

**Jackson Hole Conservation Alliance
Greater Yellowstone Coalition
Wyoming Outdoor Council**

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David Wilkinson
Jackson Ranger District
Bridger-Teton National Forest
P.O. Box 1689
Jackson, Wyoming 83001

The Off-Highway Vehicle Route Designation Project is an opportunity to ensure better management for the Bridger-Teton National Forest (BTNF) and help address the increasing use of motorized travel on public lands. The Jackson Hole Conservation Alliance, the Greater Yellowstone Coalition, and the Wyoming Outdoor Council appreciate the opportunity to provide our concerns and suggestions on the draft Environmental Impact Statement on this project.

The Greater Yellowstone Coalition (GYC) has a membership of more than 8,000 individuals, families, and businesses who have worked since 1983 to protect the lands, waters, and wildlife of the Greater Yellowstone Ecosystem. Our members recognize the ecological and economic value of the northern portions of the BTNF that this planning effort impacts. This area is rich in native species of wildlife, important wildlife habitat, and landscapes valued for recreation and other sustainable uses.

Wyoming Outdoor Council (WOC) is the state's oldest and largest independent statewide conservation organization. WOC's mission is to protect and enhance Wyoming's environment by educating and involving citizens and advocating environmentally sound public policies and decisions. Many of WOC's members appreciate the natural resources on public lands, enjoy the watersheds of Jackson Hole and the North Zone Bridger-Teton National Forest under analysis.

The Jackson Hole Conservation Alliance (JHCA), representing over 1800 members, is dedicated to responsible land stewardship in Jackson Hole, Wyoming to ensure that human activities are in harmony with the area's irreplaceable wildlife, scenic and other natural resources. The Alliance has a long-standing history of working to ensure that motorized recreation in the Bridger-Teton occurs in places and at levels that do not harm wildlife populations, sensitive habitat or opportunities for solitude.

As directed by the Travel Management rule, this project should improve management of public summer motorized use (May 1- November 30) on the BTNF where motorized travel is currently not restricted. The plan will designate roads and motorized trails for public access, and can improve the quality of the system, reduce user conflicts, reduce resource impacts, and improve the ability of the BTNF to maintain routes and enforce regulations. In the DEIS the BTNF recognizes two key factors in OHV management: 1) the most important motorized needs are related to access for wildlife viewing, scenic vistas, trailheads and, for hunting and fishing; 2)

that there is a limited need for purely motorized recreational riding. Such findings emphasize that the most important values on this national forest are its wildlife, habitat, and scenery and that such resources should be protected against degradation from inappropriate motorized use.

The draft EIS Table 1, p. 21, identified 7 issues from the public and used by resource specialists to structure this document. We begin our comments with general statements in regard to each of these issues.

1. Effects on opportunities for motorized recreation.

We believe that the Bridger-Teton National Forest (BTNF) should focus on the presence of incomparable numbers and variety of wildlife. The BTNF is renowned for its wildlife habitat and should not become a motorized recreational playground.

2. Effects on opportunities for non-motorized recreation.

With human population growth driving an increasing use of public lands by motorized and non-motorized methods, the BTNF should protect the ability of non-motorized users to access areas of the forest that will not be degraded by the noise and presence of machines.

3. Effects on route sustainability and potential for sedimentation into water sources.

All motorized routes should be authorized only in terrain that will not degrade with use. Routes should not negatively impact habitat nor cause soil damage or erosion and should not adversely affect streams and other waters.

4. Effects on wildlife including threatened, endangered and sensitive species and management indicator species.

The BTNF should incorporate current, relevant peer-reviewed research regarding the impact on wildlife and habitat by motorized vehicles into the final plan with the full implementation of the recommended best management practices. Motorized activity should not displace wildlife from critical habitats including migration routes, nesting and brood rearing areas, parturition areas, and important foraging habitats. Grizzly bears, sage grouse, peregrine falcon and other significant species should have no or minimal impacts on their behavior or habitat as a result of this project.

