United States Department of Agriculture | **Forest Service** | **Intermountain Region** | **324 25th Street Ogden, UT 84401**

File Code: 1570-1
#05-04-00-0053-A215
Date: October 21, 2005

Marcus Libkind
Snowlands Network
P.O. Box 230
Livermore, CA 94551

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Mr. Libkind:

In accordance with 36 CFR 215.18, I have reviewed the appeal record, Environmental Assessment (EA), Decision Notice and Finding of No Significant Impact (DN/FONSI) for the West Hoover Travel Plan, an update to the Bridgeport Ranger District Travel Management Plan and amendment to the Toiyabe Land and Resource Management Plan.

My review focused on the project documentation and the issues raised in the appeal you filed on behalf of Snowlands Network and Winter Wildlands Alliance. I have also considered the recommendations of the Appeal Reviewing Officer regarding the disposition of your appeal. A copy of that recommendation is enclosed.

APPEAL DECISION

I am affirming the decision by Acting Humboldt-Toiyabe Forest Supervisor Ed Monnig. This decision involved many competing public desires. I find that the Acting Forest Supervisor provided adequate rationale in the decision notice explaining how he balanced the competing interests. He thoroughly considered anticipated effects and provided mitigation measures that allow for adjustment as needed to avoid unacceptable impacts.

I am directing the Forest Supervisor to obtain written concurrence from the Great Basin Unified Air Quality Control District regarding his determination of effects and compliance with applicable air quality standards.

In making my decision, I also considered the fact that the Forest is in the process of revising the Humboldt and Toiyabe Land and Resource Management Plans. That process will evaluate areas to be recommended for wilderness and explore management of the area. In addition, under the Roadless Area Petition Process, the Governor of California has a further opportunity to make recommendations to the Secretary of Agriculture on the management of this area.

I find that the activities documented in the EA, DN/FONSI, and the project record are in compliance with applicable laws, regulations, and policy. A more detailed explanation of the response to the appeal is enclosed.

This constitutes the final administrative determination of the United States Department of Agriculture under 36 CFR 215.18(c).

Sincerely,

CATHRINE L. BEATY
Appeal Deciding Officer

Enclosures

cc: Humboldt-Toiyabe Forest Supervisor (Robert Vaught)

West Hoover Travel Management Plan
Linda Lyerly Appeal #05-04-00-0041 (41)
Heidi Hall Appeal #05-04-00-0047 (47)
Steve Tyler Appeal #05-04-00-0048 (48)
Sierra Club Appeal #05-04-00-0050 (50)
Pacific Crest Trail Association Appeal #05-04-00-0051 (51)
Natural Resources Defense Council, et al Appeal #05-04-00-0052 (52)
Snowlands Network, et al Appeal #05-04-00-0053 (53)

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

APPEAL ISSUE 1: The Humboldt-Toiyabe National Forest (Forest) violated NEPA by failing to consider an adequate range of alternatives and failed to adequately analyze the No Action Alternative. **(50, 52)**

RESPONSE: NEPA requires consideration and analysis of alternatives to display a range of environmental consequences sufficient to support an informed decision. There is no requirement to analyze an infinite range of slightly different alternatives or any specific number of alternatives (CEQ's 40 Most Asked Questions, Nos.1-3).

The Forest used the scoping process and public comments received on the Proposed Action to identify issues and develop a range of alternatives. This process, as well as alternatives considered in detail and those considered but not given detailed study, is described in the Environmental Assessment (EA). The Forest considered two alternatives in detail and eliminated six alternatives from further study (EA, pp. 2-7). The EA and the Decision Notice/Finding of No Significant Impacts (DN/FONSI) document the rationale for eliminating various alternatives from detailed analysis, which is consistent with the guidance provided by CEQ (EA, pp. 6-7; DN/FONSI, p. 5).

NEPA requires a sufficient analysis of alternatives in order to identify any environmental consequences, thus supporting an informed decision. The CEQ guidelines require that a No Action Alternative be analyzed in detail (CEQ's 40 Most Asked Questions, No. 3). The No Action Alternative acts as a baseline to compare an existing condition to the potential condition of implementing an action alternative.

The Forest identified various resources that may be affected by the Proposed Action and are currently being impacted by the No Action Alternative. The analysis of the No Action Alternative and associated impacts are presented in the EA (EA, pp. 12, 16, 21, 28, 29, 31, 33, and 34). Consistent with CEQ guidance, the Forest provided rationale for not selecting the No Action Alternative (DN, p. 8).

APPEAL ISSUE 2: The Forest violated NEPA by failing to analyze and consider cumulative impacts of the various alternatives. **(50, 52)**

RESPONSE: A cumulative effect is "the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable

actions, regardless of what agency or person undertakes them" (40 CFR 1508.7). When there are no direct or indirect effects, there are no cumulative effects to be analyzed. Where the Forest identified direct and indirect effects, the cumulative effects are analyzed. (EA, pp. 22-23).

APPEAL ISSUE 3: The Forest has not adequately cited or referenced quantitative analyses in the EA. The EA is largely not quantitative and therefore does not provide substantial evidence for its conclusions. **(50)**

RESPONSE: NEPA and the implementing CEQ regulations allow for the use of unquantified environmental impacts, values and amenities in analyses (40 CFR 1502.23). Where agencies rely upon other materials in the analysis, those materials may be incorporated by reference (40 CFR 1502.21).

The Forest disclosed the various studies, report, plans and other NEPA documents that were relied upon in the analysis (EA, pp. 37-38). The Forest used textual information to compare the effects of alternatives and to derive conclusions on potential impacts from snowmobile use. Information from the cited 2005 Desert Research Institute study and the Ingersoll study provide bases for evaluation of potential impacts in the EA. The EA summarizes result of snow monitoring to date (EA, p. 30).

APPEAL ISSUE 4: The Forest did not adequately explain how impacts to the Pacific Crest Trail, Yosemite National Park, and Emigrant/Hoover designated wilderness areas did not meet the significance threshold requiring an Environmental Impact Statement (EIS). **(50, 51, 52)**

RESPONSE: The term "*significant"* has specific meaning within the NEPA process. If a proposed action will result, or may result, in significant effects to the human environment, then the preparation of an EIS is required. If the proposed action is not likely to result in a significant effect to the human environment, then an EA may be prepared to determine the level of significance. A significant effect is defined in the CEQ regulations (40 CFR 1508.27). There are two aspects that must be considered in determining significance: Context and Intensity.

Under Context, the determination of significance varies with the setting of the proposed action. On a site-specific proposed action, significance would usually depend upon the effects to the local rather than the national scope. Since the effects described in the EA are localized to the project area, they do not meet the threshold for significance based on Context.

