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Corridor 100 (C-100) Snowmobile Trail Relocation Project

Decision Memo

**USDA Forest Service, Eastern Region
Green Mountain National Forest
Manchester Ranger District
Town of Dover, Windham County, Vermont**

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I. SUMMARY

As District Ranger for the Manchester Ranger District of the Green Mountain National Forest (GMNF), I am authorizing the implementation of the re-routing (relocation) of a portion of the snowmobile trail that is designated as FT 395 Dover Hills by the Forest Service, and on the Vermont Association of Snow Travelers (VAST) Maps as Corridor Trail 100 (C-100). This project involves the construction of approximately 1,430 feet of new snowmobile trail to replace approximately 1,780 feet of existing trail on National Forest System (NFS) lands. This project will result in a safer trail for the public, will minimize soil erosion problems, and protect water quality. The project is located on NFS land in the Town of Dover, Windham County, Vermont, on the Manchester Ranger District of the GMNF (see attached map).

II. DECISION TO BE IMPLEMENTED

A. Background and Project Area

The project area is located in the Town of Dover, Windham County, on the Manchester Ranger District of the GMNF (see attached map). The FT 395 Dover Hill (C-100) serves as a major Class 1 corridor trail for snowmobiles and is maintained by the Vermont Association of Snow Travelers (VAST), with oversight by GMNF staff. The FT 395 Dover Hill has been in use for approximately 20 years and is a well established snowmobile trail in the local community.

The section of FT 395 that requires a re-route sharply descends to an acute corner by a stream, then quickly ascends back to its original elevation. In the winter, water collects at the corner by the stream and forms an ice pocket that is treacherous for snowmobilers. The rest of the year, water running down the trail into the stream, from both directions, is causing soil erosion with the sediment entering the stream. The topography combined with historical stone foundations on both sides of the trail prevents diverting the water off of the trail with waterbars or other erosion control devices.

There are also two sharp 90 degree corners on this trail that are safety hazards due to their unexpected sharpness. This proposal also includes modifying these corners to a gentler angle that conforms to FSH 2309.18 Trails Management handbook guidelines of a minimum turn radii of 25' with a 125' line-of-sight. This work will impact approximately 100 feet of forest for each curve. The tread width that will be cleared by the excavator for a Class 1 trail is a minimum of 12 feet wide. Hazard trees and other vegetation that snow may force down into the trail will be removed.

B. Purpose and Need

The purpose and need for re-routing this portion of FT 395 and for the modification of the two sharp curves is to provide a safer trail for trail users, and to minimize the trail's impacts to soil and water resources. If action is not taken, there will be a continuation of unacceptable impacts to the soil and water resource from existing erosion along some sections of the trail, and safety hazards associated with the current trail location will not be addressed.

The project meets Forest Plan Goal 12 which is to "provide a diverse range of high-quality, sustainable recreation opportunities that complement those provided off National Forest System lands" (Forest Plan, page 15). The proposed trail relocation is within the Diverse Forest Use (MA 3.1), which emphasizes a variety of forest uses including both motorized and non-motorized recreation (Forest Plan, page 47).

Maintenance of this trail is consistent with our recreation niche of focusing on the fact that the GMNF's large, contiguous blocks of land are well suited to trail-based activities in backcountry settings. Working in partnership with many organizations will continue to be a hallmark of how the Forest Service provides recreation opportunities to the public. (Forest Plan, page 9).

This project is also consistent with Forest Plan guidance that trail maintenance and improvement activities should focus on the reduction of deferred maintenance needs on existing trails before the development of new trails. (Forest Plan, page 35).

C. Description of Decision

To meet the Purpose and Need, my decision is to approve the FT 395 Dover Hill snowmobile trail re-route and corner modification. The Forest Service will work cooperatively with VAST to perform this necessary trail construction and maintenance activities on the 1,430 feet of trail that will replace the 1,780 feet of existing trail.

The re-route straightens the trail and relocates it to higher ground that is less susceptible to soil erosion. About 990 feet of the new location utilizes old roads and the other 440 feet is new trail going through dense section of conifers/birch. The densely wooded section will require the cutting of suppressed conifers. The section of the re-route utilizing old roads will need one sharp corner reshaped at an intersection of old skid roads. There will be one culvert installed for general hill side drainage (not a stream) and a waterbar to divert water off of the road into the forest. All of this work will be done with an excavator for establishing the tread suitable for a Class 1 motorized winter trail.

On Class 1 trails, all trees, saplings, shrubs, blow downs, vines, stumps, rocks, and roots which protrude more than 4" above the overall trail tread will be removed over the entire width of the trail-tread surface.

All trail work will comply with FSH 2309.19 – Trails management handbook, as well as the standards found in the *Guide for Development of Snowmobile Trails* that was prepared by the International Association of Snowmobile Administrators, and the Green and White Mountain National Forests.

