

Rules and Regulations

Forest Service Fails to Enforce Rules and Regulations

Although the Code of Federal Regulations contains very strong language governing ORV use and requires the Forest Service to closely monitor the impacts of such activity, these regulations are routinely ignored or minimally enforced. As motorized recreation escalates, the federal government fails to address or acknowledge current levels of use. Only twenty-eight law enforcement officers patrol 16.8 million acres of national forest in Montana. The Gallatin has only two full-time law enforcement rangers.

Nevertheless, there are new opportunities to make improvements. In response to litigation, the Forest Service has agreed to regulate and limit ORV use in grizzly bear habitat on the Gallatin. In addition, the Forest Service has been directed to restore wilderness conditions in the seven Wilderness Study Areas in Montana. The agency is in the process of developing a new round of travel management plans, which

This ORV road within the Taylor Fork area of the Madison Range proceeds into the Cabin Creek Wildlife Management Area and receives heavy year-round motorized use. Researchers found an amazing amount of litter along this trail, including machine parts, broken windscreens, gas

are expected to be complete by the end of 2002.

The Code of Federal Regulations addresses motorized recreation (36 CFR 261 and 295), specifically requiring the Forest Service to do the following:

- * Plan off road vehicle use to minimize damage to soil, watershed, vegetation or other resources.
- * Monitor motor vehicle use. If the results of monitoring, including public input, indicate that the use of one more vehicle types off roads is causing



Phil Knight

Bruce Farling



Director of the Montana Chapter of Trout Unlimited, age 48, has lived in Montana for 30 years.

Recreational interests: fishing, hunting, backpacking, birdwatching, back-country skiing

" We can see this problem emerging more in Montana. Where ORVs cross streams is often in inappropriate areas. They kick up sediment and bust banks, sometimes above a critical area that might be good for spawning fish."

or will cause considerable adverse effects on the soil, water, vegetation, fish and wildlife, forest visitors and cultural and historic resources in the area, the trail suffering adverse effects will be immediately closed to the responsible vehicle type or types until the adverse effects have been eliminated and measures have been implemented to prevent reoccurrence.

* Prohibit construction of any kind of road or trail on National Forest system land without a special-use authorization, contract, or approved operating plan.

* Prohibit operation of any vehicle off Forest Development, State or County roads in a manner which damages or unreasonably disturbs the land, wildlife, or vegetative resources.

Montana State Lands Policy Prohibits ORVs Off-Road

The Montana state policy for ORVs says “motorized vehicle use is restricted to federal, state and dedicated county roads or other roads regularly maintained by the county, or to other roads designated open by the Department of Natural Resources Conservation. Off road travel is prohibited.”

But while the State of Montana wisely prohibits off-road ORV use, the Forest Service allows this high impact activity to continue.

History of ORV Related Decisions Affecting management on the Gallatin:

1990: Bush Administration Throws Out Forty Inch Rule

On June 25, 1990, the Forest Service, without taking any public input, issued an order overturning the nationwide forty inch rule for ORV use on public land. Until then it was illegal for citizens to drive any vehicle that exceeded 40 inches in width on a national forest trail, by default prohibiting four-wheel ORVs. The Forest Service’s order was in direct response to intensive lobbying by manufacturers of ORVs such as Yamaha, Suzuki and Polaris. The Forest Service now permits vehicles up to 50 inches wide on many trails, allowing a much greater variety of motorized vehicles to access public land, including powerful four-wheel ORVs which can penetrate very remote areas.

On the Gallatin National Forest, the Forest Service did not solicit any public input on the decision to open wide the forest to all sorts of motorized vehicles. Records obtained by the Montana Wilderness Association in a 1998 Freedom of Information Act lawsuit show the U.S. Forest Service did not receive one letter of support for eliminating the 40 inch trail standard. Nevertheless, the Forest Service merely changed trail designations on the map, and opened huge areas of backcountry to powerful

four wheel vehicles.

The impact of this decision has been especially visible on the Gallatin. With over 2,000 miles of Gallatin National Forest trails open to motorized use, only about 740 miles are closed to motorized vehicles. For every mile of non-motorized trail on the Gallatin, there are over two miles of trail open to ORVs, motorcycles and snowmobiles. (A travel plan map for the Gallatin can be obtained through any local Forest Service office.)

