United States Department of Agriculture
Forest Service

Use of Domestic Sheep, Goats, and Pack Goats

Draft Record of Decision

Shoshone National Forest, Fremont, Hot Springs, Park, Sublette and Teton Counties, Wyoming

December 2017

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DRAFT Record of Decision
Use of Domestic Sheep, Goats and Pack Goats
US Forest Service
Shoshone National Forest
Fremont, Hot Springs, Park, Sublette and Teton Counties, Wyoming

Decision

Based on my review of Use of Domestic Sheep, Goats, and Pack Goats Final Environmental Impact Statement (FEIS), I have decided to implement Alternative 3b, which is a combination of Alternatives 2 and 3 and responds to the comments received from the public. This decision does not change domestic sheep grazing or current allotments allocated for sheep grazing and therefore there will be no change in current plan-level domestic sheep management. Pack goat use will be allowed outside occupied core native bighorn sheep habitat on the Clarks Fork, Wind River and Washakie Ranger Districts in the specific locations described in mitigation measures 10, 11, and 12 below and within the FEIS, and shown on respective maps. Pack goat use will be authorized through a permit system. Each permit will incorporate the mitigation measures outlined in the FEIS and this Record of Decision.

My decision incorporates many of the suggested mitigation measures and design features submitted by a collaborative group consisting of the North American Pack Goat Association, Wyoming Game and Fish Department, Bighorn Restoration Group, and the Wild Sheep Foundation. After considering the comments from the public, input from the interdisciplinary team specialists, partners, and affected parties, I believe this decision balances the need to maintain separation between bighorn sheep, domestic sheep, and pack goats and allow limited use of pack goats in areas outside of occupied bighorn sheep areas.

This decision also incorporates the following components into the Shoshone National Forest Land Management Plan:

Desired Condition – Maintain healthy core native bighorn sheep herds by minimizing the risk of potential disease transmission from domestic sheep, domestic goats, and pack goats.

SENS-Goal-03 – Maintain lowest possible risk of disease transmission from domestic sheep, domestic goats, and pack goats to wild bighorn sheep within core native bighorn sheep ranges.

SENS-Standard-05 – Domestic sheep and goat allotments shall not overlap with core native bighorn sheep ranges.

SENS-Standard-06 – Recreational pack goat use in occupied core native bighorn sheep habitat is prohibited.

SENS-Guideline-12 – Outfitter and guide authorizations for recreational goat packing in occupied core native bighorn sheep habitat will not be issued.

Management Approach – A wildlife program emphasis for bighorn sheep is to reduce the risk of disease transmission from domestic sheep and goats to bighorn sheep. There is a concern about the risk of disease transmission to bighorn sheep from pack goats. To minimize that risk from pack goats to bighorn sheep, authorizations for pack goat use in occupied core native bighorn sheep habitat will not be issued; and guidelines and restrictions will be imposed through a permit system for pack goats use within the identified areas outside of occupied core native bighorn sheep habitat on the Shoshone National Forest and within the Temple Peak herd range.

Background

On May 6, 2015, the Rocky Mountain Regional Forester signed the Record of Decision (ROD) revising the Shoshone National Forest Land Management Plan (LMP). The May 6, 2015 Revised LMP included standards and guidelines restricting the use of recreational pack goats, and domestic sheep and goat grazing, where it was determined that there was unacceptable risk of disease transmission from the pack goats or domestic sheep to bighorn sheep. Bighorn sheep are a sensitive species for the Shoshone National Forest.

In June 2015, the North American Packgoat Association joined with the Idaho Wool Growers Association and filed a Motion for Contempt with the U.S. District Court for the District of Idaho, alleging the Forest Service improperly relied on a report that the Court had previously found to be in violation of the Federal Advisory Committee Act (FACA) when the Shoshone National Forest prepared its 2012 and 2013 Risk Assessment of Disease Transmission (RADT) report, which the Forest relied upon in revising the LMP. The Idaho District Court's 2009 Decision prohibited the Forest Service from relying on the findings and conclusions of two Payette National Forest reports that pertained to disease transmission between domestic sheep and bighorn sheep on the Payette National Forest.

