase the amount of secure habitat provided for the grizzly bear; and to provide for wildlife movement across the Henry's Lake Mountain Range.

The eastside of the Lionhead Travel Planning Area provides some of the best backcountry snowmobiling on the Gallatin National Forest. The Forest Supervisor's decision continues to provide for that use in part of the TPA. In her decision, she chose to prohibit snowmobile use in a portion of the Lionhead recommended wilderness area where use occurred in the past. Based on the Gallatin Forest Plan, the highest and best use of this area is wilderness and we should be managing travel consistent with that determination. The Forest Supervisor has also restricted snowmobiling in this area to protect big game winter range (See FEIS, pages 41 and 42) and the Trapper Creek area to protecting important moose winter range (id.).

M. Maps

M-1. The maps are not reasonable examples of public disclosure and are not consistent with the standard found in other Forest Service maps. The number of maps is overwhelming, and the legends and color choices are confusing.

Response: Chapter II of the Detailed Description of Alternatives contains black and white maps for every alternative and the final decision. Each map has the location of all of the trails and roads analyzed in the Gallatin National Forest Travel Management Plan. A detailed table follows every map defining the emphasized, allowed, and prohibited use for each trail and road. The maps in the FEIS met the purpose of displaying the Travel Plan alternatives.

M-2. Trails should never be classed as closed unless signed as open and so indicated on the Travel Plan map. Such a system would be impossible to maintain and administer.

Response: 36 CFR 212.56 and 212.81 contain the regulations for designating public trails as open/closed on National Forest lands. Current regulations require all trails to be posted as open/closed depending on the management objective for the trail and time of year. Currently the Gallatin National Forest meets all requirements of the 36 CFR 212.56 and 212.81 regulations.

M-3. Large-scale fold-up maps should have been included in the Draft and Final EIS.

Response: All maps created for the Gallatin National Forest Travel Management Plan were available in a digital format on CD and on the Internet. Hard copies of the maps were available at the Forest Service offices, local libraries, open houses, and available on loan by request. Small black and white maps showing the road and trail system for each TPA in the FEIS supplemented the route tables which indicated how each route would be managed.

MB. Main Boulder Travel Planning Area

MB-1. Motorized use restrictions in the Main Boulder Travel Planning are excessive and unjustified.

- There is no good rationale to close the few non-wilderness trails in this area to motorized use when the area is surrounded by the Absaroka-Beartooth Wilderness. For example the Grouse Creek Trail #14, the Green Mountain Trail #94 and The Graham Creek Trail #117. The Main Boulder Road should also remain open for its entire length.

Response: The Main Boulder Travel Planning Area is a narrow roaded corridor that serves as a portal into the heart of the Absaroka-Beartooth Wilderness. The goal for summer recreation use is to provide opportunities for use with an emphasis on pleasure driving and passenger vehicle access to destination recreation sites, and to accommodate limited use by high clearance vehicles. The decision maker found no reason to

significantly change the uses currently enjoyed in this area. However, it does appear that she changed the restrictions on Grouse Creek Trail #14 and Green Mountain Trail #94 to yearlong ATV and motorcycle restrictions without explaining her rationale in the ROD. As a result, I recommend providing instructions to clarify her rationale.

Instructions: Review the ROD and Detailed Description of the Decision and explain the rationale for changing the restrictions on the Grouse Creek Trail #14 and the Green Mountain Trail #94.

MC. Mill Creek Travel Planning Area

MC-1. Motorized use restrictions in the Mill Creek Travel Planning Area are excessive and unjustified.

MC-2. General opposition to snowmobile restrictions in the Mill Creek area.

MC-3. The Forest Service is trying to provide a loop route from Mill Creek/Arrastra area to Emigrant Gulch. The Forest Service clearly has not been in this area, as a loop route here is not possible.

MC-4. The Travel Plan no longer allows snowmobiling in Emigrant Gulch. This area provides snowmobiling out of Chico, and others access the area to back country ski. The restriction here doesn't provide equal snowmobiling opportunities in the Paradise Valley.

Response to MC-1, MC-2, MC-3 and MC-4: The ROD (pp. 56 and 57) provides rationale for the decision for use in the Mill Creek Travel Planning Area. The Forest Supervisor wanted to continue to provide for both motorized and non-motorized uses, and to improve the quality of experiences for both. Summer recreation opportunities include several new connector loops and routes for ATV/motorcycle use and additional road access between Pine Creek and Mill Creek, where public access does not currently exist. Much of the area that is currently open to snowmobiling will remain open and a groomed snowmobile trail will be provided on the upper Mill Creek Road system. The southwest corner of the TPA will continue to have an area closure to protect important big game winter range, and the closure to Emigrant Peak Road has been expanded to protect the integrity of the backcountry ski opportunities that this area is targeted to provide. The area currently has steep terrain with limited snowmobile use.

Motorized summer use is restricted on areas where short distances to the Wilderness would invite trespassing and unauthorized user created routes near the Wilderness boundary. Furthermore, restricted access is based on concerns regarding congestion, safety, and water quality. Mill Creek includes restrictions on motorized travel off designated routes for camping along Mill Creek. Stock use is also restricted on Pine Creek Trail (#47) during the summer due to safety, congestion, user conflicts, and the fact that the trail does not have the capability to handle stock overnight.

Please see response to Issue A-1 regarding access to the Mill Creek/Arrastra/Emigrant Gulch area.

MON. Monitoring

MON-1. Within the text of the DEIS there is reference to the required OHV monitoring but no reference to any damage caused by OHV use.

Response: The FEIS (Chapter 3, pp. 324-327) discusses impacts from OHV and motorcycle use on sensitive soils in specific trail areas. Trail concerns listed are trail over-widening, muddy areas, other watershed and riparian damage on trails, and damage to high alpine vegetation. Also, pages 3-485 and 3-486 discuss vehicle, OHV, and motorcycle road and trails systems where riparian habitat has been affected or lost due to road and trail encroachment.

MON-2. There has been no meaningful monitoring of OHV routes to establish baseline use.

Response: Response to Comment #1209 on CD2 discusses the ongoing inventory and monitoring study that Todd Orr, a Forest Service employee, has been conducting over a 2-year period. This study was used for analysis purpose in the EIS. However, non-system routes he inventoried were not used because the national protocol for travel planning is to begin with Forest Service system roads and trails. Response to Comment #1475 also explains how the alternative maps provide adequate depictions of the road and trail system. See also response to Issue P-25.

MS. Mission Creek Travel Planning Area

MS-1. The planning documents and FEIS illustrate that absolutely no analysis of public safety was undertaken. Although the FEIS states that “public safety” was not a significant issue, such an assertion is illogical and in conflict with the specific reason the Forest Service itself proposed an alternative for the Mission Creek Road and Elephant Head Trailhead. Public safety was the driving force behind the proposed alternative to close the road and move the Trailhead.

Response: The Record of Decision states, “My DEIS preferred alternative would have closed Road #649 to public motorized use (contingent on County approval) and moved the existing Mission Creek Trailhead facility out to Bruffie Road. The rationale for this was to provide a more visible trailhead facility that would reduce illegal activities and improve law enforcement safety. In my decision, I’ve chosen not to move this facility because it had little public support. There are concerns over conflicts between the private landowners and the public and some thought that moving the trailhead facility would negatively affect the hiking experience. Moving the facility would require a 2-mile hike along a road to reach the current trailhead.” (ROD, p. 57.)

A general description on public safety considerations can be found in the FEIS, Chapter 4, pages 4-20 to 4-23.

MS-2. The alternatives for the Mission Creek Road and the Trailhead must be reviewed in light of the NHPA. The FEIS is lacking an analysis regarding the adverse impact that may result from the implementation of the Travel Plan and the steps necessary to minimize harm to the historic 63 Ranch, as obligatory under the National Historic Preservation Act. The impacts to the historic 63 Ranch could have been mitigated by the initial proposed alternative, which would have moved the road and Trailhead, thus reducing vandalism, interference with the drinking water source, and potential trespass and vandalism to the historic ranch facilities.

Response: In the ROD, the decision was made not to deviate from the existing condition. The access road and trailhead location were concluded in the 1995 lawsuit settlement. The affects to the historic 63 Ranch were addressed in consultation with the Montana SHPO in the fall of 1994 and concluded with Advisory Council on Historic Preservation concurrence January 13, 1995. The Gallatin National Forest Travel Planning – OHV Effects to Cultural Resources Report states that “...there are no proposals in this analysis which would introduce new OHV trails that would go through known sites.”

MS-3. The FEIS tries to avoid the issues by discussing “perceived” inability of the Forest Service to enforce restrictions, stating that weeds would exist under all alternatives, and arguing that law enforcement is a managerial situation, not an environmental effect. However, an analysis of “effects” under NEPA requires consideration of effects to the human environment as well, including socio, economic, and public safety. Law enforcement issues are an integral part of this analysis. In choosing to maintain the status quo (i.e. not move the Mission Creek Trailhead as proposed), the Forest Service ignored the impacts of one alternative over the other as it relates to these issues.

Response: The appellant raises three concerns with the Gallatin National Forest FEIS. The first concern is specific to the implementability of the decisions made in the FEIS. “The current Travel Plan that governs use of roads and trails on the Gallatin National Forest is a confusing mix of regulations and special closures, a large number of seasonal restrictions and complex map legends and displays. The map is very difficult for some readers to understand and interpret. This situation contributes to innocent violations of travel restrictions.” (ROD, pp. 73-74.) In order to solve this issue, the Gallatin National Forest is “...focused more on taking actions to improve compliance with the Travel Plan, rather than on enforcement alone. This includes such things as providing better maps, better signing, use guides, improved information and education, and a route configuration that minimizes trespass.” (ROD, p. 74.) Alternative 7-M was not selected based on an enforcement issue.

Secondly, the appellant is concerned with control of noxious weeds on the Gallatin National Forest. The FEIS states, “The common elements associated with most weed

infestations are ground disturbance and use of motorized vehicles. Once the weeds are introduced into an area they generally continue to spread into adjacent areas” (Chapter 3-358). Currently, the Gallatin National Forest treats 2,000 to 3,000 acres of weeds annually out of the 12,000 acres that are inventoried. “Weeds will continue to be spread as a result of resource management and other human activities. The recently developed mitigation measures that are addressed in Forest Service Manual 2080 are being implemented and will help to slow the spread of weeds.” (FEIS, Chapter 3-358.)

Lastly, the law enforcement issues will be managed by implementing the above cited implementation actions, rather than using law enforcement alone. “In addition, there are other solutions that can be executed wherever problems may arise. We can concentrate law enforcement personnel in those areas, establish temporary use restrictions, or even propose modifications to the Travel Plan for a more permanent solution if necessary.” (ROD, p. 74.)

N. Noise

N-1. The Forest Service failed to consider requiring 4-stroke engines as a means to mitigate noise impacts versus adopting motorized-use restrictions.

Response: The FEIS (p. 3-414) explains that the Forest Service has the authority to enforce noise standards set by other federal (typically EPA or OSHA) agencies and by the State under 36 CFR 261.15(d). The Forest looked at an attempt to establish noise regulation from snowmobiles in the West Yellowstone vicinity on National Forest lands. The conclusion of this effort was that the field-testing equipment and test rigor available at the time would not hold up in court. This attempt was dropped as not feasible or enforceable in the field. The FEIS (pp. 3-414 to 3-415) concludes that the Gallatin NF could at some future date define more stringent noise standards. Current State law, which regulates noise, makes it very difficult to enforce more stringent noise standards effectively with current technology.

N-2. Noise is not a justifiable reason to restrict motorized use.

- Fifteen to twenty people hiking in a group are not quiet.
- The noise issue is greatly overblown.

Response: The ROD (p. 89) addresses noise as an issue raised in public comments during scoping. Noise from ATVs, motorcycles, and snowmobiles in particular, can detract from the natural settings some users have come to the Forest to enjoy. The Forest Supervisor concluded that noise was an issue that needed to be addressed through separation of uses. The Forest appropriately addressed the issue of noise in the FEIS (Chapter 3, p. 413-419) by separating uses on trails and roads, through concentration of motorized use in Alternatives 2-7, and by eliminating noise from some closed areas.

N-3. Realistic noise level maximums must be established. All off-road vehicles and snowmobiles must be tested annually, and will otherwise not be granted an annual OHV noise approval renewal sticker.

Response: Please see response to issue N-1 above. The FEIS (p. 3-414) explained that the Forest Service has the authority to enforce noise standards set by other federal (typically EPA or OSHA) agencies and by the State under 36 CFR 261.15(d). Montana State Code 23-3-634, which regulates snowmobile noise, states that each snowmobile must be equipped with a noise-suppression device, including an exhaust muffler in good working order. Also, trail vehicles that meet regulations for spark arrester devices that are regulated by the State and are mandatory May 1 to May 30, typically meet the mandated decibel limitation for noise. These State regulations can be enforced on National Forest Lands. In addition, the ROD (pp. 89-90) discusses how the noise issue will be addressed through separation of uses.

NB. North Bridgers Travel Planning Area

NB-1. Opposition to closing the Horsethief Trail (#523) and the road system that have no access issues to motorized use.

Response: The North Bridger's TPA is in a checkerboard ownership and public access is difficult. It is one of the least used areas for recreation on the GNF. The decision maintains the existing trail system for foot and horse traffic; however, it will not be managed for summer motorized uses due to low demand and private land. Snowmobiles are restricted during big game hunting season to provide for habitat security during migration. The seasonal restriction on motor vehicle use of some roads in the Flathead Pass area are extended to better provide for fall wildlife migration and to coordinate road closure dates (ROD, p. 58).

However, several Objectives (1-2 and 3-1) were included to acquire legal trail access across private parcels to provide longer horse riding opportunities and to acquire administrative access to all national forest parcels in this TPA.

P. Process

P-1: The decision to restrict motorized travel in general violates age discrimination laws. It discriminates against the disabled and elderly who are physically incapable of accessing the Forest by other than motorized means.

- Our aging population needs ATV trails, we need open single-track motorcycle and bicycle trails.
- The ROD prohibits my young son from making the ride because he is not old enough to have a driver's license and motorcycle endorsement, a legal requirement to ride Forest Roads 2686 and 6964. The ROD is discriminating against my son because of his age by not allowing him to ride the premier motorcycle run from Hebgen to Hyalite.

Response: This comment was received by the Forest on the DEIS and is responded to on CD2: DEIS, Response to Comments, Comment #2239 from letter #466, Doug and Linda Black. The response follows.

“Under section 504 of the Rehabilitation Act of 1973, no person with a disability can be denied participation in a Federal program that is available to all other people solely because of his or her disability. In conformance with section 504, all wheelchairs that meet the definition in 36 CFR 212.1 are welcome on all National Forest System lands that are open to foot travel. These wheelchairs are specifically exempted from the definition of motor vehicle in 36 CFR 212.1, even if they are battery powered. However, there is no legal requirement to allow people with disabilities to use OHV's or other motor vehicles on roads or trails closed to motor vehicles because such an exemption would undercut the resource protection afforded by the closure and therefore could fundamentally alter the nature of the Forest Service's travel management program. Restrictions on motor vehicle use that are applied consistently to everyone are not discriminatory.”

P-2: The EIS is far too large and complex. It is intimidating. Travel planning should have been done by one or two sub-areas of the Forest at a time.

Response: The ROD (pp. 131 to 133) details the public involvement process, which was conducted over a 2-year period, beginning in 2002. Open houses were conducted in six communities throughout the Forest. These were opportunities for individuals and groups to read and understand the parts of the Travel Plan that interested them, to view maps, and to ask questions of agency personnel.

The FEIS (p. 1-3) describes that the Forest proposed to adopt broad goals, objectives, standards and guidelines for travel management that would apply Forest-wide. Purpose and need statements are detailed beginning on pages 1-11 through 1-14. Achieving these Forest-wide objectives required planning to be done at a Forest-wide scale.

A letter from Steve Christiansen, Gallatin Forest NEPA Coordinator, to Supervisor Heath (CD9: Folder-Non_Comment_Period_Correspondence; 2. Internal; Document 118, 06.10.02_Christiansen_NEPA_Compliance Review, pp. 2 and 3) states that this project is the largest and most complex NEPA process he has been involved with. This document also describes the rationale for analyzing travel planning at the Forest scale. Specifically, the issues raised, such as conflict between motorized and non-motorized uses are pertinent across the Forest, and would most efficiently be dealt with in one analysis, rather than addressed repeatedly. Dealing with travel planning for the Forest simplifies future resource management decisions, since the decisions over appropriate uses for roads or trails that have already been made.