Intensity has ten separate elements, which include: impacts both beneficial and adverse; the degree to which the action affects human health and safety; unique characteristics such as historic or cultural resources, park lands, prime farm lands, wet lands, wild and scenic rivers or ecologically critical areas; the degree to which the possible effects to the human environment are likely to be highly controversial; the degree to which the action are highly uncertain or unknown risk; whether the action is related to another related action with individually insignificant but cumulatively significant effects; and whether the action threatens or violates Federal, State, or local law (40 CFR 1508.27 (b)).

The analysis and determinations found in the EA, DN, and the project record clearly establish a rationale and support a finding that the effects are below the significance threshold (40 CFR 1508.27).

APPEAL ISSUE 5: The Forest must provide a "draft" EA for the public to review prior to making a decision. **(52, 53)**

RESPONSE: There is no requirement under NEPA or Forest Service regulations that agencies provide a draft EA to the public for review. The Responsible Official may determine the most effective timing for requesting public notice and comment on a proposed action by publication of a legal notice (36 CFR 215.5).

The Forest published the legal notice of proposed action in the Mammoth Times on March 17, 2005, as well as other regional print media outlets (EA, p. 7; DN, p. 8). The Forest refined the proposed action based on public comments and notified the public about the changes through the print media, the Forest internet page, and by mail to those who had expressed an interest.

APPEAL ISSUE 6: The EA and DN fail to address the conflict between the Proposed Action and the 1986 Toiyabe Land and Resource Management Plan (LRMP). **(53)**

RESPONSE: NFMA provides that plans may be amended (16 USC 1604(f)(4)). If a proposed site-specific decision is not consistent with the applicable plan, the Responsible Official may amend the plan to authorize the action (36 CFR 219.10).

The Forest Supervisor acknowledged that the proposed action was not consistent with the existing LRMP, and therefore included amending the LRMP as a component of the proposed action (DN, pp. 4-8). The Forest Supervisor determined that the amendment, which affects less than on-half of one percent of the forest plan area, is not significant and that the amendment would not cause significant changes in the multiple-use goals and objectives for long-term planning (DN, p. 11). The proposed action is consistent with the amended plan.

APPEAL ISSUE 7: The Forest failed to include appropriate monitoring requirements, including any triggers that would necessitate an adjustment in use, and no source of funding was identified. **(53)** Proposed mitigations in the EA are inadequate, being either hypothetical or unlikely. **(50)**

RESPONSE: Agencies may provide for monitoring and mitigation measures to assure that the decision is carried out (40 CFR 1505.3). There is no requirement to identify how implementation, including monitoring, will be funded.

The Forest provided numerous resource protection measures, broken down into two categories: "Measures to protect nearby closed areas and other uses," and "Measures to protect ecosystem integrity." The Forest identified a variety of means to protect closed areas, including public education, Forest Service enforcement, and monitoring by means of volunteers and county law enforcement personnel. Ecosystem integrity will be monitored in conjunction with California

Department of Fish and Game, Lahontan Water Quality Control Board, Desert Research Institute, and Great Basin Unified Air Quality Control District (EA, pp. 3-4; DN, pp. 2-3). The Forest started monitoring of contaminant levels in snowpack in spring 2005, one of the resource protection measures. This will provide a baseline for assessment of future changes in contaminant levels (DN, p. 3; Desert Research Institute, 2005). The Responsible Official will close the area or adjust the use in a manner to meet the standards (EA, p. 2; DN, p. 6). By making the decision to proceed with the proposed action, the Forest Supervisor has committed to assuring that all aspects of the decision, including monitoring, are carried out (DN, pp. 2-3).

APPEAL ISSUE 8: The EA does not explain the process by which the setback along the Pacific Crest Trail will be established and the setback will be established without an opportunity for an administrative appeal process. **(51, 53)**

RESPONSE: The project map clearly indicates that the PCT is outside of the proposed project boundary (EA, p. 5). The setback process is a connected action and has been disclosed in the EA (EA, p. 3; DN/FONSI, p. 2). Establishing the setback will have no environmental effects that have not been disclosed in the EA and project record; therefore, the appeal opportunity for the setback process was included in the administrative appeals process for the overall proposed project.

APPEAL ISSUE 9: The Purpose and Need is too narrowly defined, which limited the evaluation of other alternatives. **(50, 53)**

RESPONSE: The Forest clearly described the background for the Purpose and Need and adequately tied it to the situation on the ground (EA, pp. 2-7). The Forest Supervisor did consider the No Action Alternative in detail, which would have included a complete snowmobile closure and clearly explained the rationale for selecting the proposed action (EA, p. 6, DN, pp. 5-8). The Forest explained why other alternatives, that were considered, were not addressed in detail (EA, pp. 6-7).

AIR QUALITY

APPEAL ISSUE 10: The EA improperly argues that air quality is not expected to change. The EA's reliance of the gradual introduction of 4-stroke engines is hypothetical. The EA fails to conclude that any impact is necessarily significant in a non-attainment area. The Agency fails to consider the combined effects of additional snowmobiles in the area on particulate and ozone levels that are already out of attainment with national and state standards. **(50, 52)**

RESPONSE: Part D of the Clean Air Act discusses the roles and responsibilities related to conformity in non-attainment areas as defined by the Act. Generally, actions must meet the State Implementation Plan (SIP) designed to bring areas of non-attainment back into standards. Newly proposed projects are required to demonstrate that they will not cause or contribute to any additional violations of the non-attainment standards. Regulations outline the specific requirements for "Determining Conformity of Federal Actions to State or Federal Implementation Plans" (40 CFR 93.100).

Mono County is in non-attainment for Federal and State standards for PM and State standards for ozone (EA, pp. 32-33). The Great Basin Unified Air Pollution Control District has the authority for air quality management in Mono County (EA, p. 32). Ozone and particulates are primarily summer-time concerns (EA, p. 33). The Forest predicts the number of snowmobiles will increase, and that there will be an increasing change from 2-stroke to 4-stroke engines, [which are cleaner-burning] (EA, p. 32). This assumption is reasonable since 4-stroke engines will likely become more available and affordable over time.

APPEAL ISSUE 11: References in the EA to emissions data from Yellowstone do not mach the data from independent tests. **(52)**

RESPONSE: The numbers cited in the EA were the lowest values. The table below displays the differences in how the documents displayed the data. It appears that except for emissions of oxides of nitrogen that the EA shows the lowest values in the analysis rather than a range of values, which may lead to an overestimation of the impacts.

Emissions from 4-stroke engines vs. 2-stroke engines as portrayed in EA and Lela and White, 2002

	EA, p. 32	**Lela and White, 2002. p. vii**
Oxides of Nitrogen (NOx)	> 7-10 times	> 7-10 times
Hydrocarbons (HC)	95% less	98 to 95% less
Carbon Monoxide (CO)	85% less	85% less
Particulate (PM)	90% less	90-96% less

While the display of part of the data (ranges) may be considered inappropriate by some, the fact that the lowest values were used provides an analysis that will show the maximum impacts from the proposed action. Hence, these values are more protective of the resources and provide an adequate basis for analysis.