This decision includes implementation of the following Mitigation Measures. These measures are also listed in Appendix A. All disturbed areas with bare soil will be seeded with a Forest Service approved seed mix. All motorized construction equipment will be washed to remove

potential undesirable seeds before and after entering the National Forest. Slash from the new trail construction will be pulled onto the old trail to discourage further use and promote natural revegetation.

Any necessary culverts and waterbars will be constructed and installed according to guidelines developed by the Forest's soil and water resource specialists. All historical sites will be left undisturbed by this project and protected from future trails impacts.

Also, major reconstruction disturbance on the trail will be avoided during deer season, roughly November 15-30 and December 6-14.

This decision is based upon an environmental analysis conducted by Forest Service personnel, and responses to public scoping. This information is located in the project planning record at the GMNF Manchester Ranger District Office in Manchester Center, VT.

III. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or an environmental assessment when they are within one of the categories found at 36 CFR 220.6(d) and (e), and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

A. Category of Exclusion

Based upon the environmental analysis contained in the Project Record and on experience with similar activities on the GMNF, I have concluded that this decision can be appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment. I have determined that the selected action is a routine activity within the following category of exclusion found at 36 CFR 220.6(e)(1): ***Construction and reconstruction of trails.***

B. Relationship to Extraordinary Circumstances

The list of seven extraordinary circumstances that were examined for this analysis may be found at 36 CFR 220.6(b). The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effects of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. I have concluded that there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment. My conclusion is based on information presented in this document and the entirety of the record. A summary of the project's potential effects on each resource condition is as follows:

1. Federally Listed Threatened or Endangered Species or Designated Critical Habitat, Species Proposed for Federal Listing or Proposed Critical Habitat, or Forest Service Sensitive Species –

It was determined that this decision will have 'no effect' on federally listed animal or plant species or their critical habitats as a result from this project (Wildlife Biological Evaluation, 8/28/06, Plant Biological Evaluation, 7/20/06).

This project will have 'no effect' on any of the Regional Foresters Sensitive Species (RFSS) or their preferred habitats, and thus is not likely to lead to loss of viability or trend toward federal listing for any animal or plant on the RFSS list (Wildlife Biological Evaluation, 8/28/06; Plant Biological Evaluation, 7/20/06).

2. Floodplains, Wetlands, or Municipal Watersheds –

The project is not located in or near floodplains, wetlands, or municipal watersheds. This has been validated by map and site-review. No significant impacts to floodplains, wetlands or municipal watersheds are expected to result from this project. (Communication with staff Soil and Water Technician, 9/06).

3. Congressionally Designated Areas, such as Wilderness, Wilderness Study Areas, or National Recreation Areas –

Wilderness:

This decision does not affect Wilderness. The project is not in or near Wilderness. Wilderness is identified on the Forest as Management Area 5.1 (Forest Plan, p. 49). The closest Wilderness to the project area is the Glastenbury Wilderness Area, which is 8.2 miles west of the project. This decision, with impacts limited to the immediate area of activity, will not affect the Wilderness Area (communication with Recreation Planner, 9/06).

Wilderness Study Areas:

There are no Wilderness Study Areas within the project area. This decision will not affect Wilderness Study Areas (communication with Recreation Planner, 9/06).

National Recreation Areas:

The GMNF contains two National Recreation Areas: the *Moosalamoo National Recreation Area* and the *Robert T. Stafford White Rocks National Recreation Area*. The project is not located in or near these areas. This has been validated by map and site review. This decision will not affect the National Recreation Areas (communication with Recreation Planner, 9/06).

Wild and Scenic Rivers:

Although the GMNF does not contain any Congressionally designated Wild and Scenic Rivers, there are many river segments that are eligible to be further considered for addition to the National Wild and Scenic River System. These river segments and their associated corridors are within the Eligible Wild, Scenic, and Recreational Rivers Management Area (MA 9.4). The project is not located in or near these eligible river segments. This has been validated by map and site review. This decision will not affect the outstandingly remarkable values identified for any eligible Wild, Scenic, and Recreational Rivers (communication with Recreation Planner, 9/06).

4. Inventoried Roadless Areas or Potential Wilderness Areas –

There are no inventoried roadless areas (Roadless Area Conservation Rule or Forest Plan Inventoried Roadless Areas) in the project area. This decision will not affect inventoried roadless areas (communication with Recreation Planner, 9/06).

5. Existing and Candidate Research Natural Areas –

There are no Research Natural Areas in the project area or on the Manchester Ranger District. This decision, with impacts limited to the immediate area of activity, will not affect Research Natural Areas (communication with staff ecologist, 9/12/06).

6. American Indian and Alaska Native Religious or Cultural Sites –

See Item 7 below.

