



Forest Issues Group



September 9, 2019

Forest Supervisor Eli Ilano  
Tahoe National Forest  
631 Coyote Street  
Nevada City, CA 95959

*By Electronic Mail*

Re: Class 1 E-MTB Use on Non-Motorized Trails

Dear Supervisor Ilano,

The Wilderness Society, Gold Country Trails Council, Back Country Horsemen of America, Backcountry Horsemen of California, along with its Mother Lode Unit, and Forest Issues Group request that the Tahoe National Forest immediately withdraw its decision to permit Class 1 electric mountain bikes (E-MTBs) on non-motorized trails and remove the approximately 132 miles of trails closed to motor vehicle use from its [list of recommended Class 1 E-MTB trails](#).<sup>1</sup> As explained further below, permitting E-MTB use on non-motorized trails violates long-standing travel management law and policy, as well as the National Environmental Policy Act (NEPA). The Tahoe should conduct an open public process, consistent

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<sup>1</sup> According to our GIS analysis, the list includes approximately 215 miles of trails, including 132 miles of non-motorized trails and 83 miles of trails currently designated for motor vehicle use. See Attached Map.

with the Travel Management Rule and NEPA, to determine whether any changes to its Motor Vehicle Use Map (MVUM) are warranted for Class 1 E-MTBs.

With over one million members and supporters, **The Wilderness Society** (TWS) is the leading conservation organization working to protect wilderness and inspire Americans to care for our wild places. TWS staff and members enjoy the Tahoe National Forest for recreational activities including hiking, backpacking, mountain biking, skiing, wildlife viewing, and camping, and for the aesthetic, spiritual, and wildlife values and opportunities it provides. TWS has invested significantly in the Tahoe over the years, including participating in summer and winter travel management planning – even intervening to successfully defend the forest’s MVUM from litigation by motorized interest groups.<sup>2</sup> In anticipation of an upcoming forest plan revision, TWS also recently conducted an intensive [inventory and evaluation](#) of over 214,000 acres of roadless lands on the Tahoe that are suitable for inclusion in the National Wilderness Preservation System (NWPS). More broadly, TWS works nation-wide to ensure sound management of our shared national forests, bringing to bear scientific, legal, and policy guidance to land managers, communities, local conservation groups, and state and federal decision-makers. In doing so, TWS hopes to ensure the best management of our public lands for recreation, wildlife conservation, water quality, climate adaptation, and the ability of present and future generations to enjoy and benefit equitably from public lands.

To these ends, TWS has worked for decades to influence and implement long-standing travel management laws and policies that help ensure higher quality recreational experiences for both motorized and non-motorized users, prevent avoidable resource damage, alleviate public safety concerns and conflicts between users, and benefit local economies by encouraging visitation and tourism. The Tahoe National Forest’s allowance of E-MTBs on non-motorized trails constitutes a direct threat to both TWS’s local work on the Tahoe and its national work.

For more than three decades, the **Gold Country Trail Council** (GCTC) has partnered with the Forest Service and other local and state agencies to provide funding, volunteer strength, and energy to plan, build, and maintain non-motorized trails and equestrian campgrounds. GCTC was founded in 1981 by a group of Nevada County citizens to address the need for non-motorized trails in the county and surrounding foothills. It is a volunteer organization representing over 350 members, and many others who visit our national forests to enjoy non-motorized trail opportunities as equestrians, hikers, mountain bikers, and backpackers. GCTC provides construction, maintenance, and monitoring of equestrian campgrounds, trails, and staging areas, maps and trail education materials, and volunteer trail patrols to greet and educate users about responsible trail use on public lands, in partnership with the Forest Service.

Founded in 1973, the **Back Country Horsemen of America** (BCHA) is a national 501(c)(3) non-profit service organization. Its mission is to perpetuate the common sense use and enjoyment of horses in America's back country and Wilderness. BCHA is one of the country’s leading volunteer groups assisting in maintenance of the nation’s trails, particularly throughout the National Forest System. BCHA volunteers contributed 322,125 hours working to maintain trails on public lands in 2018 alone. Those hours equate to an in-kind value of \$12.1 million in trail work donated to local and federal land

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<sup>2</sup> See *Friends of Tahoe Forest Access v. U.S. Dep’t of Agric.*, E.D. Cal. No. 2:12-cv-01876-JAM-CKD, 9th Cir. No. 14-15336.

managing agencies. Since 1995, the in-kind contribution of BCHA volunteer efforts has exceeded \$140 million.

BCHA volunteers operate in 31 states that include the **Backcountry Horsemen of California (BCHC)**, whose volunteers last year donated 108,293 hours of service to maintain horse camps and trails, including trails located within the Tahoe National Forest. The BCHC chapter located closest to the Tahoe National Forest, BCHC's **Mother Lode Unit**, last year contributed 5,195 hours of volunteer labor. Most of that effort was directed to projects within the Tahoe and El Dorado national forests, and included manual labor and the packing of equipment and materials for the Forest Service and other trail partners, including youth corps organizations and the Pacific Crest Trail Association.

