



November 20, 2017

David Hays, Forest Supervisor
Lassen National Forest
2550 Riverside Drive
Susanville, CA 96130
Attn: Christopher O'Brien, Ecosystem Staff Officer

RE: Revised Draft Environmental Impact Statement

Dear Planning Team:

Please accept these comments from the BlueRibbon Coalition/Sharetrails.org (BRC) on the Lassen National Forest Over-Snow Vehicle (OSV) Use Designation Revised Draft Environmental Impact Statement (RDEIS). These comments are submitted on behalf BRC, a named intervenor-defendant in *Snowlands Network v. U.S. Forest Service*, Case No. 2:11-cv-2921-MCE (E.D.Cal.), and signatory to the settlement agreement in that case.

BRC is a nonprofit corporation that champions responsible recreation and encourages individual environmental stewardship. BRC has members in all 50 states, including California. BRC members use various motorized and nonmotorized means, including OSV, to access Forest Service and other public lands, specifically including the Lassen National Forest. BlueRibbon has a long-standing interest in the protection of the values and natural resources addressed in the planning process, and regularly works with land managers to provide recreation opportunities, preserve resources, and promote cooperation between public land visitors.

BRC is generally supportive of Alternative 4 (RDEIS, Volume I, Part 1, Chapters 1 through 3) as it recognizes the value of current designations and would apparently carry most of them forward through this process.

BRC supports (Page 147) an adaptive and condition-focused approach to snow depth prescriptions, instead of a rigidly defined snow depth requirement in areas designated for cross-country OSV travel or on designated OSV trails. BRC believes that forest staff should determine (as a minimization tool) in real-time when conditions are sufficient to allow OSV use while protecting underlying resources. Such determinations implicate and should rely upon agency expertise, informed by user input, that can track conditions at particular sites in real time, and provide updated information to the public through varied forms of communication, including via the Forest website, social media, traditional media and/or

signage at agency facilities, staging areas, and trailheads. We recognize and support the management prescription of a 12 inch minimum snow depth for trail grooming to occur.

Again, BRC believes the agency should grant itself authority to use common sense and best management practices to avoid arbitrary closures based on a single measurement.

There are several elements which appear confusing and beg clarity. In particular, it is unclear to what extent Alternative 4, and other alternatives, would allow for continuing OSV crossings of the Pacific Crest Trail (PCT). It seems possible to read the document to eliminate such crossings and create a 500 foot "buffer" on each side of the PCT. See, RDEIS at Page 159. Yet on Page 147, the RDEIS states, "The same PCT crossing points as in alternative 2 [28 designated PCT crossing points] would be designated. OSV use would be allowed adjacent to the PCT. The trail itself would remain non-motorized. There are areas designated open to OSV use within 500 feet of the PCT along 97.68 miles of the PCT on the Lassen National Forest."

BRC is concerned about what appears to be an arbitrary 1,000 ft. non-OSV buffer that has been created and is, in fact, more restrictive than congressionally designated Wilderness.

On pages 135/136, there is an overview of buffer prohibitions near federally designated Wilderness.

Congress does not intend that the designation of wilderness areas ... lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area. (Kelson and Lilieholm 1999).

Virtually identical language has been included in 30 other wilderness statutes enacted since 1980 (Gorte 2011). This concept is also supported by Forest Service Manual 2320.3 that directs consideration of uses on both sides of wilderness boundaries, but states,

Do not maintain buffer strips of undeveloped wildland to provide an informal extension of wilderness. Do not maintain internal buffer zones that degrade wilderness values

As you know, the PCT is a non-motorized trail that runs north-south through the western U.S. and along the crest of the Sierra Nevada Mountain Range in California. It exists primarily on Forest Service lands including the Forests bound by the *Snowlands* settlement agreement. The Lassen and other Forests should review public comments and internal reviews with field OSV staff and patrol agents to ensure that it designates PCT crossings that retain the current form and function of the OSV program. Depending on snow depth, it can be virtually impossible for users and law enforcement to identify specific and narrow crossings.