In February 2016, the District Court granted plaintiffs motion for contempt. On July 9, 2016, the parties agreed to a stipulated settlement, including the following:

- Defendants shall retract the Shoshone 2012 and 2013 RADT reports that were prepared for the 2015 Shoshone LMP revision and all references to the Shoshone RADT reports in the administrative record for the Shoshone LMP revision.
- Defendants shall retract the findings and conclusions concerning disease transmission between domestic sheep, domestic goats, and pack goats and wild bighorn sheep that relied on the Shoshone 2012 or 2013 RADT reports, the Payette National Forest's 2006 RADT report, and the Payette Principles report from the 2015 revised Shoshone LMP, the ROD for the Shoshone LMP revision, and the final EIS for the Shoshone National Forest LMP revision and the administrative record for the Shoshone LMP revision.
- Defendants shall prepare a Supplement to the EIS (Supplemental EIS, or SEIS) and new RADT report consistent with NEPA and all applicable laws and regulations for the revision of the Shoshone National Forest LMP that analyzes the potential for disease transmission between domestic sheep, domestic goats, and pack goats, and wild bighorn sheep on the Shoshone National Forest. The SEIS shall consider whether there are differences in the potential for disease transmission by domestic sheep, domestic goats, and pack goats to wild bighorn sheep. On the basis of the SEIS and new RADT report, Defendants shall issue a Supplemental ROD addressing the potential for disease transmission between domestic sheep, domestic goats, and pack goats, and wild bighorn sheep on the Shoshone National Forest.

- Defendants shall initiate the SEIS and new RADT report by June 30, 2016, and shall use their best efforts to complete the SEIS within fourteen (14) months, by August 30, 2017. On August 22, 2017, this provision was revised and extended to January 10, 2018 to allow a collaborative group of interested and affected parties to develop and submit an alternative to the Forest Service for consideration.
- Nothing in this Agreement shall be construed to prohibit the Forest Service from banning domestic sheep, domestic goats, and pack goats on the Wapiti, Clarks Fork, Greybull, and Wind River Ranger Districts located on the Shoshone National Forest, consistent with previously issued closure orders, pending completion of the SEIS and Supplemental ROD.

Decision Rationale

During Forest Plan Revision and throughout the process of preparing the Supplemental Environmental Impact Statement a number of recreational pack goat users objected to prohibiting pack goats within core native bighorn sheep ranges. North American Packgoat Association (NAPgA), in a collaborative effort with the Wyoming Game & Fish Department (WGFD), Bighorn Restoration Group, and the Wild Sheep Foundation proposed a number of mitigation measures to help reduce the risk of contact between their pack goats and bighorn sheep. The efficacy of the proposed mitigations was considered and those mitigations likely to be effective in maintaining separation between pack goats and bighorn sheep or minimize the potential for disease transmission were analyzed in Chapter 3 of the FEIS. I have taken those recommended mitigations into consideration in making my decision and considered the feedback from all sides of the issue. Vaccination of pack goats was not considered because vaccination programs have not yet been developed that could significantly reduce disease transmission risk to bighorn sheep.

My decision is consistent with the WGFD management approach for core native bighorn sheep herds. The core native bighorn sheep herds are the highest priority for management and the FEIS analysis documented that the risk of disease transmission from pack goats to core native bighorn sheep herds under alternative 3b would be very low because there would be no spatial and temporal overlap between pack goat use areas and occupied core native bighorn sheep habitat. Additionally, the RADT discussed foray behavior by bighorn sheep, in which individuals may occasionally make movements outside their normal ranges. The FEIS effects analysis for Alternative 3b discussed the possibility that bighorn sheep exhibiting foray behavior could move outside occupied habitat, contact pack goats being used outside bighorn sheep occupied habitat, and contract disease from these same pack goats. The risk of this occurring was characterized as very low, especially given the low amount of pack goat use expected to occur and the fact that mitigation measures required for pack goat use under this alternative would further limit the potential for contact between pack goats and bighorn sheep, and subsequent disease transmission. This risk is acceptable to me because it is so low, and my decision would be consistent with the goal of managing for the lowest possible risk of disease transmission within core native bighorn sheep herds while still permitting limited recreational pack goat use under certain circumstances.

My decision is also consistent with the WGFD approach for the Temple Peak herd. The Temple Peak herd is managed as a cooperative review herd and bighorn sheep in this herd have lower priority for management by WGFD than core native herds (Wyoming State-wide Bighorn/Domestic Sheep Interaction Working Group 2004b). Based on input and agreement with WGFD, which is a cooperating agency in the analysis, I am willing to accept a higher level of risk of disease transmission to the Temple Peak cooperative review herd than the core native bighorn sheep herds. Because this decision allows temporal and special overlap of pack goats and habitat

of the Temple Peak herd, there is a greater risk of contact and potential disease transmission compared to that of the risk of contact and potential disease transmission to core native herds. However, mitigations have been included in this decision that will reduce the risk of contact and potential for disease transmission to the Temple Peak herd.