Lynx:

The Northern Rockies Lynx Management Direction (NRLMD) charges the Forest Service to “conserve and promote the recovery of lynx.” Project File at 67. The BTNF is a “core area” identified by the FWS. *Id.* One of the objectives from this direction is that the Forest Service should “manage recreational activities to maintain lynx habitat and connectivity.” Objective HU 02, NRLMD ROD, 2007. As the DEIS clearly states, “Alternative B would have the least potential influence on lynx and their habitat.” DEIS at 149. The Forest Service is bound to comply with the NRLMD. Where as here, the agency has the ability to choose an alternative that would be more protective of this listed species, it should do so.

As the choice to authorize the project may affect listed species, particularly Canada lynx, the Forest Service must ensure compliance with the Endangered Species Act (“ESA”) 16 U.S.C. § 1536(a)(2), particularly timely § 7 consultation with the U.S. Fish and Wildlife Service. Section 7(a)(2) of the ESA requires that in preparation for authorizing any action, an agency must prepare a biological assessment (“BA”) in situations where a threatened or endangered species “may be present.” 16 U.S.C. § 1536(a)(2). A BA “shall evaluate the potential effects of the action on listed and proposed species and designated and proposed critical habitat and determine whether any such species or habitats are likely to be adversely affected by the action and is used in determining whether formal consultation or a conference is needed.” 50 C.F.R. § 402.12(a).

There is no mention whether the Forest Service consulted with the U.S. Fish and Wildlife Service, other than a notation of this agency in a list of “consultation and coordination” agencies on page 162 of the DEIS. Although the action alternatives would seem to be improvements from the status quo, there are undoubtedly impacts associated with any action alternative. Specific mention is made that by closing access to some trails and routes, motorized use would increase in other areas. See Project File at 72 (stating, “By virtue of restricting motorized travel to designated routes the frequency and volume of motorized traffic would be expected to increase on the designated routes. Initially this would potentially increase disturbance along these routes and could induce responses from lynx that encounter the motorized disturbance sources along routes that previously may have received less frequent and lower traffic volumes where encounters would have been fewer.”) This circumstance alone “may adversely affect” lynx and thus consultation is required with the FWS.

Greater sage-grouse

One of the goals of the Bridger-Teton forest plan is to prevent sensitive species from becoming federally listed threatened species in Wyoming. See Bridger-Teton National Forest Land and Resource Management Plan (“BTNF LRMP”) at 126. Objective 3.3(a) instructs the Forest Service to “[p]rotect National Forest Service Intermountain Region sensitive plant and animal species and provide suitable and adequate amounts of habitat to ensure that activities do not cause: (1) long-term or further decline in population numbers or habitats supporting these populations; and (2) trends toward federal listing.” Id. The greater sage grouse is on the Intermountain Region Proposed, Endangered, Threatened and Sensitive Species list and is specifically listed as a sensitive bird species on the Bridger-Teton National Forest. Specifically, one forest plan objectives for roads and motorized trails is to “minimize new road building and downgrade or close existing roads and motorized access trails to maintain or increase wildlife security.” BTNF LRMP Obj. 4.1(a).

The Forest Service should ensure that before authorizing any motorized routes—routes that will be open for years to come under this new travel management plan—that sage grouse habitats are adequately protected. It is clear that Alternative B has the least number of total open motorized route miles within sage grouse habitat. DEIS at 109, Figure 15. Nevertheless, even Alternative B “pose[s] a significant threat to grouse and their habitat.” DEIS at 110. Due to the potential that this sensitive species may be listed in the near future if the state of Wyoming and federal agencies do not demonstrate that all possible steps are being taken to ensure its continued viability, the Forest Service has the obligation to choose the most conservative of alternatives, with additional restrictions as needed to protect the species.

Native Fish

In contemplating whether to authorize the proposed motorized trail system, the Forest Service should consider the importance of the areas to the survival of native cutthroat trout populations. The current forest plan contains standards that are designed to protect fish habitat and populations:

For fish habitat providing a fishery at or near its potential, fish populations should be maintained at existing levels. For habitat below its potential, habitat should be improved or maintained to at least 90 percent of its natural potential. First priority for improvement should be streams supporting Colorado River and Bonneville cutthroat trout, which are sensitive species.