According to the PCTA, "*Traveling the PCT when it's covered in snow means exposing yourself to potential avalanche risk. The PCT was not designed for travel when snow is on the ground. In many places, it's unwise to travel the trail during these conditions. Areas along the trail are well known for their avalanche danger. Seasonally, specific snow travel and avalanche preparedness skills are critical.*

It's highly unwise to unknowingly expose yourself to this hidden danger." See, <https://www.pcta.org/discover-the-trail/backcountry-basics/snow/>

Given the PCT was not designed for travel when snow is on the ground, BRC strongly opposes any alternative that does not designate PCT crossings and/or creates arbitrary non-motorized buffers.

Creating arbitrary PCT OSV buffers on the Lassen NF would also threaten a highly unwarranted and controversial precedent that could impact hundreds of miles of motorized summer and winter recreational opportunities on routes or open areas that parallel, cross, or are in otherwise close proximity to the PCT. Many of these routes and open-to-cross-country OSV travel areas exist on the Plumas National Forest and other National Forests in Region 5 and Region 6.

BRC believes it remains important to work in a collaborative manner with local OSV clubs, concessionaires, and OSV rental companies to review current functionality of the current and future OSV program for issues such as needs for seasonal or permanent stream crossings (e.g. installing half culverts, OSV bridges, or other management structures/techniques), connectivity, trails for both beginner and skilled riders, looped opportunities, and adequate open or play areas where new OSV users can practice and improve their skills. The best program elements or concepts are only as good as their tailored application to the needs of a particular area or user community.

We wish to further address the expected input you will receive from our preservationist counterparts decrying "user conflict" and demanding that "quiet" or "nonmotorized users" be provided exclusive use of immense swaths of territory not designated for OSV travel. First, such territory already exists, in Wilderness or the significant areas that are functionally inaccessible to OSV. Second, the reality is that "quiet" users do not require the large blocks of land from which they hope to exclude OSV, as their true, on-the-ground recreational needs can be met on relatively modest areas and/or trail systems. Third, any alleged "conflict" should be objectively and scientifically analyzed – subjective assertions or alleged personal accounts do not create a rational basis for agency action. Fourth, and most importantly, we direct your attention to the Ninth Circuit's recent decision in *Wild Wilderness v. Allen*, 871 F.3d 719 (9th Cir. 2017)- (see attached). The Forest should not be bullied into closure under the guise of subjective or ill-defined "conflict" as the decision makes clear that a reviewing court will defer to an informed agency balance on this, and other, issues. Indeed, the regulations refer to conflicts "between uses" and NOT "users." 36 CFT § 212.55(b)(3). The panel hints at, and BRC will revisit if needed, "the question of whether on-snow user conflicts are outside the scope of the agency's required NEPA analysis entirely because they are 'citizen's subjective experiences.'" *Wild Wilderness*, 871 F.3d at 729 n.2 (quoting *Bicycle Trails Council v. Babbitt*, 82 F.3d 1445, 1466 (9th Cir. 1996)).

CONCLUSION

BRC appreciates this opportunity to participate in the management process and to work alongside stakeholders and the Forest Service to improve the winter recreation program on the Lassen National Forest. Please consider our comments, and do not hesitate to contact us in this designation process as well as the ongoing management effort. BRC supports an Alternative 4 that includes the 28 designated OSV PCT crossings and removes any arbitrary 1,000 foot buffer.

The purpose (goals and objectives) of this project are to effectively manage public OSV use on the Lassen National Forest and to comply with the *Snowlands* settlement agreement. Effective management would provide public OSV access, ensure that OSV use occurs when there is adequate snow, promote

the safety of all uses, enhance public enjoyment, minimize impacts to natural and cultural resources, and minimize conflicts among existing or proposed recreational uses.

Respectfully submitted,

Don

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Attached: *Wild Wilderness v. Allen*