APPEAL ISSUE 12: There were four individual appeal points referencing emission differences of 2-stroke and 4-stroke engines and management restrictions which relate to the difference. **(41, 48, 50, 52)**

RESPONSE: The EA discusses emission differences between 2-stroke and 4-stroke snowmobile engines (EA, pp. 32-33). The Environmental Protection Agency (EPA) has set emission standards for snowmobiles manufactured in 2006 and later, which will lead to a reduction of emissions for all snowmobiles (EA, p. 32). The EA specifies the "Forest Service will adhere to all air quality emission standards" (EA, p. 32). The decision includes a variety of measures to protect air quality, including collecting and analyzing snow samples (DN, p. 3). The decision specifically provides that the Forest will adjust snowmobile use if the Great Basin Unified Air Quality Control District determines that the air quality level has become unacceptable (DN, p. 3).

RECREATION

APPEAL ISSUE 13: Seven individual appeal points related to user conflict: impacts to the Pacific Crest Trail, PCT boundary determination, impacts upon primitive recreation opportunities, conflicts with Marine Corps, training covered under special use permit, general conflicts between skiers and snowmobilers, and violations of 36 CFR 295.2. **(47, 52, 51, 50, 53)**

RESPONSE: User conflicts, or the potential for conflict, are acknowledged and outlined in the public involvement, affected environment, and environmental consequences portions of the EA (EA, pp. 3, 7, 9, 11-12, 15, 18, and 28). User groups with identified potential for conflict include motorized users, non-motorized users, and the Marine Corps. Effects on non-motorized users are located in the recreation environmental consequences section of the EA (EA, pp. 12, 14, 17, and 18). The EA does address impacts to the Marine Corps operations in both alternatives with some impacts likely under each alternative (EA, p. 10). Colonel J.G. Schwankl, Marine Corps, recognized the potential for impacts and stated, "the Marine Mountain Warfare Training Center will continue to provide input and work with the Forest Service to ensure that vital winter training activities can continue in the Leavitt Bowl and Sardine Meadow" (Letter, Colonel J. Schwankl, to M. Wood, April 15, 2005). In addition, the DN/FONSI provides for adjustments to snowmobile use based on effects related to changes in snowmobile use from this decision and based on information provided by the Marine Corps (EA, p. 2).

In accordance with 36 CFR 295.2, the Forest seeks to minimize user conflict by restricting use of snowmobiles after April 15 (EA, p. 8). The decision maker specifically addresses and cites 36 CFR 295 and efforts to minimize user conflicts (DN, pp. 6-7).

APPEAL ISSUE 14: There were 23 appeal points concerned with enforcement, including: lack of or ineffectiveness of signage, lack of or ineffectiveness of enforcement efforts, trespass use in the Emigrant Wilderness Area, Pacific Crest Trail and Yosemite National Park, effectiveness of DN/FONSI resource protection measures, and existing regulation. **(41, 47, 52, 51, 50, 53)**

RESPONSE: The decision includes resource protection measures requiring enhanced signage that are intended to increase compliance with area boundaries. The need for additional signage is recognized (DN, p. 2). Other measures include educating the public to avalanche hazards and Marine training activities. The Forest considered potential for trespass use in the Hoover and Emigrant Wilderness Areas, the Pacific Crest Trail, and Yosemite. The Forest considered but did not carry forward an alternative to open the entire area to snowmobiles, due to the high potential to generate trespass motorized use (EA, p. 6). A local snowmobile task force, including the Mono County Sheriffs Department, was formed to institute a "Zero Tolerance" policy to help prevent unauthorized motorized intrusions into the project and adjacent wilderness areas. Resource protection measures also include adjusting snowmobile use due to lack of compliance, increasing public information and education. The commitment to set boundaries based on recognizable topographic features also responds to trespass issues.

APPEAL ISSUE 15: There were seven individual appeal points related to recreation use including: inadequate or misleading estimates of existing use, lack of data presented, lack of cumulative effects, closure of other areas increases demand for motorized use is unfounded,

assumptions of snowmobile use increase unreasonable, and failure to heed scientific controversy. **(50, 52, 53)**

RESPONSE: General assumptions regarding recreational use projections are provided in the EA. The discussion relates to projected increases or decreases in use and is not specific to either alternative (EA, p. 10). Use levels are also affected by many unpredictable factors, which could change seasonally. Two seasons of recreation use numbers are provided (EA, p. 11). Accounts related to the numbers of skiers using the area differ, but over use was not brought up as an issue. The importance of and use by skiers in the area were acknowledged in the decision by providing for non-motorized use after April 15 when the area is more accessible to skiers and snow conditions more stable. The balance between conflicting recreational demands was a factor considered in reaching the decision (DN, p. 5).

APPEAL ISSUE 16: The EA incorrectly ignores the increased dangers to other forest visitors resulting from an increase in snowmobile use and the DN offers no mitigation. **(53)**

RESPONSE: The Forest considered comments that addressed potential impacts to skiers (EA, p. 8). They recognized that there could be a reduction in some recreation opportunities in the project area due to the limited compatibility of snowmobiling with human powered winter recreation pursuits (EA, p. 17). Mitigations were developed around this issue, including closing the entire area to snowmobiling on or around April 15 to provide for non-motorized recreation during skiers' desired season (EA, p. 1) and improving signage on potential avalanche dangers (DN, p. 3).

APPEAL ISSUE 17: There is no mention of noise pollution and effects of noise pollution are not quantified. **(41, 50)**

RESPONSE: The EA recognizes that an increase in noise due to the proposed action would occur and may negatively impact some visitors to the project area and possibly those using the Pacific Crest Trail just outside the project area boundary (EA, p. 12). Under existing conditions the "sound of snowmobiles would be evident in parts of the area due to existing use along the Leavitt Lake Road corridor in addition to the sights and sounds of the Marine Corps exercises there. In the Proposed Action the "…sound of snowmobiles would be heard in much of the project area…when snowmobiles are using the area" (EA, p. 16). Since snowmobiling is a transitory winter use, it leaves few visible signs of past use and, therefore, no lasting impacts to the natural integrity of the project area (EA, p. 16).

APPEAL ISSUE 18: Local businesses may succeed only in losing their present business from skiers, resulting in a net decline. The EA fails to adequately examine the adverse economics of this project. **(50)**

RESPONSE: The economic analysis indicates that the off-season, winter, is a critical time for increasing economic returns. So increases in businesses related to winter recreation should be positive for the area (EA, p. 29). The proposed action would only change use designations in 15% of the previously non-motorized area, not eliminate all backcountry skier opportunities.

The EA notes that business generated in this area "is unlikely to affect the overall level of economic activity in Mono County" (EA, p. 29).

