

Record of Decision

MODIFICATION TO THE GALLATIN NATIONAL FOREST TRAVEL MANAGEMENT PLAN FOR THE BEAR CANYON LOOP TRAIL #440

**USDA Forest Service
Gallatin National Forest
Park and Gallatin Counties, Montana**

April 29, 2011

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BEAR CANYON
TRAVEL MANAGEMENT PLAN MODIFICATION
Record of Decision

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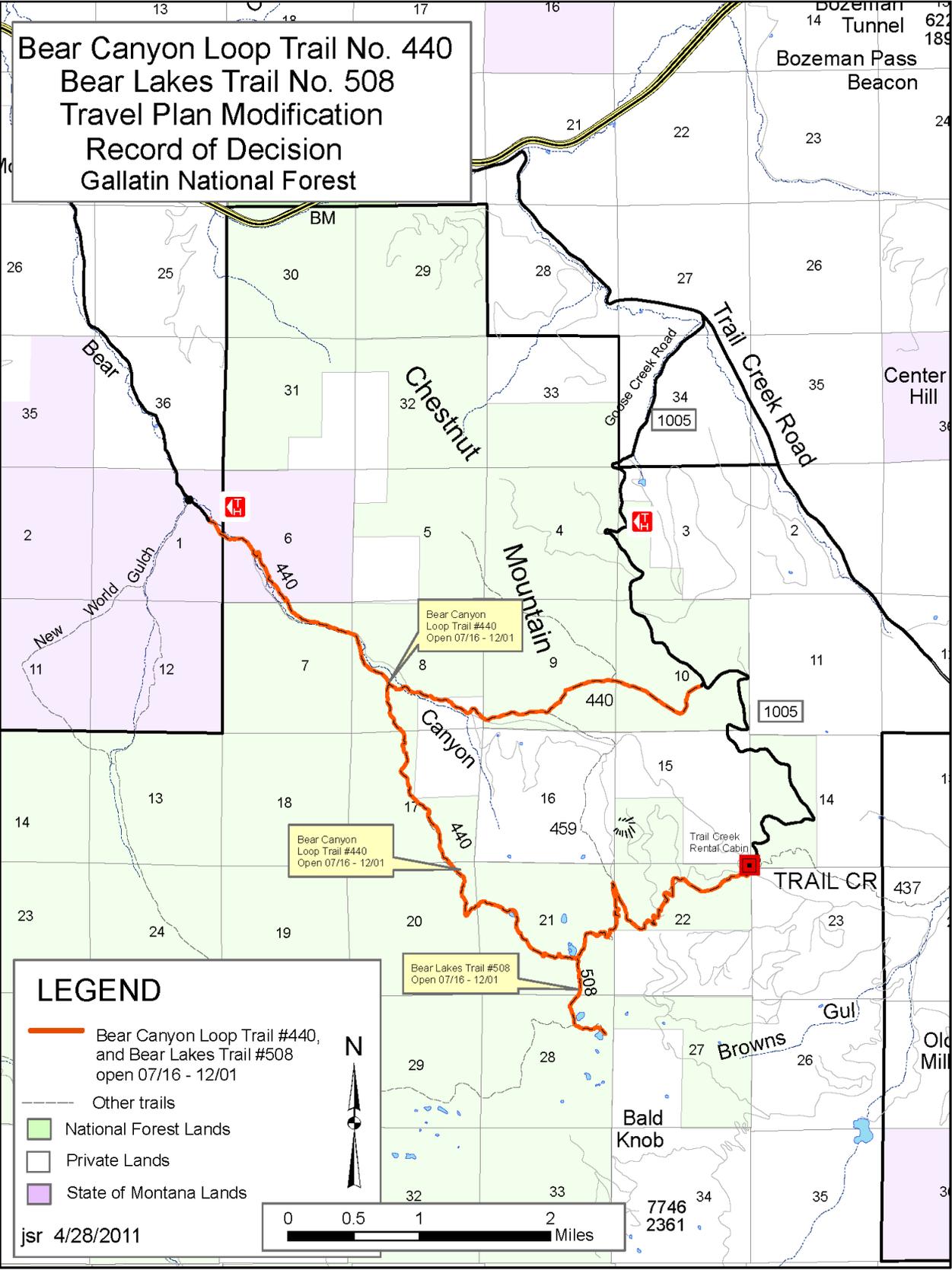
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I. Introduction

In December of 2006, the Gallatin National Forest published a comprehensive plan for managing public access and travel within the Forest, i.e. the Gallatin National Forest Travel Management Plan (or Travel Plan). The Travel Plan identified and established opportunities for public recreation use and access using the Forest's road and trail system. For each road and trail it specified the types of uses and seasons of use that were deemed appropriate given public demand and objectives for the protection of other resources.

Since the 2006 decision, an agreement with Gallatin County to resolve jurisdictional issues in Bear Canyon and relocation of and improvements to the trail have resulted in an opportunity to revisit the trail season of use in the Bear Canyon area. This Record of Decision documents my decision to modify the Gallatin National Forest Travel Management Plan to extend the season of use on the Bear Canyon Loop Trail #440 for summer motorized vehicles (motorcycles and off-highway vehicles) from an open season of July 16 – October 14 each year to an open season of July 16 – December 1 each year.