7. Archaeological Sites, or Historic Properties or Areas –

This decision complies with the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act. There will be no adverse effects to any cultural or historical resources as a result of this decision (concurrence from Forest Archaeologist, 1/23/06).

8. Other Resources –

In addition to resource conditions that could lead to extraordinary circumstances, I also have considered the direct, indirect, and cumulative effects to other resources such as soil/water, fisheries, visuals, recreation, and non-native invasive species. The project will not result in significant impacts to these resources, particularly because all applicable Forest Plan Standards and Guidelines will be implemented.

IV. PUBLIC INVOLVEMENT

This project was listed in the quarterly *Green Mountain National Forest Schedule of Proposed Actions* (SOPA) beginning in October, 2006 (listed as the “Deerfield Valley VAST Trail Reroute” project), and will remain in the SOPA until the project is authorized for implementation.

Public involvement included several field trips in 2005, 2006, and 2008 with members of the Deerfield Valley Stumpers who are associated with VAST. The project was also reviewed on-the-ground on June 26, 2008, by a representative of the Center for Biological Diversity for possible conflicts with their organizations goals, and none were noted.

The desired decision was also made available for the required 30-day public notice and comment period. The legal notice appeared in the *Rutland Herald* on August 29, 2008. The comment period began on August 30, 2008 and ended on Monday, September 30, 2008. Approximately 193 people and organizations received the mailing. Responses to comments submitted during the comment period may be found in Appendix B of this DM.

V. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below.

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

Forest Plan Consistency (National Forest Management Act) –The National Forest Management Act (NFMA) requires the development of long-range land and resource management plans, and that all site-specific project activities be consistent with direction in the plans. The GMNF Land and Resource Management Plan (Forest Plan) was completed and approved in 2006 as required by NFMA. The Forest Plan provides direction for all management activities on the GMNF. The Corridor 100 Trail Relocation Project implements the Forest Plan.

The project area is within the Diverse Forest Use (3.1) Management Area (MA) as described in the 2006 Forest Plan. As required by NFMA Section 1604(i), I find this project to be consistent with the Forest Plan including goals, objectives, desired future conditions, and Forest-wide and Management Area Standards and Guidelines.

As noted in the Purpose and Need, maintenance of this trail is consistent with our recreation niche of focusing on the fact that the GMNF's large, contiguous blocks of land are well suited to trail-based activities in backcountry settings. Working in partnership with many organizations will continue to be a hallmark of how the Forest Service provides recreation opportunities to the public. (Forest Plan, page 9).

This project is also consistent with Forest Plan guidance that trail maintenance and improvement activities should focus on the reduction of deferred maintenance needs on existing trails before the development of new trails. (Forest Plan, page 35).

Endangered Species Act - The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. In accordance with Section 7(c) of this Act, a report of the listed and proposed, threatened, or endangered species that may be present in the project area was reviewed. See Section III, Item B.1 of this document.

Clean Water Act – The intent of the Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through Forest Plan Standards and Guidelines, specific project design criteria, and/or mitigation measures to ensure protection of soil and water resources.

Wetlands (Executive Order 11990) - Executive Order 11990 directs the agency to avoid to the extent possible the adverse impacts associated with the destruction or modification of wetlands, and to avoid support of new construction in wetlands wherever there is a practical alternative. See Section III, Item B2 of this document.

Floodplains (Executive Order 11988) - Executive Order 11988 directs the agency to avoid to the extent possible the adverse impacts associated with the occupancy and modification of floodplains, and to avoid support of floodplain development wherever there is a practical alternative. See Section III, Item B2 of this document.

National Historic Preservation Act - Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. It also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. See Section III, Item B.7 of this document.

Archaeological Resources Protection Act - The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or

discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. See Section III, Item B.7 of this document.

Native American Graves Protection and Repatriation Act - The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items. See Section III, Item B.6 of this document.

Wild and Scenic Rivers Act - See Section III, Item B.3 of this document.

Federal Noxious Weed Act of 1974 and Executive Order 11312 (Non-Native Invasive Species) – The Federal Noxious Weed Act requires cooperation with State, local, and other federal agencies in the management and control of non-native invasive species (NNIS); Executive Order (EO) 11312 requires all pertinent federal agencies (subject to budgetary appropriations) to prevent the introduction of NNIS. This project’s decision meets the intent of this law and EO by incorporating all pertinent Forest Plan Standards and Guidelines to ensure the management and control of NNIS.

Environmental Justice (Executive Order 12898) - This order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this order. Public involvement occurred for this project, the results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

VI. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

A 2005 court ruling (*Earth Island Institute v. Ruthenbeck*, CIV F-03-6386 JKS) requires that categorically-excluded actions that include off-highway vehicle (including snowmobiles) trail activities need to provide for public notice, comment, and opportunity for administrative appeal. Only those individuals or organizations who submitted comments or otherwise expressed interest during the 30-day notice and comment period may appeal this decision.