The members that comprise BCHC, its Mother Lode Unit and their families, also enjoy recreational horseback riding on trails throughout the Tahoe National Forest. These trails are used by horsemen and women to both hunt and view wildlife; to access scenic vistas, favorite picnic spots, fishing holes and campsites; and, in general, to enjoy the quiet and tranquility of the national forest. The ability to access trails that provide an escape from the motorization and mechanization of modern society is one reason Backcountry Horsemen use and enjoy non-motorized trails within the Tahoe National Forest. System trails on the Tahoe National Forest enjoyed by BCHC members include many of the non-motorized trails on which the use of E-MTBs recently has been authorized by the Forest Service.

**Forest Issues Group (FIG)** is 501(c)(3) non-profit that focuses its activities on the public lands of the sierra forests – particularly the Tahoe National Forest – and the impacts of U.S. Forest Service management on these forests. FIG is an organization made up of local citizens committed to healthy national forests. FIG provides community education and public review of Forest Service management.

In the attached July 26, 2019 letter to Chief Christiansen, over 50 hiking, equestrian, and conservation groups, plus 30 Back Country Horsemen States with 196 chapters, articulated why, as a general matter, permitting e-bikes on non-motorized trails on federal public lands would create an unmanageable slippery slope and threaten future management of non-motorized trails and areas. As the letter points out, permitting e-bikes on non-motorized trails is contrary to travel management laws and policies dating back to the Nixon administration that require *all motorized* recreational uses of national forest system and other public lands be confined to a system of roads, trails, and areas designated in compliance with the so-called “minimization criteria.”<sup>3</sup> The Forest Service’s Travel Management Rule (TMR) echoes these criteria and restricts “motor vehicle use” to the designated system identified through travel management planning, and the associated public process and NEPA review, and depicted on the forest’s MVUM.<sup>4</sup> The Tahoe National Forest’s 2010 MVUM permits motorized vehicle use on nearly 2,500 miles of motorized roads and trails.

The TMR defines “motor vehicle” broadly as “[a]ny vehicle which is self-propelled,” excluding vehicles operated on rails and battery-powered mobility devices.<sup>5</sup> On numerous occasions, the Forest Service has

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<sup>3</sup> See Exec. Order No. 11,644, §§ 1 & 3 (Feb. 8, 1972), *as amended by* Exec. Order No. 11989 (May 24, 1977).

<sup>4</sup> See 36 C.F.R. part 212, subpart B.

<sup>5</sup> 36 C.F.R. § 212.1; *see also* Exec. Order No. 11,644, § 2 (defining “off-road vehicle” subject to travel management restrictions as “any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain,” while excluding emergency, authorized, and official uses).

explicitly and correctly recognized that e-bikes – which by definition have a motor – are motor vehicles subject to the TMR. For instance, the response to comments on the agency’s 2015 winter travel management rule (subpart C of the TMR) stated that “[n]ew technologies that merge bicycles and motors, such as e-bikes, are considered motor vehicles under § 212.1 of the TMR.”<sup>6</sup> A 2016 memo (attached) from then Washington Office Director of Recreation Heritage & Volunteer Resources Joe Meade further explained:

E-bikes have a motor, thereby are self-propelled, and are not covered by the exceptions in the definition. Therefore, e-bikes are motor vehicles and are subject to regulation under the TMR, which requires designation of National Forest System (NFS) roads, NFS trails, and areas on NFS lands for motor vehicle use.

Given the clear language of the TMR, any contrary interpretation would be unlawful absent full notice and comment rulemaking based on information in the administrative record.<sup>7</sup> Any contrary interpretation would also require a reasoned explanation for the change in position, again based on the record.<sup>8</sup>

The Tahoe National Forest’s decision to permit Class 1 E-MTBs on non-motorized trails disregards the requirements of the TMR and the agency’s clear interpretation that e-bikes are motor vehicles. While Class 1 e-bikes are often described as “pedal assist,” the rotation of the pedals merely triggers the motor and does not necessarily propel the bicycle. Indeed, the motor on a Class 1 e-bike may generate 100 percent of the power under a variety of circumstances. In short, the classification does not in any way obviate the fact that e-bikes are, by definition, motor vehicles. The motor-propelled nature of e-bikes means that riders can travel further and faster than might otherwise be the case. This in turn is likely to have impacts on recreational use trends and a variety of forest resources.

If the forest desires to permit E-MTBs on non-motorized trails, it must conduct a travel management planning process, with appropriate public process and NEPA analysis. Notably, the TMR encourages designation of roads, trails, and areas by “vehicle class,” which could facilitate designation of certain trails for motor vehicle use only by Class 1 E-MTBs (assuming the designation decision complies with the minimization and other TMR criteria), thereby preserving the more primitive experience that some E-MTB users may seek. The Tahoe has completed no such process. This not only violates the TMR and NEPA, but it has also damaged public trust and opportunities for collaboration.

The decision also results in real harm to our interests. For instance, as depicted on the attached map, nearly half of the recommended Class 1 E-MTB trails included on the Tahoe’s list are in areas identified by TWS as suitable for inclusion in the NWPS. As just one example, the Mt. Lola trail traverses a high-priority proposed wilderness area that is now open to motorized use by Class 1 E-MTBs, thereby degrading its wilderness character and the potential that it would be designated by Congress or

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<sup>6</sup> 80 Fed. Reg. 4500, 4503 (Jan. 28, 2015).

