

**DECISION NOTICE AND  
FINDING OF NO SIGNIFICANT IMPACT  
Albion Basin Winter Travel Management Plan Amendment  
USDA-Forest Service  
Salt Lake Ranger District, Wasatch-Cache National Forest  
Town of Alta  
Salt Lake County, Utah**

**Decision and Reasons for the Decision**

**Background**

This document details my decision regarding a proposal (Proposed Action) to amend the 2005 Winter Recreation Travel Management Plan (Travel Management Plan) for the Salt Lake Ranger District in a portion of upper Little Cottonwood Canyon. By amending the Travel Management Plan, the Proposed Action would allow the conditional use of snowmobiles and snowcats for access to 36 homes and cabins through a portion of Alta Ski Area, on National Forest System (NFS) lands. This use is currently prohibited by the Travel Management Plan and Forest Service regulations, and has been for at least 25 years.

An Environmental Assessment (EA) has been prepared to analyze the impacts of implementing the Proposed Action and three alternatives to it. The proposal arose from a need to address safety issues associated with private homeowners using snowmobiles and snowcats, or “over-snow vehicles” (OSVs), for access to their homes and cabins in the winter. These routes are located within a developed portion of Alta Ski Area known as Grizzly Gulch and Albion Basin. In traveling through the ski area, OSVs cross busy ski trails or share runs with skiers for extended distances. The potential for a collision between a snowmobile or snowcat and a skier is obvious, and the consequences for the skier could involve serious injury or death. Similarly, OSVs traveling during the ski day, after the evening slope grooming concludes, can leave ruts and rough snow that could lead to skier injury.

In the sections which follow, this document outlines my decision regarding amending the Travel Management Plan, summarizes the rationale for my decision, lists mitigation measures that will be applied to help better enforce and implement the decision, and includes alternatives that were considered in the environmental analysis and in reaching my decision. In addition, this Decision Notice summarizes the public involvement effort that was an important part of the EA process; describes why no significant environmental impacts would likely occur; documents how the decision would be consistent with applicable laws, regulations, and policies; and provides information about the administrative review opportunity that is available for those who may disagree with the decision.

**Decision**

A number of people who commented asked that the Forest Service recognize the unique nature of homeowner OSV access in Grizzly Gulch and Albion Basin in reaching a decision. As we did research and prepared the environmental analysis, we could find no comparable situations anywhere in the country. While motorized access to homes located within a ski area is not unusual, we found no instance where ski area development and home and cabin construction on this scale has not been comprehensively planned, designed, and coordinated. I believe my decision reflects the unusual nature of the situation and balances the competing interests.

Based upon a careful review of the analysis and alternatives contained in the EA, personal site visits over the course of the past two winters and much deliberation, my decision is to amend the Travel Management Plan in a way which combines aspects of two alternatives discussed in the EA. My decision generally reflects Alternative B, or the Proposed Action, for the three upper homeowner areas and the 21 homes in Albion Basin. There the 8

AM to 5 PM closure to OSV use would be retained, but a designated route would be opened for use from 5 PM to 8 AM to the Secret Lake area. With respect to the Grizzly Gulch area (including Emma Heights and the Cahill cabin) and the 15 homes there, my decision opens the route in Alternative D, but with no timing restrictions. Except for a short section leading to the Secret Lake area which would be open only from 5 PM to 8 AM, all other OSV routes I am exempting from the area closure are ones which already exist and are being used for homeowner access, notwithstanding the current closure. The approximate location of these routes is shown on the map attached to this Decision Notice. I envision that over time there may need to be slight adjustments to the routes depicted due to snow conditions, skier use patterns, and other factors. These types of minor changes would not require additional analysis, or a modification of the decision.

Though it was considered in Alternative D in the EA, my decision does not involve differing restrictions for snowcats versus snowmobiles. Likewise, the amendment to the Travel Management Plan will not make a distinction between homeowners, family members, guests, or tenants, in terms of whether they can operate an OSV to travel to and from the homes across the National Forest. For the purpose of this Travel Management Plan amendment and decision, all of these individuals will be considered “residents.”

Up to this point, the Travel Management Plan has prohibited use of OSVs in this area except for those persons or entities who: 1) hold a contract or permit specifically exempting them from the closure; 2) are members of an organized rescue or firefighting organization; 3) are government officers involved in official business; or 4) are members of an organized rescue or firefighter organization.