A written notice of appeal must be submitted within 45 calendar days beginning the day after the legal notice for this decision is published in the *Rutland Herald*, our newspaper of record. However, when the 45-day filing period would end on a Saturday, Sunday, or Federal holiday, filing time is extended to the end of the next Federal working day. The date of the publication of the legal notice is the only means for calculating the date by which appeals must be submitted; do not rely upon any other source for this information. The Notice of Appeal must be sent to:

USDA Forest Service, Eastern Region
ATTN: Appeals Deciding Officer
Gaslight Building, Suite 700
626 E. Wisconsin Ave
Milwaukee, WI 53202-4616

Appeal notices may also be emailed to: appeals-eastern-regional-office@fs.fed.us with a Subject Header of: C-100 Snowmobile Trail Relocation Project. Electronic appeals should be in TXT, RTF, DOC, PDF or other Microsoft Office-compatible formats. 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.

Appeal notices may also be faxed to: 414-944-3963, ATTN: Appeal Deciding Officer, USDA Forest Service, Eastern Region. Cover sheet should include a Subject Header of: C-100 Snowmobile Trail Relocation Project. Hand-delivered appeals must be delivered during normal business hours of 7:30 am – 4:00 pm (Central Daylight Time), Monday-Friday, excluding Federal holidays. Appeals must meet the content requirements of 36 CFR 215.14.

VII. IMPLEMENTATION DATE

If no appeal is received, implementation of this decision may occur on, but not before, five (5) business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for fifteen (15) days following the date of appeal disposition.

Implementation is scheduled to begin in the spring/summer of 2009.

VIII. CONTACT PERSON

Further information about this decision can be obtained from Doug Reeves during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Green Mountain and Finger Lakes Supervisor Office at 231 N. Main Street, Rutland, VT 05701, Phone: (802) 747-6796; Fax: (802) 747-6766 or e-mail: dreeves01@fs.fed.us

Additional information about this decision can be found on the Internet at [http://www.fs.fed.us/r9/forests/greenmountain/htm/greenmountain/links/projects/projects_currentandcomplete.htm]

IX. SIGNATURE AND DATE

Alex Sienkiewicz

Date: *January 29, 2009*

ALEX SEINKIEWICZ
District Ranger
Responsible Official

C-100 Snowmobile Trail Relocation Decision Memo

APPENDIX A – Mitigation Measures

All pertinent Forest-wide, and Diverse Forest Use Management Area Standards and Guidelines will be adhered to during project implementation. The following additional mitigation measures will also be adhered to during project implementation:

1. All disturbed areas with bare soil will be seeded with a Forest Service approved seed mix.
2. All motorized construction equipment will be washed to remove potential undesirable seeds before and after entering the National Forest.
3. Slash from the new trail construction will be pulled onto the old trail to discourage further use and promote natural revegetation.
4. Any necessary culverts and waterbars will be constructed and installed according to guidelines developed by the Forest's soil and water resource specialists.
5. All historical sites will be left undisturbed by this project and protected from future trails impacts.
6. Avoid major reconstruction disturbance on the trail during deer season, roughly November 15-30 and December 6-14.

C-100 Snowmobile Trail Relocation Decision Memo
APPENDIX B – Response to Comments

The following comments have been summarized from the letters received during the 30-day notice and comment period for the C-100 Snowmobile Trail Relocation Project initiated by the legal notice in the *Rutland Herald* newspaper dated August 29, 2008. Out of the three responses received, one supported the project with minor mitigation, and one voiced concerns about timber sales and how cutting trees for trails fits in with the timber management program. The comments related to timber sales were outside the scope of this project and were addressed directly with that individual. The third commenter was one letter submitted together by the Center for Biological Diversity (CBD) and Conservation Law Foundation (CLF) combined (CBD/CLF). All commenters are listed next.

Comment Letter #	Commentator's Name
1	Town of Dover
2	Christopher Craft
3	Center for Biological Diversity & Conservation Law Foundation (CBD/CLF)

Comments have been categorized under descriptive headings. Each comment summary (*in italics*) is followed with the Forest Service response.

Support and Mitigation

The following comments pertain to this category:

(1) The Town of Dover respectfully requests that no work on the Dover Corridor 100 Snowmobile Trail Relocation project take place during deer hunting season....

Forest Service Response:

The Forest Service will accommodate your request as much as possible.

Concerns Regarding the Use of a Categorical Exclusion

The following comments pertain to this category:

(1) USFS has determined that the C-100 project meets the criteria for a categorical exclusion (CE). Due to the reasons discussed below, the determination that a categorical exclusion applies to the relocation of this snowmobile trail is erroneous because this determination is premature.