At least 90 percent of the natural bank stability of streams that support a fishery, particularly threatened, endangered, and sensitive species and all trout species, should be maintained.

Streambank vegetation should be maintained to 80 percent of its potential natural condition.

Habitat occupied by existing and reintroduced populations of Colorado River, Bonneville and Snake River cutthroat trout should be managed to protect species purity.

BTNF LRMP at 126.

The Forest Service should state with certainty that these standards are currently being met and if that is the case, ensure that any continued use of the trail system as authorized by the final EIS will not violate the standards in the future. Alternatives B and C are those that have the “highest level of resource protection for fisheries.” DEIS at 150. We urge the Forest Service to prioritize conservation of native, sensitive fish species when considering alternatives and any important changes to the listed alternatives.

5. Effect on the character of inventoried roadless areas, Wilderness, Wilderness Study Areas, Wild and Scenic Rivers, and National Parks.

The Forest Service and National Parks Service have a duty to maintain these areas as directed by Congress and federal regulations and protected areas should not be subjected to actual or potential impacts from motorized travel.

6. Effects on cultural resources.

Cultural resources are a legacy for future generations and their security should not be compromised by the impact of motorized routes.

7. Effects on the agency's ability to manage the OHV system.

Any plan is only as strong as its weakest link and this issue can probably be defined as the weakest link. The current off-system trails have existed for a great enough length of time that it will be difficult to change user behavior, and to rehabilitate those trails. The necessity to provide the public with appropriate signage, trail maps, route designation and any other information that clarifies the legal restrictions and allowances should be available in as many formats as possible. Enforcement of this plan is critical to containment of motorized travel on designated routes and minimizing impacts.

Given the admission in the DEIS that "Off-highway vehicle (OHV) use within portions of the Bridger-Teton National Forest is not being managed in a manner consistent with the 1990 forest Plan direction and the 2005 National Forest Travel Management rule or in a manner consistent with resource protection, public safety and enjoyment by all Forest users". Forest Protection Officers must diligently monitor the system in order to appropriately manage it to protect forest resources.

The BTNF has also said that the user groups will need to help educate users and monitor use of trails as well. If so, then the public also needs the ability to ask questions of forest personnel and report unlawful use. At key trailhead kiosks, the type of information needed, who to contact, and means of reporting unlawful use should be explained. While noting things like locations of illegal motorized activity, dates, and types of damage is helpful, the public also needs the ability to identify scofflaws. License plates for OHV's used on USFS lands should be of a size similar to automobiles which will help the public acquire critical information when illegal use is observed.

While the duty rests with the USFS, we encourage the Bridger-Teton to explore possible partnerships with motorized groups and users, WGFD, local community groups and conservation organizations to inspect and report back on different segments of the new system. Data from these efforts, particularly narrative reports and photographs, can be used by BTNF officials to adjust annual iterations of the new maps and focus its limited monitoring and enforcement resources to areas of documented problems. The presence of USFS personnel in the field and the issuance of tickets with substantial fines that will deter further illegal use will be the key of the success of this plan.

General and seasonal closures

Wildlife is the most valuable component of the BTNF. This plan should, at the very least, maintain the value of that resource. The north zone of the BTNF contains wildlife habitat that is crucial to the survival of native species. This includes, but is not limited to, winter ranges for hoofed mammals, denning areas for grizzly bears and Canada lynx, birthing areas and seasonal ranges for hoofed mammals, cutthroat trout streams and whitebark pine stands that benefit grizzly bears. Where motorized trails are not permanently closed to protect impacts on all species and their habitats the use of seasonal closures should be implemented with consideration for parturition areas in the spring, to provide greater wildlife security in the fall hunting season, and to provide needed habitat protection for grizzly bears and cutthroat trout. The earliest date

for opening these seasonally closed trails should be no earlier than July 1. This would help protect trail integrity during wet conditions in spring and early summer in addition to added protection for parturition areas. Seasonal closures should also be applied to areas and at times to protect big horn sheep and pronghorn during migrations, and for nesting birds. Leks, nesting, and brood rearing areas for sage grouse should receive high levels of protection. Because of the quality of elk habitat on Munger Mountain and the popularity of hunting in that area, we believe there should be greater seasonal restrictions in place. Alternative B has the second largest impact on elk calving amongst the alternatives for all areas identified by WGF as elk parturition areas. We suggest that additional seasonal closures be implemented on trails in those areas.