APPEAL ISSUE 19: The EA shows that the project will have a significant impact on visual quality, particularly from the Pacific Crest Trail. This impact requires preparation of a complete EIS. **(50)**

RESPONSE: The EA states that the area has high scenic integrity (EA, p. 15). In winter, current uses leave tracks in the snow but these are temporary and do not reduce the overall high quality of the scenery in the area (EA, p. 34). The Forest Supervisor determined that these effects are not significant; therefore an EIS is not required (DN, pp. 9-11).

APPEAL ISSUE 20: The rationale for the DN wrongfully relies on proposed regulations that are not applicable to this project. **(53)**

RESPONSE: The Forest Supervisor did not rely upon the proposed travel regulations as the basis for his decision. Rather, he cited the proposed regulations to demonstrate that the conclusion in the EA that impacts associated with the proposed snowmobile use do not rise to the level of significance that requires an EIS is a view that is also held by others (DN, pp. 5-6). The Forest Supervisor also provided additional rationale for this conclusion (DN, pp. 6-7).

WATERSHED

APPEAL ISSUE 21: The EA did not analyze the availability of uncontaminated drinking water for Pacific Crest Trail users along the trail. **(51)**

RESPONSE: The Forest Service is not required to provide a certain quality of water to Pacific Crest Trail users. The EA states, "None of the creeks in the area are used for public drinking water" (EA, p. 18). Therefore, this issue is outside the scope of the analysis.

APPEAL ISSUE 22: The EA fails to mention that the decision would allow for continued snowmobile use along the Leavitt Road Corridor and on the surface of Leavitt Lake and the effects of snowmobiles on lake chemistry and aquatic resources in and around Leavitt Lake may be compounded even after the April 15 closure date since the corridor may still be open to snowmobiles after April 15. **(52)**

RESPONSE: The Forest acknowledged that snowmobiles "…could continue to be used … in the Leavitt Lake Road corridor pursuant to the Toiyabe LRMP" (EA, p. 6). The maps show that the road corridor and Leavitt Lake, which already have motorized access, are excluded from this decision (DN, p. 4; EA, p. 5). There is no need to specifically state that continued snowmobile use will take place.

Leavitt Lake is outside the geographic scope of this project, so no direct impacts would occur as a result of this decision.

APPEAL ISSUE 23: The EA completely dismisses impacts of snowmobile use to soils in the project area, assuming that the area will only be utilized during periods of sufficient snow cover. These impacts are cumulative and long lasting. There is no analysis of the multi-year buildup of pollutants in the soil and lakes and particularly in groundwater and agricultural land. The EA incorrectly implies that only the pollution of drinking water must be considered. **(50, 52)**

RESPONSE: The EA does not "completely dismiss" impacts of snowmobile use to soils. The DN states "[t]he closing date [to snowmobile use] will be April 15 of each year unless the Bridgeport District Ranger determines on an annual basis that an earlier or later closing date is appropriate and would provide proper protection from potential resource damage. The closures will be determined on an annual basis as on-the-ground conditions warrant" (DN, p. 2). This measure was created to protect soil resources. A resource protection measure requires "…on-the-ground observations of Forest Service personnel to monitor ecosystem integrity, including watersheds…" and further states that "[a]ny adjustments in snowmobile use needed to address ecosystem integrity would be consistent with this decision" (DN, pp. 2-3).

Comments on the Notice of Proposed Action included concerns about soil erosion caused by snowmobile use over bare ground. As a response to those concerns, the Forest modified the proposed action to adjust snowmobile use as needed to protect soil and water quality and provided the April 15 closure date to protect these resources (EA, p. 9). The Forest also considered impacts to surface waters (EA, pp. 30-32).

Literature cited in the EA demonstrates that impacts from volatile organic compounds are short-lived in snowmelt runoff, with the possible exception of toluene (*Effects of Snowmobile Use on Snowpack Chemistry in Yellowstone National Park*, 1998, Ingersoll, p. 17 [Ingersoll study]). This means that the short-lived volatile organic compounds would not persist at high levels in runoff delivered to stream channels (EA, p. 1). Impacts from these compounds should also be short-lived as water infiltrates to recharge ground water supplies.

A mitigation measure states that snow sampling will be conducted in cooperation with the Desert Research Institute in 2005 and 2006. Snow monitoring was conducted in the project area in spring 2005 to evaluate the presence and amount of semi-volatile organic compounds in snowpack (Desert Research Institute, 2005). Locations having various amounts of snowmobile use were sampled for a wide variety of compounds. Results to date are summarized in the EA and, as was described in the Ingersoll study, the highest levels of contaminants were found in the areas of heaviest use (EA, p. 30). Post-decision sampling will be conducted to evaluate changes in snowpack content of these compounds (DN, p. 3).

APPEAL ISSUE 24: The EA's assertion that adverse effects to fish and wildlife will not occur because toxic compounds will be unable to leach into lakes that will remain frozen as of the April 15 closure date is incorrect because any exhaust pollutants that are deposited on the snow and ice covering the lake will certainly end up in the lake. **(52)**

RESPONSE: Ingersoll reports that "All volatile organic compounds studied apparently exhibited this tendency [to volatilize into the gaseous phase as snowmelt begins] except toluene; all other constituents registered below reporting limits while toluene persisted in snowmelt runoff waters… Additional monitoring and analyses are needed to verify the persistence of

toluene in snowmelt runoff" (Ingersoll study, p. 17). This study shows that most volatile organic compounds tend to volatilize as snowmelt begins and are not a major concern. Implementation of resource protection measures will provide for protection of water quality if adverse impacts are noted. Pertinent measures include:

- Adjusting snowmobile use needed to address ecosystem integrity, including watersheds,
- Use of water quality data collected by the Lahontan Water Quality Control Board and others in the West Walker River watershed and adjusting snowmobile use if water quality impacts occur, and
- Collecting and analyzing snow samples in 2005 and 2006 by the Forest Service, in cooperation with the Desert Research Institute. Samples will be taken to evaluate contaminant levels in the area before and after the decision, and sampling began in the spring of 2005 (Desert Research Institute, 2005). Snowmobile use would be adjusted if contamination were found (DN, pp. 2-3).

Based on the Ingersoll study, it appears that most volatile organic compounds (the major toxic component of snowmobile exhaust) will volatilize before being delivered to water bodies. Implementation of resource protection measures will detect adverse water quality impacts, and adjustment of use will reduce any impacts.

APPEAL ISSUE 25: The Forest Service does not have any real plan in place to assure that the monitoring to protect ecosystem integrity will be done. **(52)**

RESPONSE: Resource protection measures include "on-the-ground observations of Forest Service personnel to monitor ecosystem integrity." Other monitoring measures include snow sampling to determine levels of organic compounds and adjusting snowmobile use as needed to address resource quality will be accomplished (DN, pp. 2-3). This sampling began in spring 2005 to provide baseline information, and the area will be resampled in 2006 to assess changes in conditions (Desert Research Institute, 2005).