While I appreciate pack goat users' interest in this form of backcountry recreation, I have chosen to exercise caution and select an alternative that will reduce the risk of contact and potential for disease transmission to the core native bighorn sheep herds on the Shoshone National Forest. These bighorn sheep herds are among the largest of any in the lower 48 states, and are key to sustaining bighorn sheep in Wyoming. I recognize there is still substantial uncertainty regarding the causes and dynamics of bighorn sheep diseases. While there is emerging science to indicate that pack goats may present less of a disease transmission risk, only a small number of scientific studies have been done specific to the risk of disease transmission from pack goats. I have taken this cautious approach also recognizing that disease transmission between pack goats and bighorn sheep could have a very large and long-lasting impact to core native bighorn sheep herds that are nationally significant. The magnitude of the consequences if disease were to be transmitted from pack goats to bighorn sheep places the risk of allowing pack goat use within occupied habitat for core native bighorn sheep herds beyond an acceptable level.

My decision to allow pack goat use in areas outside occupied core native bighorn sheep habitat through a permit system, along with the other required mitigation measures, will provide temporal and spatial separation between pack goats and core native bighorn sheep to reduce the risk of contact and potential for disease transmission. Areas where pack goat use can be authorized were identified based on the consideration of the RADT, which identifies bighorn sheep occupied habitat, areas not occupied by bighorn sheep, the possibility of foray events by bighorn sheep, and the infrequency of pack goat use. Occupied bighorn sheep habitat is identified by WGFD based on bighorn sheep location data and other local knowledge. The historical and documented use of bighorn sheep herds indicates that bighorn sheep do not utilize areas that fall outside of the designated occupied bighorn sheep habitat. The designated areas where pack goat use can be permitted fall outside currently occupied bighorn sheep habitat. There is a low probability that bighorn sheep will foray into areas designated for pack goat use. Thus, contact between bighorn sheep and pack goats presents a very low risk. The decision will provide more opportunities for pack goat use as compared to the Proposed Action (Alternative 2). Pack goat use would only be allowed in areas outside occupied core native bighorn sheep habitat under the following conditions and in the specific identified locations:

1. A permit for all pack goat use will be required. The permit will identify the required and recommended actions for reducing the risk of contact and potential for disease transmission between pack goats and bighorn sheep.
2. Permits will require the permit holder to report to the Forest Service any observed contact between pack goats and bighorn sheep, as well as any lost pack goats as soon as possible.
3. Permits will limit the number of pack goats to three per person and a maximum of 12 pack goats per party.
4. Permits will require pack goats to be leashed or in direct physical control by their owners at all times while on the Shoshone National Forest.
5. Permits will require pack goats to be high-lined or restrained in campsites while on the Shoshone National Forest.

6. Permits will require pack goats to have bells attached to their collars at all times while on the Shoshone National Forest.
7. The permit will require each pack goat to be uniquely identified by, but not limited to: ear tags, tattoos, collar tags when on the Shoshone National Forest.
8. In order to obtain a permit for pack goat use on the Shoshone National Forest, the requester must present documentation of veterinary health inspection and disease testing demonstrating negative test results for those pathogens identified in the Forest's testing requirements of all pack goats before entering Shoshone National Forest lands. The permit will require pack goat handlers to be in possession of a health and disease testing certificate for each pack goat while on the Shoshone National Forest. Inspection and testing protocol will be based on best available science and could change as new science becomes available. Testing requirements will be identified on the Shoshone National Forest website.
9. Permitted pack goat use will be limited to May 31 through October 31 of each year.
10. Pack goat use may be authorized through a permit system on a portion of the Clarks Fork District. The area for pack goat use is limited to the area north of the Clarks Fork Yellowstone River to the crossing of the Beartooth Highway / U.S. Highway 212, thereafter north of the Beartooth Highway / U.S. Highway 212 and west of Canyon Creek and Sawtooth Lake to the crossing of the Morrison Road / Forest Road 120, thereafter west of the Morrison Road / Forest Road 120 to the intersection of the Beartooth Highway / U.S. Highway 212 and thereafter west of the Beartooth Highlakes Trail / Forest Trail 620 (Appendix 1).
11. Pack goat use may be authorized through a permit system on a portion of the Washakie District. The area for pack goat use is limited to the area south of the Main Fork of Bull Lake Creek and the Fortress (Appendix 2).
12. Pack goat use may be authorized through a permit system on a portion of the Wind River District. Pack goat use is limited to the area south of U.S. Highway 26 and west of the Union Pass Road /Forest Road 263 (Appendix 3).