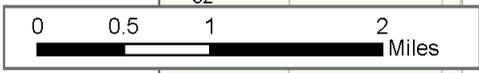
**Bear Canyon Loop Trail No. 440
 Bear Lakes Trail No. 508
 Travel Plan Modification
 Record of Decision
 Gallatin National Forest**



LEGEND

- Bear Canyon Loop Trail #440, and Bear Lakes Trail #508 open 07/16 - 12/01
- - - - - Other trails
- National Forest Lands
- Private Lands
- State of Montana Lands

jsr 4/28/2011



II. Purpose and Need for Action

From the beginning of the travel planning process in 2002 through the decision documented in the Record of Decision in 2006, the desired recreational travel emphasis for the Bear Canyon area has been to provide opportunities for ATV, motorcycle, snowmobile and mountain bike use (See Gallatin Travel Plan Starting Benchmark, 8/2002, p. 31; and the Gallatin National Forest Travel Management Plan ROD, 10/2006, p. 38). However, water quality in Bear Creek has long been of concern due to both natural and man-made factors. As a result, motorized and mechanized travel on Bear Canyon Trail #440 was seasonally restricted during the spring and fall when the trail is wet and more subject to erosion and damage from rutting. Standards in the Travel Plan Record of Decision also state that the trails in Bear Canyon will not be opened for summer season ATV, motorcycle, mountain bike and horse use until the trail is brought up to a condition that accommodates these uses and alleviates sedimentation/water quality concerns.

Since 2006 two important developments have occurred that will ultimately significantly improve water quality, reduce potential for sedimentation and stabilize the transportation system. First, the location of the historic road segment of the trail in section 6, T3S, R7E has been changed and stabilized, moving it to the drier, north side of the creek and eliminating several unmanaged stream crossings. This action has resulted in a trail tread that is much less susceptible to erosion and is also less prone to slumping. Trail reconstruction is underway for the other segments of trail suffering from erosion impacts and should be completed this year. Second, claims to the historic route across State and National Forest land along the bottom of Bear Creek will be considered for abandonment by Gallatin County under a Settlement Agreement between Gallatin County, the Montana Department of Natural Resources and Conservation and the Forest Service. Abandonment would ensure a long term recovery of the highly erosive and land slide prone portion of the previous transportation system.

The Travel Plan decision very clearly emphasizes opportunities for motorized and mountain bike use on this trail. It was a basic premise of the Travel Plan decision to offer the widest range and amount of travel and recreation opportunities within resource and social constraints. The watershed and soil resource conditions in Bear Creek have greatly improved and will continue to stabilize once jurisdictional issues have been resolved (final agreement for abandonment is reached between Gallatin County, Montana Department of Natural Resources and Conservation (DNRC) and the Gallatin National Forest). For these reasons, there is an opportunity to extend the motorized season of use on the trail and fulfill the desired recreational travel emphasis for the area.

III. Proposed Action

The Gallatin National Forest is proposing to modify its travel plan (Gallatin National Forest Travel Plan 2006) on the Bear Canyon Loop Trail #440, from the trailhead on State land, up to the Goose Creek Road, around the upper end of the loop and back down the return trail, including the cutoff to Bear Lakes (#508). The approved season of use for summer motorized vehicles (motorcycles and off-highway vehicles) would be extended from an open season of July 16 – October 14 each year to an open season of July 16 – December 1 each year. All other approved uses and seasons would remain the same for this trail. This configuration of use was analyzed as Alternative 3 in the Travel Plan FEIS.

IV. Decision and Reasons for the Decision

It is my decision to modify the Gallatin National Forest Travel Management Plan to extend the season of use for summer motorized vehicles (motorcycles and off-highway vehicles) on the Bear Canyon Loop Trail #440, including the cutoff to Bear Lakes (#508), from an open season of July 16 – October 14 each year to an open season of July 16 – December 1 each year. This was analyzed as Alternative 3 in the Travel Plan FEIS.

In preparing for my decision I first reviewed the comments received in response to an October 10, 2010 letter sent to interested parties regarding this proposal. Next I reviewed the discussion in the Travel Plan Record of Decision for the Bear Canyon Travel Planning Area (GNF Travel Plan, ROD, pages 38 and 39). This information helped me make my decision and formed the basis of my rationale.

The degree to which the proposal enhances opportunities for ATV and motorcycle use in a Travel Planning area where these uses are emphasized.

For the Bear Canyon Travel Planning Area, the Record of Decision for the Gallatin Travel Plan emphasizes opportunities for ATV, motorcycle, snowmobile and mountain bike use. Since the Travel Plan decision for surrounding travel planning areas around the Gallatin Valley (i.e. Bozeman Creek, West Bridger South, Bridger Canyon, and the South Cottonwood portion of the Gallatin Crest Travel Planning Area) emphasized management for non-motorized uses, it was important to provide for motorized recreation in this area. Bear Canyon's proximity to Bozeman lends itself well to providing opportunities for half-day and evening rides.

Extending the season for ATV and motorcycle use until December 1st provides a longer season for these opportunities and allows for motorized access during the general hunting season. Comments received on this proposal from motorized users strongly supported this extension. Under the Settlement Agreement with Gallatin County this use would serve as an adequate replacement for the historic route in the lower part of the drainage across State and National Forest system land.

The degree to which soil erosion can be prevented, water quality protected, the trail facility maintained and beneficial uses of Bear Creek provided for.

Alternative 3 in the Travel Plan FEIS would have managed the Bear Canyon Loop Trail (#440) to allow ATV, motorcycle and mountain bike use from July 16th to December 1st, just as it will be managed now under this decision (Travel Plan FEIS, Detailed Description of Alternatives, pages II-43 to II-45). I've reviewed the discussions of the environmental consequences for soils (issue 19, beginning on page 3-519) and water quality (issue 20, beginning on page 3-535) of the FEIS. Based in part on this review I've concluded that there would be no unacceptable incremental effect to soils or water quality in extending the season of use for ATV, motorcycle and mountain bike use to December 1st annually. I've come to this conclusion even though the Travel Plan administrative record indicates that the purpose of the fall restriction was to respond to soil and sedimentation concerns (Christiansen, 03/08/11). Relocating the historic road portion of the trail and decommissioning the old road system has significantly reduced these sedimentation and erosion problems. Reconstruction of segments of the trail has and will also

reduce the erosion and sedimentation impacts in this area. These effects were further explored in the Road and Trail Improvement Projects Environmental Assessment and Decision Notice, April 15, 2009.