It may be possible in some instances to manage for suitable motorized uses in some of these habitats if use is restricted to a season which would not adversely affect wildlife use during critical times in the life cycles of the particular species. We realize that since this is a non-winter travel management plan, that denning areas for grizzlies would not be an issue, but early season foraging areas for recently emerging bears and cutthroat trout spawning streams that provide food for bears may be affected by motorized uses.

Trail locations and densities

While we recognize that wildlife and recreational objectives for the forest may be in conflict in some cases, the management for wildlife should take precedence. Research shows that motorized travel impacts wildlife behavior at much greater distances than previously believed. The development of a trail system should prioritize the habitat needs of wildlife in regard to motorized impact above the recreational opportunities and the most conservative level of densities should be implemented. We suggest that there be careful consideration of trail density in the areas under analysis that include BTNF Forest Plan Desired Future Conditions (DFC's) 6S, 7A, and 7B. All areas within DFC 12 should at a minimum meet elk habitat effectiveness of 70% (Draft EIS figure 8); areas within DFC 10 should meet elk habitat effectiveness of at least 50% (Draft EIS figure 10). Elk security measures should meet 30% minimum in all areas (draft EIS figure 11). Some of the Alternatives in the DEIS include redundant trails, i.e. parallel trails very close together. We request that these be assessed for duplication and one or the other closed. A similar situation exists with some loops. Loops create unusable habitat for elk within centers of loops. These smaller loops and interior trails within larger loops should be eliminated. High road/trail densities should not degrade effective wildlife habitat, and motorized trail densities should not compromise areas that have undergone agency-initiated rehabilitation of plant communities.

The potential exists in some areas for trail users to attempt to link trails between the Gros Ventre River and the Upper Green River. We strongly recommend that the BTNF take effective measures to deter this possibility.

Noxious weeds and invasive species

Road and trail systems are major pathways for the spread of invasive plants. The Forest Service has a duty not only to monitor and mitigate the spread of invasive plants, but also to prevent their spread when possible. According to Executive Order 13112, all federal agencies whose actions

may affect the status of invasive species are charged with the responsibility to prevent the introduction of invasive species. Section 2 of the Executive Order requires agencies to identify actions that may affect the status of invasive species and to then:

- Use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them

Specifically, the Forest Service shall not “authorize, fund or carry out any actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States . . . unless the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species . . .” 64 Fed. Reg. 6183 (Feb. 8, 1999).

Noise Impacts

The new North Zone motorized use plan must effectively mitigate impacts from OHV generated noise to humans and wildlife. Solitude and separation from noises of town and city life are among the top reasons people visit the BTNF (DEIS: 67). The other primary reasons for visitor use are viewing natural features and wildlife, and non-motorized use such as hiking (Ibid). Additionally, the impacts of noise on homeowners who live nearby must be considered and mitigated in the new plan. Alternative B with the recommended improvements we’ve offered in these comments best achieves the levels of protection for the values most sought out by visitors to the BTNF and for nearby residents. In protecting these values and multiple uses the BTNF will be conserved for the use and enjoyment of future generations.

We generally support a modified Alternative B, and have included the following specific recommendations for each area. Our requests are made with the intent to improve habitat effectiveness and security and to reduce resource damage.

Blackrock/Togwotee

- Only FS road 30050 from Highway 26 to Turpin Meadow should remain open and not the associated loops and spurs.
- Remove the loop north of Squaw Basin on FS road 30010 and terminate 30010 as indicated on Alternative D.
- Close FS road 30140.
- Remove spur on FS road 30100 on the west side of the road north of junction with FS road 30120.
- Remove road up to Burro Hill from Buffalo Valley Road.