To implement my decision, the exemptions in the Travel Management Plan will be expanded for those residents who have obtained a permit from the Town of Alta and who travel on designated OSV routes during approved hours. Residents who meet these two conditions would be exempt from the winter closure when operating an OSV on designated routes to access:

- 1) Grizzly Gulch at any time during the winter;
- 2) Albion Basin from 5 PM to 8 AM during the ski season, or at any time of the day before or after the ski season;
- 3) Albion Basin after having provided the Forest Service a copy of a written agreement from Alta Ski Area.

Among the public input we received were comments expressing concern about how the Proposed Action might create problems for residents during an emergency. Under the exemptions to the closure, persons having a Forest Service permit exempting them from the effect of the closure order will not be prohibited from operating an OSV in the closed area. Under regulations at 36 CFR 251.50, the temporary use of National Forest land when necessary for protection of life or property in emergencies is not prohibited without a permit as long as a permit is obtained at the earliest opportunity, or the permit requirement is waived by the Forest Service. Pursuant to this regulation, there is no requirement to obtain a permit from the Forest Service in advance in order to operate an OSV in the closed area if necessary for emergency protection of life or property, and such emergency OSV use is therefore not prohibited by the closure.

In order to improve visibility for both skiers and OSV operators, my decision also authorizes Alta Ski Lifts to thin trees at a number of key intersections. In total the thinning will involve less than 0.1 acres of forest land and involve no ground or soil disturbance.

This decision pertains only to NFS land, even though the attached map depicts routes crossing properties owned by others. If no right-of-way exists, it is the responsibility of individual OSV users to obtain permission or authorization from the owners of these other properties before entering them. In addition, this decision addresses only over-snow motorized travel and does not affect seasonal restrictions applicable to summer motorized use.

## Rationale

Skier safety was the most important factor in making my decision, while allowing residents sufficient access for reasonable use of their property. The hazard to skiers must be addressed. Approximately 38 percent of the existing 1.9-mile OSV route from the Grizzly Gulch parking area to Albion Alps homeowner area is comprised of skier interface areas and other undesignated areas which support relatively high skier traffic. Almost all of these areas are located in beginner level ski terrain. Most of the undesignated skiing areas are located in the section from where the OSV route crosses under the Albion Lift, to just east of Alf's Restaurant. My decision would reduce the total linear distance of skier/OSV interface areas from 2,620 feet, as is currently the case, to 403 feet located along the lower section of Forest Road 028 (Summer Road). There is clear evidence of the seriousness of this issue based on the accidents which have occurred involving skiers and ski area OSVs at other resorts. Privately-owned OSVs, especially those operated by individuals with a wide variety of driving skills and knowledge of the area, only heightens my concern. I am not persuaded by the fact that there is no record of a skier/OSV collision at Alta Ski Area and will not wait for a tragedy to act.

In making my decision I am very much aware of the long history and complex nature of issues surrounding OSV use in Albion Basin and Grizzly Gulch. Some feel strongly the Forest Service does not have the authority to regulate access across NFS land because of pre-existing rights of access, held either by homeowners or by State or local government. Though it was not the focus of the EA, it does not appear that any pre-existing right of access exists which supersedes the Forest Service's authority to reasonably regulate OSV use as proposed in this decision. Since I do not believe it inconsistent with the various claims to access rights that have been presented to the Forest Service, the EA properly set aside these legal questions and focused its analysis on the environmental issues and safety considerations related to appropriate management of OSV use. It went on to note that administrative and judicial processes exist to evaluate and resolve title disputes on lands administered by the Forest Service. In fact, a title claim has been submitted and is under review by Forest Service real estate specialists and legal counsel. Nothing in this decision will alter the eventual determination regarding the title questions that have been raised. If the title claim review reveals that this decision is inconsistent with pre-existing rights-of-way or easements, my decision would be modified as needed.

Many who provided public comment during the EA process also reminded us of a 1981 agreement which they believe conveyed a permanent commitment by the Forest Service to not restrict their winter access. At that time, a large expansion was underway, which included construction of both the Cecret and Supreme Lifts. It is difficult for me to understand all of the circumstances which led to this agreement by the District Ranger and the ski area to not "interfere with present established access and egress" for homeowners. I can only conclude that over the years the situation has changed significantly. Obviously, the expansion brought many more skiers into the area in general and introduced lift-served skiing into areas surrounding the Albion Basin and Albion Alps subdivisions. In addition, it's my belief ski area grooming and improved OSV technology have also been a factors in an increase in OSV usage by area homeowners. It is unfortunate those who were involved in 1981 agreement could not predict the issues 26 years later and I regret some may view this decision as a broken promise, but the skier safety issues are compelling and must be addressed.