Further, Table 3.19.5 and the discussion on page 3-525 of the FEIS indicate that the effects of Alternative 3 to soils are similar to Alternative 7M (the Travel Plan selected alternative). While pages 3-540 and 3-541 shows that the Bear Canyon Travel Planning Area has some of the highest sediment levels of any travel planning area on the Forest, page 3-544 shows that Alternative 3 results in sediment levels of 41.51% over natural, as compared to Alternative 7-M (page 3-548) with sediment levels of 41.63% over natural. This difference is insignificant. In addition, all of the action alternatives were found to be consistent with the State of Montana Water Quality Act, other applicable laws, policies and the Gallatin Forest Plan (FEIS, page 3-555).

The initial Forest Service proposed action for management of travel on the Bear Canyon Loop Trail (#440), as represented by Alternative 4 in the Travel Plan FEIS, would have allowed for motorized use from July 16th to December 1st annually, on all segments except for the historic road portion from the Bear Canyon Trailhead to the loop junction (about 2 miles) (Travel Plan FEIS, Detailed Description of Alternatives, pages II-43 to II-45). Without the benefit of public comment or effects analysis at the time, the logic behind this proposal was to continue to provide for motorized use opportunities on the loop portion of this trail, but with access being provided from the Goose Creek Road along Trail #459, rather than from the Bear Canyon side, to alleviate water/soils and other public concerns. The water/soils concerns were due to the road segment being located in an incised section with a large slump (landslide) that resulted in the road being located directly adjacent to Bear Creek. The road had multiple direct sediment points to the Creek and the cut slope within and near the slide area was very unstable. This resulted in substantial sediment contribution and was mostly responsible for Montana Department of Environmental Quality 303d complaints.

In an effort separate from the Travel Plan analysis but culminating at about the same time, a task force consisting of the Montana Department of Natural Resources and Conservation, Gallatin County, the Forest Service, recreation user groups and local residents identified a possible solution to the problem. By relocating the historic road portion of the trail to the east side of Bear Creek the access route would avoid the slide area and the stream itself. While the solution seems simple it was actually complicated because this two mile segment of trail was located on a historic road through State Trust land and Gallatin Forest land. There were also private land owner and user group concerns. Solving the problem required cooperation between all of these interests.

While retaining the fall use restrictions adopted by the Travel Plan decision or even increasing them would be the most beneficial for the soil and water resources in Bear Canyon, I also want to address opportunities for ATV/motorcycle users as expressed by motorized user groups and Gallatin County. At the time of the Travel Plan decision it was not anticipated that there might be a long term agreement between Gallatin County, the State of Montana and the Forest Service that would ultimately eliminate the future threat of reopening and using the historic road route. Now that this is a realistic future, it greatly improves the long term water quality outlook. Abandonment of this route would ensure a long term recovery of the highly erosive and land

slide prone portion of the previous transportation facility. As stated for in the Travel Plan FEIS for the fisheries/aquatic life issue the actual use, or mode of travel (e.g., motorized versus non-motorized) is inconsequential to water quality and fisheries (Travel Plan FEIS, page 3-181 and ROD, page 75). Rather, it is the facility itself (i.e., road or trail) that has potential to impact aquatic habitat and biota (id.).

In response to many of the public comments I read, I want to emphasize that my decision to extend the season of ATV/motorcycle/mountain bike use on Trail #440 does not mean it will be immediately open to those uses. The Travel Plan decision adopted a standard (Standard 3-2) which states that the Bear Loop Trail (#440) and the Bear Lakes Trail (#53 and #508) within the Bear Canyon Creek drainage will not be opened to summer motorized, mountain bike, and horse use until the trail is brought up to a condition that accommodates those uses and alleviates sedimentation/water quality concerns. While relocating the historic road portion of the trail and decommissioning the old road system itself has corrected the major sedimentation problems with this route, a considerable amount of work remains on the loop sections of Trail #440 and also the Bear Lakes Trail (#53 and #508) before these routes can be opened for use at any time of the year. The work that remains to be done includes such things as: better drainage, subgrade improvement and spot resurfacing. While these efforts will reduce soil erosion and water quality issues in the upper portion of the trail, resolving the jurisdictional issues is also part of my considerations for extending the season of use.

Lastly, as with any trail, but particularly the Bear Canyon trail system, there will be an ongoing need for maintenance. The trail facilities are most vulnerable to damage during the spring until approximately mid-July, and in the fall (about the end of the September through October). These are periods of intermittent freezing and thawing. Continuing to allow for trail use during the fall freeze-thaw period will require cooperation from users. Signs will be posted at the trailheads requesting people refrain from using ATVs, motorcycles, mountain bikes, or horses when trail conditions are wet and use could result in damage to the trail. Monitoring will be conducted at least annually to determine if these resource protection measures are being implemented as planned and if they are effective. Changes in mitigation practices will be adjusted accordingly and may include restrictions on use if erosion and sedimentation problems or facility conditions are not improving.

The degree to which the proposal may negatively impact wildlife movement between the Gallatin Mountain Range and the Bridger-Bangtail Mountain Ranges.