The areas where pack goat use can be authorized were identified based on opportunity to allow pack goat use and where spatial and temporal separation from core native bighorn sheep habitat can be maintained within manageable and identifiable boundaries. Also, this decision requires the Shoshone National Forest to review WGFD occupied core native bighorn sheep habitat data as new or updated information is provided by WGFD to the Forest Service. Based on any new or updated information provided by the WGFD, the Forest Service may adjust the boundaries of those areas available for pack goat use to ensure spatial and temporal separation of pack goats and occupied habitat for core native bighorn sheep herds. Based on this data, the Forest Service may permanently or temporarily adjust areas available for pack goat use.

Identification of the Environmentally Preferred Alternative

National Environmental Policy Act (NEPA) regulations require agencies to specify the alternative or alternatives which were considered to be environmentally preferable (40 CFR 1505.2(b)). Forest Service policy (FSH 1909.15, Section 05) defines environmentally preferable as:

> An alternative that best meets the goal of Section 101 of NEPA… Ordinarily this is the alternative that causes the least damage to the biological environment and best protects, preserves, and enhances historical, cultural, and natural resources.

Although the Act itself does not define the environmentally preferred alternative, it does suggest national environmental policy (42 U.S.S. 4331, section 101(b)). That policy calls for the continuing responsibility of the Federal government to use all practicable means to improve and coordinate plans, functions, programs, and resources so the nation may:

1. **Fulfill the responsibilities of each generation as trustees of the environment for succeeding generations.**

   Sustaining and enhancing wildlife across the Shoshone National Forest is an essential function in managing towards desired conditions and providing the opportunity for future generations to experience such iconic species as grizzly bears, elk, mountain goats, moose, wolves, and bighorn sheep. This was also identified by the public during the comment period. Alternatives 2 and 3b best protect the health and vitality of core native bighorn sheep populations on the Shoshone National Forest while also providing recreational opportunities to current and future generations of goat packers.

2. **Assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings.**

   Shoshone National Forest lands and the iconic wildlife that inhabit the Forest are a defining characteristic of American culture. Six of the eight core native bighorn sheep herds in Wyoming reside on the Shoshone National Forest. This emblematic species symbolizes the rugged beauty of the Rocky Mountains and the western United States. Ensuring their vitality and presence across the landscape is a critical component of the wildlife in the Greater Yellowstone Ecosystem, which are central to the aesthetics and culture of the Mountain West. Alternatives 2 and 3b best protect the health and vitality of core native bighorn sheep populations, which are a considerable component of the aesthetically and culturally pleasing surroundings of the Forest.

3. **Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.**

   While Alternative 3b prohibits pack goat use on the Greybull and Wapiti Ranger Districts of the Shoshone National Forest, this alternative does allow it in areas of the Clarks Fork, Washakie and Wind River Ranger Districts outside occupied core native bighorn sheep habitat. This provides an opportunity for pack goat enthusiasts, at the same time drastically reducing the risk of contact and potential for disease transmission to core native bighorn sheep herds.

4. **Preserve important historic, cultural, and natural aspects of our natural heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice.**

   This goal recognizes that humans are a natural aspect of our national heritage. The blend of areas where pack goats are prohibited and areas where pack goats are allowed on the Shoshone National Forest aims to provide opportunity for use and enjoyment by pack goat users, while also preserving an important natural aspect of the Forest, bighorn sheep.

5. **Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities.**

> The Shoshone National Forest strives to provide a variety of ecosystem services to the public. The Forest's challenge is maintaining an appropriate balance among all the public's various demands. Alternative 3b seeks to maintain a balance, ensuring the presence of core native bighorn sheep herds while providing opportunities for pack goat enthusiasts to recreate on the Shoshone National Forest.

Considering these criteria, either Alternative 2 or Alternative 3b would be the environmentally preferred alternative. This Record of Decision discussed the decision process and the comparisons of the alternatives through a deliberative process. That process included a finding of compliance with other laws. Alternative 3b will ensure the future health of core native bighorn sheep herds on the Shoshone National Forest while providing opportunities for pack goat users to enjoy the Forest.