(2) ... the USFS has failed to conduct NEPA review for the GMNF snowmobile trail system by routinely granting categorical exclusions based on its conclusions that the construction, maintenance, and use of the trail system does not significantly affect the human environment. However, these conclusions fail to account for the interdependent cumulative effects of each and every trail project not only with the rest of the GMNF's extensive 471-mile snowmobile trail system, but also with the much larger statewide snowmobile trail system...

(3) By applying categorical exclusions to individual snowmobile trail projects such as the C-100 Project, the USFS is unlawfully circumventing the NEPA process.

(4) Since the U.S. Forest Service has failed to conduct a systemwide NEPA assessment of the cumulative impacts of and reasonable alternatives to the extensive GMNF snowmobile trail network, it is not appropriate to categorically exclude the C-100 Project from review. A categorical exclusion is only proper where an action does not "individually or cumulatively have a significant effect on the human environment." Therefore, it is premature for the USFS to determine whether the C-100 Project constitutes a categorical exclusion without first conducting a comprehensive NEPA review of the snowmobile trail network's environmental impacts.

(5) In the August 29, 2008 C-100 Preliminary Decision Memo, the USFS alleged that a

categorical exclusion for C-100 is proper because "the selected action is a routine activity within the following category of exclusion found at 36 CFR 220.6 (e)(1): Construction and reconstruction of trails . . ." The USFS offers no evidence, however, of any factual determination in the past that general snowmobile use in the GMNF or any specific trail projects in the GMNF have not have resulted in "significant individual or cumulative effect on the quality of the human environment." Since the USFS has never prepared a comprehensive forestwide EIS assessing the impacts of the snowmobile trail network on the GMNF, it lacks meaningful support for the claim that individual trail projects, such as C-100, will not result in significant impacts on the environment.

Forest Service Response:

The Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR § 1507.3 provide that agencies may, after notice and comment, use categories of actions (known as categorical exclusions) that typically do not have a significant effect on the human environment and therefore do not require preparation of an EA or an EIS (40 CFR §§ 1500.4(p), 1501.4(a) (2), 1508.4). A categorical exclusion (CE) is not an exemption from the NEPA, but rather a method of complying with the NEPA. This is in full compliance with the National Environmental Policy Act and our agency regulations in implementing the law. Using a CE is not an attempt to circumvent NEPA.

The C-100 project involves the construction of approximately 1,430 feet of new snowmobile trail to replace approximately 1,780 feet of existing trail on National Forest System (NFS) lands. This trail "relocation" will result in a safer trail for the public, will minimize soil erosion problems, and protect water quality. This is not an expansion of the overall snowmobile trail system; this project is not proposing to add any new snowmobile trails or to lengthen existing trails on the Green Mountain National Forest (GMNF). This action will not increase the capacity or projected use of the trail in the project area or the whole snowmobile trail system. It was determined that there are no measurable effects to consider beyond those produced in the vicinity of the C-100 project. Many minor snowmobile trail relocation projects have been implemented on the GMNF over the years after analysis similar to this without producing significant impacts. Therefore, the proposed action clearly fits the category of actions that "normally do not individually or cumulatively have a significant effect on the quality of the human environment and, therefore may be categorically excluded from documentation in an EIS or an EA" (36 CFR 220.6).

Despite the proper use of the categorical exclusion, the environmental analysis did consider potential cumulative effects of the proposed action in conjunction with effects of past, present, and reasonably foreseeable related future actions within the context of the localized effects. A thorough review of all potential extraordinary circumstances was also completed (see the Decision Memo, DM). A full range of natural resource professionals including a wildlife biologist, botanist, soil scientist, archaeologist, and recreation planner have reviewed this project and documented effects. These resource effects have been reviewed by the Responsible Official. The analysis also examined how these localized impacts fit within the context of those impacts disclosed in the 2006 GMNF Forest Plan FEIS [GMNF Forest Plan FEIS, pp. 3-28 to 3-32 (soil); 3-37 to 3-40 (water); 3-46 (air); 3-207 to 225 (recreation); 3-95 to 3-97 (NNIS); 3-320 to 3-323 (heritage); FEIS Appendix E – Biological Evaluation, pp. 50 to 151; and FEIS Appendix H – Response to Public Comments, pp. 221 to 243 (Dispersed Recreation Management – 53000)]. Based on this review, on public scoping, and on Forest Service resource specialists' analyses associated with the project, it was determined that there would be no significant cumulative effects resulting from the proposed action. Likewise, the minor actions proposed here, when added to similar interdependent actions that could be proposed for implementation on other small sections of the snowmobile trail system, would result in no adverse overall cumulative impact.

Concerns Regarding the Need to Do an EIS for a System-Wide NEPA Review of the GMNF Snowmobile Trail System

The following comments pertain to this category; many of these comments are related to those listed under the category above that questioned the use of a categorical exclusion.