The Travel Plan Record of Decision (ROD, page 39) identified as another management goal for the Bear Canyon area providing for wildlife movement between the Gallatin Mountain Range and the Bridger-Bangtail Mountain Ranges. According to the ROD (id.) this was accomplished by prohibiting motorized use on the Chestnut Mountain Trail (#458) and adopting an objective to move that trail and a portion of the Bear Loop Trail (#440) off the ridge. As I indicated previously, Alternative 3 in the Travel Plan FEIS would have managed the Bear Canyon Loop Trail (#440) to allow ATV, motorcycle and mountain bike use from July 16th to December 1st, just as it will be managed now under this decision (Travel Plan FEIS, Detailed Description of Alternatives, pages II-43 to II-45). I've reviewed the discussions of the environmental consequences for big game (issue 2, beginning on page 3-15), biological diversity and ecological sustainability (issue 3, beginning on page 3-65), and general wildlife (issue 9, beginning on page

3-225) of the FEIS to determine whether extending the season for summer motorized use would result in unacceptable impacts.

Bear Canyon lies in Hunting District 301. In addressing big game the Travel Plan FEIS measured the summer impacts of the alternatives using open road density, open motorized route density and percent of secure habitat. Tables 3.2.2, 3.2.3 and 3.2.4 on pages 3-45 through 3-47 provide these values for each alternative, which I’ve summarized as a comparison between Alternative 3 and Alternative 7-M in Table 1 below.

Table 1. Comparison of Alternative 3 with Alternative 7-M (the Travel Plan Selected Alternative) for factors related to Big Game vulnerability for Hunting District 301 which includes Bear Canyon.

	Alternative 3		Alternative 7-M		EIS Reference
	FS Roads	All Roads	FS Roads	All Roads	
Open Road Density (mi/sq mi)	0.9	1.1	0.8	1.1	Pg 3-45
Open Motorized Route Density (mi/sq mi)	1.3	1.5	1.2	1.4	Pg 3-46
Percent of Secure Elk Habitat	Percent	--	Percent	--	Pg. 3-47
	32		33		

The above table shows a difference of just 0.1 miles/sq. mile of Forest Service open motorized route density and 1 % secure habitat between Alternative 3 and the Travel Plan selected alternative (Alternative 7-M) for the hunting district that encompasses Bear Canyon. This is insignificant considering that these values are consistent with recommendations made by Christensen et al. 1993:2-3 and Canfield et al. 1999:6.12, i.e. maintain an open road density of < 1.0 mi./sq. mi. and percent habitat security at or above 30% (FEIS, page 3-55).

Arguably extending the motorized use season into the general hunting season will have a localized effect on big game vulnerability. However, the comparison in Table 1 shows that within the “hunting district” there is no significant difference in vulnerability and it is appropriate to consider these factors at a larger scale.

Pages 3-72 through 3-74 of the Travel Plan FEIS discuss the effects of Travel Plan alternatives on the Bear Canyon “corridor.” A “corridor” is defined as a passageway, and not as meeting the full habitat requirements for the species of interest (FEIS, page 3-66). Generally, the lower the motorized route density, the more likely it is that animals will be able to move through the landscape (id. page 3-71). Table 3.3.2 on page 3-72 discloses that for Alternative 3, there are 3.7 miles of Forest Service motorized trail in Bear Canyon for a density of 0.46 miles/sq. mile versus for Alternative 7-M (the selected alternative) there is 3.2 miles of Forest Service motorized trail for a density of 0.40 miles. As with my conclusions from Table 1 above, these differences between the two alternatives are minimal and acceptable. This section of the FEIS further states that “(i)t is believed that wildlife can generally move through this area at these motorized route densities, and that the major impediment to movement is the interstate highway (I-90), adjacent railroad, frontage road, and power corridor” (FEIS, page 3-73). Based on the analysis there is also a recommendation that motorized routes (particularly Trails #440 and #458) be relocated away from the ridgeline as animals often use ridges and saddles for travel. The Travel Plan includes an objective to do just that (Travel Plan, Detailed Description of the Decision, page II-

21), and my decision here to extend the season of use does not change or otherwise affect that objective.

In conclusion I have determined that extending the season for summer motorized use on Trail #440 to December 1 will not adversely impact wildlife movement between the Gallatin Mountain Range and the Bridger-Bangtail Mountain Ranges.

Consideration of Other Travel Planning Issues

NEPA provides for the identification and elimination from detailed study those issues which are not significant or which have been covered by prior environmental review, thus narrowing the discussion of those issues to a brief statement as to why they will not have a significant effect on the human environment or by providing reference to their coverage elsewhere (40 CFR 1501.7(3)). The Gallatin National Forest Travel Management Plan Final Environmental Impact Statement (FEIS) disclosed the predicted consequences of the 7 alternatives relative to 23 significant issues that were considered to be factors in that decision. As discussed above, based on the comments we received in response to a letter sent out in October of 2010 and the discussion in the Travel Plan Record of Decision for the Bear Canyon Travel Planning Area (GNF Travel Plan, ROD, pages 38 and 39) I determined that there were three (3) primary factors (i.e. significant issues) to be considered in making my decision on whether to extend the season of use for summer motorized vehicles (motorcycles and off-highway vehicles) on Trail #440. The following issues were evaluated but found not to be significant to my decision.