2001: Off Highway Vehicle Plan Legitimizes Illegal User-created Trails

In January 2001 the Forest Service issued a decision governing use of “Off Highway Vehicles”, including ORVs, on nine national forests in Montana and the Dakotas, including the Gallatin National Forest. Citing a 92 percent increase in off-highway use of ORVs and motorcycles in the tri-state area since 1990, the Forest Service has restricted wheeled motorized use to pre-existing roads and trails with no cross-country travel allowed, including the use of a single-track trail by a 4-wheeled vehicle and the use of a double-track ORV route by a truck.

Despite the fact that user-created routes are recognized as one of the worst impacts of ORV and motorcycle use, in Montana and the Dakotas user-created routes are being incorpo-

rated into official trail systems.

This decision has been appealed by environmental groups for several reasons. Based on our observations in the field, enforcement of this decision has been minimal or non-existent. No inventory of trails existing prior to July 1 has been completed, so it is impossible to determine if a trail existed before then or was created since. Once a trail exists, it could be seen as legal by default under the OHV plan.

The Forest Service is required to analyze all trails and either include them in the trail system or shut them down. But this analysis will take several years at best, and meanwhile more illegal trails are being created.

2002: Forest Service Signs Cooperative Agreement with Motorized Group

On February 25, 2002, the Forest Service signed a Memorandum of Understanding pledging “cooperation” with the Blue Ribbon Coalition, a national motorized recreation group based in Pocatello, Idaho and known for advocating motorized recreation on public lands. The agreement lists several goals, among them to “develop and expand a framework of cooperation” between the Forest Service and the coalition and to make national forest lands “available for recreation-related activities” within the law.

2001: Conservationists Win Increased Protection for Montana Wilderness Study Areas

In response to a lawsuit filed by Montana Wilderness Association, American Wildlands and Friends of the Bitterroot, in early 2001 a federal judge ordered the U.S. Forest Service to maintain and restore the seven Wilderness Study Areas in Montana to the wild condition in which they existed when Congress set them aside in 1977. U.S. District Court Judge Donald Molloy ruled that the Forest Service has “abused its discretion” by allowing ever-increasing use and development of the 973,000 acres pro-

tected by the Montana Wilderness Study Act, including the 151,000 acre Hyalite-Porcupine-Buffalo Horn WSA in the Gallatin Range. While the ruling does not prevent motorized recreation, which occasionally occurred in the area prior to 1977, the Forest Service is now required to take “reasonable steps to restore” areas that have been damaged since 1977.

2001: Motorized Access Limited in Grizzly Bear Habitat on the Gallatin

In response to a lawsuit launched by Earthjustice Legal Defense on behalf of four environmental groups, the Forest Service agreed to regulate and limit ORV use in grizzly bear habitat on the Gallatin in September 2001. This case built on an earlier lawsuit which forced the Forest Service to comply with the best available science on the impact of roads on bears. The Gallatin has traditionally managed grizzly habitat by limiting the number and density of roads and motorized trails. But recent improvements to ORVs allow them to travel far into the back-country over more rugged terrain. In October 2000, a federal Court ruled that such off-road use could have an impact on grizzly bears, and that the Forest Service had not addressed that impact as required by the Endangered Species Act. Now, the Gallatin is committed to limiting user-created trails under the same rules it applies to roads and designated motorized trails and to keeping ORVs out of mapped core bear habitat.

Scott Anderson and Moonshine



Ecological Reconnaissance activist, outdoor educator, contributor to this report, age 28, seasonal resident of Montana

Recreational interests: peace and quiet, climbing, backpacking, back-country skiing.

“As you drive through Yellowstone National Park towards Cooke City the landscape is vast and beautiful, disturbed by only a single road. Leave the park and it’s a different story. While one may expect to see more of this wild terrain as they drive east towards Cooke City, the landscape quickly changes to one that is fragmented by a spiderweb of trails. Heading towards the Wilderness, you must first pass a gauntlet of rutted-out roads and trails abuzz with ORVs and trucks. Every thirty feet there is another trail created by an ORV. What was once a spectacular valley is now a moto-cross track.”

