

# Committee on Resources

## Subcommittee on National Parks & Public Lands

---

### Witness Statement

---

STATEMENT OF THE FUND FOR ANIMALS AND BIODIVERSITY LEGAL  
FOUNDATION TO THE HOUSE COMMITTEE ON RESOURCES, SUBCOMMITTEE  
ON NATIONAL PARKS AND PUBLIC LANDS, CONCERNING THE POLICY OF THE  
NATIONAL PARK SERVICE ON SNOWMOBILES

Submitted By:  
The Fund for Animals  
Biodiversity Legal Foundation  
Prepared By:  
D.J. Schubert  
Schubert & Associates  
P.O. Box 11540  
Glendale, AZ 85318-1540

#### INTRODUCTION:

On behalf of the nationwide membership of The Fund for Animals (The Fund) and the Biodiversity Legal Foundation (BLF), I submit the following testimony to the House Committee on Resources, Subcommittee on National Parks and Public Lands, on the recent actions by the National Park Service (NPS) to ban snowmobile use in national parks in the conterminous United States.

More specifically, the NPS has proposed to ban snowmobile use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller Memorial Parkway (hereafter YNP, GTNP, and JDRMP). This ban remains a proposal pending the completion of an Environmental Impact Statement on winter use in the three parks. In addition, the NPS, in response to an administrative rulemaking petition filed by the Bluewater Network and supported by The Fund and BLF, has decided to ban snowmobile use in 27 of 28 national parks in the conterminous United States which permit such use. Exceptions to this ban include Voyagers National Park which has a statutory mandate to permit snowmobile use and specific routes within some of the 27 remaining parks where snowmobiles will be allowed to continue on short routes connecting federal (non-NPS) lands which are open to snowmobile recreation, to permit access to private inholdings, and for snowmobile use on county or state administered routes traversing NPS units. Furthermore, the NPS ban on snowmobile use in national parks does not pertain to national park units located in Alaska.

The Fund and BLF strongly support the NPS in its efforts to prohibit recreational snowmobile use in the majority of national parks which continue to permit such use. This decision, which was based on a reevaluation of its statutory and regulatory mandates to protect the parks, other laws, and the overwhelming scientific evidence documenting the significant adverse impacts to wildlife, air and water quality, natural quiet, and to non-motorized park users attributable to snowmobiles. Contrary to the perspective of the snowmobile industry and snowmobile enthusiasts, the decision by the NPS is not an attempt to prevent public access to national parks but, rather, it is a decision to preserve and protect those affected national parks and the national park system consistent with the original intent of Congress in establishing the NPS.

To those who oppose these decisions, the reality is that national parks, by law, receive the highest level of protection afforded to any federal lands. Consequently, activities which are permissible on lands administered by the U.S. Forest Service, Bureau of Land Management, and U.S. Fish and Wildlife Service may, or may not, be permitted within national parks. The loss of snowmobiling opportunities within national parks, will not adversely impact the opportunities for snowmobile enthusiasts to snowmobile on federal lands, as the majority of federal lands in this country which receive sufficient snowfall to permit snowmobiling are open to such use.

While The Fund and BLF support the decisions by the NPS, they believe that the NPS must also ban snowcoach use and road grooming in YNP, GTNP, and JDRMP in order to comply with the law and to afford sufficient protection to these magnificent parks. At present, the NPS has proposed to ban snowmobile use in YNP, GTNP, and JDRMP, but will continue to permit snowcoach use in these parks. To facilitate snowcoach access, the NPS will also have to continue to groom snow roads. While snowcoaches themselves cause far fewer environmental impacts compared to snowmobiles, wildlife use of groomed roads results in unnatural changes in wildlife species population dynamics, movement and distribution patterns, habitat use patterns, predator-prey dynamics, and, cumulatively, can significantly alter and damage the ecology of national parks.

In YNP, the 180-mile groomed road system has been a principal factor in facilitating bison emigration from the park into Montana and Wyoming where the majority of bison are shot or captured and slaughtered because of the perceived, yet entirely unsubstantiated, risk of Brucella abortus transmission from bison to domestic livestock. This fear has and continues to cost the States of Montana, Wyoming, and Idaho and the federal government millions of dollars each year in the management of bison and Brucella abortus in the Greater Yellowstone Ecosystem. The termination of road grooming in YNP will reduce -- in time significantly -- the emigration of bison outside of YNP thereby reducing the perceived risk of Brucella abortus transmission to domestic livestock and saving the state and federal governments substantial funds. Furthermore, the scientific evidence reveals that bison use of the groomed road system may adversely impact the survival and viability of grizzly bears and their populations in the Greater Yellowstone Ecosystem.