<sup>7</sup> See also *Winter Wildlands Alliance v. U.S. Forest Serv.*, No. 1:11-cv-586-REB, 2013 U.S. Dist. LEXIS 47728, at \*32 (Mar. 29, 2013) (“Executive Order [11,644] requires the Forest Service to ensure that *all* forest lands are designated for *all* off-road vehicles.” (emphasis in original)).

<sup>8</sup> See *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125-26 (2016) (agency change in position requires acknowledgment of the change, showing that there are good reasons for the new policy, and an examination of the facts and circumstances that underlay or were engendered by the prior policy).

recommended by the Forest Service for inclusion in the NWPS. Those impacts must be analyzed under NEPA and minimized under the TMR, with stakeholders able to weigh in through a public process.

For these reasons, we request that the Tahoe National Forest immediately withdraw its decision to permit Class 1 E-MTBs on non-motorized trails and remove the approximately 132 miles of trails closed to motor vehicle use from its list of recommended Class 1 E-MTB trails. Failure to do so will result in significant legal liability. After withdrawing its decision, the Tahoe should conduct an open public process, consistent with the TMR and NEPA, to determine whether any changes to its MVUM are warranted for Class 1 E-MTBs. Thank you for your prompt attention to our request.

Sincerely,



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Director, Litigation & Agency Policy  
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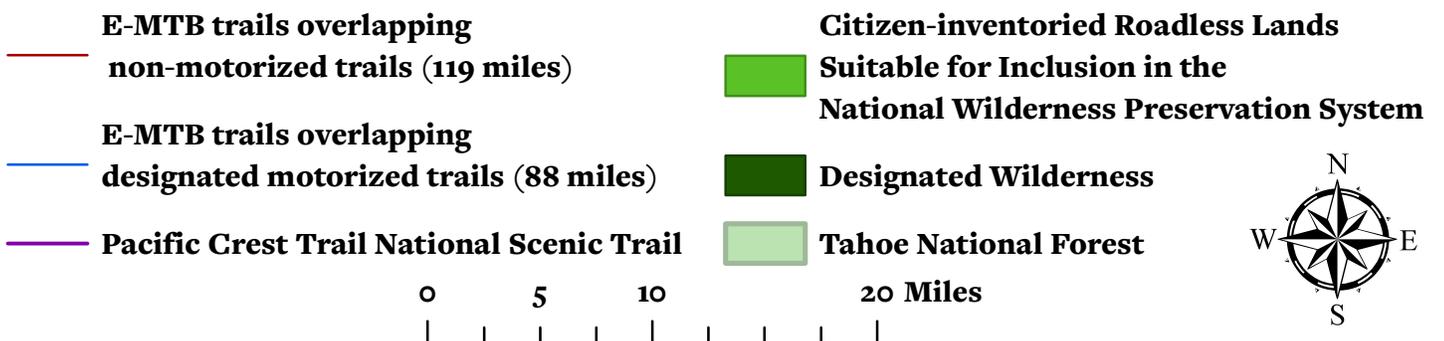
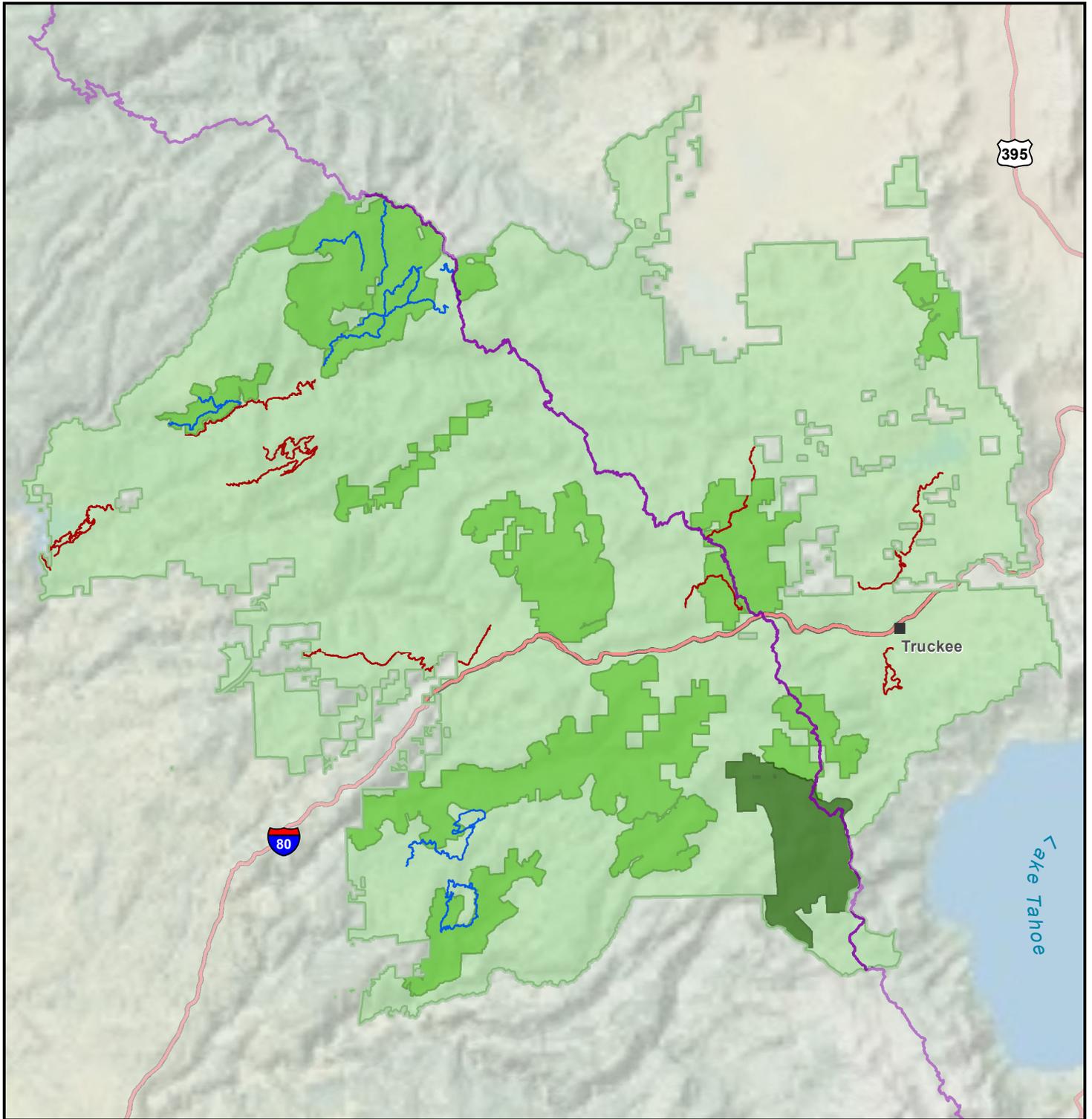
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*Donald L Rivenes*