Recommendations

Terry Lonner



Retired biologist for the Montana Department of Fish, Wildlife and Parks, age 57, lifetime resident of Montana

Recreational interests:
hunting, hiking

“When I hunt in the Big Hole I see more ORVs in the backs of trucks than I do animals. There has been a real softening of our hunting public. They don't like to walk anymore and that trend concerns me... There are not too many places where you can go and enjoy being alone and at one with nature these days. My major concern with ORV use is that if it continues to contaminate and pollute the experience of people they will move somewhere else (like a golf course) and forget about the outdoor recreational experience. ...Laws, rules and regulations do need to be better enforced, but it is mostly a matter of common courtesy to me - like being a good neighbor.”

We expect that the findings of this report will provide the federal government with the necessary information to improve monitoring of ORV use and enforce the present laws governing the use of these machines. We also hope that this research will inspire concerned citizens to launch similar efforts on their favorite public lands. Reining in out-of-control motorized use on public lands will require dedicated effort involving people all over the country.

Here are our specific recommendations for the Gallatin National Forest, many of which can be applied to other public lands:

1) Certain badly damaged areas, such as Rock Creek in the Gallatin Range and upper Buck Ridge near the Big Sky ski area, must be closed to motorized traffic in order to rehabilitate damaged areas and protect sensitive wildlife like the grizzly bear.

2) National Forest Travel Management Revisions need to be completed as soon as possible, following recent court orders and complying with the best available science. New maps that clearly outline travel restrictions should be issued.

3) Signs must be improved, updated and made consistent with those on other forests. Trails should be considered closed to motorized use unless they are specifically designated as open by signs and maps.

4) A comprehensive education program should be launched in areas that attract heavy motorized recreation, such as Cooke City and West Yellowstone. This program should include information on appropriate motorized behavior, inform people which areas are closed and clarify the ramifications of trespass and resource destruction.

5) Law enforcement programs should be increased in areas that are heavily used by ORVs and snowmobiles, coordinating where possible with Montana Department of Fish Wildlife and Parks.

6) Gallatin Wilderness Study Areas and mapped core bear habitat should be closed to motorized recreation.

7) The Forest Service needs to have a larger presence in the field. They should improve communication with the public, encourage forest users to pack out their trash, discourage people from cutting down live trees, ask people to be more careful about where they shoot their guns, and make sure that motorized recreationists stay on designated trails.

8) The Forest Service should conduct an opinion poll or survey to address the different recreational interests on the Gallatin National Forest and better incorporate these interests in management plans.

9) The Forest Service should consider using volunteers to monitor ORV damage and enforce regulations. We have informed the Forest Service that we are more than willing to do our part in organizing trash clean-ups, assisting with trail closures and rehabilitation, removing weeds and improving public education.

10) Nationwide Forest Service cooperative agreements with national groups that have clearly defined biases, such as the Blue Ribbon Coalition, should be avoided. The Forest Service needs to work equally with all concerned groups.

Conclusion

Enchanted by wildlife, wildflowers, and ridgelines that take their breath away, visitors to the Yellowstone region may not notice the increasing number of ORVs that are scarring the landscape outside of the national parks. Yellowstone country is so spectacular that it attracts nearly 3 million people each year, yet a threat looms which could ruin visitor experiences for generations to come.

The findings of this report are a metaphor for troubled public lands throughout the GYE and northern Rockies. The six other national forests in the GYE are also facing similar threats from increased motorization.

ORVs are marketed as tools for escape from the hum-drum of every day life, a way to blast off to master the wilderness. “Be one with technology and nature”, promises Polaris, a major ORV manufacturer. While an ORV can be a very useful machine around a farm or ranch, it often becomes an invasive, high-impact monster in the quiet backcountry of our few remaining wild public lands.

Will threatened species like the grizzly bear be replaced by motorized versions? Seven of the eleven models of Yamaha’s four-wheel ORV line are named after threatened species, including the top-of-the-line “Grizzly.” At the Sierra Club and the Native Forest Network we do not want

our children to grow up in a world where the only grizzly in the wild is made by an ORV manufacturer.

While the findings of this report do not suggest that all public land should be closed to motorized use, we hope to improve on past patterns of use and inspire a larger commitment from the government and the public to the overall health of the Gallatin National Forest.

To ensure the future of threatened wildlife species, as well as the ecological and economic integrity of the West, we must begin to effectively deal with the destructive impacts of ORV use on our public lands. These lands, owned by all Americans, are far too rare and valuable to become race tracks for motor vehicles.