Cumulative effects analysis for most issues would have to be completed at the Forest scale and would have to take into account proposed travel planning for each transportation area, if analyzed separately. In addition, Forest-wide travel planning provides for a more balanced decision. The Forest is also the appropriate scale for considering issues.

P-3: The decision to establish restrictions on motorized recreation in general has not been adequately justified. The only reason that has been demonstrated is that the agency has an internal agenda to close as much as possible and as fast as possible. Science, data, and public need are not being used as a significant criteria, and the Supervisor's guidance to staff and decision-making is based on personal beliefs and subjective judgments.

Response: Resource impacts of motorized use are described throughout the document, particularly FEIS, Chapter 3. Seven alternatives, with ranges of motorized and non-motorized recreation use, are analyzed and the effects of each displayed. Alternative 1 did not restrict motorized use to designated roads and trails. Rationale for the decision, including reasons for not selecting Alternative 1, is described in the ROD, pages 19-126. Specifically, pages 19 and 20 describe general rationale for the decision, and pages 66 through 116 disclose the Supervisor's conclusions about the issues. Pages 90 through 96 address consideration of the impacts to recreation use.

P-4: Much of the evaluation and decision including the overstated needs of non-motorized recreationists, understated needs of motorized recreationists, and impacts associated with motorized recreation were based on personal agendas or opinions. The courts have clearly established the prevailing standard for evaluating scientific evidence in *Daubert vs. Merrell Dow Pharmaceuticals Inc. (DAUBERT V. MERRELL DOW PHARMACEUTICALS, INC., 509 U.S. 579 (1993))*, in which the U.S. Supreme Court ruled that expert testimony must be based on a testable theory or method that has passed peer review, has a known error rate, and has reliable results. In part, the Daubert ruling was triggered by the proliferation of experts and professional witnesses who expressed their opinion in reports and testimony as opposed to sound scientific principles and evidence. The Travel Plan process did not include an adequate peer-review plan or process.

Response: Refer to the response to Issue #3 above. Seven alternatives, with a range of motorized use were analyzed, impacts of each alternative are displayed in Chapter 3 of the EIS, and a decision was made, with rationale described in the ROD. An extensive public involvement process was completed and is detailed in the ROD on pages 131 to 134.

P-5. The Benchmark document, which was released in August of 2002, was released prior to any public scoping and any analysis of public need. It clearly demonstrates that the process was predisposed to reduce motorized access and motorized recreation regardless of factual public need and input.

Response: The Starting Benchmark was designed to facilitate initial public comment. The ROD (pp. 90 through 96) describes the consideration of issues surrounding recreation related to the Travel Plan process. The decision maker states that, "...the Starting Benchmark was not a perfect plan. It was not intended to be. It was developed largely based on our thoughts for providing recreation opportunities across the Forest and did not have the benefit of comprehensive resource effects analysis or public comment. The purpose of the Starting Benchmark was to identify the resource issues that should be

considered in analysis and facilitate public feedback on how they were actually using the Forest transportation system.”

P-6. The new planning rule has determined, “The environmental review has documented that writing management plans has no effect on the environment, which qualifies the individual plans of each National Forest for categorical exclusion from individual study under the National Environmental Policy Act..... Under the 2005 planning rule, full environmental analysis will continue at the project level where public involvement and the best available science can inform on the ground decision-making.” The basis for this guidance is that from here forward Forest Plans will not produce any significant changes from the existing condition, and if a proposed future action does produce significant impact it must include specific analysis and public input developed as part of that project. Additionally, any guidance found in the Forest Plan must yield to the site-specific project analysis. Therefore, the role of the Forest Plan has been greatly diminished and guidance from the Forest Plan must not be cited as reasons for justifying a proposed course of action, i.e., convert an area or route from motorized to non-motorized. This direction is to come from the analysis of a specific proposed action. The appellants support the new Forest planning rule because otherwise motorized recreationists would be subject to double jeopardy, i.e., must defend motorized routes in first the Forest Plan action and then the travel plan action. Unfortunately, the Gallatin National Forest Travel Plan decision continues to use the Forest Plan as a basis for making motorized closures, and the decision must be remanded to correct this deficiency.

Response: The Gallatin Forest travel planning process was being conducted under the 1982 version of the regulations at 36 CFR 219 and the existing Gallatin Forest Land and Resource Management Plan (September 1987) has not been revised under the January of 2005 regulations. However, as evidenced by page 1-1 of the FEIS (opening paragraph), the proposed action to amend the Travel Plan into the Forest Plan changed based on Agency thinking that culminated in the revision, in January of 2005, of the regulations for implementing the National Forest Management Act (NFMA). The Forest Service no longer proposes to incorporate the route designation and decisions and programmatic direction of the Travel Management Plan as part of the Forest Plan. Instead, travel management planning is a stand-alone document, since it makes final agency decisions, and Forest Plans have now evolved not to make such specific decisions.

Amendment of the current Gallatin Forest Plan is needed to remove existing direction pertaining to travel management. Appendix A of the FEIS describes the purpose and need for amendments in greater detail.

P-7. We’re concerned that the 2005 Forest Service designated route rule, as currently implemented, discriminates against motorized recreationists. The motorized route rule requires motorized recreationists to identify and defend the use of every route that they would ever hope to use during their lifetime by involvement in a very complicated travel planning process in a very limited timeframe. The route designation process requires that a Montana resident who might plan to visit another corner of the state or other states be involved and provide documentation of those routes in order to enjoy them at some time

in the future. This is an impossible effort. Additionally, a national level motorized group capable of taking on this level of involvement does not exist. At the same time, non-motorized recreationists are not held to the same standard. Non-motorized recreationists can simply do nothing and reap the benefit of gaining trails closed to motorized recreationists by the route designation process. Therefore, the route designation process and travel planning actions must include an effective mitigation process that will meet the requirements of the designated route rule and not put an unreasonable burden on motorized recreationists. Comments had many suggestions on how the needs of motorized recreationists could be determined by the agency, including the reasonable alternative of employing an adequate number of OHV enthusiasts on NEPA compliance, planning, design, and maintenance teams. Unfortunately, the Gallatin National Forest travel plan evaluation and ROD did not include such a mitigation plan. The decision should be remanded so that a reasonable mitigation plan for designation of motorized routes can be developed and used.

Response: The 2005 OHV rule referenced in this appeal issue is “Travel Management; Designated Routes and Areas for Motorized Use,” 36 CFR 212, 251, 261, and 295, (Federal Register/Volume 70, No. 216/November 9, 2005). Concerns over the execution of this rule on a nation-wide basis are beyond the scope and jurisdiction of the Gallatin National Forest Travel Management Plan or Forest Supervisor Becki Heath. The Gallatin National Forest did, however, modify the purpose and need for a travel management plan between the DEIS and FEIS to add the direction from this rule.

The FEIS (p. 1-9) discusses the Montana/North Dakota Statewide OHV Decision. It states, “In January 2001, the Regional Forester signed a decision that bans cross-country summer motorized travel. The decision amended all Montana National Forest Plans and *“established a new standard that restricts yearlong, wheeled vehicle motorized cross country travel where it is not already restricted.”* This is a major change in the way the Forest has been managed. Previously areas were open to motorized use, that is, vehicles were not restricted to roads or trails. The Regional Forester decision also directs each Forest to do site-specific planning that will result in the designation of roads and trails for their appropriate uses.” The decision implements this direction.

An extensive public involvement process was undertaken to complete the FEIS and reach a decision. This process is detailed in the ROD on pages 131 through 135. The FEIS (pp. 5-1 through 5-5) also discusses public involvement and agency personnel that contributed to the project.

P-8. Non-motorized recreationists have a significant choice of quality and miles of trails to chose from. More than can be explored in a lifetime. Under the decision motorized recreationists can cover their allotted resources in one season or less. Once again, why are motorized recreationists the only ones to lose in every action? Where does the public go to replace the motorized access and motorized recreation that will be closed. The appellants are not satisfied that these and other over-arching social/economic and environmental justice issues and inequities were adequately addressed.

Response: Pages 90 through 96 of the ROD address the impact of the decision to recreation use and display how Forest Supervisor Heath considered those impacts. The FEIS (p. 4-35) discusses environmental justice and shows that there has been no discrimination in opportunity to comment, and in consideration of public input. It states, “The Forest Service has provided notice of comment opportunities and has considered all public input from persons or groups regardless of age, race, income status, or other social/economic characteristics. There would be no adverse effects to human health and no alternative has been determined to disproportionately affect minority or low income populations.”

The ROD (pp. 19 through 26) describes the rationale for the decision, which includes providing winter and summer recreation opportunities, protecting resources, and compliance with law, regulation and policy.

The DEIS, Response to Comment #1196 (CD2 in the project file), states in response to claims of bias, “We believe that the EIS presents a fair and balanced discussion of the impacts and that the rationale for the decision is well-supported by the disclosure of impacts within the EIS.”

P-9. There is no law that entitles non-motorized recreationists to a greater quantity and quality of recreational experiences. Our laws stress equal opportunity. The Gallatin National Forest had a greater quantity and quality of non-motorized recreational opportunities before the decision. Now the Travel Plan decision creates an even greater quantity and quality of non-motorized recreational opportunities. These come at the expense of motorized opportunities. The decision should be remanded to establish an equal allocation (quantity and quality) of non-motorized and motorized recreational resources.

Response: The Gallatin National Forest is aware of no law that limits decisions for managing recreation use based on allocation of route miles or area restrictions. The ROD clearly displays the rationale for the decision, including providing recreation opportunities for a variety of user groups while protecting resources and meeting applicable laws, regulations, and policies. Refer to response to issue P-8 above.

P-10. One of the most important requirements of NEPA was to “achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life’s amenities” (Public Law 91-190, Title I, Section 101(b)(5)). The wording of NEPA was carefully chosen and was intended to produce a balance between the natural and human environment and a sharing of resources. The greatest communal need for public land is for multiple-use opportunities. Segregation of multiple-use lands should not be an acceptable concept. Multiple use laws that apply to 50 percent of the Gallatin National Forest require that the over-arching goal for management of multiple use lands should be to share these public resources in the broadest way possible among all visitors. At the same time visitors to multiple-use lands should be educated to expect and endorse sharing of multiple-use lands. The decision does not reasonably meet

management for multiple-uses and does not reasonably champion the expectation to share these lands.

Response: Refer to responses for P-8 and P-9 above. Project compliance with NEPA and NFMA are described in a supporting document in the project file (D9: Non Comment_Period_Correspondence; Folder 2. Internal, Document #118). This document is a letter from Forest NEPA Coordinator Steve Christiansen to Forest Supervisor Heath, describing that the project is in compliance with NEPA and NFMA.

This document cites NEPA at 40 CFR 1500.1, “NEPA is our basic national charter for protection of the environment.” It is intended to help public officials make decisions that are based on understanding of environmental consequences and hence take actions that protect, restore, and enhance the environment. Mr. Christiansen’s letter is a thorough review of what NEPA requires, and displays that the project is in compliance.

P-11. The Gallatin Forest violated NFMA, NEPA and the APA by failing to complete an environmental impact statement (EIS) to evaluate the significant direct, indirect and cumulative impacts that will result from changes in Forest Plan direction triggered by the deletion of 119 current Forest Plan standards. The effects include increasing the Gallatin Forest acreage where new roads would be allowed for surface management.

The extent to which the amendment will change current management of these lands must be fully defined to the public; something that wasn’t done. As per NEPA, the impacts of potential new road construction over the next 10 to 15 years that will be allowed due to the amendment must also be evaluated. This was not done.

Response: Because the amendments to the Forest Plan do not approve any site-specific road construction, effects of those site-specific actions cannot be displayed. The ROD (pp. 135 through 138) is the Determination of Non-Significant Forest Plan Amendment. All of the 119 standards proposed for replacement pertain to travel management or road and trail facilities. Of these 119 standards, 84 fall into categories that do no limit or compel management action:

1. The standard provides procedural direction to use a certain methodology or publication in environmental analysis, or coordinate management with other agencies (e.g., analysis for transportation needs will be integrated into resource area analysis). Removal of this type of direction does not mean that using appropriate methodology, publications or other agency coordination will be discontinued. It simply allows Forest Service specialists to select the most current and most appropriate scientific approach to environmental analysis.
2. The standard repeats direction that already exists in laws, regulations or higher-level policy direction (e.g., rights-of-way across National Forest land will be granted in situations involving a statutory right of access, and subject to compliance with applicable rules and regulations of the Secretary of Agriculture). There is no need for the Forest Plan to repeat direction that is already covered elsewhere.

3. The standard highlights a project proposal that has already been completed (e.g., the Hyalite Road will be reconstructed). This type of direction is no longer meaningful.
4. The standard provides notice to the public of possible management actions that could occur in the future (e.g., road and trail use may be restricted to meet management needs). This type of standard is simply a notice. It does not establish a goal or objective to be achieved, nor does it set sideboards on future management activities.

Other standards are removed because they no longer are meaningful given the direction included in the Travel Plan. The Travel Plan identifies specifically how each road and trail on the Forest would be managed. Maintenance would be performed consistent with their specific designated uses. This is in contrast to the Forest Plan that included much broader direction. Many of the existing standards, while not necessarily in conflict with the Travel Plan, are not specific enough to provide meaningful direction.

The conclusion states, “even though this amendment removes 119 standards from the Forest Plan, applies Forest-wide, and is effective immediately, it results in very little practical change. No goals and objectives are being removed and it has no effect on the types or level of goods and services to be provided under that Plan. It is on that basis that I’ve determined this to be a non-significant amendment.”

The FEIS (pp. 1-11 through 1-14) describes the Need for the Forest Plan Amendments, including a need to remove existing Forest Plan direction to allow for the adoption of proposed direction; an opportunity to remove unnecessary or redundant direction pertaining to travel management from the Forest Plan; and a need and opportunity to remove procedural direction relating to travel management from the Forest Plan.

The FEIS, Detailed Description of the Decision, Chapter III, contains the specific Forest Plan Amendment which removes 119 standards.

The FEIS (pp. 3-214 to 224) discloses the effects of the proposed Forest Plan amendments specifically to elk habitat effectiveness and open-road density, and to the recreation opportunity spectrum (ROS), which are affected by the amendment.

P-12. The Forest Service failed to clearly identify the scope of the proposed deletions of current Forest Plan direction to the public.

Response: See response to issue P-11 above. Disclosure of effects of the proposed Forest Plan amendments were shared with the public through the FEIS and ROD, as referenced above. The Forest Plan amendment was also described in detail in the DEIS, Chapter 1, starting on page 1-11, giving the public ample opportunity to review and comment on the amendments.

P-13. The agency failed to provide any specific rationale to the public as to why the current restrictions on 581,731 acres of Forest lands should be removed, need to be

removed, or will be mitigated by the Travel Plan; and the agency has illegally substituted the Travel Plan as a Forest Plan revision process. The correct process for updating a Forest Plan is revision.

Response: The Gallatin Forest assumes that the reference to removing current restrictions on 581,731 acres is in reference to Forest Plan management areas that contain suitable timber and, therefore, may be areas where new roads may be proposed. Please refer to the responses to P-11 and P-12 above for specific reference to the document and project file where details of the amendment, its effects, and non-significance are described.

A letter from Forest NEPA coordinator Steven Christiansen to Supervisor Heath (CD9: Folder-Non_Comment_Period_Correspondence; 2. Internal; Document 118, 06.10.02_Christiansen_NEPA_Compliance Review, p. 3) states, “The proposed travel plan is being prepared under the umbrella of the current Gallatin Forest Plan. Amendment is needed to refine the programmatic direction of the Forest Plan to establish measurable objectives and replace standards that are problematic, redundant, or otherwise not meaningful.”

This travel plan is being conducted under the 1982 planning regulations (see Christiansen, p. 29). “The direction in the (1982) planning regulations applicable to the travel planning process are found at 36 CFR 219.10(f). This provision gives authority and direction for the Forest Supervisor to amend the Forest Plan. The key point here is whether the Forest Supervisor determines the amendment to result in a significant change in the Plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a Forest Plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.” The ROD clearly shows these amendments to be non-significant (ROD, pp. 135 through 138).

Mr. Christiansen also addresses this issue in his letter detailing responses to Dr. Zahn (CD9: Folder-Non_Comment_Period_Correspondence; 2. Internal; Doc. 75, 05.08.15_Christiansen_Zahn Issues, pp. 4, 5, 8, 9 and 10):

“The new planning regulations at 36 CFR 219.14(e), January 2005, allows us to continue the travel planning process under the 1982 planning regulations.