## Mitigation and Implementation Measures

A number of measures surfaced during the EA process which could help to address skier safety issues, but were not included as part of the various alternatives. In that some of these are not within the capability or authority of the Forest Service to implement or require, they are listed below as recommended measures.

- Implement a cooperative program between the ski area and the Town to educate OSV operators and improve route signing.
- Require that easily identifiable Town OSV registration be attached to OSVs at all times.
- Make a valid State driver's license, vehicle insurance, and an agreement to hold the Town and ski area harmless a prerequisite to OSV registration.
- Limit the number of OSVs which may registered and used for each home.
- Impose penalties for violations, including fines and loss of OSV privileges.

- Establish and enforce an OSV speed limit.
- Institute legal requirements for audible and visual warning devices for OSVs.

### **Other Alternatives Considered**

In addition to the Proposed Action, we considered a number of alternatives in the EA. Some of these were eliminated from detailed study because they did not meet the purpose and need for action, or were otherwise outside the scope of the review. Four alternatives were analyzed in detail in the EA. A summary of these alternatives follows below, along with an explanation of how they factored into my decision.

#### Alternative A (No Action)

This alternative would have retained the existing Travel Management Plan that prohibits all winter motorized travel in the area without a specific authorization and that would have allowed winter access to homes only for those traveling by skis, on foot, or using a ski lift. As noted earlier, Travel Management Plans going back to at least 1982 have prohibited all winter motorized travel in the area without a special use permit.

This alternative was not selected because it would have restricted residents' access beyond what is needed to address skier safety.

#### Alternative B (Proposed Action)

This alternative involved amending the Travel Management Plan to allow OSV access for all homeowners from 5 PM each day, to 8 AM the following morning on designated routes. Between 8 AM and 5 PM, the ski area would be closed to OSV travel, except for what is authorized under the ski area's special use permit. During the ski day, homeowners could access their property using ski lifts, on foot, or by skis. Unlike Alternative A, this alternative would allow homeowner access by OSVs after the ski area closes each spring on currently designated routes.

My decision incorporates the concepts of Alternative B with respect to Albion Basin homeowner areas. However, I did not extend these restrictions to the Grizzly Gulch area because it was not warranted, given the much more limited potential for skier/OSV collisions on the route these homeowners use.

#### Alternative C

This alternative was intended to capture suggestions received from homeowners and included several options. One option involved a route that skirted some of the busier portions of the ski area during the ski day, along with use of the existing OSV route before and after the ski day. The ski day route would have utilized Forest Road 028 for OSV travel. The other route was essentially the existing one, generally following Home Run and Dipsy Doodle ski runs. A variation of this option included constructing a snow road below Forest Road 028, across upper Crooked Mile and Patsy Marley ski trails, in order to avoid avalanche paths. Finally, this alternative also included the option of relocating the Home Run section of the OSV travel route to an alignment along the base of Alta's race arena and Blue Bell and Dipsy Doodle ski trails.

I did not select either option included in Alternative C because they did not sufficiently reduce the chance for collisions and tended to move the areas where a skier might collide with an OSV to different locations. Using Forest Road 028 for OSV travel during the ski day would reduce the linear distance that skiers and OSVs interface by about 1,361 feet, as compared to the existing situation. However, it creates a new interface area, near the top of the Sunnyside Lift, where lower ability level skiers must navigate on a narrow trail, as well as several others between the Supreme and Secret lifts.

Relocating the Home Run section of the OSV route would have presented several challenges and trade-offs. Moving the trail to a steeper side slope would have been difficult in early season with low snow conditions. In

addition, this relocation would effectively eliminate the lower portions of several ski runs, including the race course. While this would eliminate four skier/OSV crossing and approximately 252 feet of interface, approximately 2,368 feet of interface areas would remain. Consequently, I do not believe these options adequately address skier safety concerns.

### Alternative D

In part, this alternative was developed in recognition that the OSV route for Grizzly Gulch homeowners has fewer skier safety issues than do existing access routes for upper Albion Basin homeowners and that the route Emma Heights homeowners use does not interface at all with skier traffic. Implementing this alternative would have entailed allowing motorized access for these homeowners without hourly restrictions. Albion Basin homeowners would have been allowed only snowmobile access during the ski day, and both snowmobile and snowcat access between 5 PM and 8 AM. In both cases, travel would be restricted to existing OSV routes. In addition, this alternative would include selected tree removal at several ski trail intersections to improve sight distances for both OSV operators and skiers. Post-ski season access OSV access would be allowed as described in Alternative B.