Built in Montana, this powerful 6-wheel ORV, dubbed the “Land Tamer” can carry 5 passengers and can travel across water. New and more powerful ORVs are constantly being developed. The manufacturer also makes models with 8 wheels and with tank



Phil Knight

Dale Sexton

Owner of Timber Trails outdoor specialty store, Livingston, Montana, lifetime resident of Montana.

Recreational interests:
Hiking, mountain biking, backcountry skiing.

“Obviously there could be a huge detrimental impact economically due to the fact that the primary user group (hikers) may stop going to the forests if due to habitat loss for example the grizzly is no longer found in the Gallatin Range, perhaps a user that uses the Gallatin for its wilderness may choose to go elsewhere as that wildness declines. Our most outstanding attribute in this region is our wildlands. That is what makes this area distinct and unique. Once that wildness is compromised that won't be the case. We need to do everything we can to protect that integrity... I do not advocate a complete and utter ban of ORVs on the Gallatin but there is a great need to actively identify places that they can go where damage will be minimized.”

Bibliography

Related Websites:

American Lands Alliance: <http://www.americanlands.org/>
Bluewater Network: <http://www.earthisland.org/bw/>
EPA Recreational Vehicles site: <http://www.epa.gov/otaq/recveh.htm>
Native Forest Network <http://www.nativeforest.org>
The Natural Trails and Water Coalition: <http://www.naturaltrails.org/>
The Sierra Club: <http://www.sierraclub.org/>
The Sierra Club's Grizzly Bear Ecosystem's Project: <http://grizzly.sierraclub.org/>
Wilderness Center for Preventing Roads: <http://www.wildlandscpr.org/>
The Wilderness Society: <http://www.tws.org/>
Wild Trails Campaign <http://grizzly.sierraclub.org/wild%20trails.html>

Bibliography

Bane, Ray; Shredded Wildlands: All-Terrain Vehicle Management in Alaska. Alaska Chapter of the Sierra Club. 2001

Bureau of Land Management and U.S. Forest Service; Off Road Vehicle Environmental Impact Statement and Proposed Plan Amendment for Montana, North Dakota and portions of South Dakota. 2001

Council on Environmental Quality; Off Road Vehicles on Public Lands. U.S. Government Printing Office. 1979

Federal Highway Administration; Recreation Trails Program Brochure. U.S. Department of Transportation. 1999

Friends of the Earth and Wildlands Center for Preventing Roads; Trails of Destruction: How Off-Road Vehicles Gain Access and Funding on Public Lands. Friends of the Earth. 1998.

Higgins, Margot; Highways Stop Wildlife Dead in Their Tracks, Environmental News Network. August 7, 2000.

Hoopes, Olson & Sheley; What is so Dangerous About the Impacts of Noxious Weeds on the Ecology and Economy of Montana? Montana State University. 1998.

Lawler, Mark; Shattered Solitude/Eroded Habitat: The Motorization of the Lands of Lewis and Clark. Sierra Club. 2000

Leedy, D.L.; Highway Wildlife Relationships. Nat. Tech. Info Srv. 1975.

Lyon, Jack; Road Density Models Describing Habitat Effectiveness for Elk. Journal of Forestry. 1983.

Mattson, David; Background and Proposed Standards for Managing Grizzly Habitat Security in the Yellowstone Ecosystem. Unpublished Document University of Idaho. 1993.

Mattson, Knight & Blanchard; the Effects of Development and Primary Roads on Grizzly Bears in Yellowstone National Park, Wyoming. International Conference on Bear Research and Management. 1987.

Mattson, D.J., & Knight; Effects of Access on Human-Caused Mortality of Yellowstone Grizzly Bears. Interagency Grizzly Bear Study Team Report. University of Montana. 1994.

National Off Road Vehicle Coalition; Taken for a Ride: How Off-Road Vehicles Damage the Nation's Wildest Lands. 2000

Schoch, Deborah; An Axle to Grind. LA Times. October 23, 2001.

Trunkle & Fay; Transportation of Spotted Knapweed Seeds by Vehicles; Proceedings: Montana Weed Control Association Conference. 1991.

United States Department of the Interior; Grizzly Bear Recovery Plan. U.S. Fish and Wildlife Service. 1993.

U.S. Forest Service; Forest Service Roadless Area Conservation, Draft Environmental Impact Statement, Summary and Proposed Rule. U.S. Department of Agriculture. 2000.