- The direction in the (1982) 36 CFR 219 regulations applicable to the travel planning process are found at 36 CFR 219.10(f). This provision provides authority and direction for the Forest Supervisor to amend the Forest Plan. The key provision here is whether the Forest Supervisor determines the amendment to result in a significant change in the Plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a Forest Plan. If the change resulting from the amendment is determined not to be

significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures. To date, we have maintained that the proposed Travel Management Plan is a non-significant amendment to the Forest Plan, and therefore, the mandatory 90-day post-NOA comment period required for Forest Plan development or revision does not apply.

- The ultimate Travel Plan decision will likely be appealable under both 36 CFR 215 (applicable project level decisions) and 36 CFR 217 (applicable to Forest Plan level decisions such as amendments). Both will apply because we've determined that the decisions to be made on the appropriate uses of our transportation system (including area restrictions on snowmobiles) are project-level decisions, and the decisions regarding programmatic direction (amendment of our existing Plan and establishment of goals, objectives, standards, and guidelines) are Forest Plan-level decisions. The 36 CFR 215 appeal rule contains requirements for notice and comment (e.g. comments must be received within 45 days of the date of the NOA publication) and, therefore, that was the basis for delaying publication of the NOA and providing notice of the need to submit comments by the 45th day in order to obtain standing under that appeal rule. The appeal regulations at 36 CFR 217 do not contain notice and comment requirements. We will provide notice of the opportunity to appeal under this rule in conjunction with the ROD.

P-14. The agency failed to provide a range of options for the proposed deletions of Forest Plan standards in the Amendment. The agency simply decided to get rid of all new road construction restrictions.

Response: The Detailed Description of Alternatives document displays the range of alternatives considered provided the Forest Supervisor with the options of either (a) removing one or more of the existing Forest Plan standards (Alternatives 2-M through 7-M) or (b) retaining the standards within the Forest Plan (Alternative 1) (Detailed Description of Alternatives, pp. I-6 through I-35). However, the above reference also shows consideration of modifications to the programmatic direction proposed with the Travel Plan and in fact, much of this direction was adopted into the Travel Plan. In other words, the proposal to amend existing programmatic direction from the Forest Plan is coupled with proposals to adopt programmatic direction into the Travel Plan.

P-15. The agency failed to define why the roading direction for Management Area 7 should have been deleted as a Forest Plan amendment.

Response: The response to this issue is the same as under Issue P-13. Forest Plan Management Area 7 was not addressed separately from the overall purpose of amending Forest Plan direction for "elk effective cover" (see Gallatin Forest Plan, p. II-18). The ROD (pp. 78 to 81 and 135 to 138) includes the Forest Supervisor conclusions about the impacts associated with the amendments to the Gallatin Forest Plan. Pages 135 to 138 discuss the Forest Supervisor's finding of non-significant amendment.

The Detailed Description of the Decision (pp. III-1 to III-10) describes the actual amendment made to the Gallatin Forest Plan. The FEIS (pp. 1-11 to 1-14) includes discussion of the need and purpose of the proposed Forest Plan amendments. The FEIS, Appendix A, provides a more detailed description of the purpose and need for the Forest Plan amendments. The FEIS, page 1-15, Item 4, displays that final Agency decisions to open, construct, or reconstruct routes for future administrative or project activity are not being made through this Travel Management Plan.

P-16. The Agency failed to define why all road density restrictions for big game habitat were removed as a part of the Plan Amendment. The 60- to 70-percent habitat effectiveness index as a Forest-wide standard, and a standard for MA 11 were both deleted.

Response: See response to P-11 and P-13 above.

P-17. The Agency implemented the decision to amend the Gallatin Forest Plan without completing formal consultation with the Fish and Wildlife Service.

Response: The biological opinion from the USFWS, dated September 20, 2006, is included in the project file (CD9: Folder Non_Comment_Period_Correspondence.; 1. Incoming; Document #39, 06.09.20_Biological_Opinion).

P-18. The Travel Plan is being used as a substitute for a Forest Plan Revision while essential programmatic, Forest-wide direction that may be critical to resources such as wildlife has been ignored in travel planning decisions. The amendments are not necessary for implementation of the Travel Plan. The agency has also removed all open-road density standards in the current Forest Plan, even though this is not necessary for travel planning. There is no evidence in the FEIS that demonstrated why open-road density standards should be deleted.

Response: Please refer to the responses to Issues P-11 and P-14 above.

P-19. The Travel Plan decisions appear to be irrelevant to the current Forest Plan. There is no tie to Forest Plan management areas. The various Travel Plan decisions that have been made appear to disregard management area direction. For example, road and trail management on big game winter ranges and in Management Area 11 as opposed to Management Area 8. These differences are not evident in the Travel Plan.

Response: The major differences in *travel management* between the Travel Plan and the Forest Plan lie in elk habitat effectiveness and Recreational Opportunity Spectrum (CD8: DEIS, Comment Period Folder – FS Outgoing Info and Correspondence; Document #10, “05.03.10_General Comment Responses Web, top of page 14). Removal of the habitat effectiveness standard is discussed in P-16 above, removal of standards in general are discussed in P-11 above.

P-20. It is not clear exactly what the role of the Travel Plan goals, objectives and standards are in regards to the current Forest Plan. It seems like these are conflicting documents with both giving direction for Forest lands. It appears that Travel Plan goals, objectives, and standards are meant to replace those in the Forest Plan, particularly since some of the standards that were deleted in the Forest Plan amendment (such as locating roads to minimize wildlife habitat disturbances) were replaced in the Travel Plan. The role of these two different documents in establishing direction for the Gallatin Forest is highly confusing, and adds weight to the implication that the Travel Plan is meant to revise the Forest Plan in many respects. What is confusing is why goals, objectives and standards are necessary for the Travel Plan since this Plan already implements site-specific decisions. This is quite different than the Forest Plan.

Response: The appellant is correct that both the Gallatin Forest Plan and the Travel Plan provide programmatic direction for management of the Gallatin National Forest. The FEIS explains that the original proposal to incorporate the Travel Plan into the Forest Plan was dropped due to a change in agency thinking that resulted in revision of the NFMA regulations at 36 CFR 219 (January 2005) allowing the alteration of the Forest Plan without making final Agency decisions (FEIS, Chapter 1, p. 1). The Travel Plan is not a part of the Forest Plan, but a separate Plan for travel management and the distinction between the two is explained in the FEIS (Chapter 1, pp. 3-4). Additionally, some components of the existing Forest Plan need to be removed to avoid conflicts with the new Travel Plan FEIS (Chapter 1, p. 8).

P-21. The public was not given a true, no action alternative to select as an option as required through the NEPA process.

- All alternatives had 43 policy changes that would apply to any future forest management plans or actions.
- Among the alternatives, none maintained a level of OHV opportunities close to the existing on-the-ground situation.

Response: The FEIS (p. 2-16) addresses the No Action Alternative. In the case of travel management, there is constant change in volume and use levels over time. Travel management is an ongoing process, so a No Action alternative that can be looked at in one point in time is not possible. The No Action alternative development is also affected by the Montana-Dakota OHV decision of 2001 (FEIS, p. 2-16). Alternative 1 is the best approximation of a No-Action alternative and does not propose an adoption of a travel management plan for public access and travel; Alternative 2 is the best approximation of the current situation (FEIS, Chapter 2, p. 16-17).

P-22. The Travel Plan was started under the guidelines of procedure set forth in 36 CFR 219 and was then changed to 36 CFR 215. This was a major change in the procedure. The comment time period and appeal regulations changed significantly.

- There was no clarification about what is appealable, under what rule, or why it might make a difference.

Response: The ROD clearly explains what is able to be appealed and under what rule (pp. 140-141). Issues about the procedure and regulations are explained in the ROD and in a letter prepared for the Forest Supervisor responding to a public comment about the NEPA process (CD9: Folder-Non_Comment_Period_Correspondence; 2. Internal; Document 75, 05.08.15_Christiansen_Zahn Issues).

P-23. The Forest Service is showing clear prejudice against motorized users.

- Non-motorized users lose nothing, motorized users have to accept what they get.

Response: From discussions and comments it is clear that many motorized users strongly disagree with the decision. However, the reduction of motorized use opportunities over the current situation is largely based on several studies that consistently show that participation in non-motorized activity exceeds that of motorized activity. The largest future demand for recreation opportunities would, therefore, be for activities that typically occur in non-motorized settings. The Forest also tried to bring motorized use under greater management control, rather than attempting to limit the amount of use. (ROD, pp. 19 to 20.)

Some of the benefits for motorized users include planned improvements of some of the existing road system, ATV opportunities by converting old roads to designated ATV trails, creation of loops and connected routes, and implementing a time-share approach on trails.

The decision attempts to provide a mix of non-motorized trail opportunities and a mix of all skill levels, from beginner to more challenging, for motorized users. It also includes the decision to maintain opportunities in historically unique and popular areas in backcountry use and increase the amount of recreation closer to urban areas. The ROD thoroughly described the process of balancing the variety of uses on the Gallatin National Forest and reasoned why each choice was made.

P-24. There was an inadequate range of alternatives considered in the EIS.

- There was no alternative that expanded motorized use from the current situation.

Response: Chapter 2 of the FEIS discusses the alternative development process and summarizes alternatives. An alternative with increased use was assessed.

P-25. The Travel Plan EIS does not consider the 2001 3-State OHV Rule, and the final decision, violates this Rule. The Rule required that the Forest Service perform a complete trail inventory and analysis prior to any new travel planning. The inventory that the Forest Service performed was done by an employee, Todd Orr over a 2-year period and was not complete prior to the start of travel planning and was not used in the process.

- The Forest Service also failed to complete a prioritization process in cooperation with counties as required by the 2002 3-State OHV Rule.

Response: The Montana/Dakota OHV decision is considered throughout the travel planning process (ROD, p. 7), was an important reason for travel planning (FEIS, p. 2-9), and was used to develop alternatives (FEIS, pp. 2-15 to 2-23). The Montana/Dakota OHV decision did direct Forests to set priorities for travel planning. This was done in 2001 prior to the beginning of the travel planning process. The Gallatin National Forest chose to conduct travel planning for the entire Forest, or in other words, the entire Forest was set as a high priority. In earlier comment periods for the proposed Travel Plan, the Forest Service specifically asked the public if they knew of non-Forest Service system routes, not shown on our maps, that they believed should be included. While there were many comments suggesting that the Forest Service conduct a complete inventory of all roads and trails that may be out there, there were very few comments identifying specific routes (DEIS, Response to Comments, Document #1411). Regarding the “inventory” by Todd Orr, “the study work that the commenter refers to was done as part of the Forest’s ongoing monitoring of OHV use and was not done for the Travel Plan (DEIS, Response to Comments, Document #1411). “Ongoing monitoring work that has been conducted by Forest Service employee Todd Orr was used for analysis purposes in the EIS. Non-system routes he identified were not used on the maps because the national protocol for travel planning is to begin with Forest Service “system” roads and trails. Other routes can be considered as additions to this baseline.” (DEIS, Response to Comments, Document #1422.)

P-26. The Forest Service failed to consider cumulative effects.

Response: Cumulative effects are discussed in several locations in the FEIS and project record. Each of the issue sections in Chapter 3 contains a sub-section that addresses cumulative effects. A specific document in the record addresses how the NEPA requirement to address cumulative effects was done for travel planning (Non_Comment_Period_Correspondence; 2. Internal; Document 118, 06.10.02_Christiansen_NEPA_Compliance Review, pp. 27-29). The record contains a catalog of programs and activities (past, present and reasonably foreseeable) used as a basis for cumulative effects (CD9: Folder 9_Analysis and Reports; Cumulative Effects; Document #9, 05.10.25 GNF Activities). The record also acknowledges that a NEPA/NFMA compliance review was done prior to signing the Record of Decision (Non_Comment_Period_Correspondence; 2. Internal; Document 119, 06.10.23_Heath_NEPA_Compliance).

P-27. The Travel Plan decision is not consistent with the Multiple-Use and Sustained-Yield Act in restricting motorized use outside of Wilderness.

Response: “There is no provision in the Multiple Use-Sustained Yield Act of 1960 (P.L. 86-517) that precludes the Forest Service from establishing restrictions on motorized vehicle travel or allowing motorized vehicle travel. Section 4 of the Act defines “multiple use” as follows: “Multiple Use’ means the management of all the various renewable surface resources of the National Forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to

changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output" [ID. at Sec. 4(a)]." (DEIS, Response to Comments, Document #1425.)

P-28. The Forest Service violated the appeal regulations at 36 CFR 215.

- The news release on the DEIS (February 14, 2005) and the FEIS (December 8, 2006) do not meet 36 CFR 215.5 and 36 CFR 215.7.
- Court case CV 03-119-M-DWM, in the U.S. District Court of Montana, April 14, 2006, invalidated the requirement in 36 CFR 215.13a-12.f-20b, for substantive comment. That makes the 300 comments you did not address valid and eligible for comment.

Response: The legal notices for the DEIS and FEIS were received and are consistent with the appeal regulations. Appeal standing was granted based on whether the commenter sent a comment during the comment period or signed in at an open house; not whether they provided substantive comments. See response to Issue C-1.

P-29. During the comment period, CBU submitted over 1000 pages of information relating to many issues. This information was totally ignored by the Forest Service. There was no response to these comments in the Response to Comments.

Response: The information referred to in this appeal issue was a large binder of information labeled as "Multiple Use Preferred Alternative DEIS." There was no accompanying letter or any other indication of how CBU wanted or expected us to use this information. Therefore, it was not treated as a "comment." Due to its large size it was also not scanned into the decision documentation for the Travel Plan analysis; however, it is available upon request. This document was reviewed by the Forest and considered in the travel management decision (CD9: Non_Comment_Period_Correspondence; 2. Internal; Documents #96, 99, 101, 104, and 107a).

P-30. Since the Region 1 office of the Forest Service was involved in the Travel Planning process, CBU requests that the appeal decision be removed from Region 1 and be done by the Chief of the Forest Service. However, since Abigail Kimbell has been selected as Chief, some appellants now request that the decision be reviewed by Mark Rey, the Undersecretary of Agriculture.

Response: The appeal regulations at 36 CFR 215 and 36 CFR 217 are clear that decisions signed by a Forest Supervisor will be reviewed at the next higher level, which is the Regional Forester.

P-31. Reasons for motorized use restrictions were based on opinions and subjective judgments.

Response: The rationale for the decision indicates that there are legitimate reasons for use restrictions. An objective of the ROD is to provide well-distributed opportunities for both OHV's and exclusive non motorized use of the Forest outside of wilderness. The decision will provide a mix of non motorized trail opportunities, motorized opportunities for beginner and intermediate skill, and more challenging motorcycle opportunities on single track trails. The decision results in a reduction of motorized use by bringing motorized use under greater management control rather than limiting the amount of use. The decision also implements a time share approach on trails that will provide specified periods of use for both motorized and non motorized activity (ROD, pp. 19-20).

P-32. The Forest Service failed to consider the impact of motorized use restrictions on grazing, cabin leases, mining and mineral extraction, oil and gas development, and timber. They also failed to recognize the fires that will surely come because do to the lack of active forest management. Access, and the type of access that is allowed, are directly related to the ability of the Forest Service to manage the resources that lie within its boundaries.

Response: Decisions regarding access for timber management, livestock grazing and mineral exploration and development are deliberately deferred to the specific analysis that would occur when those actions are proposed. Therefore, there would be no conflicts with laws, regulations, policy, or land use plans. The Travel Plan is designed to achieve controls on motorized use, but allows for roads to be opened or constructed (temporarily) for administrative and project purposes without modifying the Travel Plan (FEIS, pp. 4-9 to 4-16).

P-33. All alternatives studied are overly restrictive on motorized use.

Response: Alternative 1 – No Action, was studied in detail and would not have restricted motorized use on the Gallatin National Forest. This alternative is required by the NEPA process, and also addressed a large amount of the comments received concerning the Travel Plan. This alternative would have implemented the 1999 Travel Management Plan for the Gallatin National Forest. (Gallatin National Forest Travel Plan FEIS, Chapter 2-22.) This alternative was not chosen because it is in violation of the Montana/Dakota OHV decision.

There were seven different alternatives determined to not need a detailed analysis. Among these alternatives was an alternative to increase OHV use above current levels and an alternative to eliminate motorized use on the Forest. (Gallatin National Forest Travel Plan, FEIS, Chapter 2-25.) The NEPA process and the FEIS document had 14 alternatives which covered all possible OHV uses on the Gallatin National Forest ranging from increased OHV use to eliminating all OHV use completely.