With respect to larger Grizzly Gulch area, this is the selected alternative. However, I did not choose to adopt Alternative D's snowmobile-versus-snowcat conditions because I do not believe it would have sufficiently addressed the skier safety issue. While snowmobiles tend not to create rough snow surface conditions, in some respects they present a greater hazard to skiers than do snowcats because of their faster speeds and lower visible profiles. Finally, I believe it's reasonable to conclude that snowmobile use in Albion Basin would have increased as residents adapted to Alternative D's restrictions on snowcats.

## **Public Involvement**

Public notices about the proposed amendment to the Travel Management Plan were placed in the Salt Lake Tribune on December 5, 2005 and January 7, 2006. Approximately 80 letters or emails were received during the extended 60-day public scoping period. In addition, the Town of Alta held two meetings in the winter of 2005-06 during which comments were made about the proposal. On July 19, 2006, a Preliminary EA was sent to interested parties and persons and an additional 42 letters or e-mails were received. All of this input was carefully reviewed and the individual comments about various issues associated with the proposal were placed in general categories, or topic areas. Appendix A of the EA contains a complete listing of the comments raised during both the initial scoping period and the comment period for the Preliminary EA. This appendix also includes an agency response to each of the categorized comments.

## **Finding of No Significant Impact**

After considering the environmental effects associated with amending the Albion Basin Travel Management Plan as described in the EA, I have determined that my decision will not have a significant effect on the quality of the human environment. Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action.
2. There will be no significant effects to public health and safety.
3. There will be no significant effects to unique characteristics of the area and this decision will not affect cultural resources in the area. In addition, there are no parklands, or prime farm lands in the area. While the project area is generally located with an eligible wild and scenic river corridor, nothing in this decision will affect its potential for formal designation.
4. The effects on the quality of the human environment are not highly controversial. While there is concern about restricting access to homes, there is no scientific controversy about the effects of implementing my decision.

5. The environmental analysis shows that the effects of my decision do not involve unique or unknown risks.
6. This decision will not set a precedent for future actions with significant effects.
7. The cumulative impacts of my decision are not significant.
8. This decision will have no significant effects on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. This action will not cause loss or destruction of significant scientific, cultural, or historic resources.
9. This decision will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
10. This decision will not violate Federal, State, or local laws or their requirements for protection of the environment.

## Findings Required by Other Laws and Regulations

My decision is consistent with provisions of the 2003 Revised Land and Resource Management Plan for the Wasatch-Cache National Forest (Forest Plan). The project area lies within an area allocated in the Forest Plan to a management prescription category emphasizing quality recreation opportunities in developed areas such as campgrounds, trailheads, boat docks, and resorts (page 4-73).

The Forest Plan indicates that the Winter Recreation maps which were a part of the Plan would serve as the basis for District Travel Management Plans (page 4-90). Though my decision involves a change to the Salt Lake District Winter Travel Management Plan, an amendment to the Forest Plan is not required. The exemption will be granted is for the purpose of providing access to privately-own homes consistent with the requirements of Federal law and regulations (36 CFR 251.110), rather than for public recreation purposes. In fact, the Forest Plan was enacted subject to valid existing rights such as these (page 5-2). Further, the Forest Plan's Winter Recreation Map for the Central Wasatch Management Area designates the Albion Basin area as neither "Motorized" nor "Non-motorized", but instead classifies it as "Ski Resort." As a developed ski area, residents' motorized use would occur within an area that already sees the daily traffic of ski area snowmobiles and snowcats. Finally, this decision to modify the District's Winter Travel Management Plan was taken as an alternative way of authorizing residents' access to their homes versus issuing as many as 36 special use permits, an action which would also not have required a Forest Plan amendment.

Findings related to other laws and regulations are summarized below:

**Alaska National Interest Lands Conservation Act of December 2, 1980** – Under Section 1323(a) of this Act, the Forest Service is required to provide such access across NFS land that the agency determines to be adequate for reasonable use and enjoyment of the private property. Where Forest Service closures are in place, the most common method of complying with the Act involves the agency issuing a special use permit or easement to exempt the private property owner from the closure. However, modifying an existing closure order to allow the otherwise prohibited use is also consistent with the Act.