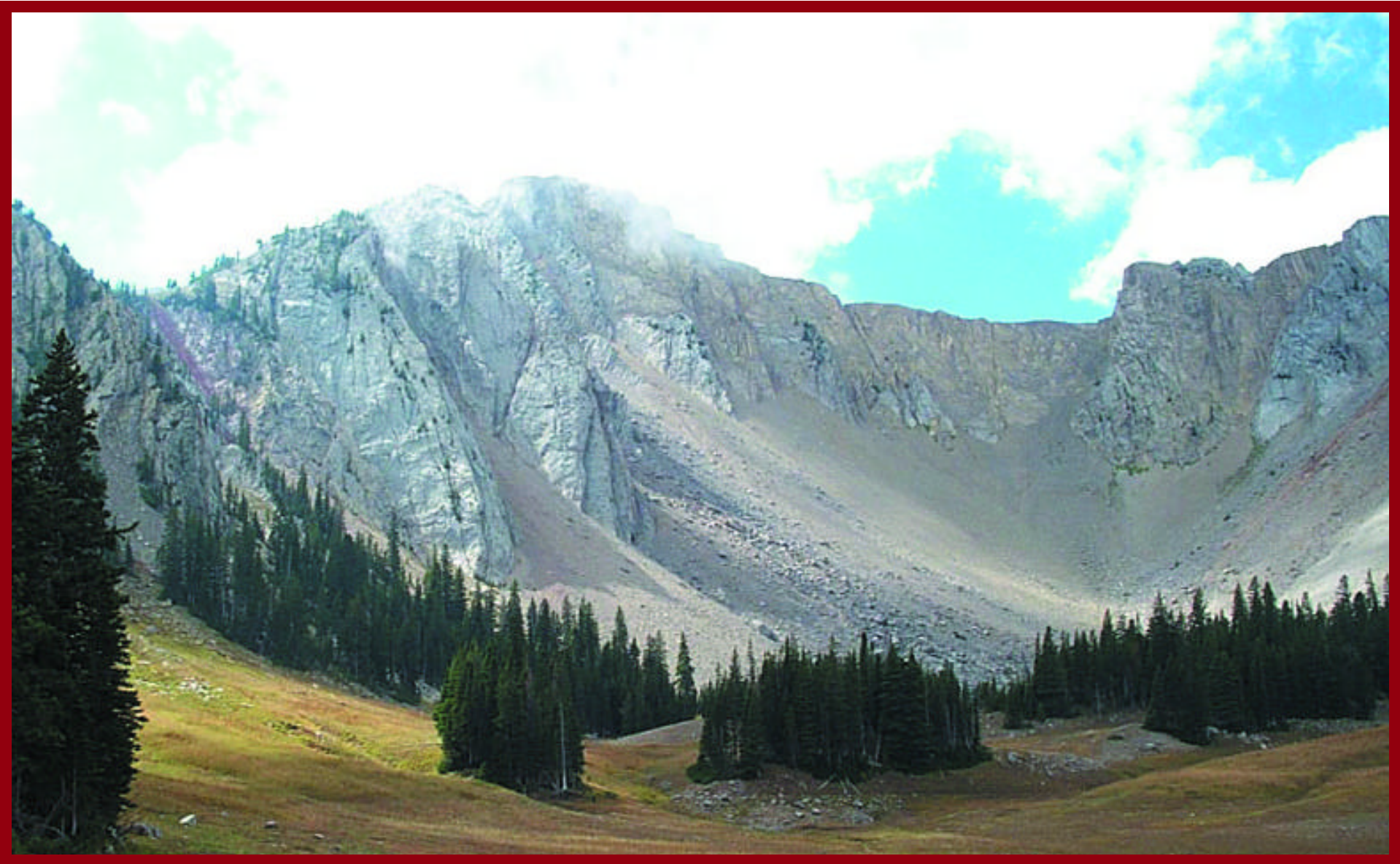
The Wilderness Society; Off Road Vehicles: Fastest Growing Threat. The Wilderness Society. 2000.

Wildlands Center for Preventing Roads, Trends in Public Lands Recreation. 2002.



Phil Knight

“We’ve got to make sure that off-road vehicle use of public lands stays within the limits of the land. You can have too many cows. You can also have too many off-road vehicles.” --Former Forest Service Chief Mike Dombeck, September 2001



Phil Knight

***“Our most outstanding attribute in this region is our wildlands. That is what makes this area distinct and unique.”
--Livingston business Dale Sexton***

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