P-34. There is a skewed philosophy demonstrated by the inconsistency in the discussion in the FEIS regarding the environmental effects of (ROS) evaluation (beginning pp. 3-216/3-217 and 3-222).

Response: “Within the Management Area direction of the Forest Plan, the Forest Service is proposing to remove standards that direct recreation use to be managed to meet certain “Recreation Opportunity Spectrum (ROS)” classes. There are two principle reasons for this amendment. First, the Forest Plan Management Areas are not place-based; they are scattered throughout the Forest, and there may be a number of different Management Areas within a given drainage. Managing for different ROS classes within the same general area is not practical or desirable. Second, changes in public recreation demand led to a need to consider changes in the current recreation settings being provided. The route-by-route management decisions of the Travel Management Plan may not be consistent with certain Forest Plan ROS classifications, although this is difficult to ascertain.” (Gallatin National Forest Travel Plan FEIS, Chapters 1-12.)

P-35. It’s apparent that special interest groups are using our federal government to create federal policies to eliminate motorized recreation, if not all use, on public lands.

Response: The Gallatin National Forest only used the information provided by interested publics and groups. All information considered can be found in the DEIS Response to Comments and the project record.

P-36. The Travel Plan and ROD fail to decide use of the trails in the west Bridger Travel Planning Areas. Many trails are to be managed under a time-share concept, yet to be determined.

Response: The time share concept would simply establish a schedule for motorcycles and/or mountain bikes that would allow periods of time over the summer in which hikers and stock users could use these trails in the absence of mechanized uses. As stated in the ROD, “Time share was a concept suggested in public comments as a means for resolving user conflict instead of yearlong prohibitions... The scope of my decision documented in this ROD determines whether certain uses will be allowed on specific roads and trails and any seasonal restrictions that may apply. I intend to work with various user groups in developing a schedule for time share on the more popular trails within a 30-mile radius around Bozeman.” (ROD, p. 107, footnote.)

P-37. The Forest’s decision to close routes until they could meet maintenance standards was arbitrary and capricious.

- It is clear from the decision that part of the reduction in routes was based on the Forest’s perceived need and ability to bring routes to a specified standard of maintenance. That standard was not disclosed until the Record of Decision, and from the decision it is not clear which routes are in need of repair and the degree of repair that is necessary. This standard is also only being applied to OHV routes.

Response: The Forest decision to close certain roads and trails is based on guidelines and standards outlined in the FEIS. Guideline A-12 states: Newly designated routes for passenger cars, 4x4s, and ATVs may remain closed to such uses until the facilities meet applicable engineering design standards. Standard 3-2 states: Trails #440, #53, and #508

within the Bear Canyon Creek drainage are not to be opened to summer motorized, mountain bike, and horse use until facilities are upgraded to a condition that alleviates sedimentation and water quality impacts from those facilities. The Travel Plan establishes uses for routes that may not yet exist (e.g. connector routes) or different uses for routes that are currently not capable of accommodating that use (e.g. a single track motorcycle trail that is now targeted to accommodate ATVs).

P-38. The Response to Comments on pages 397, 422, and 424 implies that the agency's response to my (Dr. Ken Zahn) July 15, 2005, letter concerning the DEIS public review process, was responded to adequately by Mr. Christiansen of the Agency. However, there was no discussion of the points contained in that letter.

Response: All of the point-specific responses to Dr. Ken Zahn are documented in the project record. There have been three specific letters written to Dr. Zahn and all are in the project record. (See CD8: DEIS Comment Period. Folder – FS Outgoing Info and Correspondence.; Document #42, 05.07.26_Response to Zahn, CD8: DEIS Comment Period. Folder – FS Outgoing Info and Correspondence.; Document #51b, 05.08.25_Response to Zahn, and CD9: Folder - on_Comment_Period_Correspondence; 2. Internal; Document #75, 05.08.15_Christiansen_Zahn Issues.)

However, during the appeal review period, the Forest realized that they accidentally failed to respond to all of the issues in his August 1, 2005, letter. The Forest responded with a followup letter on March 14, 2005, which completed their responses. The Forest Supervisor documented in her letter that review of his comments would not have lead to any changes in the decision. While this was an unfortunate mistake, the Forest corrected the situation with a quick reply the Dr. Zahn.

P-39. On page 430 of the Response to Comments the agency maintains that since 36 CFR 219 was changed as an agency regulation for processing NEPA EISs that travel plans no longer needed to be considered an amendment to the Forest Plan. Yet the Agency made no attempt to rewrite and clarify the role of the Travel Plan and amendments to the Forest Plan, when it actually circulated the DEIS for public comment. With such a major change that drives the perception of the public, the organization of the document, and the understandability of the draft to the lay reader, the Agency should have revised the draft if it planned to process it under 36 CFR 215 rather than 36 CFR 219.

Response: Issues about the procedure and regulations are explained in the ROD (pp.138-140) and in detail in a letter prepared for the Forest Supervisor responding to a public comment about NEPA process (CD9: Folder-Non_Comment_Period_Correspondence; 2. Internal; Document 75, 05.08.15_Christiansen_Zahn Issues). (See also responses to P-22 and P-6.)

P-40. The history of past multiple uses needed to be better discussed as elements of the cumulative impact discussion section as a result of June 24, 2005, CEQ guidance.

Response: Cumulative effects, including past multiple uses, are discussed in several locations in the FEIS and project record. Each of the issue sections in Chapter 3 contains a sub-section that addresses cumulative effects. A specific document in the record addresses how the NEPA requirement to address cumulative effects was done for travel planning (Non_Comment_Period_Correspondence; 2. Internal; Document 118, 06.10.02_Christiansen_NEPA_Compliance Review, pp. 27-29). The record contains a catalog of programs and activities (past, present and reasonably foreseeable) used as a basis for cumulative effects (CD9: Folder 9_Analysis and Reports; Cumulative Effects; Document #9, 05.10.25 GNF Activities). The record also acknowledges that a NEPA/NFMA compliance review was done prior to signing the Record of Decision (Non_Comment_Period_Correspondence; 2. Internal; Document 119, 06.10.23_Heath_NEPA_Compliance).

P-41. NEPA and CEQ guidance require that the proposed action be issue-driven.

Response: The purpose and need for action is identified in Chapter 1 of the FEIS. “Up until the 1980’s public recreation use and travel on the Gallatin National Forest was not considered something that required much management control... Since that time, increasing demand, new information on the potential effects to resources, and diverse personal value sets have raised more attention and concern as to how the public uses the Forest. There has never been a comprehensive analysis or management plan for travel on the Gallatin National Forest. The Forest Service believes that the demand for some recreation opportunities may now be reaching the point of exceeding the capability of the land to provide them. A Travel Management Plan is needed to effectively offer a variety of quality recreation opportunities consistent with achieving management goals and objective for other resources.” (Gallatin National Forest Travel Plan, FEIS, Chapter 1-2 and 1-3.)

P-42. The FEIS and ROD clearly violate the Mining Law of 1872 and the Mining and Mineral Policy Act of 1970 by arbitrarily designating vast areas of National Forest System lands as de facto wilderness not designated by Congress.

Response: The Gallatin National Forest Travel Plan Detailed Description of the Decision defines Goal C – Administrative Uses as “Retain or establish the means to access Gallatin National Forest lands for the implementation of a variety of administrative and project activities, including but not limited to, law enforcement, timber harvest, reforestation, cultural treatments, prescribed fire, fire suppression, watershed restoration, wildlife and fish habitat improvement, private land access, livestock grazing, and mineral exploration and development.” The proposed Travel Plan (Alternatives 2-M through 7-M) deliberately defer decisions regarding access for mineral exploration and development to the analysis and decision process that would be completed for any such proposals.” (Gallatin National Forest Travel Plan FEIS, Chapter 4-15.) “In other words, the proposed Travel Plan does not authorize nor preclude road access to serve project activity and therefore this part of the issue was determined not to be significant.” (Gallatin National Forest Travel Plan, FEIS, Chapter 2-11.)

P-43. The Travel Plan violates the Organic Act of 1897 because the Gallatin National Forest cannot provide a sustainable timber supply without a sound transportation system as required by the Act.

Response: See response to issue P-42 regarding the Decision and Goal C. The proposed Travel Plan does not authorize nor preclude road access to serve project activity and, therefore, this part of the issue was determined not to be significant (Gallatin National Forest Travel Plan, FEIS, Chapter 2-11).

P-44. The Travel Plan violates the Taylor Grazing Act of 1934 by not recognizing the needs for improvements needed for grazing allotments that are the rights of our agriculture industry.

Response: Two issues were specifically addressed in the FEIS. First, there is a concern that the proposed Travel Plan could restrict some grazing permittees' ability to use ATVs for management of their allotments. Secondly, there was a concern that certain designated public uses of roads and trails could indirectly impact grazing permittees by increasing the potential for problems such as users running or redistributing livestock or leaving gates open. "Another facet of this issue was the potential for the management of trails within active grazing allotments to result in some users redistributing livestock or leaving gates open. Reports from Gallatin Forest range conservationists provide no evidence that this behavior is associated with any particular user group. Since none of the alternatives propose to restrict humans from allotment areas, it can be concluded that no Travel Plan alternative is any better or worse than another in terms of potential recreation/livestock use conflicts." (Gallatin National Forest Travel Plan, FEIS, Chapter 4-9.)

P-45. The Travel Plan violates the Multiple-Use Sustained-Yield Act (MUSYA) of 1960. The FEIS is probably one of the most arbitrary and capricious demonstrations of federal land management decisions that we have seen in our history of participating in land management. Ms. Heath has disregarded both the United States and the Montana Constitutions by signing this decision.

Response: "There is no provision in the Multiple Use-Sustained Yield Act of 1960 (P.L. 86-517) that precludes the Forest Service from establishing restrictions on motorized vehicle travel. Section 4 of the Act defines "multiple use" as follows: "'Multiple Use' means the management of all the various renewable surface resources of the National Forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output" [ID. at Sec. 4(a)]." The appellant(s) do not

indicate how they believe the Gallatin Forest Travel Plan violates the United States and Montana Constitutions.

P-46. Under the Wilderness Act it is clearly stated that National Forest System lands not designated as Wilderness must be managed for multiple use.

Response: It appears that the appellant is concerned that the Gallatin Forest Travel Plan is inconsistent with managing the Forest outside of designated wilderness for multiple uses. As documented throughout the ROD, the Forest is trying to provide for a wide variety of multiple uses on the Forest. See also responses to P-42 to P-45 above.

P-47. The FEIS violates the Forest and Rangeland Renewable Resources Planning Act (FRRRPA) of 1974 and the National Forest Management Act (NFMA) of 1976 by failing to recognize the current and future needs of the resources and the availability of these resources to the people.

Response: The Record of Decision (p. 10) states the purpose for the Gallatin National Forest Travel Management Plan. The purposes are:

1. Provide for public access and recreation travel on the Gallatin National Forest considering both the quantity and quality opportunities provided.
2. Bring area, road and trail use into compliance with laws, regulations, and other higher-level management direction.
3. Establish objectives and/or decisions to correct any unacceptable resource damage that is occurring due to the use of Forest roads, trails and areas open to cross-country travel.
4. Provide for public understanding of the types of use and season of use allowed for each road and trail.
5. Remove outdated, ineffective, and/or unclear existing Forest Plan standards and other direction applicable to road and trail management.
6. Identify administrative access routes to facilitate management of a variety of resources on the Gallatin National Forest.

In addition, Chapter I of the “Gallatin National Forest Travel Plan Detailed Description of the Decision Details” lists all of the Goals, Objectives, Standards, and Guidelines for the Travel Plan. These goals, objectives, standards, and guidelines were established to manage the future needs and availability of the Gallatin National Forest’s resources. while being consistent with the FRRRPA, NFMA and MUSYA.

P-48. The location of valuable information is unknown. It is not in the documentation. We contend that the ID Team under the discretion of Ms. Heath flagrantly misplaced or lost this information along with other comments made by our organization. This is in violation of the Intergovernmental Cooperation Act.

Response: The Gallatin National Forest Travel Plan project file has all the specific project information. All of the comments received were cataloged and filed, and available for public review.

P-49. The FEIS violates the Montana Constitution in that the ROD takes Montanans rights.

Response: The Travel Plan decision does not preclude access for those with valid rights of access, nor does it prevent access for project, administrative or permitted activities. The Travel Plan does not violate the rights of Montanans or the Montana Constitution.

P-50. The EIS had a limited range of alternatives and demonstrated bias against motorized use of the National Forest.

Response: Alternative 1, No Action, was studied in detail and would not have restricted motorized use on the Gallatin National Forest. This alternative is required by the NEPA process and also addressed a large amount of the comments received concerning the Travel Plan. This alternative would have implemented the 1999 Travel Management Plan for the Gallatin National Forest. (Gallatin National Forest Travel Plan FEIS, Chapter 2-22.) This alternative was not chosen because it is in violation of the Montana/Dakota OHV decision.

There were seven different alternatives determined to not need a detailed analysis. Among these alternatives was an alternative to increase OHV use above current levels and an alternative to eliminate motorized use on the Forest. (Gallatin National Forest Travel Plan FEIS, Chapter 2-25.) The NEPA process and the FEIS document had 14 alternatives which covered all possible OHV uses on the Gallatin National Forest ranging from increased OHV use to eliminating all OHV use completely.

P-51. The administrative record does not demonstrate that the GNF conducted an examination of whether to implement a SEIS based on the changed proposed action. The GNF did not issue an SIR and did not consult outside experts to assist it in this process. In the event the proposed action upon which the public commented differs significantly from the final adopted action, the agency must re-circulate the final proposed action through a supplemental EIS in order to give the public adequate opportunity to participate.

Response: The Forest thoroughly analyzed Alternative 7-M, which is a modified version of Alternative 7 from the DEIS, in the FEIS. Because the Alternative was thoroughly analyzed in the FEIS, an SEIS or SIR were not necessary. FEIS, (pp. 2-24 and 2-25) describe the changes to Alternative 7 to create Alternative 7-M, and the effects of 7-M are detailed for each resource in FEIS Chapter 3. While Alternative 7-M in its final configuration was not presented in the DEIS for public comment, all the elements of Alternative 7-M were included in the DEIS. Thus, the public had opportunity to comment on each of these elements. Please also refer to the response to issue C-2.

PB. Porcupine-Buffalo Horn Travel Planning Area

PB-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- Providing grizzly bear habitat security is not a sufficient reason for closing trails in this area to motorized use.
- There has been no supportive rationale other than selective reasoning in not allowing Big Sky Snowriders to use the vast deep snow areas of the upper Buffalo Horn/Ramshorn Peak Areas.

Response: The Forest Supervisor's decision for this Travel Planning Area was largely influenced by the fact that it falls within the Hyalite/Porcupine-Buffalo Horn Wilderness Study Area and that management must maintain the pre-existing wilderness character as it was in 1977. Therefore, her decision prohibits ATV use within the Wilderness Study Area but provides for motorcycle use on some trails. It will allow for ATV access on the Hidden Lakes Trail, because it is outside the study area and it provides one of the few trail opportunities for ATV access to a high mountain lake destination.

The selected configuration of the motorcycle routes was designed to provide and maintain secure habitat for the grizzly bear. The included seasonal restrictions on motorcycles from September 5th to July 15th annually are designed to provide secure habitat for the grizzly bear at a time when they are foraging in whitebark pine habitat. The spring restriction, to July 15th, is needed because there is still snow covering portions of many of these trails until that time. An earlier opening date could lead to motorcyclists leaving the designated trail to avoid snow banks, thus causing damage to surrounding vegetation. The decision also prohibits motorcycle use on the Rock Creek South Trail (#178) to improve secure habitat for the grizzly bear yearlong.

In the winter, the historic Big Sky Trail will be managed as a designated route through a closed area. Cross country snowmobiling will be prohibited in the historic use area of Buffalo Horn. This closure facilitates management of the State Gallatin Wildlife Management Area sections, and reduces conflicts with wintering big game, thus improving natural integrity. This Travel Planning Area also contains important habitat for wolverine and elk that warrant winter restrictions on snowmobiles.

The open area where cross country snowmobiling is allowed runs from Windy Pass across the Crest through Rock Creek. This allows high quality "challenge" snowmobile opportunities but limits the acreage available to remain consistent with the acreage used in 1977.