The Use of Domestic Sheep, Goats and Pack Goats FEIS documents the environmental analysis and conclusions upon which this decision is based.

Public Involvement

The Notice of Intent (NOI) to prepare a SEIS was published in the Federal Register on March 31, 2017 (Federal Register 82 FR 16022). In addition, the proposed action was listed in the Shoshone National Forest Schedule of Proposed Actions (SOPA). People were invited to review and comment on the proposal through mailings, emails, and the Shoshone National Forest website. The FEIS lists agencies and people consulted on pages 32-33.

The following issues were identified from Forest Plan Revision scoping comments and were used to determine the scope of the analysis:

- Potential contact between pack goats and bighorn sheep and subsequent potential disease transmission as a result of contact.
- Opportunities for recreational pack goat use on the Shoshone National Forest.

A full description of issues significant to the proposed action appears in the FEIS on page 4.

A supplemental draft environmental impact statement (SDEIS) was published for review and comment on Friday, May 12, 2017. During the 90-day comment period, 54 individual letters were received. Five additional letters were received after the end of the comment period and were also considered. A summary of the comment analysis was included in the FEIS and all letters have been included in the project record.

Alternatives Considered

In addition to the selected alternative (3b), I considered three alternatives in detail as documented in the FEIS, which are identified below. A more detailed comparison of these alternatives can be found in Chapter 2 of the FEIS.

- Alternative 1, No Action: Domestic sheep grazing would be allowed on the current allotments allocated for sheep, and pack goat use would be allowed on the Shoshone National Forest.

- Alternative 2, Proposed Action: Domestic sheep grazing would be allowed on the current allotments allocated for sheep. Pack goat use would be prohibited from core native bighorn sheep ranges.
- Alternative 3. Domestic sheep grazing would be allowed on the current allotments allocated for sheep and goats. Pack goat use would be allowed in all core native bighorn sheep ranges under a permit system that incorporates specific mitigation measures.

Findings Required by Other Laws and Regulations

I have considered the statutes governing the management of the Shoshone National Forest and I find that this decision represents the appropriate approach to meeting the current statutory duties of the Forest Service. Some of the most important laws are discussed in this section.

Endangered Species Act
The revised Shoshone Land Management Plan (LMP) and Final Environmental Impact Statement (FEIS) addressed the potential effects of Forest-wide programmatic direction rather than site-specific projects. In 2013, a biological assessment (BA) was prepared for the FEIS to evaluate the potential effects of the revised LMP on federally listed species and their habitats. In their letter received November 20, 2013, the U.S. Fish and Wildlife Service concurred with the determinations of effects to species analyzed in the biological assessment. Considering the limited scope of this decision, the determinations contained in the BA remain valid and no additional impacts are anticipated to the species analyzed from this decision.

Other Laws and Executive Orders

I find that the selected alternative, Alternative 3b, is in compliance with the following laws and Executive Orders as documented in the Forest Plan FEIS:

- Executive Order for Environmental Justice
- National Forest Management Act of 1976, as amended

Administrative Review Opportunities

The Use of Sheep, Goats and Pack Goats project is subject to the objection process pursuant to 36 CFR 219 subpart B. These published regulations are available at:

https://www.gpo.gov/fdsys/pkg/CFR-2016-title36-vol2/pdf/CFR-2016-title36-vol2-part219.pdf

Objections will only be accepted from individuals or entities who previously submitted timely written formal substantive comments, as defined by 36 CFR 219.53, specific to this project during the comment period. Issues raised in objections must be based on previously submitted timely written formal substantive comments regarding this project unless based on new information arising after the designated opportunity.

Objections for this project, including any attachments or supporting documentation, will be accepted for 60 days beginning on the first day after the date of publication of the legal notice in the Denver Post, of Denver, Colorado. The Reviewing Officer is Glenn Casamassa, Associate Deputy Chief. The objection must be sent to:

USDA Forest Service
Attn: Objection Reviewing Officer

EMC, Mailstop 1104
1400 Independence Ave., SW
Washington, D.C. 20250

Objections may be submitted by email to: objections-chief@fs.fed.us
All email submissions should contain ***Notice of Objection: Use of Sheep, Goats and Pack Goats EIS / Shoshone National Forest*** as the first words on the subject line.

Acceptable electronic formats are: text (.txt), Microsoft Word 6.0 or higher (.doc), portable document format (.pdf), or rich text format (.rtf). For submission by email, appeals greater than 10 lines (no more than 80 characters per line) should be electronically attached. If electronic appeals are 10 lines or less, they may be submitted as an email message using standard messaging software.