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Cc: Randy Moore, Regional Forester; Jennifer Eberlien, Deputy Regional Forester; Jim Bacon, Regional Director of Public Services; Garrett Villanueva, Regional Trail Program Manager

# Class 1 E-Mountain Bike Trail Opportunities Tahoe National Forest





To: Chief Vicki Christiansen - USDA Forest Service  
Deputy Director Dan Smith - National Parks Service  
Acting Director(s) William Perry Pendley and Michael Nedd – Bureau Land Management  
(Sent via electronic mail)

CC: Andy Tenney - Division Chief, Recreation and Visitor Services, Bureau of Land Management  
Michiko Martin - Director, Recreation, Heritage and Volunteer Services USDA Forest Service  
Bob Ratcliffe - Division Chief, Conservation and Outdoor Recreation National Park Service

Date: July 26<sup>th</sup> 2019

Re: E-bike Management on Federal Public Lands

On behalf of our millions of members, supporters and public land users across the country we write to object to any attempt by public land management agencies to legalize electronic motor bikes (e-bikes) on non-motorized trails.

We oppose any effort that would allow any class of vehicle with a motor – including all classes of e-bikes, which by definition have a motor – to be allowed on non-motorized trails. A contrary interpretation would create an unmanageable slippery slope and threaten future management of all non-motorized trails and areas on public lands.

Non-motorized trails were created to ensure that the public could find recreational trail opportunities free from the ever-growing motorization and mechanization. Millions of public land users including hikers, backpackers, hunters, horse packers, climbers, mountain bikers and many more, value non-motorized trails for recreation. Opening non-motorized trails to motors would forever change the backcountry experience for these users.

We recognize that e-bikes have a place on public lands and generally should be allowed where motorized vehicles are permitted. The existing motorized trail system provides plentiful opportunities for e-bike use with tens of thousands of miles of trails currently open to their use.

The Bicycle Products Suppliers Association, international power equipment companies and e-bike user groups created a classification system for e-bikes, based on motor and battery sizes and engagement

systems for the motor.<sup>1</sup> This classification system is confusing for land managers and lawmakers and the bikes themselves are often difficult to distinguish from one another. The fact remains that all e-bikes are motorized by definition, regardless of the size of the motor or how it is turned on.

We understand that federal land management agencies are currently considering policy changes to allow e-bikes on non-motorized trails. Such a policy is ill-advised and would undermine nearly a half century of management precedents and practices. First, allowing e-bikes on non-motorized trails would be un-manageable and send agencies down a slippery slope towards allowing further motorization of trails and potentially the entire backcountry. Federal land managers simply do not have the resources to police e-bikes on trails.