- 1. Bald Eagle.** In relation to the management of travel on the Gallatin National Forest, bald eagles are of issue only around the 8 nesting territories near Hebgen and Quake Lakes (Travel Plan FEIS, page 3-3). Since this is over 50 miles from Bear Canyon it was not of issue in this decision.
- 2. Big Game (Ungulates).** The environmental consequences of the Travel Plan alternatives on big game was addressed as issue 2 in the Travel Plan FEIS (page 3-15). This issue was considered in my decision to extend the season of use. See page 9 of this document.
- 3. Biological Diversity and Ecological Sustainability.** The environmental consequences of the Travel Plan alternatives on biological diversity and ecological sustainability was addressed as issue 3 in the Travel Plan FEIS (page 3-65). This issue was considered in my decision to extend the season of use. See pages 9-10 of this document.
- 4. Cultural Resources.** This issue concerned the potential effects that travel management under the seven alternatives may have had on the scientific, traditional, cultural and intrinsic values of archeological, cultural and historical sites on the Gallatin National Forest. One of the primary concerns was direct damage to sites. Potential damage could come from vehicle use or route construction/re-construction directly on top of a site, or could be caused by vandalism or illegal collecting of artifacts. Bear Canyon is not a travel planning area with high archeological site density (FEIS, page 3-93). Also, based on the discussion of this issue in Chapter 3 of the FEIS (pages 3-93 to 3-101, then Forest Supervisor Becki Heath concluded that Alternatives 2

through 7-M all would have an equal level of risk for archeological site damage. I agree with her conclusion. Therefore, extending the season of use on a trail system already open to motorized/mechanized use results in negligible potential effects to cultural resources and no change from the current condition. It was not a factor in my decision.

5. Social/Economic Effects. There were a number of public comments received during the travel planning process indicating concerns that changes in the management of travel on the Gallatin National Forest could have significant effects on the area economy. An expanded economic analysis was produced after the DEIS was published to more thoroughly address those concerns. This analysis was included in Chapter 3 of the Travel Plan FEIS (pages 3-102 to 3-154). Based on this discussion it was concluded that none of the Travel Management Plan alternatives would result in any notable effects to the local economy and therefore it was not a factor in that decision (Travel Plan ROD, page 73). Since the broader travel plan alternatives were found to have no notable effect and my decision here is such a minor change to the Travel Plan, I could conclude that there would be absolutely no effect on visitation or to the local economy.

6. Enforcement. During the initial comment period on the proposed Gallatin National Forest Travel Plan, numerous comments were received regarding the agency's ability to enforce travel management restrictions. There was wide skepticism among some users about the ability to make travel management restrictions effective due to the perceived limited ability of the agency to enforce restrictions. As a result, some indicated that more restrictions on motorized use were needed to reduce these enforcement problems. After reviewing the discussion of this issue in Chapter 3 of the FEIS (pages 3-155 to 3-176), then Forest Supervisor Becki Heath concluded that Alternatives 3 through 7-M all provided more enforceable travel management scenarios than would Alternatives 1 or 2 (Travel Plan ROD, page 74). There are differences in how well each alternative ranks against criteria, but overall there are only minor differences between these alternatives from an enforceability perspective. Given that there is no significant difference between Travel Plan Alternative 3 and the selected alternative (7-M), and my decision here is such a minor change to the Travel Plan, the issue of "Enforcement" was not a significant factor. I also believe that public education is the most effective approach to gaining compliance with travel regulations. In addition, there are other solutions that can be taken if problems arise such as increased law enforcement, temporary use restrictions, or even consider modifications to the Travel Plan for a more permanent solution if necessary.

7. Fisheries and Aquatic Life. The environmental consequences of the Travel Plan alternatives on fisheries and aquatic life was addressed as issue 7 in the Travel Plan FEIS (page 3-15). This issue was considered in my decision to extend the season of use. Concern over the effects to fisheries and aquatic life go hand-in-hand with soil erosion and stream sedimentation concerns. They are part of the beneficial uses that can be affected by sedimentation of streams. I found that retaining the fall use restrictions adopted by the Travel Plan decision or even increasing them could be more beneficial for the soil and water resources in Bear Canyon, but providing additional ATV/motorcycle opportunity in the fall is important to motorized user groups and Gallatin County and part of the use emphasized for this area.

8. Forest Plan Amendments to Remove Existing Standards related to Travel Management. The Travel Plan decision amended the Gallatin Forest Plan to remove included direction related

to travel. My decision does not include amendments to the Forest Plan therefore this issue is irrelevant.

9. General Wildlife. This issue was addressed in the Travel Plan FEIS to help in understanding the potential effects of recreation travel on wildlife in general. There were three facets to this issue as discussed on pages 3-225 to 3-253: A. The potential for direct wildlife mortality due to collisions with vehicles on Forest roads and trails. B. The direct loss of habitat due to the presence of road and trail prisms. C. The indirect loss of habitat through wildlife displacement from human activity associated with roads and trails. The first two facets of this issue are not significant, if not irrelevant to my decision. Direct mortality to wildlife from collision is an issue mostly with high speed roads such as federal highways (Travel Plan FEIS, page 3-226). Gallatin National Forest roads and trails are all low speed routes, including Trail #440 and it is believed that there is very low vehicle-caused mortality on Forest Service roads and trails. The direct habitat lost (i.e. vegetation loss) due to the presence of road and trail prisms amounts to less than 1 % of the Forest and my decision to extend the season of use is not a decision to construct new trail (FEIS, page 3-233). This is an effect that relates to the actual footprint of roads and trails and does not vary based on the types of uses designated for those routes. That leaves wildlife displacement from human activity as the primary factor I needed to consider and this is addressed as part of my rationale. In summary I found no significant difference in effect between extending the season of motorized use to December 1st, versus leaving it to close on October 15th. For Bear Canyon, it was recommended by the Forest wildlife biologist that motorized routes (particularly Trails #440 and #458) be relocated away from the ridgeline as animals often use ridges and saddles for travel. The Travel Plan includes an objective to do just that (Travel Plan, Detailed Description of the Decision, page II-21), and my decision here to extend the season of use does not change or otherwise affect that objective.