Pursuant to 36 CFR 219.54, the objection must include a description of those aspects of the project addressed by the objection, including specific issues related to the project, if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation or policy; suggested remedies that would resolve the objection; supporting reasons for the reviewing officer to consider; and a statement that demonstrates the connection between prior written formal substantive comments on the particular project and the content of the objection, unless the objection concerns an issue that arose after the designated opportunities for comment.

In addition, an objection must include the following: the objector's name, address and telephone number (if available); signature or other verification of authorship or the individual, entity, or lead objector; the name of the project; the name and title of the Responsible Official; and the name of the National Forest. Furthermore, incorporation of documents by reference is not allowed, except for the following: all or any part of a Federal law or regulation; Forest Service directives and land management plans; documents referenced by the Forest Service in the proposed project; comments previously provided to the Forest Service by the objector during the comment period where comments were requested by the Responsible Official. All other supporting documents must be provided with the objection.

Implementation Date

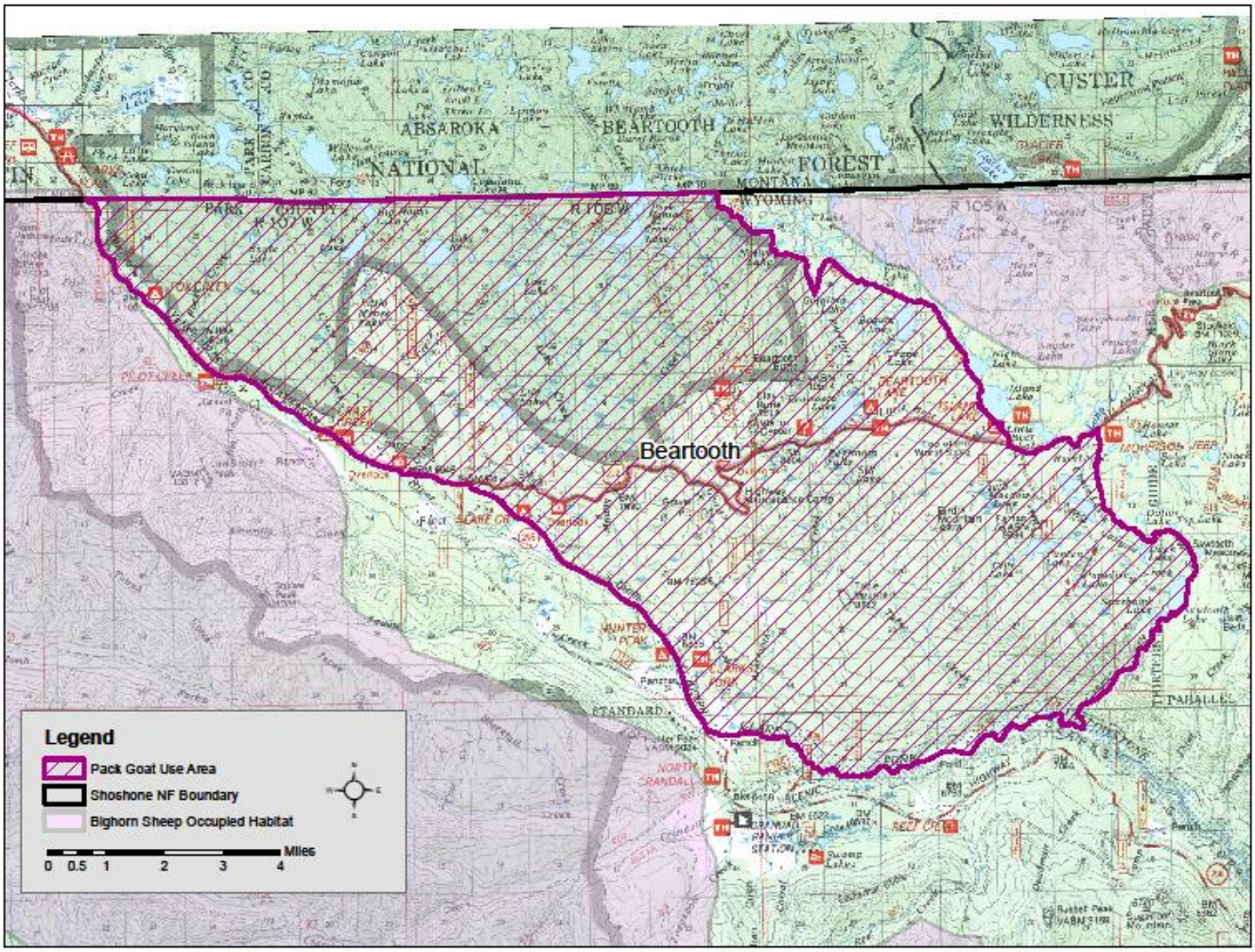
Implementation may occur 30 calendar days after the legal notice of the Final Record of Decision is published in the *Federal Register*.