Second, permitting e-bikes on non-motorized trails is contrary to long-standing “travel management” laws and policies dating back to the Nixon administration that require *all motorized* recreational uses of our public lands to be confined to a system of designated roads, trails, and areas.<sup>2</sup> Among other requirements, motorized trails must be located to minimize conflicts with other recreational uses of the public lands, as well as damage to soil, water, and other public land resources and harassment of wildlife. Separately, agencies are required to manage certain wildlands – including Wilderness Study Areas, Forest Service recommended wilderness, and BLM lands managed for wilderness characteristics – to preserve and protect wilderness character. National Scenic Trails are also required by law to be managed as non-motorized trails. In short, current laws and policies require that non-motorized trails remain non-motorized, and any contrary interpretation could only be supported, if at all, through full notice and comment rulemaking processes.

Millions of public land users across the country enjoy both motorized and non-motorized recreational experiences. Opening non-motorized trails to motorized bikes would effectively eliminate the non-motorized, primitive recreational opportunities. We strongly oppose any effort to change existing trail management rules or policies and encourage all federal land management agencies to reject any effort to open non-motorized trails to e-bikes or other motorized vehicles.

Sincerely,

Addison Oaks Trail Riders  
Allegan County Pleasure Riders  
American Endurance Ride Conference  
American Hiking Society  
American Flyers  
Appalachian Trail Conservancy  
Back Country Horsemen of America (and the 30 BCH states and 196 chapters, full listing at end)  
Bay Area Barns and Trails  
Blue Ridge Horsemen's Association  
Brighton Trail Riders Association  
Canalway Partners-Board Member

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<sup>1</sup> Class 1 has the smallest motor and battery and a “pedal-assist” engagement system; class 2 has similar motor and batteries sizes but includes a traditional throttle “twist-assist” engagement system; and class 3 has a larger motor and battery size and a pedal engagement system.

<sup>2</sup> See Executive Orders 11644 and 11989; 43 C.F.R. part 8340; 36 C.F.R. part 212.

Carolina Mountain Club  
Colorado Mountain Club  
Colorado Plateau Mountain Bike Trail Assoc, Inc.  
Conserving Carolina  
Continental Divide Trail Coalition  
County Line Riders of Catalina, Inc  
Dallas Off Road Bicycle Association (DORBA)  
East Mountain Regional Trails Council  
Fort Custer Horse Friends Association  
Grand Valley Trails Alliance  
Greater Yellowstone Coalition  
Highlands Plateau Greenway  
Ice Age Trail Alliance  
Idaho Trails Association  
Indiana Trails Community  
Ionia Horse Trails Association  
Kensington Trail Riders  
Maybury Trail Riders  
Michigan Horse Council  
Michigan Trail Riders Association  
Montana Wilderness Association  
Montana Backcountry Alliance  
National Parks Conservation Association  
Natural Resources Council of Maine  
Nickel Plate Trail, Inc  
North Carolina Horse Council  
North Country Trail Association Incorporated  
Oregon Equestrian Trails  
Oregon Horse Council  
Overmountain Victory Trail Association  
Pacific Crest Trail Association  
Partnership for the National Trails System  
Pinckney Trail Riders Association  
Pisgah Trailblazers  
Pontiac Lake Horseman's Association  
Proud Lake Trail Riders  
Quiet Trails Group  
Rose Oaks Equine Adventurers  
San Luis Valley Ecosystem Council  
Tri-County Horse Association  
The Wilderness Society  
Winter Wildlands Alliance  
Yankee Springs Trail Riders Association

Full Listing of Back Country Horsemen of America 30 BCH states and 196 chapters:

**Back Country Horsemen of Alabama**

BCH of Alabama, Central Alabama Chapter  
BCH of Alabama, McClennan Chapter  
BCH of Alabama, Mississippi /Alabama Chapter  
BCH of Alabama, North Eastern Chapter  
BCH of Alabama, Warrior Mountain Chapter  
BCH of Alabama, Wilderness Chapter

**Back Country Horseman of Alaska**

**Back Country Horsemen of Arizona**

BCH of Arizona, Kingman Chapter  
BCH of Arizona, BCH of Central Arizona  
BCH of Arizona, East Valley BCH

**Back Country Horsemen of Arkansas**

BCH of Arkansas, Ozark Chapter  
BCH of Arkansas, Buffalo River Chapter  
BCH of Arkansas, Lower Buffalo River Chapter

**Backcountry Horsemen of California**

BCH of California, Antelope Valley Unit  
BCH of California, Eastern Sierra Unit  
BCH of California, High Country Unit  
BCH of California, High Sierra Unit  
BCH of California, Kern River Valley Unit  
BCH of California, Kern Sierra Unit  
BCH of California, Lake Mendocino Unit  
BCH of California, Los Padres Unit  
BCH of California, Mid Valley Unit  
BCH of California, Mother Lode Unit  
BCH of California, North Bay Unit  
BCH of California Pacific Crest Unit  
BCH of California, Redshank Riders Unit  
BCH of California, Redwood Unit  
BCH of California, San Diego Unit  
BCH of California, San Joaquin Sierra Unit  
BCH of California, Santa Ana River Unit  
BCH of California, Sequoia Unit  
BCH of California, Shasta-Trinity Unit

BCH of California, Sierra Freepackers Unit  
BCH of California, Sutter Buttes Unit  
BCH of California, Top of the State Unit

