



File Code: 1570

Date: August 4, 2011

Paul Turcke  
Moore, Smith, Buxton & Turcke, CHTD  
950 W. Bannock Street, Suite 520  
Boise, ID 83702

Dear Mr. Turcke,

On June 20, 2011, you filed a Notice of Appeal (NOA) on behalf of **NOVA Guides** pursuant to 36 CFR 215. White River Forest Supervisor Scott Fitzwilliams signed the Record of Decision (ROD) approving Alternative G Modified of the White River Travel Management Final Environmental Impact Statement (FEIS) on March 17, 2011. Pursuant to 36 CFR 215.17 an attempt was made to seek informal resolution of the appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.18 - Formal review and disposition procedures. I have reviewed the appeal record, including your written NOA, the ROD, FEIS, SDEIS, DEIS and supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

### **FOREST ACTION BEING APPEALED**

The White River National Forest travel planning effort is an extension of earlier planning processes to both update the WRNF travel management direction and to align the travel strategy on the Forest within the scope of the White River Forest Plan. Due to public input and the complexity of the subject matter, the decision was made to separate the two plans and develop the Travel Management Plan after the completion of the Forest Plan in 2002.

In November 2005 the National Travel Management Rule (36 CFR 212) was published revising regulations in response to the growing popularity and capability of off-highway vehicle use of the national forests and the effects of that use on the environment. Subpart B of the final Travel Management Rule requires designation of roads, trails, and areas for motor vehicle use.

The purpose of the Forest Supervisor's action is to implement the 2005 Travel Management Rule through selection of a designated road and trails system, allowable uses on those routes, and winter motorized travel uses by area or designated routes. Identified needs are to update the official designated transportation system, identify what is not part of the official travel system, and designate a travel system aligned with the need to balance social and resource demands.



The decision will:

- Designate the official White River National Forest system road and trail network.
- Designate 1,420 miles of road to be open to licensed vehicles of which 872 miles will be open to licensed and unlicensed vehicles.
- Designate 1,613 miles of road and trail to be open to licensed motorcycles of which 1,066 miles will be open to unlicensed motorcycles.
- Designate 1,023 miles of road and trail to be open to motorized vehicles less than 50” in width (ATVs).
- Allow mechanized (bicycle) travel on 2,172 miles of road and trail.
- Designate 3,373 miles of road and trail for horseback riding and 3,592 miles for hiking. The Forest is an open forest for horse and hike travel.
- Incorporate 225 miles of previously unauthorized routes into the travel system.
- Decommission 519 miles of system routes.
- Authorize those areas where motorized use over snow can occur in accordance with 36 CFR 212, Part C. There will be 695,723 acres of open areas for motorized use; 517,693 acres of restricted areas where motorized use over snow can occur on designated routes; and within restricted acres, 198 miles of over snow routes will be authorized.
- Exempt in the final travel order and motor vehicle use maps, use and occupancy of National Forest System lands and resources pursuant to a written authorization issued under federal law or regulation.
- Not allow off road travel for game retrieval.
- Allow off road parking for special uses such as forest product gathering when specified and issued by permit.
- Allow parking a motor vehicle on the side of the road up to 30 feet from the edge of the road surface for all uses other than dispersed camping or as specified by a permit.
- Allow off road camping and parking; it must not damage the land, vegetation or streams and no live trees may be cut.
- Allow access for permitted activities on National Forest System lands independent of general public access. Individuals or groups with special permits will be allowed to conduct their business according to the conditions outlined in their permits.

## **APPEAL REVIEWING OFFICER’S FINDINGS AND RECOMMENDATION**

The Appeal Reviewing Officer, Richard Cooksey, Deputy Forest Supervisor Medicine-Bow/Routt National Forest, found that:

- Documentation in the record demonstrated compliance with applicable laws, regulations and policies in light of the appeal issues raised by the appellant: A) the decision improperly restricts permitted operations; B) the plan lacks legally required route specific analysis; C) the decision contains numerous flaws regarding decommissioning; D) the socioeconomic effect analysis is legally deficient; E) analysis of technical issues is deficient; F) the cumulative effects analysis is legally deficient; and G) specific decision components will adversely impact NOVA Guides.

- With regard to Appeal Issue A) the decision and analysis demonstrate that the effects of travel management o permitted outfitters was considered, however there is an opportunity to clarify how the decision may be implemented regarding routes with outfitter permitted use, Appeal issue C) the decision to designate a travel management strategy for roads and trails was supported by the record, but the Forest Supervisor erred in concluding that no further NEPA on the decommissioning and rehabilitation methods would be needed, and Appeal Issues D) the decision to decommission closed roads and trails was supported by the record, but the Forest Supervisor erred in omitting from the FEIS the socio-economic analysis section.

ARO Cooksey recommended affirmation of the Forest Supervisor's decision on all issues, with instruction to work with the outfitters and guides who hold Special Use Authorizations to determine which routes are available for their use and/or what mitigation measures may be applied to continue the permitted use and to consider additional site-specific NEPA analysis as appropriate, prior to decommissioning roads or trails as identified in Appeal Issue C, and instruction to post and make available the socio-economic analysis section of the FEIS as identified in Appeal Issue D. Requested relief to 1) withdraw the decision; 2) remand the decision for further analysis; and 3) utilize the appeal process to facilitate additional analysis, should be denied.

## **APPEAL DECISION**

I agree with the ARO's analysis as presented in the enclosed letter. All appeal issues raised have been considered. I affirm the Forest Supervisor's decision to implement Alternative G Modified, along with the instruction pursuant to the ARO's recommendations on Appeal Issues C and D. I deny requested relief to withdraw or remand the decision for further analysis.

The project may be implemented on, but not before, the 15<sup>th</sup> business day following the date of this letter (36 CFR 215.9(b)). My decision constitutes the final administrative determination of the Department of Agriculture (36 CFR 215.18(c)).

Sincerely,

*/s/ Randall Karstaedt*  
RANDALL KARSTAEDT  
Appeal Deciding Officer  
Acting Deputy Regional Forester, Resources  
Enclosure

cc: Wendy Haskins  
Scott Fitzwilliams  
Cindy Dean