

# Appendix G: Actions Outside the Scope of the Analysis

The following activities have been determined to be outside the scope of this analysis. The information provided is intended to provide the reader with an understanding of the rationale behind this determination.

## G.1 GAME RETRIEVAL

The District is not proposing to designate any motorized game retrieval. In a June 30, 2006 letter to Forest and Grassland Supervisors, the Regional Forester for Region One of the Forest Service, Gail Kimball, provided guidance that stated, “Travel off route for big game retrieval is not recommended and must have Regional Forester approval prior to initiating any proposals that consider off route use for this purpose”. No extraordinary circumstances have been identified that warrant proposing motorized cross-country game retrieval on the District, consequently designation of motorized big game retrieval is not being proposed. The use of non-motorized game carts for game retrieval would not be affected by this proposal, and use would continue to be allowed outside of designated Wilderness areas.

## G.2 EXEMPTIONS FOR ACCESSIBILITY

Special provisions aimed at providing people with disabilities motorized opportunities not available to all forest users have not been included in this proposal. In the comments and responses on the 2005 Motorized Travel Rule published on November 9, 2005 in the Federal Register, the agency states, “Under section 504 of the Rehabilitation Act of 1973, no person with a disability can be denied participation in a Federal program that is available to all other people solely because of his or her disability. In conformance with section 504, wheelchairs<sup>1</sup> are welcome on all National Forest System lands that are open to foot travel and are specifically exempt from the definition of motor vehicle in § 212.1 of the final rule, even if they are battery-powered. However, there is no legal requirement to allow people with disabilities to use OHVs or other motor vehicles on roads, trails, and areas closed to motor vehicle use because such an exemption could fundamentally alter the nature of the Forest Service’s travel management program (7 CFR 12e.103). Reasonable restrictions on motor vehicle use, applied consistently to everyone, are not discriminatory”. The proposal will provide reasonable access to all forest visitors.

## G.3 RIGHTS OF ACCESS

The 2005 Motorized Travel Rule states that, “In making designations pursuant to this subpart, the responsible official shall recognize: (1) Valid existing rights; and (2) The rights of use of National Forest System roads and National Forest System trails under § 212.6(b)” (36 CFR 212.55 (d)). While the subject of the rule is rights-of-way, the District has expanded this to include all authorizations issued for use of National Forest System lands within the District. In other words, nothing in this proposal is intended to alter authorizations for the use of roads and trails including, rights-of-way,

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<sup>1</sup> A wheelchair is, “a device designed solely for use by a mobility impaired person for locomotion that is suitable for use in an indoor pedestrian area” (ADA, Title V Section 507 (c)).

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road special use permits, operating plans, or special use permits. For example, this proposal does not contain actions that would alter the Forest Service's commitment made in a road use permit authorizing a property owner to use National Forest System roads to access their property.

### **G.4 OVER-SNOW VEHICLES**

Over-snow vehicle (ex: snowmobile) use is not a part of this proposed action. The 2004 Beartooth District Travel Management Proposal included proposed changes in the restrictions on over-snow vehicle use. Public comments on over-snow use were limited in scope and general in nature. The majority asked that the restrictions not be modified to allow an additional 69,000 acres of over-snow vehicle use. The few other comments that addressed over-snow vehicles indicated that all public lands should be open to all types of motorized vehicles including snowmobiles, and that the analysis needs to evaluate different types of motorized use, including snowmobiles, separately. No comments requested specific areas for over-snow vehicle use. One comment suggested specific areas that should be closed to over-snow vehicle use, which included the Red Lodge Creek and Palisades areas; however it did not provide clear resource, cultural or social rationale for why these areas should be restricted.

The interdisciplinary team reviewed the existing snowmobile management direction in the Custer Forest Plan, the 2007 Lynx Decision, and information in the 1987 Beartooth Travel Plan. The team also reviewed current use and determined there were no specific resource issues with existing use. Based on this information, the interdisciplinary team recommended to the Responsible Official that over-snow vehicle use be dropped from the proposal, because there was no resource-related need for change from the existing use. The Responsible Official reviewed the situation and determined it was appropriate to drop over-snow use from the proposal. If an action alternative is selected, the 1986 Forest Plan, as amended, will be used as the foundation for regulating over-snow vehicle activities.

The public has indicated that better signing is needed along Highway 212 so that over-snow vehicle operators are aware of the boundaries of the Highway 212 corridor and do not inadvertently stray outside of the corridor. This action is outside the scope of this proposal, but Forest Service staff have noted this need and will consider this during future project planning and for potential grant requests.

### **G.5 DESIGNATED CROSS-COUNTRY MOTORIZED AREAS**

In a June 30, 2006 letter to Forest and Grassland Supervisors, the Regional Forester for Region One of the Forest Service provided guidance that stated, "Designated areas should have natural resource characteristics that are suitable for cross-country motor vehicle use or should be so significantly altered by past actions that motor vehicle use might be appropriate". The interdisciplinary team did not identify any areas suitable for motorized cross-country use on the Beartooth Ranger District based on this guidance. As a result, designated cross-country motorized areas are not being proposed as a part of this project.

There were two cross-country vehicle areas identified in the 1987 Travel Plan, often referred to as the Benbow and Iron Mountain cross-country areas. Commenters indicated that these areas currently exist and should continue to be available for cross-country vehicle use. However, cross-country vehicle use in these areas was eliminated with a 2001 Forest Order (Curriden, 2001) that eliminated cross-country vehicle travel on the Custer National Forest in response to the 2001 Tri-State OHV decision (Bosworth, 2001).

## **G.6 DECOMMISSION OR OBLITERATION OF ROUTES**

Through this analysis system roads and non-system routes may be identified for which there is no administrative, utilization (including recreation), or protection need. These roads and routes are candidates for future decommissioning or obliteration. Generally, they are not being proposed for decommissioning or obliteration as a part of this proposal. Any other proposal to decommission or obliterate other identified routes, including activities such as ripping and seeding, would require a separate decision.

## **G.7 CONSTRUCTION OF ROUTES**

Construction of new routes, reconstruction, and re-routing are not part of the decision to be made. Proposals for construction, re-construction, or re-routing would require a separate decision.

## **G.8 UPPER STILLWATER BASIN**

Upper Stillwater Basin portion of the Beartooth District travel management is not part of the decision to be made. The Custer and Gallatin National Forests have an agreement in which the Gallatin National Forest has the administrative lead for this area. The travel management for this area was recently addressed in the 2006 Gallatin National Forest Travel Plan EIS. It is consistent with the Custer Forest Plan and will not be addressed in this analysis.

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