APPEAL ISSUE 26: The EA admits that one of the rivers in the proposed project area, the West Walker River, is currently listed as "impaired" for sediment and siltation under the Clean Water Act. The EA fails to consider whether additional snowmobiling in the area will exacerbate the problem of sediment and siltation in the West Walker River and does not consider that snowmobile use prior to spring during low snow periods or illegal use later in the season will contribute to the problem. The proposed action threatens violations of various laws, including… The Clean Water Act because the only measure currently planned to avoid any violations of the Water Quality Standards is to monitor water quality data collected by the Lahontan Regional Water Quality Control Board and others to determine water quality impacts over time and to adjust snowmobile use in the future as needed. **(52)**

RESPONSE: The EA states "…the West Walker River is listed as 'impaired' for sediment and siltation by the Lahontan Regional Water Quality Control Board, the regulatory agency responsible for this portion of California" (EA, p. 30). The EA does not mention whether the stream is listed under the Clean Water Act (Section 303(d)), contrary to appellant's statement.

"Leavitt Creek and Sardine Creek, the West Walker River flows, are not listed as impaired" (EA, p. 30).

Water quality in Leavitt and McKay Creeks is described as "generally good throughout the year" (EA, p. 30). The EA states that water quality may be reduced during spring runoff when sediment flushes into the streams (a natural process), and that water quality later improves with decreasing discharge.

The decision incorporates resource protection measures to reduce water quality impacts. The DN states, "[t]he closing date will be April 15 of each year unless the Bridgeport District Ranger determines on an annual basis that an earlier or later closing date is appropriate and would provide proper protection from potential resource damage. The closures will be determined on an annual basis as on-the-ground conditions warrant" (DN, p. 2). This protection measure was developed to protect soils. A resource protection measure requires "…on-the-ground observations of Forest Service personnel to monitor ecosystem integrity, including watersheds…" and further states that "[a]ny adjustments in snowmobile use needed to address ecosystem integrity would be consistent with this decision" (DN, pp. 2-3).

Comments on the Notice of Proposed Action included concerns about soil erosion caused by snowmobile use over bare ground. The Forest responded to this concern by modifying the proposed action to adjust snowmobile use as needed to protect water quality and provided the April 15 closure date to protect resources (EA, p. 9).

Literature cited in the EA demonstrates that impacts from volatile organic compounds are short-lived in snowmelt runoff, with the possible exception of toluene (Ingersoll study). This means that the short-lived volatile organic compounds would not persist at high levels in runoff delivered to stream channels (EA, p. 31).

APPEAL ISSUE 27: The EA neglects to describe the condition of the area after unrestricted snowmobile access is allowed. Long-term effects on wilderness character will result from pollution of the water and soil. **(50)**

RESPONSE: Resource protection measures are provided to reduce adverse impacts to soil and water resources from snowmobile use under the proposed action (DN, pp. 2-3). The DN states that "[t]he closing date [to snowmobile use] will be April 15 of each year unless the Bridgeport District Ranger determines on an annual basis that an earlier or later closing date is appropriate and would provide proper protection from potential resource damage. The closures will be determined on an annual basis as on-the-ground conditions warrant" (DN, p. 1). This measure was added to protect soil quality. A resource protection measure requires "…on-the-ground observations of Forest Service personnel to monitor ecosystem integrity, including watersheds…" and further states that "[a]ny adjustments in snowmobile use needed to address ecosystem integrity would be consistent with this decision" (DN, pp. 2-3). Water quality data would be used to determine if adverse impacts are occurring over time; snowmobile use would be adjusted if water quality concerns were discovered (DN, p. 3). Snow sampling would be conducted (and began in 2005) to determine if contaminant levels in snow changes with implementation of the proposed action; snowmobile use would be adjusted if snowmobile-related contaminant levels were to increase (DN, p. 3).

Comments on the Notice of Proposed Action included concerns about soil erosion caused by snowmobile use over bare ground. As a response to those concerns, the Forest modified the proposed action to adjust snowmobile use as needed to protect soil and quality and provided the April 15 closure date to protect these resources (EA, p. 9).

Future condition of soil and water resources in the area with implementation of the alternatives is implicitly described via description of effects, i.e., changes in resource conditions with implementation of the alternatives (EA, pp. 29-32). The future character of the area is described in the EA, both for the No Action Alternative and the Proposed Action (EA, pp. 13-18).

WILDERNESS

APPEAL ISSUE 28: There are seven individual appeal points regarding wilderness. Appeal points include the following; impacts to Wilderness suitability; conflict with the LRMP due to increased opposition to designation; lack of cumulative impacts on wilderness values; monitoring does not assure ecosystem integrity; set precedent for future actions with significant effects due to trespass; and demonstrated failure to adequate protect those areas. **(50, 52, 53)**

RESPONSE: Wilderness and Wilderness character are described in detail in the EA, as is the current status of the project area relative to designation (EA, pp. 13-14). The Emigrant Wilderness, Yosemite National Park, and the Pacific Crest Trail are incorporated in discussion throughout the document, thus expanding the area considered for short and long term effects particularly in regard to trespass or illegal motorized use. The Forest specifically addresses suitability and wilderness character considerations and the issue of protection through enhanced enforcement activities (DN, p. 9). The LRMP conflict is addressed through the proposed plan amendment (See Response to Appeal Issue 6).

WILDLIFE

APPEAL ISSUE 29: The EA fails to adequately disclose the effects of the proposed action on wildlife and wildlife habitat. The effect of the proposed action on wildlife resources is a significant issue that should be disclosed in the EA. **(41, 48, 50)** The EA and FONSI are replete with examples of uncertainty including the statement that potential adverse impacts to Yosemite toads are speculative in nature because there does not appear to be any studies that directly link the effects of snowmobile exhaust pollutant to Yosemite toads. **(52)**

RESPONSE: The EA discloses that the Yosemite toad, great gray owl, pine (American) marten, and small subnivean (animals that remain active under the snow during the winter) animals such as pocket gophers, voles, mice, and shrews are the only wildlife species present in the project area during the winter period (EA, pp. 19-20). The occurrence and the effects of the proposed action to each of these species are discussed in the EA. The occurrence and the effects of the proposed action for those species listed as Forest Service sensitive or those species listed under the Endangered Species Act (ESA) are also disclosed in the Biological Evaluation/Biological Assessment (BA/BE) located in the project record.

Most wildlife issues are directly related to noise disturbance from snowmobiles and human presence (EA, p. 19). These factors can result in wildlife dispersal, or avoidance of an area (EA, p. 19). The EA also discloses that the proposed action can adversely affect wildlife by depositing snowmobile pollutants in the environment and by compacting snow, which degrades habitat for subnivean mammals (EA, pp. 21-24; BE/BA, pp. 23-24, 27-28).
The specific effects of the proposed action to those species present in the project area during the winter period (period of potential disturbance) are detailed below.