(1) *The National Environmental Policy Act (NEPA) "declares a broad national commitment to protecting and promoting environmental quality." The Act requires all federal agencies to prepare detailed environmental impact statements when they engage in major federal actions that significantly affect the quality of the human environment.*

(2) *The lack of a legally sufficient systemwide NEPA review of the GMNF snowmobile trail system to date is a violation of the fundamental purpose of NEPA because the construction, maintenance, and use of that constantly expanding 471-mile trail system is a "major federal action significantly affecting the quality of the human environment."*

(3) *Further, a major federal action requires the preparation of an environmental impact statement when that major action "significantly affects the quality of the human environment."*

(4) *The Council on Environmental Quality states, "[s]ignificance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts."*

(5) *Since the U.S. Forest Service has failed to conduct a systemwide NEPA assessment of the cumulative impacts of and reasonable alternatives to the extensive GMNF snowmobile trail network, it is not appropriate to categorically exclude the C-100 Project from review.*

(6) *Since the USFS has never prepared a comprehensive forestwide EIS assessing the impacts of the snowmobile trail network on the GMNF, it lacks meaningful support for the claim that individual trail projects, such as C-100, will not result in significant impacts on the environment.*

(7) *... the USFS is obligated to complete a thorough environmental impact statement that analyzes the cumulative impacts caused by the construction, operation, and management of the 471-mile snowmobile trail system in the GMNF...*

Forest Service Response:

Preparing an EIS to do a cumulative effect analysis of the whole snowmobile trail system on the GMNF is not warranted by the scope of the C-100 proposal. The minor proposed action of relocating an existing snowmobile trail and allowing the continued use of this trail corridor will not increase the capacity or projected use of the trail in the project area or the whole snowmobile trail system. There are no measurable effects to consider beyond those produced in the vicinity of the C-100 trail project area.

As detailed in the response above regarding the use of the CE, the C-100 trail proposal clearly meets the criteria for a categorical exclusion and as such, it is not considered a major federal action. By definition, categorical exclusions have been determined to not individually or cumulatively have significant effects on the human environment (40 CFR 1508.4). However, as explained in the response above, the IDT and Responsible Official did consider not only the localized effects but also the potential cumulative effects, the potential impacts related to the review of extraordinary circumstances, and also examined how the localized impacts fit within the context of those impacts disclosed in the 2006 GMNF Forest Plan FEIS. No EIS or review of the entire snowmobile system was necessary or required.

Concerns Regarding the 2006 Forest Plan

The following comments pertain to this category:

(1) *... in the Final Environmental Impact Statement (FEIS) for the 2006 Land and Resource Management Plan (LRMP) recently adopted by the GMNF, the USFS failed to examine the adverse impacts of snowmobile noise on other recreators, wildlife, and habitat; the conflicts*

between snowmobiling and other activities such as cross-country skiing; the unhealthy effect of snowmobiles' toxic chemical discharges on air and watershed quality; and the disruption to wildlife habitat caused by snowmobile trail routes and snow compaction.

(2) As exemplified by the Forest Service's lack of discussion of important adverse impacts in the FEIS, the USFS has consistently failed to analyze the "long- and short-term effects" that lead to "reasonable anticipat[ion] of cumulatively significant impact on the environment."

(3) The U.S. Forest Service has also failed to analyze a full range of alternatives for snowmobile use in the GMNF. The FEIS for the 2006 GMNF LRMP merely notes the status quo mileage of snowmobile trails and the generalized management areas that allow snowmobile use.

(4) By failing to analyze a full-closure alternative or any alternatives allowing less than a substantial 47% of the commonly-held GMNF to be impacted by extensive snowmobile use, the USFS failed to take a "hard look" at reasonable alternatives to the current trail system.

(5) The failure to consider both full-closure alternatives and limited trail use alternatives violates NEPA.

(6) Until the Forest Service rigorously explores more meaningful alternatives for management of the entire trail system, including a full-closure alternative and a targeted-closure alternative, the USFS cannot lawfully proceed with C-100 or other trail projects under categorical exclusions.

Forest Service Response:

Issues regarding what the Forest Plan should or should not have done concerning analysis of the forest-wide snowmobile trail system are beyond the scope of this simple trail relocation project. As stated in the responses above, the C-100 project clearly fits the category of actions that "normally do not individually or cumulatively have a significant effect on the quality of the human environment and, therefore may be categorically excluded from documentation in an EIS or an EA". The potential impacts, individual and cumulative, of the C-100 project are within the range of the impacts disclosed in the programmatic Forest Plan FEIS. As stated in the DM and as evidenced by the Project Record, this proposal is consistent with Forest Plan direction and standards and guidelines.