10. Grizzly Bear. The issue of travel management is important to the conservation of the grizzly bear, a species currently listed as threatened under the Endangered Species Act. The grizzly bear is known to be sensitive to the effects of access management, especially as related to motorized use (FEIS, page 3-255). Grizzly bears tend to avoid areas used by motorized vehicles. However, while this issue was influential in the development of alternatives for a travel management plan, the Bear Canyon Travel Planning Area does not fall within the recovery zone for the bear, or the primary conservation area (a term used for a short time while the grizzly bear was delisted). Pages 3-295 through 3-300 of the FEIS discusses the effects of travel management to potential bear habitat outside of the recovery zone, including the Gallatin Mountain Range within which Bear Canyon is located. The Travel Plan alternatives 2 through 7-M all would increase the amount of secure habitat from what existed at the time. My decision to extend the season of use on Trail #440 would not change the amount of secure habitat. Seasonal closures were not considered in depth in the FEIS analysis for secure habitat with respect to grizzly bears (Travel Plan FEIS, page 3-277). However, seasons have been defined for secure habitat (ICST 2003:41) as Season 1 – March 1 to July 15 and Season 2 – July 16 to November 30. Therefore closing dates under either Alternative 7M (October 15) or Alternative 3 (December 1), basically fall during the same season, so would have no notable effect on secure habitat.” Lastly, Travel Plan alternatives 2 through 7-M were all found to comply with the Endangered Species Act (Travel Plan FEIS, page 3-327).

11. Transportation System Implementability. The analysis of this issue in the Travel Plan FEIS addresses the predicted schedule, costs and physical changes necessary to implement each of the Travel Plan alternatives. This information was needed to understand whether each of the Travel Plan alternatives were reasonable to implement. After all, it would make little sense to adopt a travel management plan that was too costly or that could not be accomplished in a reasonable time frame. While this analysis was useful at the broad scale of the overall travel plan, it is irrelevant to my decision to extend the season of use on Trail #440.

12. Invasive Weeds. While the majority of mapped weeds on the Forest are adjacent to motorized travel routes (Travel Plan FEIS, page 3-352), this was not a significant factor in the choice between Travel Plan alternatives (Travel Plan ROD, page 86). Given this, and the fact that the scope of my decision does not include a determination of whether motorized use should be prohibited entirely on Trail #440 it was not a factor in my decision. Invasive weeds are a much greater problem than simply an issue over motorized use of the roads and trails on the Gallatin National Forest. Controlling invasive weeds is an ongoing effort that requires cooperation of multiple agencies, organizations and private landowners. We will continue to do our part as I described in the Record of Decision for The Gallatin National Forest Noxious and Invasive Weed Treatment Project (June 2005).

13. Lynx. The parameters used to measure effects to lynx in the Travel Plan FEIS included summer motorized open road density, miles of marked or groomed snowmobile and ski routes, and acres of closed snowmobile area (FEIS, page 3-366). My decision to extend the season of use on Trail #440 has no bearing on any of these factors therefore lynx was not an issue.

14. Migratory Birds. Many bird species are protected under the Migratory Bird Treaty Act (16 USC 703-711). A January 2001 Executive Order requires agencies to ensure that environmental analyses evaluate the effects of federal actions and agency plans on migratory birds, with emphasis on species of concern. Over 200 species of migratory birds inhabit the Gallatin National Forest at some stage in their life cycle (Cherry 1993). Migratory birds are very diverse and include raptors, waterfowl, shore birds, game birds and songbirds. They are an extremely diverse group, and as such, occupy all types of habitat available on the Gallatin Forest, including lakes, streams, wetlands, riparian areas, grasslands, shrub lands, deciduous forest, coniferous forest, mixed forest, recently burned forest, alpine tundra, rock outcrops and sheer cliff walls.

Predicted effects of the Travel Plan alternatives to migratory birds was not a factor in the Travel Plan decision other than it provided additional support for not allowing off-route summer motorized travel as would occur under Alternative 1 (Travel Plan ROD, page 88). Likewise, and for the same reasoning, it was not a factor in my decision to extend the season of use on Trail #440. Travel management actions can have adverse effects on some species, while being neutral, or benefiting others (FEIS, page 3-397). Generally speaking, habitat alterations associated with road and trail corridors will typically benefit more generalist species, and have negative impacts on habitat specialists (id.). As with other species, birds can be disturbed by noise and human presence within the Forest. However, birds are able to adapt and habituate more quickly to mechanical (or motorized) noise than to human presence (FEIS, page 3-404). There is no evidence that Gallatin Forest travel management activities alone have had adverse effects at the population level for any migratory bird species (FEIS, page 3-405).

15. Noise. An issue raised during travel planning was the impact that noise from off-highway vehicles (OHVs), snowmobiles and other motorized vehicles have on the quality of people's recreation experience. Noise was a consideration in the Travel Plan decision for Bear Canyon (Travel Plan ROD, page 38) as residents along the Bear Canyon road and near the trailhead often raised these concerns. However, beyond the ideas to mitigate noise as discussed on page 90 of the Travel Plan ROD, the resolution comes down to whether to prohibit motorized uses or allow it and accept the associated noise impact. For Bear Canyon this choice was made in the Travel Plan and that was to continue to provide for motorized recreation. The same is true for my decision here to extend the season of use.

16. Recreation. Recreation was the underlying premise for developing a Gallatin National Forest Travel Management Plan. The issue is addressed on pages 3-420 through 3-483 of the Travel Plan FEIS and was a factor in my decision to extend the season of use on Trail #440.