**Back Country Horsemen of Colorado**

BCH of Colorado, Four Corners BCH  
BCH of Colorado, Front Range BCH  
BCH of Colorado, Grand Mesa BCH  
BCH of Colorado, Mesa Verde BCH  
BCH of Colorado, Northern Colorado BCH  
BCH of Colorado, Rocky Mountain BCH  
BCH of Colorado, San Juan BCH  
BCH of Colorado, Trail Wise BCH

**Back Country Horsemen of Florida**

BCH of Florida, BCH Southeast Ocala Forest  
BCH of Florida, Florida Forever BCH  
BCH of Florida, Nature Coast BCH  
BCH of Florida, Suwannee Valley BCH  
BCH of Florida, Sarasota BCH  
BCH of Florida, BCH First Coast

**Back Country Horsemen of Georgia**

BCH of Georgia, BCH of Middle and South Georgia  
BCH of Georgia, BCH of North Georgia  
BCH of Georgia, BCH of Northeast Georgia  
BCH of Georgia, BCH of Northwest Georgia

**Back Country Horsemen of Idaho**

BCH of Idaho, BCH of North Central Idaho  
BCH of Idaho, Boise BCH  
BCH of Idaho, Cache Peak BCH  
BCH of Idaho, Eagle Rock BCH  
BCH of Idaho, Heartland BCH  
BCH of Idaho, High Desert BCH  
BCH of Idaho, Palouse BCH  
BCH of Idaho, Panhandle BCH  
BCH of Idaho, Portneuf River BCH  
BCH of Idaho, Priest River Valley BCH

BCH of Idaho, Salmon River BCH  
BCH of Idaho, Sawtooth BCH  
BCH of Idaho, Selkirk Valley BCH  
BCH of Idaho, Squaw Butte BCH  
BCH of Idaho, Treasure Valley BCH  
BCH of Idaho, Twin Rivers BCH

**Back Country Horsemen of Illinois**

**Back Country Horsemen of Indiana, Hoosier  
BCH**

**Back Country Horsemen of Iowa**

BCH of Iowa, South East Chapter  
BCH of Iowa, Mid Iowa Chapter  
BCH of Iowa, South West Iowa Chapter  
BCH of Iowa, Western Iowa Chapter

**Back Country Horsemen of Kansas**

BCH of Kansas, Sunflower Chapter  
BCH of Kansas, Saddle Ridge Chapter

**Back Country Horsemen of Kentucky**

BCH of Kentucky, Fort Harrod Kentucky  
BCH  
BCH of Kentucky, Green River BCH  
BCH of Kentucky, Land Between the  
Lakes BCH  
BCH of Kentucky, Mammoth Cave BCH  
BCH of Kentucky, Mountain Lake BCH

**Back Country Horsemen of Michigan, Pigeon  
River and Beyond**

**Back Country Horsemen of Minnesota**

BCH of Minnesota, Zumbro Bottoms  
Chapter

**Back Country Horsemen of Missouri**

BCH of Missouri, Brownfield Chapter  
BCH of Missouri, Cuivre River Chapter  
BCH of Missouri, Heartland Chapter  
BCH of Missouri, Indian Trails Chapter  
BCH of Missouri, Mountain Riders  
Chapter  
BCH of Missouri, Northeast Missouri  
Chapter  
BCH of Missouri, Ridge Runner Chapter  
BCH of Missouri, River Springs Chapter  
BCH of Missouri, South Central Chapter  
BCH of Missouri, Tornado Ridge Chapter  
BCH of Missouri, Trail's End Chapter

BCH of Missouri, Tri Lakes Chapter

**Back Country Horsemen of Montana**

BCH of Montana, Bitter Root BCH  
BCH of Montana, Beartooth BCH  
BCH of Montana, Cabinet BCH  
BCH of Montana, Charlie Russell BCH  
BCH of Montana, East Slope  
BCH of Montana, Flathead BCH  
BCH of Montana, Gallatin Valley BCH  
BCH of Montana, Judith Basin BCH  
BCH of Montana, Last Chance BCH  
BCH of Montana, Mile High BCH  
BCH of Montana, Mission Valley BCH  
BCH of Montana, Missoula BCH  
BCH of Montana, Northwest BCH  
BCH of Montana, Selway-Pintler  
Wilderness BCH  
BCH of Montana, Three Rivers BCH  
BCH of Montana, Upper Clark Fork BCH  
BCH of Montana, Wild Horse Plains BCH

**Back Country Horsemen of Nevada**

BCH of Nevada, Bristlecone Chapter  
BCH of Nevada, Carson Valley Chapter  
BCH of Nevada, High Desert Chapter  
BCH of Nevada, High Sierra Chapter

**Back Country Horsemen of New Mexico**

BCH of New Mexico, Gila Chapter  
BCH of New Mexico, Lower Rio Grande  
Chapter  
BCH of New Mexico, Northwest Chapter  
BCH of New Mexico, Pecos Chapter  
BCH of New Mexico, Santa Fe Chapter  
BCH of New Mexico, Socorro Chapter  
BCH of New Mexico, Three Rivers  
Chapter  
BCH of New Mexico, Zuni Mountain  
Chapter