Contact

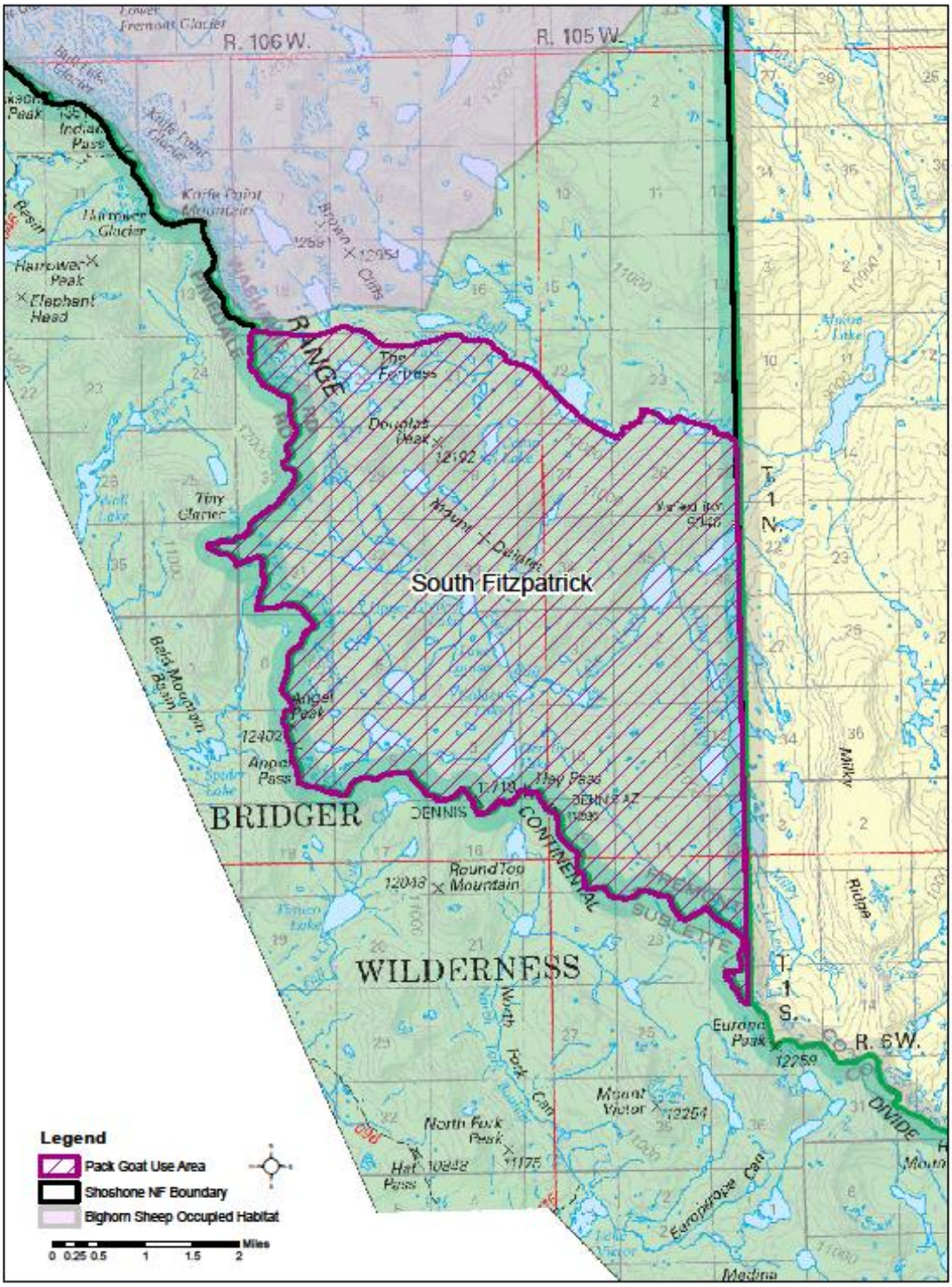
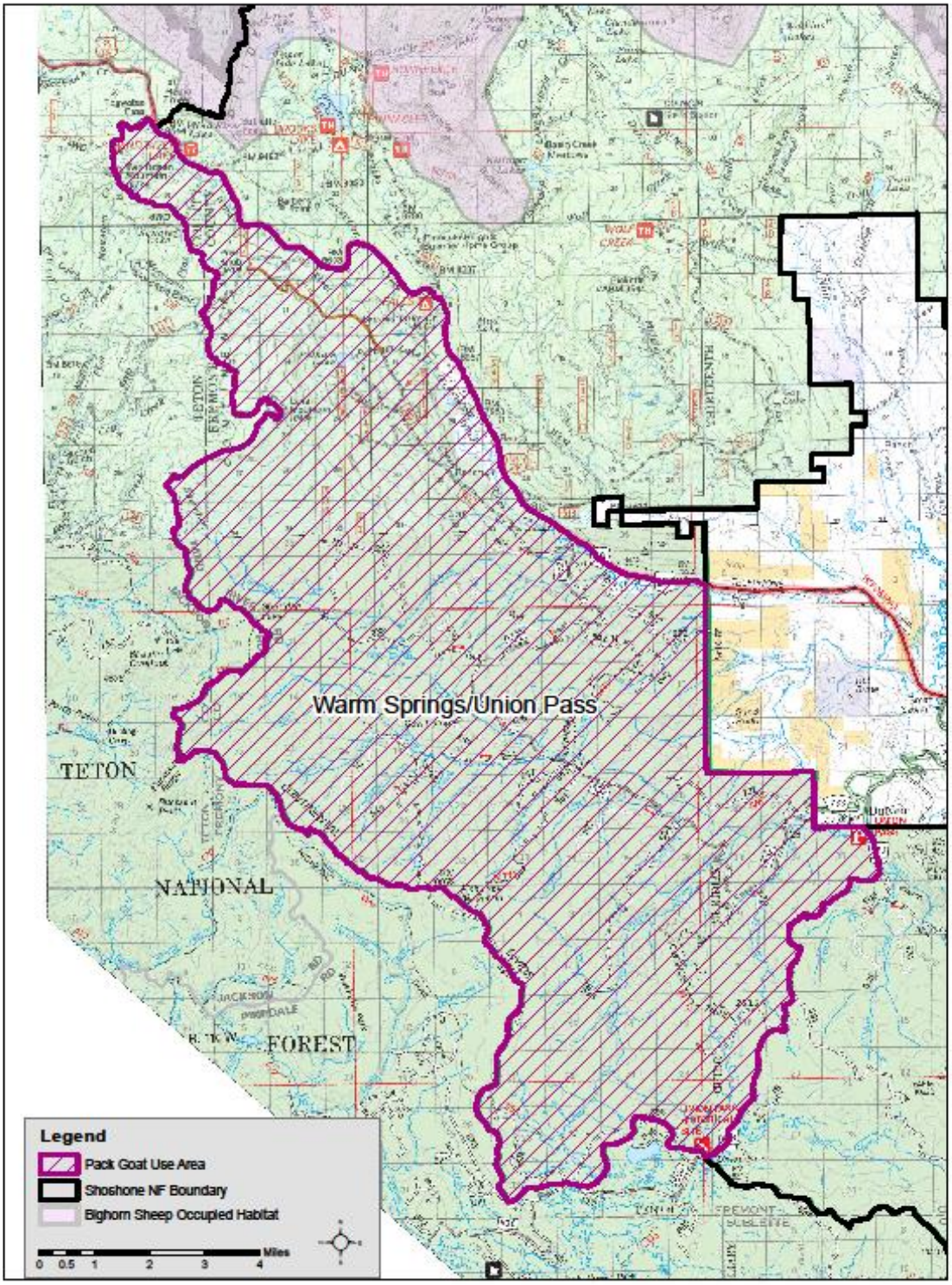
For additional information concerning this decision, please contact: Casey McQuiston, Resources Staff Officer, Shoshone National Forest, 808 Meadow Lane Avenue, Cody, Wyoming, 82414, and (307)578-5134.

BRIAN FEREBEE Date
Regional Forester

Appendix 1. Beartooth pack goat area



Appendix 2. Fitzpatrick pack goat area



Appendix 3. Warm Springs Union Pass pack goat areas