The Final Environmental Impact Statement (FEIS) used to adopt the 2006 Forest Plan analyzed activities for the entire forest, including snowmobiling, at the programmatic scale. It also disclosed at the programmatic level, the range of impacts of snowmobile use on various resources. More specifically, the FEIS looked at snowmobiling as part of a "Recreation Management" issue and incorporated it into the analysis of five different Forest Plan alternatives. This analysis evaluated different levels of snowmobile use and those alternatives determined the percentage of the Forest in which construction and/or maintenance of a snowmobile trail would be consistent with the Forest Plan. The C-100 project is consistent with the alternative selected for Forest Plan implementation. The range of alternatives in the Forest Plan was developed to adequately address issues, including those concerning snowmobile use, and to meet the purpose and need for Forest Plan revision.

Concerns Regarding Application of Executive Orders 11644 and 11989

The following comments pertain to this category:

(1) ...the U.S. Forest Service and other land management agencies are required to ensure that the use of off-road vehicles on public lands will be controlled and directed "to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands." Specifically, Executive Order 11,644, as amended by Executive Order 11,989, requires agencies to minimize damage to the soil, watershed, and vegetation; minimize harassment of wildlife or significant disruption to habitats; and minimize conflicts between ORV use and other recreational uses of the same or

neighboring public lands. Furthermore, these orders give agency heads discretion to close public lands to ORV use to protect the environment.

(2) The Forest Service's past mismanagement of ORVs in the GMNF further indicates the failure of the USFS to protect resources, promote safety, and minimize user conflict as required by the executive orders.

(3) This failure to manage snowmobile use in the GMNF constitutes a direct violation of NFMA regulations.

(4) Despite this disregard for federally-mandated snowmobile management during implementation of the 1987 Plan, the current 2006 GMNF Plan does nothing to remedy this failure.

Forest Service Response:

The purpose of Executive Order 11644 of 1972 (as amended by Executive Order 11989 in 1977) was to establish policy to direct off-road vehicle use on public lands in order to ensure resource protection, maintain safety of all users, and avoid conflicts between various land users. This was essentially incorporated into the NFMA land management planning process utilized by the GMNF during revision of the 1987 Forest Plan (i.e., the 2006 Forest Plan). During this process, the Forest identified "Recreation Management" as an issue, which included identifying an appropriate mix of motorized and non-motorized trails.

The GMNF is complying with these Executive Orders through implementation of national policy and local land management planning related to off-road vehicle use, including snowmobiles. The 2006 Forest Plan provides programmatic direction in managing off-road vehicles (snowmobiles and wheeled motorized vehicles) through Management Area direction and Forest-wide and Management Area Standards and Guidelines that are being implemented in site specific projects such as the C-100 project. Also, the C-100 DM contains site specific mitigation measures that will further reduce effects to resources in the project area. The GMNF will continue to implement the 2006 Forest Plan in regard to managing these uses through appropriate levels of site specific analyses and monitor the effects on resources.

The GMNF works diligently to manage all off-road vehicle use on the Forest, including snowmobiles. The partnership with VAST is one of the tools used to manage the snowmobile program, particularly trail maintenance and stewardship. The GMNF will continue to monitor levels of snowmobile use, trail conditions, and will incorporate changes in technology in determining the proper level of use.

Concerns Regarding the Need for a Special Use Permit for VAST

The following comments pertain to this category:

(1) ... the explicit failure of the USFS to require VAST to obtain legally-mandated special use permits before operating in the Forest.

(2) Certain activities, namely commercial activities and group activities require special use permits.

(3) Courts have held that where an organization charges an annual membership fee that is used to "cover operational and maintenance expenses," the organization is a commercial user and cannot operate on a national forest without a special use permit. Therefore, a special use permit must be obtained before VAST or its members can continue to operate, construct, or use trails on the GMNF.

(4) Thus, the continuing use of snowmobiles in the GMNF by many of VAST's 45,000 members is a "group activity" and triggers the need for the Forest Service to require VAST to obtain special use permits before further operating in the GMNF.

Forest Service Response:

The GMNF has a long-standing partnership with VAST that's implemented through a challenge cost share (CCS) agreement. VAST is a non-profit organization that shares the mutual interest of maintaining and improving the snowmobile trail system on the Forest. The CCS agreement is the most appropriate method of authorization for this type of business relationship. The purpose of these agreements with VAST, and other similar trail based recreational organizations such as the Green Mountain Club (GMC) and Catamount Trail Association (CTA), is for the purpose of the maintenance of trail system on the GMNF. These trails, which are often multiple-use trails, are maintained in accordance with the GMNF Forest Plan, relevant Forest Service Trail manuals and handbooks, and the National Environmental Protection Act (NEPA). Special use permits are typically used with profit-making organizations whose proposals are consistent with approved land management plans, but are not part of the agency's core management activities and responsibilities. As an example, outfitter guide permits may be issued to various clubs within or outside of VAST to authorize the use of snowmobile trails by certain commercial groups that offer guided rides/trips. SUPs are also be issued to VAST when they host special events for groups of 75 persons or more.