Yosemite toad
The BE/BA identifies the Yosemite toad as a candidate species, as defined by the ESA that occurs within the project area (BE/BA, p. 3). The EA also states that the Yosemite toad occurs within the project area (EA, p. 19). Critical Aquatic Refuges occur within the project area to protect Yosemite toad habitat (EA, p. 19). These toads use rodent burrows for hibernation during the winter (the period of disturbance) (EA, p. 19). First emergence from hibernation occurs between late April and early June (EA, p. 19). The proposed action stops snowmobile use on either April 15 or an agreed upon date based on biological factors annually to prevent adverse impacts to emerging toads (EA, p. 22).

The EA discloses that direct, indirect, and cumulative effects to Yosemite toads could potentially occur as a result of snowmobile exhaust accumulating in the snow (EA, p. 22). The EA discloses that these exhaust pollutants may result in increases in mortality rates (EA, p. 22). The EA discloses that "On a cumulative basis, Yosemite toads could also be affected by pollutants from the current level of snowmobile and Marine Corps vehicle use as well as habitat damage from summertime use of vehicles around Leavitt Lake, resulting in further potential mortality in this area" (EA, pp. 22-23).

The BE/BA discloses that the proposed action will result in the altering of the under snow environment and will result in the accumulation of exhaust pollutants in the environment (BE/BA, p. 23). These changes to existing conditions could result in both direct and indirect adverse effects to Yosemite toads (BE/BA, p. 23). The BE/BA discloses that the proposed action may impact individual Yosemite toads, but will not lead to a trend toward a federal listing of threatened or endangered (BE/BA, p. 24).

Great gray owl
The BE/BA identifies the great gray owl as a sensitive species for the Forest (BE/BA, p. 3). The EA states that the great gray owl was observed in the project area in 1960 (EA, p. 20). A "protected activity center" was delineated in 2001 based on this sighting (BE/BA, p. 26). No surveys for great gray owl have occurred within the project area since 1982 (EA, p. 20). The BE/BA discloses that potential great gray owl nesting and foraging habitat occurs within the project area (BE/BA, pp. 12-13). The BE/BA also discloses that the last great gray owl survey occurred in 1982, at that time no owls were observed (BE/BA, p. 13). The current status of the great gray owl within the project area is not disclosed.

The EA discloses that current snowmobile use on the Leavitt Lake Road corridor and the Senora Pass Highway corridor; along with Marine Corp training activities are affecting great gray owl activity (EA, p. 21). The EA discloses that if the great gray owl were to re-occupy the "protected activity center" the proposed action along with the existing uses could result in cumulative effects that adversely affect great gray owl nesting and foraging habitat values (EA, p. 23). The

BE/BA determined that the proposed action would result in direct, indirect, and cumulative adverse effects to the great gray owl (BE/BA, p. 27). The BE/BA determined that the "proposed action may impact individuals but (is) not likely to cause a trend to federal listing or a loss of viability of great gray owls" (BE/BA, p. 27).

Pine marten (American marten)
The pine marten is not an ESA listed species or a sensitive species for the Forest. The EA states that the pine marten is the only forest carnivore documented as occurring within the project area (EA, p. 20). This determination is based on forest carnivore surveys conducted in 1993 and 2003 (EA, p. 20). The EA discloses that current snowmobile use along Leavitt Lake Road and the Sonora Pass Highway along with the Marine Corp training activities are resulting in disturbance to the pine marten (EA, p. 22). This disturbance may result in species displacement or area avoidance (EA, p. 22). The EA discloses that the proposed action along with the current disturbance associated with the Marine Corp activities will result in cumulative effects that may result in displacement of the pine marten (EA, p. 24).

Subnivean animals (animals that remain active under the snow during the winter)
None of these species are ESA listed species or sensitive species for the Forest. The EA states that small animals (pocket gophers, voles, mice, and shrews) that are active during winter months occur within the project area (EA, p. 20). These animals provide a prey base for birds and mid-sized carnivores, such as great gray owls and pine martens (EA, p. 20). The EA discloses that snow compaction and carbon dioxide accumulation along the Leavitt Lake Road and the Sonora Pass Highway are currently adversely affecting habitat for these species (EA, p. 21). The EA discloses that the proposed action could affect these species; however, these effects would be minimal due to the expected dispersed nature of snowmobiling, which would not result in a major increase in snow compaction (EA, p. 24).

The EA and the BE/BA provide adequate analysis and disclosure of the effects the proposed action and the no action alternative have on wildlife that are present in the project area during the winter months and their respective habitat. The effects of both alternatives are compliant with Forest Service direction regarding Forest Service sensitive species management and ESA listed species management. Since both alternatives are compliant with agency direction and compliant with the legal requirements of the ESA, this action is not a significant action in regards to wildlife as defined by NEPA.

APPEAL ISSUE 30: The EA concludes impacts are likely minimal, contrary to evidence suggesting that the decision will have multiple cumulative impacts on amphibians in the project area, including mortality due to collisions and destruction of habitat. **(52)**

RESPONSE: The Yosemite toad is the only amphibian within the project area (EA, pp. 19-20). The proposed action, when analyzed against ongoing activities within the project area, could result in adverse cumulative effects to the Yosemite toad (EA, pp. 22-23). These adverse cumulative effects may result in increased toad mortality rates. The Forest determined that the proposed action would result in direct and indirect adverse effects to the Yosemite toad (BE/BA, p. 23). The Forest concluded that the proposed action may impact individual Yosemite toads, but will not lead to a trend toward a federal listing of threatened or endangered (BE/BA, p. 24).

APPEAL ISSUE 31: The BE/BA for the West Hoover Travel Management Plan was completed on July 22, 2005, after the Decision Notice/FONSI was signed on July 19, 2005. Critical wildlife information was not even finalized before the EA was completed and the Decision was signed. **(52)**

RESPONSE: The initial cover page for the BE/BA indicates that Maureen Easton reviewed Leeann Murphy's BE/BA on July 18, 2005 (BE/BA, cover page). Apparently Murphy placed the wrong date (July 22, 2005) on the cover page (BE/BA, cover page). The DN references the BE/BA for the West Hoover Travel Management Plan (DN, p. 11). The signature date on the DN is July 19, 2005. The BE/BA was completed and considered in the decision making process.

APPEAL ISSUE 32: The environmental effects, including cumulative, of snowmobiles on the great gray owl, marten, and other wildlife species, including the Sierra Nevada red fox and wolverines were ignored in the EA and accompanying FONSI. **(52)**

RESPONSE: The EA discloses those wildlife species that are present in the project area during the period of disturbance. A discussion of the effects of the proposed action on each of those species is found in Appeal Issue 29. The Sierra Nevada red fox was not included as a species that was present within the project area during the winter period. The effects of the proposed action on the wolverine were discussed in the BE/BA (BE/BA, pp. 15, 16, 28). Based on past monitoring, it was determined that the wolverine most likely does not occur in the project area (BE/BA, pp. 16, 28). The BE/BA determined that "there will be no direct, indirect, or cumulative impact to the wolverine under the proposed action" (BE/BA, p. 28).