17. Riparian Areas. Since the Travel Plan restricts wheeled motorized travel to designated roads and trails, the impacts to riparian areas are an issue associated with the road and trail facilities themselves, not one of the "use" on those routes. Therefore "riparian" was not a factor in my decision. Also, as I discussed in my rationale the Travel Plan decision adopted a standard (Standard 3-2) which states that the Bear Loop Trail (#440) and the Bear Lakes Trail (#53 and #508) within the Bear Canyon Creek drainage will not be opened to summer motorized, mountain bike, and horse use until the trail is brought up to a condition that accommodates those uses and alleviates sedimentation/water quality concerns. While relocating the historic road portion of the trail and decommissioning the old road system itself has corrected the major sedimentation problems with this route, a considerable amount of work remains on the loop sections of Trail #440 and also the Bear Lakes Trail (#53 and #508) before these routes can be opened for use at any time of the year.

18. Roadless Areas. Bear Canyon does not contain inventoried roadless areas therefore this issue is not relevant to my decision.

19. Soils. The environmental consequences of the Travel Plan alternatives on soils was addressed as issue 19 in the Travel Plan FEIS (page 3-519). This issue was considered in my decision to extend the season of use. See pages 7-8 of this document.

20. Watershed Management (Water Quality). The environmental consequences of the Travel Plan alternatives on water quality was addressed as issue 20 in the Travel Plan FEIS (page 3-535). This issue was considered in my decision to extend the season of use. See pages 7-8 of this document.

21. Wilderness, Wilderness Study Areas, and Recommended Wilderness. The Bear Canyon area does not fall within Wilderness, Wilderness Study Areas, and Recommended Wilderness, therefore this issue is irrelevant to my decision to extend the season of use.

22. Wolverine. For the wolverine (*Gulo gulo*) the Bear Canyon area is important for maintaining habitat connectivity for north-south movement between the Bridger-Bangtail Mountain Ranges and the Gallatin-Madison Mountain ranges. Travel related effects pertain to motorized route density (which includes all roads and trails that could have motorized use at any

time of year, Travel Plan FEIS, page 3-609), and the location of road and trail facilities (e.g. the Travel Plan objective for the Bear Canyon Travel Planning Area to relocate Trails #440 and #458 off of the ridge to create a non-motorized corridor (Travel Plan Detailed Description of the Decision, page II-21)). As discussed earlier, my decision to extend the season of use does not affect these parameters and therefore this was not a significant issue.

23. Wolves. Wolves were reintroduced to the Greater Yellowstone Area in 1995, and were designated a “non-essential experimental” population under Section 10 of the Endangered Species Act. After reintroduction, gray wolves quickly colonized areas of the Gallatin Forest adjacent to Yellowstone National Park (YNP). In the Travel Plan decision, based on the discussion beginning on page 3-636 of the FEIS, then Forest Supervisor Becki Heath concluded that none of the travel plan alternatives would result in significant adverse effects to wolves (Travel Plan ROD, page 111). Livestock depredation, illegal killing, and vehicle collisions on highways are the key factors that limit the distribution and population size of wolves. For this reason, I also did not find this issue to be a factor in my decision to extend the season of use on Trail #440.

V. Alternatives Considered and Studied In Detail

In making my decision I considered just two alternatives: A. The proposed action which would modify the Gallatin National Forest Travel Management Plan to extend the season of use for summer motorized vehicles (motorcycles and off-highway vehicles) on Trail #440 and #503 from an open season of July 16 – October 14 each year to an open season of July 16 – December 1 each year. And B. No action, which would leave the season of use for summer motorized vehicles on Trail #440 at an open season of July 16 – October 14 each year.

For the purposes of reviewing the analysis contained in the Gallatin National Forest Travel Plan FEIS, the proposed action alternative is reflected under Alternative 3, and the no action alternative is reflected under Alternative 7-M.

I did not select the no action alternative because it would not extend the season of use for summer motorized vehicles on Trail #440 and #503 and would not fully utilize the Bear Canyon travel planning area for its emphasized use, especially once resource conditions would allow this.

Environmentally Preferred Alternatives

The no action alternative would be the environmentally preferred alternative in the context of only looking at the extended season for summer motorized use. Retaining the fall use restrictions adopted by the Travel Plan decision would be more beneficial for the soil and water resources in Bear Canyon. In the broader context, the proposed action alternative would be the environmentally preferred alternative because providing additional ATV/motorcycle opportunity in the fall is important to motorized user groups and Gallatin County. Extending the season of use and entering into a long term settlement agreement would ensure a long term recovery of the highly erosive and land slide prone portion of the previous transportation facility. As stated in the Travel Plan FEIS for the fisheries/aquatic life issue the actual use, or mode of travel (e.g.,

motorized versus non-motorized) is inconsequential to water quality and fisheries (Travel Plan FEIS, page 3-181 and ROD, page 75). Rather, it is the facility itself (i.e., road or trail) that has potential to impact aquatic habitat and biota (id.).

Alternatives Not Given Detailed Study

There were no additional alternatives identified.

VI. Public Involvement

A. Overview of the Public Involvement Process

On October 10, 2010, a scoping letter was mailed to the individuals and organizations on the Gallatin Travel Plan mailing list for comment on this proposal. In addition, the Bozeman District Ranger made contacts with various individuals in the Bear Canyon area who had expressed interest as well as numerous contacts with the Gallatin County Commissioners.

B. Consideration of Public and Other Agency Comments

There were 69 comment letters submitted during the comment period provided on the proposed extension of the season of use on Trail #440. We've prepared responses to those received and they are available in hard copy, or electronically on the Gallatin National Forest website. Below is a general overview of some of the comments and how I considered them in my decision.