In regards to the C-100 project, the GMNF has the discretion as to how to implement any decision coming out of this project. The question as to whether VAST should be issued a SUP for its operation is outside the scope of the C-100 analysis. The decision to relocate the trail does not require issuance of any special use authorizations or imply such action.

Concerns Regarding the Public Involvement Process

The following comments pertain to this category:

- (1) The U.S. Forest Service's repeated use of categorical exclusions to avoid performing NEPA analysis of snowmobile trail-related projects has resulted in another troubling consequence: it has precluded the meaningful public involvement explicitly required by NEPA... This piecemeal approach has resulted in the fragmentation of the trail-system review into smaller projects, preventing the public from accurately assessing the context and the intensity of snowmobile use in the GMNF.*
- (2) the Forest Service's repetitive use of categorical exclusions for trail projects in the GMNF has made it extremely difficult for interested members of the public to participate meaningfully because this approach places the burden on the public to connect the dots between numerous interrelated but geographically remote trail projects instead of focusing their participatory energy on a comprehensive forestwide environmental impact analysis where context and intensity are in more appropriate focus. Since this piecemeal project-by-project approach is precluding meaningful public participation, it is imperative that the USFS undertake a single, NEPA-compliant comprehensive analysis of the snowmobile trail network's environmental impacts whereby concerned citizens can voice their opinions without fragmentation of those opinions into insignificant parcels.*
- (3) The USFS has failed to involve the public in its decisionmaking process regarding the GMNF snowmobile trail system. The U.S. Forest Service has systematically circumvented the requirements of FACA and the Government in the Sunshine Act by meeting privately with VAST on numerous occasions.*
- (4) With respect to the GMNF's extensive snowmobile trail system, much of the U.S. Forest Service's decisionmaking has been formed in private meetings between the USFS and VAST.*
- (5) Thus, these private meetings have allowed one self-interested group to unilaterally inform snowmobile trail network decisions in the commonly- held GMNF without public input from concerned individuals and organizations. This approach, which has deprived the public of any meaningful input, directly violates both FACA and the Government in the Sunshine Act. Before moving forward with any further projects, the U.S. Forest Service must define an open, public process for determining management of snowmobile activities to avoid the continued violation of these statutes.*

Forest Service Response:

Public involvement for the C-100 project was accomplished in a number of different steps. This project was listed in the quarterly Green Mountain National Forest Schedule of Proposed Actions (SOPA) beginning in October, 2006. An initial scoping, or gathering the public's issues and concerns, was accomplished by contacting neighbors and adjacent landowners, snowmobile club members, numerous Forest Service resource specialists, and a representative of Center for Biological Diversity. These contacts included various field trips. Results from this early public involvement effort was critical in identifying and resolving some of the site specific issues of the proposed action early in the process, and helped determine the appropriate level of environmental review and documentation required under the National Environmental Policy Act.

The second public involvement effort was the release of the Preliminary Decision Memo that further informed the public of what has been proposed and gathered additional comments during the required 30-day public notice and comment period per Agency regulations. Since this project involves actions associated with off-highway vehicles routes, it was subject to notice, comment and appeal pursuant to the ruling in *Earth Institute v. Ruthenbeck*, 376 F. Supp. 2d 994 (E.D. Cal. 2005). Accordingly, the GMNF initiated a 30-day comment period for the project on August 29, 2008, the day in which a legal notice was published in the GMNF newspaper of record. Comments received are addressed in this final DM and Project Record.

The Federal Advisory Committee Act (FACA) controls the establishment, management, and termination of advisory committees within the executive branch according to a number of specific criteria. VAST is a non-profit organization that was not formed by the Forest Service and is not funded by the Forest Service. The Forest Service does not exercise or have management or control over this organization. VAST and the GMNF are working as partners under a valid challenge-cost share (CCS) agreement. The partnership allows either party to terminate the CCS at any time. The purpose of this partnership is to "manage and maintain" the trail system. The interaction between the Forest Service and VAST do not meet the requirements of a federal advisory committee.

The decision to authorize the C-100 Snowmobile Trail Relocation Project is not being made by a decision-making-body of two or more members as described under the terms of the Government in Sunshine Act. The Responsible Official in this case is the District Ranger, who has sole responsibility to authorize the action. Therefore, the Government in Sunshine Act is not applicable to this project.

The Forest has not held any meetings with VAST in which a disposition (decision) was made in regards to this or any other snowmobile trail project subject to NEPA. The C-100 project decision is being made with full disclosure through the NEPA process. The public involvement process (described above) which included public scoping, 30-day formal comment, and notification of the decision has been accomplished by legal notices, written and verbal comments, and internet postings. The DM has been signed by the Responsible Official after this open public process was completed per NEPA regulations.