APPEAL ISSUE 33: The EA's assertion that impacts on subnivean mammals would be minimal due to the expected dispersed nature of snowmobiling is contradicted by research. **(52)**

RESPONSE: The EA discloses that snow compaction and carbon dioxide accumulation along the Leavitt Lake Road and the Sonora Pass Highway are currently adversely affecting habitat for subnivean species (EA, p. 21). The EA also discloses that the proposed action could affect these species; however, these effects would be minimal due to the expected dispersed nature of snowmobiling, which would not result in a major increase in snow compaction (EA, p. 24).

The letter from Yosemite National Park raises the concern that snowmobile activity can adversely effect subnivean species and references a study by Javier and Schmidt (1971; Michigan State University) that reported the entire subnivean population of mice and other rodents in a field was killed by snowmobile compaction of snow (Letter from M. Tollefson, Superintendent Yosemite National Park to M. Wood Acting District Ranger, April 27, 2005, p. 1).

This research does not contradict the findings disclosed in the EA. The EA states that snowmobile use could affect subnivean species, see Response to Appeal Issue 29. The EA's conclusion of minimal affects is based on the assumption that the snowmobile use would be dispersed as opposed to concentrated.

APPEAL ISSUE 34: The EA's assertion that adverse effects to fish and wildlife will not occur because toxic compounds will be unable to leach into lakes that will remain frozen as of the April 15 closure date is incorrect because any exhaust pollutants that are deposited on the snow and ice covering the lake will certainly end up in the lake. **(52)**

RESPONSE: The EA discloses that direct, indirect, and cumulative effects to the Yosemite toad and to potential habitat for the mountain yellow-legged frog could potentially occur as a result of snowmobile exhaust pollutants accumulating in the snow (EA, p. 22). The EA discloses, "potentially increased concentration of exhaust pollutants may result in increases in mortality rates for the Yosemite toad (EA, p. 22). The BE/BA discloses that the proposed action may impact individuals of this species, but will not lead to a trend toward a federal listing of threatened or endangered" (BE/BA, p. 24). The DN provides for monitoring ecosystem integrity, including fauna and water quality. The decision includes the direction that adverse effects to these parameters from increased snowmobile use would result in "adjustments in snowmobile use" (DN, p. 3).

The EA and the BE/BA disclose that these pollutants can adversely affect wildlife. The effects disclosure complies with Forest Service direction regarding sensitive species management and ESA listed species management.

United States Department of Agriculture | **Forest Service** | **Intermountain Region** | **324 25th Street Ogden, UT 84401-2310**

File Code: 1570-1 **Date:** October 7, 2005
Route To:
Subject: Reviewing Officer Recommendation, West Hoover Travel Management Plan, Appeals #05-04-00-0041, #05-04-00-0047, #05-04-00-0048, #05-04-00-0050, #05-04-00-0051, #05-04-00-0052, #05-04-00-0053

To: Appeal Deciding Officer

This is my review and recommendation on the disposition of seven appeals of the Decision Notice (DN) and Finding of No Significant Impact (FONSI) for the West Hoover Travel Plan on the Humboldt-Toiyabe National Forest. The decision was appealed by Linda Lyerly (citizen), Heidi Hall (citizen), Steve Tyler (citizen), Sierra Club, Pacific Crest Trail Association, Natural Resources Defense Council, and the Snowlands Network et al.

Project Background

The Bridgeport Ranger District of the Humboldt-Toiyabe National Forest completed an Environmental Assessment (EA) for the West Hoover Travel Management Plan. The project is an evaluation and decision to update the Bridgeport District's Travel Plan and to amend the Toiyabe Land and Resource Management Plan (LRMP) to allow for snowmobile use within a 7,000 acre area, within the recommended West Hoover Addition to the Hoover Wilderness Area.

A DN/FONSI was signed by Acting Forest Supervisor Edward Monnig on July 19, 2005. The decision is to implement the Proposed Action as described in the EA.

The purpose for the project is to provide additional snowmobiling opportunities around the Leavitt Lake Road corridor in order to address changing patterns of winter recreation use and increased demand for snowmobiling in the area. Two alternatives were considered in detail in the EA, including No Action. Seven other alternatives were considered but not carried forward for detailed review.

The decision updates the Bridgeport Ranger District Travel Plan and amends the Toiyabe LRMP to provide for over-snow motorized vehicle use in a 7,000 acre area around the Leavitt Lake Road Corridor. The closing date will be April 15 of each year unless the District Ranger determines on an annual basis that an earlier or later closing date is appropriate and would provide proper protection from resource damage. A number of resource protection measures are included with the decision in order to protect nearby closed areas, other uses and ecosystem integrity. These measures include:

- use of volunteers to help with monitoring, enforcement, and public education;
- cooperating with neighboring national forests, Yosemite National Park and Mono County to monitor use and protect closed areas;
- enhancing Forest Service public education efforts;
- enhancing signage of boundaries and entrance points;
- continuing patrols of the area;
- requesting that the State of California require more visible snowmobile ID tags;

- conducting a field review to determine final placement of boundaries below the Pacific Crest Trail;
- using enforcement related monitoring to determine incursions into closed areas and adjust snowmobile use as necessary;
- using Marine Corps information on effects of snowmobile use on their training activities;
- using Yosemite toad population monitoring and other resource information to monitor ecosystem integrity and adjust snowmobile use as necessary;
- using water quality data collected by the Lahontan Water Quality Control Board and others to determine water quality impacts over time and adjust snowmobile use as necessary;
- installing restrooms or garbage receptacles as necessary;
- cooperating with The Desert Research Institute in collection of snow samples to address contaminant levels and adjust` snowmobile use as necessary; and
- adjusting snowmobile use as necessary if/when the Great Basin Unified Air Quality Control District determines unacceptable levels of air quality.

Appellant's Request for Relief

Appellant Linda Lyerly requests consideration of her specific appeal points.

Appellant Heidi Hall requests relief in the form of reversal of the decision. If the decision is not reversed, she requests a firm closure date of April 15th. She also requests that questions of enforcement be addressed differently.

Appellant Steve Tyler states opposition to the decision but does not request any specific relief.

Appellant Range of Light Group, Toiyabe Chapter of the Sierra Club requests that the decision be withdrawn. They also believe that an Environmental Impact Statement (EIS) should be completed or the project should be abandoned.

Appellant Pacific Crest Trail (PCT) Association requests that the agency provide specific mitigation measures in an amended decision or provide sideboards for further work in the current decision. They offer seven specific remedies, including delaying the decision until field work addressing boundaries along the PCT can be completed, requiring a minimum 500 foot distance from the PCT until additional field work can address a manageable boundary, and more specific details on mitigation measures, education and enforcement actions.