This TPA includes a goal and objective (Goal 4 and Objective 4-1) to manage the Hyalite/Porcupine-Buffalo Horn Wilderness Study Area to sustain the recreation setting and existing Wilderness characteristics as they were in 1977, and to preserve the area for future consideration as Wilderness. The Forest Supervisor believes that it is important to ensure that evolving use patterns don't negatively affect the natural integrity, or apparent naturalness of this area.

PB-2. Using motorized use as a pawn to get Mr. Brask to agree on settlement is a double standard. Palmer Creek in the Gardiner Basin is similar.

Response: It is unclear what the appellant is referring to. However, the FEIS (Chapter 1, p. 1-15, Scope of the Decision #2) states that final agency decisions for road and trail construction, reconstruction, maintenance and decommissioning, are not being made through this Travel Management Plan. The Plan does, however, include objectives for such future decisions.

R. Recreation

R-1 to R-5. The evaluation did not adequately consider and address the fact that motorized access to the National Forests is relatively limited as shown by the miles of roads versus the number of acres displayed. The miles and percentage of non-motorized trails is excessive compared to the use that they receive. The overall allocation of non-motorized versus motorized access and trail riding opportunities in the National Forest System is way out of balance with the needs of the public for motorized access and recreational needs of motorized recreationists.

The data should have been updated to reflect the significant reduction in miles of roads and motorized trails that decisions have produced since this data was assembled (cumulative effects). This revised data should have been used to guide the decision-making to Travel Plan alternatives that would have adequately met the needs of the public by increasing motorized recreational opportunities in the Gallatin National Forest.

Resource allocation must include access to an equal number of quality recreational opportunities including alpine lakes, rivers, streams, and overlooks. Equal opportunity laws, case law, and agency guidance have clearly established that the goal for the agency should be equal opportunity for all visitor groups.

Response to R-1 to R-5: The FEIS (Vol. 2, pp. 3-420 to 3-483) provides detailed information regarding the Recreation Issue. Use information, including national and regional recreation participation data, regional recreation trend predictions and regional demographics and potential effects of recreation use patterns was discussed. Data sources at all levels were identified, indicating that Forest used the best available information at the time for the analysis. The analysis provides a detailed review of the potential effects related to all alternatives, including a detailed analysis of the number, types and quantities of opportunities provided. A summary of the miles or acres of route opportunity between alternatives is provided in Chapter 2 of the FEIS (pp. 2-31 thru 2-33).

The November 2, 2006, travel management data reference provided by the appellant was dated after the Gallatin NF FEIS was completed and published.

The Recreation Cumulative Effects Analysis (CD9: Folder 11, Doc. 57) provides the scope of the analysis and describes the spatial extent of the analysis considered in the effects analysis.

The ROD (pp. 11-13, 19-21 and 90-96) identifies the decision criteria to compare the alternatives and the rationale selecting the final alternative. Both general and specific rationale for the decision is provided. In general, the Forest Supervisor considered the degree to which the alternatives provided well-distributed opportunities for both motorized and non-motorized uses of the Forest outside of Wilderness. Recreation was the most influential issue in the Forest Supervisor's decision for the Travel Plan.

The FEIS discusses accessibility to Forest recreation opportunities and explores the issue of providing adequate access to public lands for people with disabilities (pp 3-469 to 3-470).

R-6. The GNF Travel Plan evaluation and ROD is largely based on data from the National Visitor Use Monitoring Program (NVUM) as described on pages 3-421 to 3-425 in the Final EIS. NVUM visitor use data is not representative of actual trail users. Therefore, the basis used to allocate recreation resources is flawed and the decision must be remanded to correct the allocation of recreational resources.

Response: The ROD (pp. 11-12) describes the general decision criteria which were used to select the final alternative. General rationale for the decision was provided (pp. 19-21), as well as specific recreation rationale (pp. 90-96). The stated rationale does not rely solely on Gallatin NF NVUM data, but rather draws from a number of larger peer-reviewed studies that project recreation trends for general regions (Rocky Mountain West) of Montana to supplement locally gathered NVUM data. The FEIS (pp. 3-420 thru 3-430) recreation effects discussion relates to observed recreation use information taken from NVUM data, and State, regional and national trend data taken from a variety of peer-reviewed recreation studies.

The Gallatin's Travel Plan record does not include background data on research that supported NVUM sample designs, or the site-specific data (for example a list of the sample sites and dates sampled) relative to the Gallatin's samples. This project was developed to obtain an unbiased sample of all recreationists. Kocis, et al, (2004) provides the Gallatin NF's summary report from the 2003 sample. References used for the recreation effects analysis are included in the project record (CD10: Issue References, Issue 16, Recreation) including a variety of recreation use data sources.

R-7. Observations of recreationists on multiple-use public lands from 1999 through 2006 demonstrate that the majority of the visitors were associated with motorized access, multiple uses, and were associated OHV recreation.

Response: The information provided by the appellant is not cited, nor referenced. However, multiple sources of recreation user data were considered during the Travel Plan analysis and were the basis of establishing recreation trend in the study area. Peer-

reviewed literature was used to establish recreation trends, which indicates significantly different trend information than provided by the appellant. This information is provided in the FEIS (pp. 3-420 to 3-430) and as references (CD10: Issue References, Issue 16, Recreation, Documents 2-13, 22, 24, 26, and 26).

R-8. Specific National Visitor Use Monitoring data for the Gallatin National Forest shows that there were 2,264,000 total site visits to the Gallatin National Forest and only 57,700 wilderness visits. Therefore, wilderness visits in the Gallatin National Forest are only 2.55 percent of the total visits. This data supports a significant increase in motorized access and motorized recreation that was not adequately considered during the evaluation and decision.

Response: Multiple sources of recreation user data were considered during Travel Plan analysis and were the basis of establishing recreation trend in the study area. Peer-reviewed literature was used to establish recreation trends, which indicates significantly different trend information than provided by the appellant. This information is provided in the FEIS (pp. 3-420 to 3-430) and as references (CD10: Issue References, Issue 16, Recreation, Documents 2-13, 22, 24, 26, and 26). Rationale for the decisions made can be found in the ROD (pp. 19-21 and 90-96).

R-9. Out of the 10,469 recreationists that were observed, 168 were hikers and all of the meetings were pleasant. The appellants have not experienced any user conflict in 8 years of observations, and it is not reasonable to base so many motorized closures on user conflict when it is simply not significant or being used as an inappropriate reason not to share resources as discussed in our comments.

Response: See Response to issue R-8. In addition, recreation conflicts were discussed in the recreation effects analysis, and documented on numerous occasions during two scoping periods.

R-10. The Forest Service does not observe visitors on weekends and holidays and consequently is unaware of the actual visitor usage.

Response: National Visitor Use Monitoring surveys conducted on the Gallatin NF included a large number of weekend and holiday samples during the 2003 sample year. General observation of visitor trend by Agency employees frequently occurs on weekends and holidays (OHV, Backcountry and Snow Ranger's tours of duty, include weekends and holidays.) Data provided by CTVA in their appeal is not cited or supported with scientifically supported sample design. See response to issue R-8.

R-11. The total number of individuals that visit our National Forest is about 56 million. Based on the 2000 estimates, OHV and motorized recreationists are about 64 percent of the population that actually visits the Forest (36 million/56 million). This is further substantiated in a report prepared by National Survey on Recreation and the Environment (NSRE 2000) titled Outdoor Recreation Participation in the United States which

indicated the 63.1 percent of respondents to a survey sightsee, drive for pleasure, or drive ATVs or motorcycles.

Response: See response to issue R-8.

R-12. The amount of motorized access and recreational closures under the ROD are significant and excessive compared to the distribution of actual trail users described under (issues R-1 through R-11 above). This massive closure includes the majority of the high-quality motorized experiences in the Forest and is unreasonable given the needs of motorized recreationists and the historic use of the Forest. Motorized access and recreation in the Forest is an important part of our culture and this culture was not adequately considered.

R-13. The allocation of trails when considering the entire Forest including those available to non-mechanized recreationists in wilderness areas is way out of balance before the decision and exacerbated with the decision.

Response to R-12 and R-13: The Travel Plan decision does shift ATV and motorcycle opportunities from trails to a combination of trails, closed roads, and dual-designated low standard roads (where ATV's routes are co-managed with backcountry roads), and does reduce the total number of miles of motorized opportunity over current condition . However, the total number of motorized system routes for ATV's and motorcycles provided currently (best represented by Alternative 2) equals approximately 819 miles, the total number of miles of ATV and motorcycle system routes provided by the decision are about 850 miles. The increase in mileage is primarily due to the inclusion of many old project or administrative roads that are not currently open for motorized travel (about 200 miles), dual-designated ATV/motorcycle routes on open low-standard roads (about 228 miles), and some new connectors (about 30 miles) in the ATV trail system to provide better connectivity and clustered opportunities. The number of miles of roads open to passenger cars or 4x4 high-clearance vehicles increases from about 725 miles today to 739 miles in the decision. The final decision provides a mix of high-quality recreation opportunities distributed across the Forest that provide for all user groups, and anticipate projected recreation demand. (CD1: ROD, pp. 19-21 and 90-96; FEIS, Vol. 2, Chapter 3, pp. 3-420 thru 3-483; and CD9: Folder 11, Doc. #78).

R-14. CTVA requested that the cumulative effects of all past and ongoing motorized closures be adequately addressed. The Forest Service failed to disclose and consider quantified and detailed information regarding the cumulative impact of the travel planning project combined with past, present, and reasonably foreseeable projects that affect motorized access and recreation including travel plans, Forest Plans, and resource management plans (BLM). Additionally, the EIS cannot rely on ties to other documents because other documents that contain the requisite site-specific information about cumulative effects on motorized recreationists do not exist. Cumulative impacts on motorized recreationists and opportunities were not provided and the decision must be remanded.

CBU provided the Forest Service a very substantial list of the closures that have occurred on our federally-managed public lands on the Gallatin and throughout Montana over the last few years. CBU finds that the GNF has not complied with this regulation and has ignored our request to consider the material that we provided them.

R-15. Motorized trail users have been living with an inadequate number of trail resources and especially high quality trail resources which are now reduced by the decision to 19 percent of the total. These cumulative effects were not adequately considered.

Response to R-14 and R-15: Cumulative effects analyses were completed for each issue, as appropriate in Chapter 3 of the FEIS (individual sections of the effects analysis for all issues). The section provides the summarized recreation cumulative effects discussion (CD1: FEIS Volume 2, Issue 16, Recreation, pp. 3-472 thru 3-483). In addition, the recreation specialist report provides the complete version of the recreation cumulative effects analysis prepared for the Travel Plan (CD9: Folder 11, Analysis and Reports, Document # 57). The analysis draws the conclusion that while there is likely to be a net decline in the total number of miles of motorized recreation opportunities within the analysis area (Southwest Montana); supply of motorized opportunities is not limiting due to the large number of total trail miles, and low percentage of motorized users (CD1: FEIS, Chapter 3, p. 3-477).

Also see the responses to issue P-29 regarding information provided by CBU and response to issues EG-1 and EG-2 for discussion relative to concentrating use.

R-16. The 3-State OHV ROD required that each motorized road and trail must have adequate site-specific analysis to determine all of its values including motorized recreational value. The decision should be remanded due to the lack of this site-specific data and analysis as required by NEPA and the 3-State OHV decision.

R-17. Motorized recreationists entered into the 3-State agreement with the understanding that site-specific analysis would be used to justify existing motorized routes and that there would not be massive closures beyond the cross-country restriction.

Response to R-16 and R-17: The FEIS provides appropriate specific analysis of effects for all routes and areas (CD1: FEIS, Volumes 1 and 2, Detailed Description of the Alternatives, Detailed Description of the Decision, Alternative Maps, and Decision Maps). The Forest Supervisor documents her rationale for the Decision in the ROD (pp. 1-143).

The Gallatin NF Travel Plan decision is in compliance with the direction provided from the 3-State OHV agreement (CD1: FEIS, Volume 2, Chapter 3, Issue 16, Recreation, p. 3-482). The 3-State OHV decision directed Forests and Grasslands to prioritize areas as high, medium or low priority for site-specific planning to designate roads and trails for their appropriate use. The Forest has completed this mandate with this Travel Plan

decision with site-specific designation of appropriate uses on every route and area, through an open and public process.

R-18. Congress has directed that 50.3 percent of the Gallatin National Forest be managed for multiple-uses (www link to roadless rule). The decision renders over 82 percent of the Forest as defacto non-motorized/wilderness area (Table 3.16.10). 7. Allowing the majority of the public access and use of less than 20 percent of the Forest is not a reasonable solution for the publics' needs, and is contrary to the direction given by Congress.

Response: The Roadless Final Rules, both the 2001 Rule rendered during the Clinton administration and the May 2005 Rule, provide direction to the Agency relative to new road construction and timber harvest in inventoried roadless areas, but provide no other direction as to "multiple use" management. Motorized recreation is not restricted within inventoried roadless areas by these rules. The ROD (pp. 97-100) provides discussion of roadless lands and how they were considered in the final decision. As the Forest Supervisor states, while there are differences in effect to roadless characteristics between alternatives, none were substantial enough to become factors in her decision. All alternatives are consistent with current Agency policy on the management of roadless lands. Therefore, the travel management decisions were based on other issues including maintenance of wildlife habitat and providing opportunities for motorized use and hiking, biking, horseback riding, and cross-country skiing in non-motorized settings outside of Wilderness.

R-19. The Forest Service failed to take a hard look at what the motorized recreating public wanted in the new Travel Plan.

Response: The documentation in the project record shows that the Forest had dozens of meetings with motorized recreationists, reviewed the information they provided, and incorporated many of their suggestions into various alternatives. Clearly, the record shows that the Forest took a hard look at the comments and interests of the motorized recreating public. See references: CD1: ROD, pp. 132 to 134; CD1: FEIS, Volume 2, Chapter 3, Issue 16, Recreation, p. 3-420; CD2: DEIS, Comment Responses; CD8: Folder 07, DEIS_comment_period/FS outgoing Info and Correspondence/Document 10: 3/10/05 /05.03.10_General comment responses web; CD9: Folder 13 – Misc/05.08.04CBU Maps and Meeting notes: Documents 1-9; and, 05.08.04 CBU maps and notes – snowmobile use maps/Documents 1-18; and CD8: Folder 07_DEIS_comment_period/ openhouses and meetings/ Documents 16 , 27, 37, 39 and 43.

R-20. Limited motorcycle (and ATV) access from July 15th to Sept. 5th is arbitrary and capricious or otherwise unreasonable.

- I appeal this with respect to partial closure of Crest Trail #96 and Trails #177, #167, #178 and upper portion of #180. This is part of a long ride from Heben Lake to Hyalite and closing it on the 5th of September removes half of the peak time to ride.

- The July 1st and July 15th opening dates are far too restrictive on motorcycles. On average years, trails are suitable for use by Memorial Day.

R-21. There is no reason to restrict motorized use of the Crest Trail from Moose Creek South, or trails near the Yellowstone Park boundary, Trail #83, the Tepee Creek Trail.

Response to R-20 and R-21: General rationale for the different seasonal restrictions is addressed in the ROD on pages 33-35. The mid July to early September motorcycle open season is designed to protect facilities and mitigate wildlife conflicts (foraging grizzly bears) in the fall (ROD, pp. 47-48 and 107). Restriction to only foot and stock travel on the southern portion of the Gallatin Crest is to provide secure grizzly core habitat, and non-motorized recreation opportunities. Specific rationale for the Gallatin Crest/Porcupine TPA, as well as the HPBH WSA, can also be found in the ROD (pp. 15,19-25, 47-48, 58-59, and 106-110). The effects analysis for alternatives within the HPBH WSA can be found in Volume 2 of the FEIS (pp. 3-580 thru 3-590). Also Montana FWP provided comments on the DEIS, which supported the proposed closures in the Gallatin range to protect critical wildlife habitat (CD8: Public comments/2005_August_DEIS/document 05.08.01_M/letter 1438).

R-22. Motorized access and recreation in the Forest is an important part of our culture and this culture was not given a hard look or adequately considered.

Response: Please see response to issue R-19.

R-23. After the Forest Service released the six alternatives and the preferred Alternative 7, over 1,000 pages of additional comments, which included maps, was submitted. The Forest Service used these maps, showing the currently open and desired snowmobile riding areas, to close additional winter use areas to snowmobiling. This action did not allow the public to comment on these areas that were to be closed in the Final EIS. This violates NEPA.

Response: Information provided to the Forest before, during, and after the DEIS comment period was used to develop specific alternatives which responded to the desires of motorized users. The ROD (p. 134) cites specific instances where the information provided was used to adjust the draft preferred alternative to better provide quality motorized recreation opportunities in the decision. Based on the information in the record, the Forest did not use the information to close additional winter use areas to snowmobiling.