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- On the road that goes east from Wallace Draw to FS road 30100, close somewhere north of Baldy Mountain to the east.
- On FS road 30160 west to Grand Teton National Park at Eynon Draw, remove the redundant parallel road at west end.
- On ATV trail from Sage Flats along Skull Creek, terminate at appropriate place, e.g., the spot wide enough for a turnaround, just below summit.
- Close road from FS road 30100 south of Nation Creek.
- Remove parallel road on FS road 30250.

Gros Ventre/Shadow Mountain

We support Alternative B and the focus on non-motorized travel in this area with the following additional recommendations:

- Remove the spur off the ATV trail at Carmichael Fork.
- Close the trail to motorized travel from Haystack to Gunsight Bridge.
- Remove all spur trails on the Gunsight Pass road.
- Close to all motorized travel anywhere across the Gros Ventre River east of the Dew Place including Bacon Creek.

Snake River Range/Munger Mountain

We support Alternative B and additionally recommend that season closures be considered until July 1, in areas identified as elk parturition by WGFD.

Hoback Basin/Granite Creek

We support Alternative B with additional recommendations that the BTNF adhere to directives included in the Wilderness Act of 1964, the Wyoming Wilderness Act of 1984, and the finding of Judge B. Lynn Winmill in his decision November 2006, on heli-skiing in the Palisades WSA.

The DEIS, page 118, notes that: "New OHV route designation in the (Shoal Creek) WSA is increasing . . . " and, "the southeastern corner of the WSA is being affected (by OHV routes) and its potential for wilderness compromised." Yet since 1984, the BTNF is required by the Wyoming Wilderness Act (WWAct) to manage the Shoal Creek WSA, "so as to maintain (its) presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." (99 Stat 2807, Title III Sec 301 (c)) Allowing increasing OHV routes does not accomplish this nor would managing those lands in a manner which would *compromise* the potential for the Shoal Creek WSA to be designated as wilderness accomplish the directives of the WWAct. Therefore, the BTNF must close all motorized routes that may not pre-date the WWAct.

The 2006 decision from Judge Winmill regarding the Palisades WSA may also pertain to the Shoal Creek WSA because Congress in the same Act designated both WSA's. Therefore, as determined by Judge Winmill on pages 15 and 16 of his decision, "... the balancing of

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competing interests, and “managed growth” are not the governing standards under the Wyoming Wilderness Act. Instead, Congress has directed the Forest Service to maintain the 1984 wilderness character of the area. That is the primary duty of the Forest Service, and it must guide all decisions as the first and foremost standard of review for any proposed action. “

Before the BTNF allows any motorized use in the Shoal Creek WSA, it must realize that “This mandate requires an extensive discussion of the 1984 wilderness character, and then a thorough analysis comparing the proposed action with that 1984 baseline. Once it is determined that the proposed action will maintain that 1984 wilderness character, and only at that point, the Forest Service may engage in its traditional balancing-of-interests analysis.”

“The “hard look” required by NEPA is not satisfied when the agency relies on incorrect assumptions or data in an EIS.”

(Honorable B. Lynn Winmill, Memorandum and Decision Order,
Case CV-06-04-E-BLM. November 21, 2006, pages 15 & 16)

- We also recommend closure of the Rilling Draw road at the elk feedground and that no roads or motorized trails enter into the Shoal Creek WSA.

We recommend that a program begin as soon as possible to educate and inform the public of the new regulations and how they can remain informed of annual changes and modifications. The entrenched nature of the existing system will prove challenging in changing some behavior.

We reiterate the understanding by the public and the BTNF that this forest is known for its abundant and diverse wildlife. Modifying motorized use on the forest is an opportunity to preserve the wildlife and habitat on this forest. The Initial preferred Alternative D is inadequate in addressing the concerns our organizations have in protecting those values on the BTNF and we offer our suggestions to better achieve that need. We appreciate the consideration of our comments to help the BTNF maintain this unparalleled resource.

Sincerely,

Louise Lasley
Jackson Hole Conservation Alliance
P.O. Box 2728, Jackson, Wyoming
307 733-9417

Lloyd Dorsey
Greater Yellowstone Coalition
P.O. Box 4857, Jackson, Wyoming 83001
734-6004

Lisa Dardy McGee
Wyoming Outdoor Council
262 Lincoln, Lander, Wyoming 82520

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307-332-7031