**Back Country Horsemen of New York**

**Back Country Horsemen of North Carolina**

BCH of North Carolina, Big Creek  
Chapter  
BCH of North Carolina, Blue Ridge  
Chapter  
BCH of North Carolina, Croatan Chapter

BCH of North Carolina, Pisgah Ranger  
District Chapter  
BCH of North Carolina, Uwharrie  
National Forest Chapter

**Back Country Horsemen of North Dakota**

**Back Country Horsemen of Oregon**

BCH of Oregon, Columbia Gorge  
Chapter  
BCH of Oregon, East Cascades Chapter  
BCH of Oregon, Emerald Empire  
Chapter  
BCH of Oregon, High Country  
Wilderness Packers Chapter  
BCH of Oregon, High Desert Trail Riders  
BCH of Oregon, Sourdough BCH  
BCH of Oregon, Steens BCH  
BCH of Oregon, Territorial Riders  
BCH of Oregon, West Cascades BCH

**Back Country Horsemen of South Dakota, Black  
Hills Backcountry Horsemen**

**Back Country Horsemen of Tennessee**

BCH of Tennessee, BCH of Cumberland  
Plateau  
BCH of Tennessee, BCH of East  
Tennessee  
BCH of Tennessee, Big South Fork  
BCH of Tennessee, Middle TN BCH  
BCH of Tennessee, Southern  
Appalachian BCH

**Back Country Horsemen of Utah**

BCH of Utah, Bridgerland Chapter  
BCH of Utah, Canyon Lands Chapter  
BCH of Utah, Hi-Lines & Hobbles  
Chapter  
BCH of Utah, High Desert Chapter  
BCH of Utah, High Uinta Chapter  
BCH of Utah, Mountain Ridge Chapter  
BCH of Utah, San Rafael Chapter  
BCH of Utah, Southwest Chapter  
BCH of Utah, Uinta Basin Chapter  
BCH of Utah, Wasatch Front Chapter

**Back Country Horsemen of Virginia**

BCH of Virginia, BCH of the Virginia  
Highlands

BCH of Virginia, Eastern Divide Chapter  
BCH of Virginia, Golden Horseshoe BCH  
BCH of Virginia, Southwest Virginia  
Chapter

**Back Country Horsemen of Washington**

BCH of Washington, Capitol Riders  
BCH of Washington, Cascade Horse Club  
Chapter  
BCH of Washington, Crab Creek Riders  
Chapter  
BCH of Washington, Ferry County  
Chapter  
BCH of Washington, Grays Harbor  
Chapter  
BCH of Washington, Inland Empire  
Chapter  
BCH of Washington, Island County  
Chapter  
BCH of Washington, Lewis County  
Chapter  
BCH of Washington, Methow Valley  
Chapter  
BCH of Washington, Mount Adams  
Chapter  
BCH of Washington, Mount St. Helens  
Chapter  
BCH of Washington, Mt Olympus  
Chapter  
BCH of Washington, Nisqually Chapter  
BCH of Washington, Northeast Chapter  
BCH of Washington, Oakland Bay  
Chapter  
BCH of Washington, Okanogan Valley  
Chapter  
BCH of Washington, Olympic Chapter  
BCH of Washington, Peninsula Chapter  
BCH of Washington, Pierce County  
Chapter  
BCH of Washington, Ponderosa Chapter  
BCH of Washington, Purple Sage Riders  
BCH of Washington, Rattlesnake Ridge  
Riders  
BCH of Washington, Scatter Creek  
Riders

BCH of Washington, Skagit Chapter  
BCH of Washington, Tahoma Chapter  
BCH of Washington, Traildusters  
Chapter  
BCH of Washington, Wenas Valley  
Chapter  
BCH of Washington, Wenatchee Valley  
Chapter  
BCH of Washington, Whatcom Chapter  
BCH of Washington, Willapa Hills  
Chapter  
BCH of Washington, Yakima Valley  
Chapter

**Back Country Horsemen of Wisconsin**

BCH of Wisconsin, Zumbro Bottoms  
BCH  
BCH of Wisconsin, Southeast Chapter

**Back Country Horsemen of Wyoming**

BCH of Wyoming, Great Divide Chapter  
BCH of Wyoming, Mountain Man  
Chapter  
BCH of Wyoming, Pathfinder Chapter  
BCH of Wyoming, Shoshone Chapter  
BCH of Wyoming, Teton Chapter  
BCH of Wyoming, Wind River Chapter  
BCH of Wyoming, Cloud Peak Chapter



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**File Code:** 2300; 2350; 7700**Date:** March 24, 2016**Route To:****Subject:** Electric Bikes and Trail Management**To:** Regional Foresters

Electric bikes or e-bikes are growing in popularity and offer increased potential for quality recreation experiences, where determined appropriate, that connect people with enjoyment of their National Forests. Given the recent introduction of e-bikes as a use on National Forest System (NFS) land, questions have been raised by Forest Service units, recreationists, user groups, permit holders and law enforcement regarding appropriate routes and areas for this use. The intent of this letter is to provide current guidance on how to classify and manage e-bikes for determining where they are allowed to be operated on NFS lands. It also lays out possible opportunities to expand appropriate e-bike access to NFS lands through special designation routes and areas for e-bikes now and into the future.