Please see response to issue C-2 regarding public comments and violations of NEPA.

R-24. During the comment period we submitted comments relating to historical use of the Hyalite/Porcupine-Buffalo Horn areas. As long time snowmobilers, we were among those who recreated in those areas in the late 1960s, through the 1970s and into present day. Over the last 35-40 years of use, the only changes we have noted are the trees have gotten taller, and those changes made by the Forest Service, i.e. burned down cabins that

were once used for shelter; gates where there were none before, etc. This information was totally ignored by the Gallatin National Forest Travel Management team. Appellants request that the Forest Service take a hard look at these comments that were submitted and respond to them as required by NEPA.

Response: The Forest does not contest that snowmobiles are a valid historic use within the HPBH. The principal legal direction for managing the HPBH comes from the Montana Wilderness Study Act (S.393), Section 3(a) of the Act states: "...wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." The primary objective for this area is to design a travel management scenario that is consistent with the direction of this Act. The Act requires the Forest Service to maintain the area's wilderness character as it existed in 1977 and maintain the area's potential for inclusion in the Wilderness System. The Agency relied on documentation in the Congressional Record provided by the Montana Snowmobile Association during hearings for S. 393 and on interviews with Forest employees working as snow rangers and Law Enforcement Officer in the 1970's to establish snowmobile use information. Photos and affidavits provided by CBU during the DEIS comment period relative to snowmobile use in the HPBH were considered (ROD, pp. 15, 22-25, and 106-110). (Issue 21 Wilderness, Wilderness Study Area, Recommended Wilderness/document #4, 2003 Schlenker HPBH WSA Character Assessment; and CD2: DEIS, Response to Comments/row 2084 – Joe Polus.)

R-25. Brian McNeil of Bozeman Ranger District stated that the S. Brackett Creek Rd. #631 closure date is January 1st yet the Detailed Description of the Decision states that it closes on December 2nd.

Response: It would be difficult for any individual to remember all of the seasonal restriction dates on specific routes. If Mr. McNeil mis-spoke, the Detailed Description of the Decision is the accurate decision documentation for seasonal restrictions on this route. The FEIS lists the specific seasonal restrictions for the Decision with the South Fork of the Brackett Creek road being closed to motorized travel after December 1, when the route becomes an actively managed ski trail. The FEIS Detailed Description of the Decision, page I-3, Standard A-10, states that wheeled vehicles are to be prohibited from traveling on marked or groomed winter trails between December 1 and April 15, annually. This is the reason that the South Fork of Brackett Road closes to wheeled vehicles on December 1, at which time it becomes a designated ski trail.

R-26. The decision does not provide an adequate number of areas dedicated to cross-country skiing separate from snowmobile use.

Response: The final decision significantly increases the number of dedicated non-motorized cross country ski opportunities over current conditions – within the constraints of other resource bounds such as the Lynx Conservation Strategy. The specific tables and references within the FEIS show that the decision significantly increases the number

of dedicated non-motorized cross-country ski trail from current condition. For example, currently only about 13 percent of the marked ski trails are managed as totally non-motorized. This figure rises to about 66 percent in the final decision. The number of backcountry ski opportunities in a non-motorized setting rise from about 350,000 acres to about 550,000 acres in the final decision (see Table 3.16.12) (FEIS, Chapter 3, Issue 16, Recreation, pp. 3-449 thru 3-452, and pp. 3-463 thru 3-465).

R-27. In making the decision the Forest Service ignored the public use patterns on local trails designated for skiing. The first 2 miles of Bozeman Creek Trail, South Cottonwood Creek Trail, and Bear Canyon Trail are used by numerous joggers and dog walkers. Skiing on these trails is unpleasant and difficult due to icy conditions caused by pedestrians and dogs.

Response: The Forest carefully considered public comment when evaluating these areas. Comments received supported managing these for non-motorized uses (summer and winter), including cross-country skiing and snowshoeing. Please see general and recreation specific rationale, along with the rationale for each TPA (ROD, pp.19-21, 38-40, and 90-96).

R-28. Standard A-9 should include mountain bikes in the definitions to exclude heavy downhill or free ride bicycles. These bikes are closer to motorcycles than bicycles in their effects.

Response: Standard A-9 was included in the decision documentation to define motor vehicles; as required by 36 CFR 212.1. Under these regulations, motor vehicles are defined as self-propelled vehicles, which would exclude mountain bikes (CD1: Detailed Description of the Decision, Standard A-9).

R-29. Standard A-11 should prohibit snowmobiles from marked ski trails, as well as groomed ski trails. A ski trail is a ski trail regardless of whether it's marked or groomed.

Response: Several marked ski trails in the decision are also managed as snowmobile trails, making it impossible to exclude snowmobiles generically from all marked ski trails. The decision manages several of these mixed routes (see the winter map legend). Site-specifically, where possible, some marked ski trails do prohibit snowmobile travel (for example see the Stone Creek Trail in the Bangtails) in areas where snowmobiles are not otherwise prohibited. Route-specific prohibitions to snowmobiles on marked ski trails were made where the route was not managed for both uses. Table 3.16.20 in the FEIS describes the number of motorized and non-motorized ski trail opportunities between alternatives (FEIS, Final Decision Winter Map, Detailed Description of the Decision; FEIS, Chapter 3, Issue 16, Recreation, pp. 3-449 thru 3-452).

R-30. Objective A-6 for backcountry airstrips should be dropped. The ROD states that the demand for recreation is exceeding the capability of the land, so why add a new frivolous type of recreation. Also, Montana Fish, Wildlife and Parks commented that several of the airstrips would harm habitat of sensitive species.

Response: The FEIS provides a discussion of the effects of objective A-6 and concludes that there are no direct or indirect effects from the objective, as each proposal for an airstrip would be considered individually through a separate NEPA analysis (FEIS, Chapter 3, p. 3-480; ROD, p. 95).

R-31. Eliminating 50 percent of motorcycle trails is excessive.

Response: The Travel Plan decision does decrease single-track motorcycle trail opportunities by approximately 36 percent. Total system motorcycle trail opportunities (including trails shared with ATVs) currently are about 819 miles. The decision will provide approximately 850 miles of system-motorized routes. The increase in mileage is primarily due to the inclusion of many old project or administrative roads that are not currently open for motorized travel (about 200 miles), dual-designated ATV/motorcycle routes on open low standard roads (about 228 miles) and some new connectors (about 30 miles) in the ATV trail system to provide better connectivity and clustered opportunities. The FEIS motorized maps display the current situation (Alternative 2) for motorcycling opportunities and the final decision providing a spatial comparison of motorcycling opportunities on single-track trails. The FEIS, in Table 3.16.18 on page 3-445, also provides a summary of the number and quality of summer motorized recreation opportunities between alternatives (FEIS, Alternative 2 and Final Summer Motorized Decision Maps; FEIS, Chapter 3, Issue 16, Recreation, p. 3-445).

R-32. There are discrepancies in the miles of current motorized roads and trails between the ROD, FEIS, DEIS, the trail inventory done by Todd Orr, and miles inventoried by various appellants.

Response: The FEIS, Chapter 3, acknowledges that there may be disparities in the numbers in some cases. In this large complex analysis, new models were developed, GIS analysis run and different perspectives considered between iterations of the documents. The maps of record provide the basis for critical analysis and a spatial representation of the differing alternatives. Reproducing exact numbers between iterations was not necessary to accurately represent effects to different resources. Located in the FEIS Chapter 3 introduction is an explanation for the numbers disparity, and rationalizes why differing values are not significant to providing a relative comparison of effects. As disparities between the Detailed Description of the Decision and the Final Decision Map are found, they have been posted on an errata sheet on the web (FEIS, Chapter 3, p. 3-1, Introduction and www.fs.fed.us/r1/gallatin/travel_planning/misc/errata).

R-33. There is no authority for limiting (defining) snowmobiles to 50 inches or less in width. 36 CFR 212 does not put restrictions on snowmobiles, and the definition of snow vehicle is not the one cited.

Response: The appellant is correct, 36 CFR 212 does not define restrictions pertaining to snowmobiles. 36 CFR 212 states that, “ a motor vehicle that is designed for use over snow and that runs on a track or tracks and or a ski or skis while in use over snow.”

However, 36 CFR 261.54(a), 261.55(b), and 261.55(d) provide the authority to limit vehicle types necessary to implement Standard A-I for snowmobiles.

R-34. The definition of ATV in the Glossary of the DEIS and elsewhere is not correct (FSH.18-2006-1).

Response: The Forest Service Handbook states, “All-Terrain Vehicle. Any motorized, off-highway vehicle 50 inches or less in width, having a dry weight of 600 pounds or less that travels on three or more low-pressure tires with a seat designed to be straddled by the operator. Low-pressure tires are 6 inches or more in width and designed for use on wheel rim diameters of 12 inches or less, utilizing an operating pressure of 10 pounds per square inch (psi) or less as recommended by the vehicle manufacturer.” (FSH 2309.18.) This definition has been posted on the errata sheet on the website.

R-35. The rationale to restrict mechanized travel on trails leading into Wilderness is creating a buffer zone or, in other words, creating de-facto wilderness. Only Congress can designate wilderness.

Response: The Record of Decision clearly states the rationale for these trail closures. “Closure of short trail segments that lead to wilderness boundaries made sense to me so as to not invite wilderness trespass.” (ROD, pp. 93-94.) The FEIS for the Gallatin National Forest Travel Management Plan does not have the authority to create wilderness areas; this authority is reserved for Congressional approval only.

R-36. The decision to allow Bridger Bowl to expand was not consistent with the Forest Service policy on providing for Lynx habitat and subsequently led to snowmobile closure in the Fairy Lake area. This should have been brought to public attention.

Response: The decision to expand Bridger Bowl was accompanied by extensive NEPA, which considered all effects to wildlife and was not related to the Travel Plan decision. Information on that decision can be found at www.fs.fed.us/gallatin/project&plans.

The ROD, pages 40 and 41, states that a snowmobile closure in the Fairy Lake was needed for mitigation for the (Bridger Bowl Ski Expansion), approved January 2005 (Bridger Bowl Ski Area Master Record of Decision, January 2005). This is also in accordance with lynx direction to maintain winter habitat for lynx where over the snow compaction needs to be limited (FEIS, pp. 3-393, 3-618, and 3-629).

R-37. The Plan documentation of use of a future trail named “Bear Canyon/West Pine Connector” was confusing because it was discussed in several Travel Planning Areas. The name of this trail cannot be found on the maps and comments about it were responded to under the Yellowstone Travel Planning Area. The Bear Canyon Planning Area shows this route open to mountain bikes. This has caused confusion to planners and the public alike. This trail has the potential to provide a long bicycling route however the Record of Decision has been unclear if this use would be allowed.

The rationale to close this route to bikes based on their not being used within the HPBH WSA in 1977 is ironic given that there are miles of roads on adjacent private land and the fact that the Fridley Fire denuded the landscape. It would also connect to a biking trail that has about 8 miles within the HPBH WSA.

Studies (see Appeal #0043, Beardslee) also show that mountain bikes do not disturb wildlife or land any more than hikers do.

Response: The appellant is correct, the Bear Canyon/West Pine connector does show up in two locations in the Detailed Description of the Decision; under the Bear Canyon TPA and under Gallatin Crest TPA. The information in the Gallatin Crest correctly shows that mountain bikes would be prohibited on this proposed route. The table under Bear Canyon is incorrect and shows that mountain bikes would be allowed. This correction has been posted on the web site errata page www.fs.fed.us/r1/gallatin/travel_planning/misc/errata).

Much of the length of this new trail route falls within the HPBH WSA. Principal legal direction for managing the HPBH WSA comes from the Montana Wilderness Study Act (S. 393) of 1977. The ROD, page 22, says “Section 3(a) of the Act states: “... *wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System*” (FEIS, p. 3-597).” This new trail did not exist in 1977 and did not have established motorcycle use. Mountain bikes did not exist in their current form and were not used in the HPBH WSA in 1977, but Forest Service Manual Supplement (FSM) 2300-2005-1 provides for use of mountain bikes on single track motorcycle routes within the WSA as they existed in 1977.

The ROD, page 106 says, “A Region 1 Forest Service Manual Supplement (FSM 2300-2005-1) provides interpretations of what sorts of activities are appropriate in a WSA. This manual supplement provides clarity on the issue of ATVs and mountain bikes, types of recreational vehicles that did not exist in their current form in 1977. It states that ATVs are appropriate on routes that were used as four-wheel drive jeep routes in 1977, but are not appropriate on what were single-track motorcycle trails in 1977. It also states that mountain bikes are appropriate on all trails that were open to motorcycles in 1977.”

The ROD further states, “The draft ID-2320-2006-1 addresses mountain biking as follows: FSM 2329 section 3 (d) states: “Mountain bikes may be allowed on trails that had established motor-bike use in 1977, or on non-motorized trails as long as the total amount of mountain bike and motorcycle use maintains the wilderness character as it existed in 1977 and the area’s potential for inclusion in the National Wilderness Preservation System”. This clarification was developed recognizing that mountain biking has become an established use on some routes that may not have had motorcycle travel in 1977, while acknowledging that the mere presence of mountain biking does imply that wilderness character as it existed in 1977 (defined by the Wilderness Attribute Rating System - WARS) has necessarily been compromised.”

The most updated version of this interim directive (FSM 2320-2006-1) is included in the project file at the following location: CD11: Issue 21, Wilderness, Wilderness Study Area, Recommended Wilderness/document #12/ Forest Service Manual.

R-38. The Forest Service failed to take a hard look at available wilderness for quiet users in the analysis.

Response: The FEIS, Issue 16, Recreation (pp. 3-420 through 3-484) contains the recreation effects analysis. This chapter provides an extensive review of recreation opportunities, use data and recreation trends, including wilderness use. Issue 21, Wilderness, Recommended Wilderness and Wilderness Study Areas (pp. 3-558 to 3-597), describe the existing condition of wilderness and wilderness use, and look at effects of the alternatives on wilderness.

Page 3-421 of the FEIS describes the results of statistically sound sampling project relative to National Forest recreation use (National Visitor Use Monitoring (NVUM)). The data from the survey throughout the Agency showed that the Gallatin National Forest is the most heavily used National Forest in Region 1, and one of the top 40 most heavily used Forests in the Nation.

R-39. A study by the Beaverhead Deerlodge and Gallatin National Forest showed that less than 3 percent of the people that recreate in these Forests use wilderness. Therefore, 97 percent favor recreation in multiple use areas. The Forest Service failed to take a hard look at this information and consider expanding areas of multiple use.

Response: The recreation effects analysis used NVUM data from adjacent National Forests. Issue 16 on Recreation specifically considered the Gallatin NF niche in the GYA and the recreation use data on neighboring National Forests (FEIS, pp. 3-42 thru 3-432). Recreation uses is further detailed in the FEIS (pp. 3-420 through 3-484), including an extensive review of recreation opportunities, use data and recreation trends, including wilderness use. As summarized in the ROD: “My decision does result in a reduction of motorized use opportunities over the current situation. This reduction is largely based on several studies that consistently show that participation in non-motorized activity exceeds that of motorized activity (FEIS, pp. 3-420 through 3-428).” While this statement doesn’t directly address wilderness use, it does show that many users desire non-motorized recreation. The ROD, page 134, describes some of the influences on the Decision. The last statement on the page is, “Non-motorized users helped me conclude that separation of these uses from motorized uses was important in some areas.” Thus, the public-involvement process clearly showed that non-motorized users do not desire recreation use in a multiple use setting that includes motorized use.

R-40. Citizens for Balanced Use supplied the Forest Service with a detailed map as to the exact location of the ride-able snowmobile areas that exist on the Gallatin National Forest. The Forest Service took this map that was presented during the alternative comment period, and used it to propose closing additional areas to snowmobiles that were

not previously proposed in the alternatives and presented to the public. Under NEPA, the public must be presented with any proposed closures so that they have ample opportunity to comment.

Response: Please see the response to R-23.

R-41. The points in which restrictions change on segments of roads and trails and the boundaries of areas restricted to snowmobiles are set at non-distinct locations that will make them unenforceable.

- The best snowmobiling in Rock Creek South is followed by the natural boundaries that separate Rock Creek from Tom Miner Basin. To draw a line where no boundaries exist is being selective in trying to ruin the snowmobiling opportunities in this area.