I understand that my decision will impose some conditions on winter access to homes in both Grizzly Gulch and Albion Basin, as compared to the status quo situation where homeowners operate OSVs in violation of the Travel Management Plan. For several homeowners in Albion Basin who use their homes as a primary residence, this may present serious challenges. For others, it will require additional planning and coordination for trips to homes. In spite of that, I believe my decision sets reasonable limits that are appropriate in light of the serious skier safety issues. As such, my decision is consistent with the Alaska National Interest Lands Conservation Act.

**Clean Water Act of December 27, 1977** – The Clean Water Act requires each state to implement its own water quality standards. The State of Utah's Water Quality Anti-degradation Policy requires maintenance of water quality to protect existing in-stream Beneficial Uses on streams designated as Category 1 High Quality Water. All surface waters geographically located within the boundaries of the Wasatch-Cache National Forest,

whether on public or private lands, are designated as Category 1 High Quality Water. My decision will not affect the existing high quality water flowing through the area.

**Executive Order 11990 of May 24, 1977** – This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that analysis be completed to determine whether adverse impacts would result. My decision will have no adverse effects to wetlands located within the project area and therefore is in compliance with E.O. 11990.

**Executive Order 11988 of May 24, 1977** – This order requires the Forest Service to provide leadership and take action to: (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risk to flood loss; (2) minimize impacts of floods on human safety, health and welfare; and (3) restore and preserve natural and beneficial values served by floodplains. My decision will have no adverse effects to floodplains.

**Endangered Species Act of December 28, 1973** – This Act directs that all Federal departments and agencies shall seek to conserve endangered, and threatened (and proposed) species of fish, wildlife and plants. This obligation is further clarified in a National Interagency Memorandum of Agreement (dated August 30, 2000) that articulates a shared mission to “...enhance conservation of imperiled species while delivering appropriate goods and services provided by the lands and resources.” Based on the information disclosed in the Biological Assessment it has been determined that this decision will have no adverse effects to populations of endangered, and threatened (and proposed) species of fish, wildlife and plants

**Executive Order 13186 of January 10, 2001** – This Executive Order relates to conservation of migratory bird species. My decision is in compliance with this Executive Order for the Conservation of Migratory Birds.

**Executive Order 13112 of February 3, 1999** – This Executive Order directs that federal Agencies should not authorize any activities that would increase the spread of invasive plant and animal species. This decision will not increase the spread of invasive species.

**American Antiquities Act of 1906 and the National Historic Preservation Act of 1966** – There would be no effects to any historic properties relative to this decision.

**Prime Farmland, Rangeland and Forest Land (Secretary of Agriculture Memorandum 1827)** – This is no prime farmland or grazing allotments within the project area.

**Civil Rights Act of July 2, 1964** – Based on comments received during scoping and the comment period there would be no adverse effects to groups or individuals protected under the federal Civil Rights Act.

**Executive Order 12898 of February 16, 1994 “Federal Actions to Address Environmental Justice on Minority Populations and Low-income Populations”** – This order requires federal agencies, to the extent practicable and permitted by law, to make achieving environmental justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health effects, of its programs and policies and activities on minorities and low-income populations in the United States and territorial possessions. No minorities and low-income populations were identified during public involvement activities that would be affected by this decision.

## **Administrative Review or Appeal Opportunities**

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at *Appeal*

*Deciding Officer, Jack Troyer, Regional Forester, 324 25<sup>th</sup> Street, Ogden, Utah 84401 fax 801-625-5277.* The office business hours for those submitting hand-delivered appeals are: 8:00 to 4:30, Monday through Friday, excluding holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), and Word (.doc) to [appeals-intermtn-regional-office@fs.fed.us](mailto:appeals-intermtn-regional-office@fs.fed.us). In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of this notice in the Salt Lake Tribune, the newspaper of record. Attachments received after the 45-day appeal period will not be considered. The publication date in the Salt Lake Tribune, newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who submitted comments during the comment period specified at 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

### **Implementation Date**

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15<sup>th</sup> business day following the date of the last appeal disposition.

### **Contact**

For additional information concerning this decision or the Forest Service appeal process, contact Steve Scheid, Salt Lake Ranger District, 6944 S 300 E, Salt Lake City UT 84121, 801-733-2689.

**/S/ Faye L. Krueger**

**March 28, 2007**

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Faye L. Krueger  
Forest Supervisor

\_\_\_\_\_  
Date

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