The Forest Service recognizes that technology continues to rapidly change, including the design and capability of e-bikes and other related modes of travel. Monitoring of e-bike use for visitor safety, social issues, along with performance metrics and natural resource impacts will continue to develop and advance. As such, we as an agency remain open to potentially re-visiting and adjusting associated agency guidance if and as needed in the future.

As a starting point, certain applicable laws and relevant directives provide a foundational approach to current e-bike management:

The Forest Service's Travel Management Rule (TMR) and E-Bikes: The TMR defines "motor vehicle" as "any vehicle which is self-propelled, other than: (1) a vehicle operated on rails; and (2) any wheelchair or mobility device, including one that is battery-powered, that is designed solely for use by a mobility-impaired person for locomotion, and that is suitable for use in an indoor pedestrian area." 36 CFR 212.1. E-bikes have a motor, thereby are self-propelled, and are not covered by the exceptions in the definition. Therefore, e-bikes are motor vehicles and are subject to regulation under the TMR, which requires designation of National Forest System (NFS) roads, NFS trails, and areas on NFS lands for motor vehicle use. 36 CFR 212.51(a). Direction on e-bikes was included in a response in the *Federal Register* notice for the final over-snow vehicle rule. The response states: "New technologies that merge bicycles and motors, such as e-bikes, are considered motor vehicles under §212.1 of the TMR." 80 Fed. Reg. 4503 (Jan. 28, 2015).

Disability and Motorized Devices: Questions have been raised in relation to people with disabilities requesting use of e-bikes as an assistive device. The only exception for a



person with a disability for use of a device that is self-propelled is if that device meets both parts of the legal definition of a wheelchair or mobility device as defined above in 36 CFR 212.1 and also defined the same way in FSM 2353.05 as well as in 42 U.S.C. 12107. Under that definition, any device that is both designed solely for mobility for a person with disability and which is suitable for use in an indoor pedestrian area may be used anywhere foot travel is allowed. E-bikes are not solely designed for individuals who have mobility impairments and their suitability for indoor use would be highly questionable. Therefore, e-bikes do not qualify for an exception and may only be used where the Motor Vehicle Use Maps allows that use by all people. An e-bike remains a motor vehicle regardless of who is using it. It is essential that exceptions to TMR designations not be made. Restrictions on motor vehicle use that are applied consistently to everyone have been repeatedly found not to be discriminatory.

Section 504 of the Rehabilitation Act (29 U.S.C. 794): Requires programs on federal lands to provide “reasonable modification” of policies and procedures to allow the participation of qualified people who have disabilities. To be a qualified person the individuals must meet the same essential eligibility requirements for participation in that activity as does a person who doesn’t have a disability. However, no federal agency is to “fundamentally alter” the program in order to allow a person with a disability to participate. To allow a motorized device, that doesn’t meet both parts of the legal definition of a wheelchair, to be used on a route or in an area where use of that class of device is not designated would be a fundamental alteration of that program.

Other Power Driven Mobility Devices (OPDMD): In 2010, the Department of Justice released their Rule on OPDMD. An OPDMD is defined as any vehicle or device that is powered by batteries, fuel or other engines including those not primarily designed for people with disabilities. Under the OPDMD Rule, a person who has a disability is to be allowed to operate an OPDMD anywhere, unless that area has been previously determined not to be appropriate for use of that type of device/vehicle and the information as to what if any devices/vehicles may be operated in that location has been posted. The criteria within the Rule for such a determination includes the same parameters as were used for the Forest Service designations under the TMR. Therefore, the use of any OPDMD is limited to where the use of that specific type of device/vehicle is designated for use by all. It is essential that OPDMD exceptions not be made to the TMR designations.

Currently, e-bikes are allowed with the TMR designations for “Roads Open to All Vehicles”, “Trails Open to All Vehicles”, “Trails Open to Vehicles 50” or Less in Width”, and “Trails Open to Motorcycles Only”. In addition, new trail riding opportunities for e-bikes on existing non-motorized trails may be considered and designated as motorized trails by administrative units and ranger districts under travel management planning efforts, based on special vehicle class designations in accordance with 36 CFR 212.55. These motorized trail designation changes would involve appropriate environmental analysis, public participation and designation decisions that, once established, will be reflected on updated Motor Vehicle Use Maps in accordance with the TMR.

Technology continues to rapidly change, including the design and performance metrics of e-bikes. As such, the Forest Service will remain open to potentially re-visiting and adjusting associated agency guidance, if and as needed, in the future. The Washington Office Recreation, Heritage and Volunteer Resources staff members ready to assist you include Chris Spurl, Travel Management Program Manager, [cfsporl@fs.fed.us](mailto:cfsporl@fs.fed.us); Jaime Schmidt, Assistant Program Manager for Trails, [jschmidt@fs.fed.us](mailto:jschmidt@fs.fed.us); and Janet Zeller, Accessibility Program Manager, [jzeller@fs.fed.us](mailto:jzeller@fs.fed.us).

*/s/ Joe Meade*

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