Response: Wherever possible, the Forest did use logical topographic breaks, road or trail junctions, etc. as break points for changing seasonal restrictions or area closures. A review of the Detailed Description of the decision will show that many roads and trails were “segmented”. This process was used to seasonally close routes as logical breakpoints – which were driven by existing gate locations, topographic breaks, or elevation changes that affect snow pack conditions. Wherever possible, date changes for seasonal restrictions and area closure boundaries for snowmobile restrictions do follow logical topographic boundaries, or some other definable feature like trail/road corridors. A review of the map insets on the final winter decision map indicates topography with hill shading – where numerous examples can be found that show how these features were used.

R-42. In response to a concern about access to Rock Creek south in the proposed plan, the following is a response: *Alternative 7M would allow snowmobile travel across Windy Pass, through to South Rock. Terrain boundaries were used to describe where closures would be employed. Please see the Record of Decision (ROD) and Decision maps for the final configuration of snowmobile opportunities in the HPBH.* Unfortunately, motorized units are blocked for a short distance at the trail head and cannot access this portion of the Forest from the Paradise Valley side.

Response: It appears that the appellant’s statement is incorrect. The Rock Creek drainage is open to snowmobiles for its entire length. Please refer to CD1: FEIS, Final Winter Map, which indicates that the Rock Creek Road #993 would be plowed to the winter trailhead in Section 24 to provide access to the drainage. FEIS, Detailed Description of the Decision for the Tom Minor Rock TPA, page II-185, discloses that the first segment of the Rock Creek Road to the winter trailhead would be plowed providing wheeled vehicle access to the trailhead. Snowmobiles are prohibited on the plowed road (Montana State Law) unless otherwise designated for mixed use. The second segment of the road, above the winter trailhead, is open to snowmobiles, as is the Rock Creek Trail # 178 providing snowmobile access to the drainage.

R-43. The maps fail to show snowmobiling routes in Paradise Valley. The maps show groomed routes only in Mill Creek. Where did the trails go?

Response: The maps and detailed description of the decision show that snowmobile trails would be provided in Mill Creek (groomed) and in Tom Minor Basin (shared snowmobile and cross country ski trail). This configuration is the same as was displayed in the DEIS preferred alternative. See response to R-42 above.

R-44. The Travel Plan does not effectively handle where parking will be allowed in the winter time.

Response: The Travel Plan decision is designed to address the types of use permissible for roads, trails and areas, and does not include within the scope of the decision, construction of developed recreation facilities like trailheads. Development of trailhead facilities would be addressed under site-specific NEPA for each project. In some cases, objectives for acquiring access to public land, which would include trailhead facilities, were identified. Routes which are proposed to be plowed to provide winter access to trailheads were identified.

R-45. The ROD on p. 90-91 contains a figure for the whole of the Rocky Mountains and does not give a true picture of what is happening on the Gallatin Forest. Gallatin NVUM (June 2004) gives a better picture. Page 23, Table 20, shows people are very satisfied with non-overcrowding of the Forest in general. This data does not support the major closures to motorized use.

Response: Both the Rocky Mountain and NVUM data sets contributed to the decision and were considered (ROD, pp. 90-96; FEIS, Chapter 2, pp. 420-430). A variety of recreation data sources were used to assess the needs for travel management on the Gallatin NF (CD10: Issue References, Issue 16, Recreation, Documents 2-13, 22- 24, 26, and 26).

R-46. Cutting off mechanized use on short segments of trail leading into Wilderness is creating defacto wilderness.

Response: “Closure of short trail segments leading to wilderness made sense to me so as to not invite wilderness trespass” (ROD, pp. 93-94). Eliminating bicycle use along the whole trail, places the point of enforcement of violations at the trailhead rather than miles into the trail system increasing the efficiency of enforcement.

R-47. The Travel Management Plan and ROD should clearly confine mountain bike use to trails designated as open to mountain bikes.

Response: The ROD explains the rationale for not considering confining mountain bikes to designated routes (p. 128). Some parts of the country are incurring problems with off-route bike travel but that is currently not the case on the Gallatin Forest. Growth of mountain biking over time, and resulting resource or social effects, may cause the Forest

to have to consider additional mountain bike restrictions in the future. There are no known areas of the Forest where off-route mountain bike impacts would compel the Forest Supervisor to manage biking on designated routes only at this time. Therefore, she dismissed this alternative as not ripe for decision. The FEIS also considered this as a part of an alternative not considered in detail (FEIS, Chapter 2, p. 27).

R-48. The decision to drop the snowmobile closure in the West Bridger South Travel Planning Area should be reversed (ROD, p. 65). The rationale that the area is not conducive to snowmobile use fails to consider possible future use.

Response: On page 64 of the ROD, “There were no significant resource issues influencing my choices for this area,” thus providing rationale for not restricting snowmobiling for resource reasons. Additionally, the bulk of comments received concerned with motorized use in the West Bridger South TPA related to summer, not winter motorized use. This area has very marginal snow cover much of the year, and is rarely conducive to supporting motorized winter recreation at the lower elevations (DEIS, Response to Comments, West Bridgers South TPA comments).

R-49. I object to the decision to manage the Bridger Foothills Trail #534 and Blackmore Trail #423 under a time-share concept. Motorcyclists presented this idea as a means to keep more trails open without user conflict but the Forest Service used it to further reduce motorcycle opportunities.

Response: Under the decision, the Blackmore Trail #423 would not be managed as a “time share” trail – it would be closed to motorized uses yearlong (FEIS, Detailed Description of the Decision, p. II-106). Two segments of the Bridger Foothill Trail #543 would also be closed to motorized vehicles and 2 segments would be open during summer (Detailed Description of Decision, pp. II-190 and II-195). Time share rationale and specific trails are explained in the ROD (p.15).

R-50. The Forest Service should have relied on the Three-State EIS and other readily available data that would provide a more accurate description of the public demand for OHV opportunities.

Response: The Gallatin Travel Plan project was initiated partially in response to the 3-State EIS, and is referenced repeatedly throughout. The EIS and trend data are referenced throughout the FEIS (Chapter 3, p. 420-430) and ROD (pp. 7, 19-21, and 90-96). Recreation data sources are filed in the recreation references, several include extensive recreation use data (Documents 2-13, 22-24, and 26). The recreation effects discussion in the FEIS (p. 3-420 to 3-430) discussed recreation use information taken from NYUM data and State, Regional, and national trend data taken from a variety of peer-reviewed recreation studies.

R-51. Concerned about the following trails that have been closed to stock use: Zimmer Creek Trail #574, Lady of the Lake Trail #31, Fisher Creek Road #1778, Ferrell Lake Road #11DAA, College M Trails #511 and #512, Bridger Ridge Trail #513. These Trails

could remain open through a volunteer effort to repair the trails to make them safe. There are a dwindling number of Forest Service workers with stock knowledge and therefore the seasonal closures may not have the necessary supervision required to protect or evaluate the damage to the trail system.

Response: Rationale for stock restrictions document that the few routes where stock would be prohibited either pose significant safety/social conflicts, or are not suitable to for stock travel due to insurmountable facility issues (not repairable to accommodate stock without undue effect to wilderness resources) (ROD, pp. 36-37, and 53-54). Detailed discussion of proposed stock prohibitions and seasonal restrictions, and their effect on the wilderness resource is provided in the FEIS (Chapter 3, pp. 572-576).

R-52. There are a dwindling number of Forest Service workers with stock knowledge and therefore the seasonal closures may not have the necessary supervision required to protect or evaluate the damage to the trail system. Trails of concern include: The Mariane Lake Trail, the Pine Creek Trail, the Thompson Lake Trail, the First Yellowmule Trail, The Bridger Bowl Road, the Lava Lake Trail, the Buffalo Horn Trail, the Porcupine Creek Trail, the Tepee Creek Trail, the N. Cottonwood/Johnson Connector Trail, and the West Pine Trail. Some of these Trails may have a legitimate need for closure and we may come to mutual agreement in those cases.

Response: Please see response to issue R-51 above.

R-53. Existing roads and trails should not be closed based on constructing a new route in the same vicinity. Take a hard look at these new proposals before closing anything. Don't make promises you can't keep.

Response: Closures of existing routes were based on resource or social issues as discussed in a number of places throughout the ROD. If in order to provide certain opportunities, other routes needed to be closed to meet resource objectives; this was noted specifically for that travel planning area (e.g. ROD, Yellowstone TPA, p. 65). Individual portions of the FEIS (Detailed Description of the Decision) discuss any needs for closing routes to meet resource objectives (e.g. Bear Canyon TPA beginning on p. II-20).

R-54. The Gallatin National Forest is currently undertaking Recreation Facility Site Master Planning (RFSMP). This process is driven, at least in part, by the old age of certain facilities and maintenance backlog problems. This process is inherently connected to Travel Planning and must be analyzed under NEPA. Under question 13 of the Forest Service Q and A about RFSMP the Forest Service states "There is a consistent tie between RFSMP and other planning efforts. The RFSMP gives guidance to travel management and can be used to help describe the desired future condition in Forest Plan revisions." A review of the FEIS discussions on Implementation and Recreation do not indicate that the RFSMP process was discussed.

Response: The RFSMP is currently ongoing; and therefore, could not provide consistent guidance to this travel planning effort. The RFSMP planning process reviews the

operations and maintenance of developed recreation facilities like campgrounds, cabins, visitor centers, and picnic areas. It does not affect decisions made through the travel planning process, and is outside the scope of this project. However, the Travel Plan did consider access to recreation facilities, such as trailheads, within each TPA.

RW. Recommended Wilderness

RW-1. There is nothing in law, regulation or recent court decisions that require U.S. Forest Service to prohibit motorized access in recommended wilderness areas (RWAs). To the contrary; recent court rulings suggest the agency should continue motorized uses in areas previously authorized for motorized use. Indeed, court rulings explicitly reject any claim the agency is compelled to restrict motorized access. It should be noted that most of these RWAs currently have motorized use occurring in them. It seems reasonable and fair, that if motorized uses don't preclude the Forest Service from recommending them as designated Wilderness, then the management criteria resulting from that conclusion should allow motorized uses where appropriate. Recreation in RWAs should be managed pursuant to site specific planning based on the current condition and needs of the recreating public. The ROD is contrary to this reasonable interpretation and approach to managing RWAs and the appellants ask that it be remanded.

Response: The Record of Decision states that, "The Lionhead RW addition straddles the Continental Divide along the Idaho/Montana border. The roadless (and RW addition) portion of this area extends into Idaho on the Targhee National Forest. The Gallatin Forest Plan (USDA 1987) recommended adding 22,800 acres of the 32,780-acre roadless unit (Gallatin portion) to Wilderness. This recommendation has been in most of the Montana Wilderness bills introduced as legislation in the 1990s. As of today, Congress has not acted to designate the area as Wilderness. Trails in the Mile Creek, Sheep Creek, Watkins Creek and Coffin Creek drainages access several cirque basins and small lakes. The southeast portion of the area receives some backcountry snowmobile use. The Sheep Creek Trail is popular for hiking and horseback use, and receives occasional motorcycle traffic, as does the connector trail from Watkins Creek to Sheep Creek (#216). Currently, the Sheep Creek and West Fork Trails are open to motorcycles. All the other trails within this RW are closed to motorized uses. The area is also closed to snowmobiles, though trespass in upper Watkins Creek and in the Slide Rock Creek drainage is common.

The Gallatin Forest Plan (USDA 1987) also recommended adding an area to the North Absaroka Wilderness located immediately south of Cooke City, Montana. This area is known as the Republic Mountain recommended wilderness consisting of a rugged trail-less zone that is steep with numerous talus slopes, ravines and spur ridges. The area receives light use, mostly hiking, hunting, and some backcountry skiing in the winter. There are currently no motorized restrictions for any uses in the area though it receives little if any motorized use.

My travel management decision for both of these areas is to manage them strictly for non-motorized use only. This was a difficult choice for the Lionhead area in particular

because it currently receives some summer motorized use and a portion of it has become popular for snowmobiling. However, since the roadless area evaluation of the Gallatin Forest Plan led to the conclusion that these areas should become part of the Wilderness Preservation System, I believe that they should be managed that way until such time that Congress acts on these recommendations or a revised Forest Plan concludes that these areas have some other higher, better use than as wilderness.” (ROD, pp. 109-110.)

RW-2. Bicycles should be immediately prohibited in the Lionhead Recommended Wilderness because continued bicycle use will build a constituency against wilderness designation and encourage proliferation of mountain bike use.

Response: The Record of Decision states, “My decision does not preclude mountain biking on trails with the Lionhead recommended wilderness at this time... The reason I have not chosen to prohibit them is because of an oversight on our part in developing the range of alternatives. We failed to present such a prohibition in any alternative that was released with the DEIS (although it has now been included in Alternative 6). This meant that the public was never made aware that this was to be considered and therefore had no opportunity to comment on it. ,It is my intent to propose a change to the Travel Plan within the next year or so that would prohibit mountain bike travel within Gallatin National Forest recommended wilderness areas.” (ROD, p. 110.)

RW-3. The Forest Service cannot create defacto wilderness by eliminating motorized use in Lionhead recommended wilderness. This authority is reserved for Congress.

Response: The Gallatin National Forest Travel Plan FEIS does not designate nor create any wilderness areas. The Lionhead recommended wilderness area is managed as wilderness until congress makes the official decision and adopts the Lionhead recommended wilderness into the wilderness program. See response to RW-1.

RW-4. Constructing/reconstructing trails in the recommended wilderness using mechanical means and then restricting motorized traffic is arbitrary and capricious.

Response: The scope of the Travel Plan is limited to decisions relative to the appropriate uses of roads, trails and areas. Construction or reconstruction issues are reserved for other analysis and are outside the scope of this decision. Any construction and reconstruction issues will require an independent NEPA analysis on a project-specific level.

S. Shields Travel Planning Area

S-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- The motorized use restrictions conflict with the stated goal to emphasize motorized use in this area.
- The Travel Plan doesn’t effectively take care of moving parking on winter access issues on public ground.

- The Travel Plan doesn't effectively provide equal loop opportunities (in winter) that connect the Shields with Smith Creek.
- This area basically receives no use by non-motorized users in the winter time.

Response: Goal 1 for the Shields TPA (CD1: Detailed Description of the Decision, pp. II-164 to II-169) is to provide opportunities for summer recreation use with an emphasis on regulated motorized/mountain bike use in the Smith Creek portion of the TPA and non-motorized uses in the upper Shields portion. Goal #2 is to provide opportunities for winter recreation use including both snowmobiling and cross-country skiing.

The ROD (pp. 59 to 60) explains that the Shields travel planning is conducive to providing motorized use opportunities because it has an extensive road system that could be used to provide ATV and motorcycle loop opportunities. However, the decision maker also saw an opportunity to provide a balance of opportunities (motorized and non-motorized) on the west side of the Crazyes.

The Forest Supervisor also wanted to balance opportunities for snowmobiles and skiers in the winter. The northern and eastern portions of the area will provide for a significant amount of traditional snowmobile use, and the Sunlight Creek/South Fork Shields area will be restricted to snowmobiles in favor of providing a segregated, cross-country skiing opportunity in a non-motorized setting. Parking for winter access within the identified use areas can be pursued in the future as needed..

S-2. In April of 2005, Gallatin Forest personnel locked the appellant out of the Shields area where he should have been legally able to go. When personnel were made aware of the situation, he was told they would not rectify the situation and would continue to block access.

Response: The appellant's specific claim about being locked out of the Shields area is not within the scope of the Travel Management Plan decision or associated analysis. However, currently the Shields River Road #884 is closed to wheeled vehicles December 2 to June 15 to protect the road and to reduce conflicts with snowmobilers. This restriction has been in place for a number of years.

The ROD (pp. 19, 20, 59 and 60) includes rationale and reasons for use restrictions in the Shields Travel Planning Area. Restrictions provide for both OHV use and exclusive non-motorized uses on the trail system outside wilderness. Restrictions also provide an opportunity to provide well-distributed opportunities for snowmobiling, cross-country skiing and snow shoeing in non-motorized areas. Restrictions are legitimate for achieving desired conditions for other resources, to protect the integrity of areas of traditional value to the Crow Tribe, to reduce sedimentation along streams, and protect wildlife habitat.

SLS. Soils

SLS-1. The FEIS is erroneous in stating that Travel Plan Alt. 7-M has zero miles of motorized trail in the west Bridger Range, on sensitive soil. Allowing motorcycle use in these areas will cause extensive and irreparable damage to the soils in this area.

SLS-2. The Forest Service fails to be consistent in applying seasonal restrictions to the West Bridger Mountains versus other areas across the Forest.