Appellants Natural Resources Defense Council, The Wilderness Society, and the Central Sierra Environmental Resource Center request a remand of the DN/FONSI with instructions to comply with applicable laws. They also request that the Forest be instructed to prepare an EIS which addresses direct, indirect, and cumulative effects, contains a reasonable range of alternatives, and which analyze and commits to meaningful and practical mitigation measures.

Appellants Snowlands Network and Winter Wildlands Alliance request the issuance of a revised DN selecting the No Action alternative or the withdrawal of the DN and the preparation of an EIS.

Appeal Summary

Many appeal points were shared by various appellants. Therefore the appeal points are summarized here in total, rather than being attributed to each appellant.

- Failure to consider an adequate range of alternatives and failure to adequately analyze the No Action Alternative.
- Failure to analyze and consider cumulative effects.
- Lack of adequately cited or referenced quantitative analysis.
- Failure to address impacts to the Pacific Crest Trail, Yosemite National Park, and Emigrant/Hoover designated wilderness areas.
- Failure to provide a "draft" EA for public review prior decision.
- Violations of the LRMP and Travel Management Regulations.
- Failure to include appropriate monitoring requirements, including any triggers that would necessitate an adjustment in use.
- Failure to explain the process by which the setback along the PCT will be established and without an opportunity for an administrative appeal process.
- Purpose and Need is too narrowly defined.
- Inadequate assessment of impacts to air quality.
- Failure to consider combined effects of additional snowmobiles in the area on particulate and ozone levels.
- Quality and adequacy of emissions data, relationship to 2-stroke and 4-stroke engines.
- Inadequate assessment of various use conflicts and violations of 36 CFR 295.2.
- Inadequate assessment or adequacy of enforcement, signage, trespass use in the Emigrant Wilderness Area, Pacific Crest Trail and Yosemite National Park, effectiveness of resource protection measures.
- Inadequate recreation use data, lack of cumulative effects, lack of quantitative data on demand for motorized use, failure to heed scientific controversy.
- Failure to address increased dangers to other forest visitors resulting from an increase in snowmobile use.
- Failure to address noise pollution.

- Failure to adequately examine economic effects.
- Significant effects on visual quality require preparation of an EIS.
- Failure to analyze availability of uncontaminated drinking water for PCT users.
- Failure to address effects of snowmobiles on lake chemistry and aquatic resources.
- Failure to address effects of snowmobile use on soils.
- Inadequate analysis of the pollution effects in soil, lakes, groundwater and agricultural land.
- Failure to insure that monitoring will be done.
- Violation of Clean Water Act and failure to adequately address water quality impacts.
- Inadequate proposed mitigations, insufficient to mitigate adverse impacts to levels that would be insignificant.
- Lack of quantitative data on which to draw conclusions.
- Inadequate assessment of impact to wilderness suitability; cumulative impacts on wilderness values; monitoring, sets precedent for future actions.
- Failure to adequately disclose the effects on wildlife and wildlife habitat.
- Inadequate analysis of effects, including cumulative effects to amphibians, great gray owl, marten, Sierra Nevada red fox, wolverines, Yosemite toad, and other wildlife species.
- Biological Evaluation/Assessment completed after DN/FONSI. Critical wildlife information not finalized before decision.
- Assessment of effects on subnivean mammals contradicted by research.
- Inadequate means of addressing scientific uncertainty.

Findings

As Appeal Reviewing Officer, my role is to review the substantive quality and correctness, or appropriateness, of the project decision with respect to clarity, comprehension, effectiveness of public participation, and requested changes. My findings are based on my review of the decision and project record, in accordance with 36 CFR 215.19.

1. Clarity of the Decision and Rationale

The Responsible Official's decision is clearly described in the DN/FONSI. The Responsible Official describes how the decision addresses the purpose and need. The decision is consistent with the stated purpose and need. The decision includes a non-significant plan amendment insuring consistency with the LRMP. Rationale for the decision is less clear, specifically due to a lack of data or information in the record to substantiate the purpose and need. A number of resource protection measures are included in the decision. These measures mitigate the effects of the decision and address some issues raised during the process.

2. Comprehension of Benefits and Purpose of the Proposal

The Purpose and Need for the proposal is described in the EA. The benefits of the proposal address the stated purpose and need. However, there is a lack of clarity about the magnitude of these benefits due to minimal supporting quantifiable data on use levels. Therefore, it is difficult to ascertain the benefits in terms of meeting demand from a particular user group and to weigh this benefit relative to the other potential impacts of the decision.

3. Consistency of the Decision with Policy, Direction, and Supporting Information

I find the decision to be consistent with agency policy and LRMP direction. This decision includes an amendment of the Toiyabe LRMP. The EA and DN/FONSI disclose the environmental effects of the decision. Resource protection/mitigation measures tied to the decision are reasonable. However, there is no indication of thresholds or levels of effect given to indicate when mitigating actions would be taken. This is a weakness in terms of being able to ascertain or insure an acceptable level of impact. Particularly in the area of enforcement, past enforcement has not been effective. Yet many of the protection measures rely on future monitoring and enforcement actions. An evaluation of why future actions would be more effective is lacking.

4. Effectiveness of Public Participation Activities and Use of Comments

The public had adequate opportunity to participate in this process. The proposal was listed in the Forest's schedule of proposed actions in January, April, and July of 2005. Initial scoping began in December of 2004. Following refinement of the proposed action and Purpose and Need, a Notice of Proposed Action was released for public review in March 2005. Legal notice was published in the Mammoth Times and press releases sent to area newspapers. The notice was posted on the Forest's website. Thousands of e-mail and standard mail notices were sent to interested parties. Several thousand comments were received on the Notice of Proposed Action.

From the EA, DN/FONSI, and project record, I believe that all comments received were appropriately considered. The DN acknowledges the magnitude of response and the strong sentiments on all sides of the proposal. The EA and DN acknowledge that most responses were in opposition to the proposal and indicate mitigation or increased monitoring to address many of these issues. The DN does a good job of acknowledging the themes in the comments and how

these were addressed. Given the narrowly defined purpose and need, some issues and interests could not be reconciled.

5. Requested Changes and Objections of the Appellant

Appellants request various forms of relief, from withdrawal or reversal of the decision, selection of the No Action alternative, addition of more or different mitigation measures, and further disclosure of effects or additional quantitative information. Several appellants request relief in the form of instructions to the Forest to prepare an EIS with a wider range of alternatives and additional disclosure of effects.

I find that several of the appellants' requests for relief are justified. Particular weaknesses include a lack of quantifiable data to substantiate the purpose and need and a lack of thresholds or criteria for adjustments in snowmobile use in relation to resource protection measures.

Recommendation

Based upon my review of the EA, DN/FONSI, project record, and other pertinent laws, regulations and policy, I recommend that the decision made by the Forest Supervisor be reversed. I do not find adequate information in the EA, DN/FONSI, and supporting documentation in the project record to support the rationale for decision or the ability to achieve anticipated outcomes.

/s/ Mary C Erickson

MARY C. ERICKSON
Appeal Reviewing Officer