1. There were a number of comments that went beyond the proposal to extend the fall season for ATV, motorcycle and mountain bike use on Trail #440, and advocated either additional expanded opportunities for motorized use or prohibition of such use altogether.

The scope of this decision is defined by the opportunity to extend the motorized season of use resulting from resolution of jurisdictional issues in the Bear Canyon area in concert with the desired recreational travel emphasis documented in the Gallatin Travel Plan Record of Decision and associated standards.

2. Comments were raised about a dispute between the Forest Service and Gallatin County regarding certain actions taken by the Forest Service on the historic road portion of Trail #440. These actions include:
 - Decommissioning the historic road portion of the trail without written concurrence from the County.
 - An allegation that Forest Service employees tampered with a gate belonging to Gallatin County by removing a county lock and replacing it with a Forest Service lock.
 - Placing an unapproved sign on the gate and blocking access to a county road.
 - The new trail that was constructed to replace the historic road is inadequate and dangerous.

These comments have several components. At issue regarding the portion of the Bear Canyon Road and Trail #440 that the County asserts ownership on is whether or not the Forest Service and the State of Montana have the ability to regulate travel and manage the land. It is still disputed whether or not Gallatin County has certain rights on these routes as no easements exist in the public record. Thus the road, gate or signing were not in violation of county road easements or vandalism of county property.

The new trail location has had additional reconstruction with rock blasting, a wider tread and numerous pullouts. The trail meets and exceeds National Forest trail standards for the uses allowed on the trail – foot, bicycle, motorcycle, ATV and equestrian.

3. There were a number of comments about the sensitive erosive soils and the poor condition of the trail facility therefore managing for motorized use is inappropriate.

Trail improvements along with relocating the trail to the east side of Bear Canyon have reduced soil and water quality concerns. Trail maintenance and monitoring will be required to ensure that Travel Plan standards continue to be met.

VII. Findings Required by Other Laws, Regulations, and Policies

36 CFR 219 National Forest System Land and Resource Management Planning (1982)

There is one finding requirement applicable to my decision. The National Forest Management Act (NFMA) implementing regulations requires me to ensure that my decision is consistent with the Gallatin Forest Plan [(36 CFR 219.10(e); 1982)]. Based on the discussions of consistency with laws, regulations, policy and Forest Plan direction included at the end of each issue discussed in Chapter 3 of the Gallatin National Forest Travel Plan FEIS, I have concluded that my decision is consistent with the Forest Plan.

VII. Implementation

Implementation of my decision will occur when the trail is brought up to a condition that accommodates ATV, motorcycle and mountain bike use and alleviates sedimentation/water quality concerns. This is anticipated to occur for the 2012 summer season.

IX. Administrative Review or Appeal Opportunities

This decision is subject to appeal pursuant to 36 CFR 215.11. Only individuals or organizations that submitted substantive comments during the comment period on the Gallatin National Forest Travel Management Plan DEIS in 2005 may appeal under this rule. A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in the Bozeman Daily Chronicle, Bozeman, Montana. It is the responsibility of the appellant to ensure

their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the *exclusive* means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source.

Paper appeals must be submitted to: USDA Forest Service, Northern Region, ATTN: Appeal Deciding Officer, P.O. Box 7669, Missoula, MT 59807; or USDA Forest Service, Northern Region, ATTN: Appeal Deciding Officer, 200 East Broadway, Missoula, MT 59802. Office hours: 7:30 a.m. to 4:00 p.m. Fax (406) 329- 3411.

Electronic appeals must be submitted to: <appeals-northern-regional-office@fs.fed.us>. In electronic appeals, the subject line should contain the name of the project being appealed. An automated response will confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF).

It is the appellant's responsibility to provide sufficient project- or activity-specific evidence and rationale, focusing on the decision, to show why the decision should be reversed. The appeal must be filed with the Appeal Deciding Officer in writing. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14, and include the following information: The appellant's name and address, with a telephone number, if available; A signature, or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal); When multiple names are listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request; The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision; The regulation under which the appeal is being filed, when there is an option to appeal under either 36 CFR 215 or 36 CFR 251, subpart C; Any specific change(s) in the decision that the appellant seeks and rationale for those changes; Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement; Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and, How the appellant believes the decision specifically violates law, regulation, or policy.

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

Offer to Meet. When an appeal is received under this rule, the Responsible Official (me), or my designee, must contact the appellant and offer to meet and discuss resolution of the issues raised in the appeal (36 CFR 215.17). If the appellant accepts the offer, the meeting must take place within 15 days after the closing date for filing an appeal (i.e. 45 to 60 days from the publication date of the legal notice of this decision in the Bozeman Daily Chronicle). These meetings, if they take place, are open to the public. For information on if, when and where such a meeting is scheduled, please visit the following web site:

<http://www.fs.usda.gov/goto/r1/appeal-meetings>

X. Contact Person

For additional information concerning this decision or the Forest Service appeal process, contact Lisa Stoeffler, Bozeman District Ranger, 3719 Fallon Street, Suite C, Bozeman, MT 59778, (406) 522-2520.

MARY C. ERICKSON
Forest Supervisor
Gallatin National Forest

Date

XII. References

USDA Forest Service, 2006. Final Environmental Impact Statement for the Gallatin National Forest Travel Management Plan.

USDA, Forest Service, 2005. Draft Environmental Impact Statement for the Gallatin National Forest Travel Management Plan.

USDI. 1995. Biological Opinion on Access on the Gallatin National Forest. U.S. Fish and Wildlife Service, Helena, MT, USA.

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