SLS-3. Soil disturbance and/or compaction resulting from motorcycle/scooter use on trails and roads is far less impact than horse use.

SLS-4. If trail damage is occurring, the trail should be repaired. Closure to motorized use should be the last resort.

Response to SLS-1, SLS-2, SLS-3, and SLS-4: The ROD (pp. 100-102) provides rationale as to how the soils issue was addressed in the decision. Soils were incorporated into the decision process. In general, the rationale for managing or closing motorized trail uses on a route did not use trail or soil condition as a major influence to the decision. The Travel Plan focuses on travel management rather than on trail maintenance and repair levels. Trail maintenance (which includes some repair) was used as an indirect criterion. Spatial modeling included mapping “sensitive” soils that would be “most negatively affected by human users and thus require a higher degree of maintenance”. Alternatives were compared using this and other criteria. Construction, reconstruction, and maintenance would be used to resolve poor trail conditions; those decisions would be made through future site-specific analysis, consistent with applicable NEPA procedures (ROD, p. 131).

The data the Forest has indicates that there are no sensitive soils for either West Bridger North (p. 3-523 for any alternative) or South (Table 3.19.3 for Alternative 7-M). This was based on the soil survey and extensive field review. It is possible that small areas may have inclusions of sensitive soils, but they are not included in this analysis. Sensitive soils were disclosed by alternative and travel planning area and landtypes were generally used as a “big picture” approach rather than at the individual route level.

Phase 3 of the implementation of the Travel Plan (FEIS, pp. 3-344 to 3-347) includes long-term changes to the transportation system and would continue to make improvements to the transportation system at various resource and user levels. It acknowledges that many of the trails are under-designed for the current use and describes the Forest goal for continuous improvements to the trail system in order to prevent damage to resources and the facility. Federal law (36 CFR 212.52(2)) also provides for temporary emergency closures based on the determination of considerable adverse action in order to protect or correct resource damage.

Seasonal and/or yearlong restrictions were considered for each Travel Plan Area, each facility, and type of use based on resource protection, local conditions, situations, and

history (ROD, p. 33-34, Detailed Description of the Decision). Different opening and closing dates were developed for individual areas to protect facilities and to provide erosion control and considered elevation and aspect, wildlife security, user safety/congestion, seasonal conversion of trails, and user conflicts during hunting seasons. The decision also adopted Forest-wide directions that include goals, objectives, standards, and guidelines. (Detailed Description of the Decision, Chapter 1, p. 1.)

June 15th is used as an opening date for environments that are relatively dry by that time. The West Bridger's is one of those environments. July 15th is used for areas having later dry-out days such as Hyalite and Porcupine-Buffalo Horn.

Under the soils affected environment, the discussion includes a comparison of studies of user types and their effects to trail conditions (FEIS, p. 3-521). The studies support the assertion that impacts to trails increase from hikers, mountain bikes, and motorcycles to higher levels for horses and motorized vehicles. However, though data shows generally increased impacts by horses, there is no quantitative data showing how much. As a result, the Forest considered motorized and horse use separately.

SP. South Plateau Travel Planning Area

SP-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

Response: Rationale for motorized use and some limited restrictions for the South Plateau TPA can be found in the ROD (pp. 61 to 62). This TPA borders Yellowstone National Park and is used heavily by summer and winter visitors. The decision continues to provide for high levels of recreational use based on the popularity of the area, existing roaded and timber harvested character, stable soils, and economic importance.

South Plateau is one of the few places on the GNF where ATVs are allowed to use the passenger car road system. Adding a few ATV loops will also provide more opportunities and disperse use. Included in the decision is an objective (pp.1-3) to provide an alternative ATV route south of Highway 287 that alleviates safety concerns related to people riding in the highway right-of-way..

In the winter, the decision emphasizes snowmobile opportunities throughout most of the area and includes a groomed loop to the Plateau system on administrative roads to provide more opportunity and dispersed use. Snowmobile closures around the Rendezvous Ski Area were retained to prevent conflicts with skiers, and a closure around Black Sand Spring was added to protect important moose winter range and bald eagle habitat.

TF. Taylor Fork Travel Planning Area

TF-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

TF-2. The re-routing of the snowmobile trail from Wapiti Road to Sage Creek was never presented to the public for comment and did not appear in any alternative.

Response to TF-1 and TF-2: The ROD (pp. 62 to 63) states that the Taylor Fork TPA provides some of the most important habitat for grizzly bears, big game, and other wildlife on the Forest. For these reasons, the decision is more restrictive for summer motorized use than what was proposed in the Starting Benchmark. It was recognized that there has been some popular historic motorized use of this area and the Forest Supervisor believes that it is appropriate to continue to provide for some of this use. Motorized use will be allowed on the Oil Well Road Trail (#68) to Pika Peak, was in existence prior to 1983 before the Lee Metcalf Wilderness Act was passed.

The selection of motorcycle and ATV routes were based on an objective to increase secure habitat for grizzly bear, and to emphasize non-motorized use on the trail system. Most of the area will remain closed for snowmobile use, but winter motorized use will continue on some trails. There will be closures to provide for secure winter range for moose and elk. Snowmobile access is still provided south of the Taylor Fork Road from just to the east of the Oil Well Road. The Big Sky Snowmobile Trail will be open and groomed, but rerouted in the lower three miles to provide secure winter moose habitat. The winter access point will be moved from the Wapiti Trailhead to the Sage Creek Trailhead to resolve concerns over snowmobiles traveling on plowed roads.

The trailhead and a short portion of the Big Sky Snowmobile Trail are targeted for relocation in the decision, a short distance to the east, from the Wapiti Road #2522 to Sage Creek. The existing access route (Road #2522, Seg. 1) would remain open until the new trail can be established following site-specific analysis under NEPA. Snowmobile access to Carrot Basin from the Taylor Fork Road is included in all alternatives and the final decision.

TMR. Tom Miner Rock Travel Planning Area

TMR-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

- The Donahue Trail (#183) should be open to motorcycles.

Response: The ROD (p. 63) provides the rationale for motorized use restrictions in the Tom Miner Rock TPA. The Forest Supervisor identifies the Donahue Trail (#183) and two other trails in the area as having never been open to motorized use. Although motorcycle use was considered in Alternative 3, the Forest Supervisor decided to leave the Trails closed. The area has a higher open-road density than is desirable within the Grizzly Bear Recovery Zone, but Supervisor Heath decided to leave most open roads open due to the high amount of interspersed private land. However, the decision includes a goal and two associated objectives to effectively close the Soldier Creek/Twin Peaks Road system to public use and work with the private landowner to reduce open-road density in Divide Creek.

TMR-2. Big Sky Snowriders do not support the agenda of not allowing grooming in the Rock Creek South in Paradise Valley.

Response: The ROD (p. 63) states that in the winter snowmobile use will be restricted north of the South Rock Creek Road. The road itself, which is currently a groomed snowmobile trail, will no longer be groomed, but will be open to snowmobiling to allow access into the Rock creek drainage. However, since rationale is not provided for both of these changes in the ROD, I recommend instructing the Forest Supervisor to provide an explanation of her rationale.

Instructions: Review Tom Miner-Rock TPA and provide rationale for the snowmobile use restriction north of the South Rock Creek Road, and rationale for no longer grooming the road for snowmobiles.

W. Water Quality

W-1. Impacts to water quality are not of issue for winter uses.

Response: The FEIS (Chapter 2, p. 15) discusses water (snow) chemistry. The (EPA) 1995 indicate that roads, highways and bridges can be a source of pollutants to surface water. Runoff pollution and melting snow carry contaminants into surface water along urban areas and main highway corridors. The ROD (p. 15) states that vehicle use in the Gallatin is far less than that in the more urban areas used in the EPA (1995) study. In the FEIS (Chapter 2, p. 15), it concludes that “snowmobile use on the Forest is far more dispersed than those concentrated areas evaluated by Ingersoll, and the streamflow chemistry effects from snowmobile emissions is expected to be low and not of ecosystem or water quality significance”.

W-2. To reduce soil erosion and sedimentation, horses and vehicle use must be closely monitored. If effects are significant, use reduction or impact mitigation must be initiated with appropriate user groups asked to enter into cooperative agreements.

Response: The FEIS (Chapter 2, p. 47) addresses enforcement and monitoring. Field monitoring for compliance with new regulations and education recreationists about changes will be an important component of implementation. Each Ranger District currently provides field monitoring and compliance through their backcountry ranger, wilderness ranger, snow range, OHV ranger and law enforcement programs. Shared compliance programs with the State of Montana and other user groups can help fund additional educational programs and compliance monitoring. A Travel Plan implementation law enforcement strategy would be developed and tiered to the Gallatin Forest Law Enforcement Plan, which is updated annually. The FEIS (Chapter 1, p. 16) explains that future uses could be restricted by short-term protection prohibitions CFR Part 261, which provide short-term (up to 6 months) resource protection.

WBS. West Bridger South Travel Planning Area

WBS-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

WBS-2. The user-created Sypes/Baldy Trail should be left open to motorcycles. The Forest Service failed to take a hard look at public comments and on-the-ground hard evidence.

Response to WBS-1 and WBS-2: The West Bridger South TPA is very close to Bozeman and receives a significant amount of use from hikers, runners, and mountain bikers. The decision was based on improving the quality and distribution of recreation opportunities and emphasized restricting motorized use, segregating non-motorized user conflict through “time shared” trail management, and educating users to provide for public safety on high use routes (ROD, pp. 37 and 64-65). No significant resource issues influenced the decision.

The Forest Supervisor’s decision allows motorcycle use on the Middle Cottonwood Trail to provide another means of access to the Bridger Foothills Trail north. Her rationale was that motorcycle opportunities were deficient on the west side of the Bridgers. Opening the Middle Cottonwood Trail increases motorcycle access points (trailheads) from 2 to 3, which better balances motorized and non-motorized uses throughout the west side of the Bridgers.

The snowmobile area closure was dropped, except for the “M” and Sypes trail connector because the area is not conducive to snowmobile use. Stock restrictions were also dropped between the DEIS and the FEIS on Bridger Ridge Trail #513 north of the “M” since user conflicts were not a significant problem.

Leaving the user created Sypes/Baldy Trail open to motorcycles is not appropriate because the national protocol for travel planning is to begin with Forest Service “system” roads and trails. Moreover, this user-created route is very steep and would not easily be reconstructed to meet minimal trail standards for any use (CD2: DEIS, Response to Comments, Letters #1487, #1334, and #1520).

A number of appellants raised the issue of the Forest Service failing to take a hard look at public comments and on-the-ground hard evidence. Several individuals were very active in the entire travel planning process and numerous additional references demonstrate their participation and the Forest’s willingness to speak with them (CD2: DEIS, Response to Comments; CD1: ROD, pp. 19-66 and 131-134; FEIS, pp. 2-2, 2-3, 5-1, and 5-3; and CD8: Documents related to “Open Houses and Meetings”, the DEIS comment period, meeting notes, public information provides, and briefing papers.) Overall, the Forest Service and the public did an excellent job of taking a hard look at comments and on-the-ground evidence.

WN. Wolverine

WN-1. The information concerning the wolverine comes from studies that have no conclusions. The Forest Service admits that they are closing some areas to protect wolverine habitat; however, the wolverine has not been found in these areas. This is arbitrary and capricious.

Response: A thorough literature review on wolverine was conducted, and data limitations (e.g. only 10 known female den sites in lower 48 U.S.) were disclosed in the FEIS (beginning in Chapter 3, p. 598). Travel Plan analyses were based on the best available science as required under NEPA. Wolverines are known to occur throughout the Gallatin Forest, have very large home ranges, and make extraordinary movements that could place them in almost any area (FEIS, Chapter 3, pp. 598-599). Furthermore, the wolverine was not used as the sole rationale for travel closures anywhere in the Travel Plan, it was considered in conjunction with other resource and cultural concerns (ROD, pp.110-111).

WN-2. The analysis for wolverine is not adequate to support winter snowmobile closures.

- No studies on the Gallatin National Forest were done.
- The analysis does not take into consideration the effects of cross-country skiing.

Response: The FEIS (Chapter 3, pp. 599-600) discusses local on-going wolverine surveys on the Gallatin National Forest and an on-going study on wolverine in the Madison Range (Inman, et al., 2003). Other studies from the Gallatin area are cited – Cegelski, et al. 2003 and MTFWP trapping records. Effects of non-motorized use (which includes cross-country skiing) on wolverines are discussed (FEIS, p. 606). The potential of motorized route and area closures to benefit wolverines is considered as well (FEIS, Chapter 3, p. 609).

WN-3. Wolverine was a main consideration for closing the Fairy Lake and Hyalite/Emerald Lakes areas to snowmobiles. The Forest Service has made up a special category for this species, “sensitive”, and this is not one of the four categories for endangered species.

Response: The ROD (pp. 46-47) identifies the need to provide and maintain balanced opportunities for non-motorized and motorized access and recreation while also addressing wildlife needs, specifically wolverine and mountain goat winter range. Although maintaining secure wolverine winter range and reproductive denning habitat was one consideration for snowmobile area closures, consistency with the Montana Wilderness Study Act was of equal importance (ROD, p. 48). The change from the DEIS to the FEIS provides an opportunity for high-quality “challenge” snowmobile opportunities but limits overall acreage.

Wolverines are classified as a Forest Service sensitive species. The analysis for the Travel Plan never claimed that “sensitive species” was any type of category for

endangered species. Direction for management of sensitive species is contained in the Forest Service Manual (FSM 2672.1) which states that these species must receive special management emphasis to ensure their viability (ROD, pp. 110-111; FEIS, p. 3-598) and to preclude trends towards endangerment that would result in the need for Federal listing (FEIS, p. 3-635). Since wintering habitat is essential for wolverines, human access to winter wolverine habitat is considered to have the greatest potential for adverse impacts on wolverines. Environmental conditions are more extreme, food sources can be limited, and energy demands are highest during this time (FEIS, Chapter 3, p. 604).

WN-4. Proposed closures to snowmobiling in the Brackett Creek area with the allowed expansion of Bridger Bowl Ski Area based on the denning theory shows a definite bias and discriminatory attitude from the Forest Service.

Response: Management of snowmobiles and other uses in this area is a continuation of management designed to minimize conflicts with the ski area (ROD, pp. 40-41). The snowmobile area closure was mitigation of negative effects to wolverine from the expansion of the Bridger Bowl Ski Area. This decision was signed before the Travel Plan (in 2005) (ROD, p. 41).

Y. Yellowstone Travel Planning Area

Y-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

Response: The Yellowstone TPA includes a significant amount of private land and access is limited from the Yellowstone Valley (ROD, pp. 65-66). Therefore, Objective 1-2 was included to highlight the need for up to four additional routes to this TPA. Motorized travel will continue to be allowed on the West Pine Creek Road system to the north and the Big Creek and Dry Creek Roads to the south. However, motorized travel will be restricted on the Dry Creek Road from September 15th to June 15th annually to maintain quality hunting opportunities near Livingston. 4x4 vehicles are allowed beyond the gate during the summer. Otherwise, no summer motorized trail opportunities are included due to the lack of access and concerns over impacts on private land (ROD, pp. 65-66).

In the winter, snowmobiles will be prohibited to protect big game winter range (ROD, pp. 66, 68, 69, and 108). Mountain biking opportunities are limited to the West Pine and Dry Creek North areas. Since portions of this TPA are in the Hyalite Porcupine Buffalo Horn Wilderness Study Area, it was important to include a Goal (4) and Objective (4-1) to sustain the recreation setting and existing wilderness characteristics as they were in 1977 to preserve the area for future consideration as Wilderness (ROD, pp. 25, 66, and 106).

YJ. Yankee Jim Canyon

YJ-1. General opposition to motorized use restrictions included in the decision for this Travel Planning Area.

Response: The ROD (p. 65) discussed the high percentage of private land in this area and the limited amount of public access. Except for the Sphinx Creek Trail, there are no opportunities for summer or winter motorized use except for vehicle travel on county roads. This area is within the Grizzly Bear Recovery Zone and contains good habitat for a variety of wildlife. The overall goal for the area is to provide for reasonable access to the National Forest, but not to encourage increased recreation use.

Other Instructions to include for the Forest Supervisor

Instructions: Implementation of the Travel Management Plan will be a process which will be ongoing over many years. Although the FEIS and ROD refer to implementation in numerous places, the overall discussion of how the Plan will be implemented is missing. Prepare a summary which identifies the overall process for implementation of the Travel Management Plan ROD.