In this testimony, I intend to summarize the overwhelming legal and scientific evidence which supports the actions of the NPS to ban snowmobile in its parks and which substantiates the need for the NPS to prohibit snowcoach operation and road grooming in YNP, GTNP, and JDRMP. I have also attached as exhibits to this testimony a copy of additional documents which provide a more detailed examination of the legal and scientific evidence supporting a ban on snowmobiling and road grooming in national parks.

[Exhibit 1](#) (submitted in hard copy and on disc) is a February 1997 report entitled "Adverse Effects of Trail Grooming and Snowmobile Use on Winter Use Management in the Greater Yellowstone Area with a Special Emphasis on Yellowstone National Park" which documents the adverse impacts of snowmobiles and road grooming in YNP, GTNP, and JDRMP. This document was the basis for a 1997 lawsuit filed by The Fund, BLF, other organizations and individuals against the NPS claiming that it had violated the National Environmental Policy Act by failing to subject winter use activities in YNP, GTNP, and JDRMP to environmental impact review. This lawsuit was ultimately settled resulting in, among other things, an Environmental Impact Statement which has led to the proposed ban on snowmobile use in these parks.

Exhibit 2 (submitted in hard copy only) is a copy of the December 15, 1999 comments submitted on behalf of The Fund and BLF to the NPS on its Winter Use Plan Draft Environmental Impact Statement for YNP, GTNP, and JDRMP. This letter details the deficiencies in the Draft Environmental Impact Statement and

endorses an independent alternative, the Natural Regulation Alternative, created by The Fund which prohibits snowmobiles, snowcoach use, and trail grooming in YNP, GTNP, and JDRMP.

[Exhibit 3](#) (submitted in hard copy and on disc) is a copy of the Natural Regulation Alternative.

#### LEGAL EVIDENCE SUPPORTING BAN ON SNOWMOBILES IN NATIONAL PARKS:

A ban on snowmobiles in national parks is required by law. The National Park Service Organic Act, promulgated in 1916, established the NPS and mandated the NPS to "conserve the scenery and the natural and historic objects and wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. §1. Thus, while the NPS has a duty to permit public use of the parks, the Act specifies that public use is secondary to the preservation of nature in the parks. Indeed, the language in the Act which specifies that the Secretary can control the manner and means by which public use of the parks is permitted makes it abundantly clear that Congress intended for the Secretary to limit and control public use of the parks to prevent park impairment. This intent is also reflected in a 1925 directive from the Secretary of the Interior to the Director of Mount McKinley National Park ("the duty imposed upon the National Park Service in the Organic Act creating it to faithfully preserve the parks and monuments for posterity in essentially their natural state is paramount to every other activity"), in a May 13, 1918 letter from Secretary of the Interior Franklin Lane to Stephen Mather, Director of the National Park Service ("Every activity of the Service is subordinate to the duties imposed upon it to faithfully preserve the parks for posterity in essentially their natural state"), and in the Act's legislative history (parks must be protected from despoliation in order to preserve "nature as it exists"). See, H. Rep. No. 700, 64th Cong., 1st Sess. Snowmobiling, as is evidenced below and in exhibits 1 and 2, indisputably violates the intent of the Act by causing impairment to the parks.

It is the preservation mandate reflected in the Act which sets apart national parks from other federal lands. It was the intent of Congress that parks be managed differently than other federal lands, that preservation be the guiding mandate in park management, and that the public be allowed to use the parks but only in ways which were consistent with upholding the preservation mandate. Snowmobiling does not uphold the preservation mandate.

In addition to the preservation mandate imposed by statute, Executive Order 11644, as amended, provided additional guidance and authority for the NPS to control off-road vehicle activities, including snowmobiling, if such use will "adversely affect their natural, aesthetic, or scenic values." EO 11644, Section 3. In determining the effect, the Park Service must consider "damage to soil, watershed, vegetation or other resources," "minimize harassment of wildlife or significant disruption of wildlife habitats," and "minimize conflicts [with] other existing or proposed recreational uses." *Id.* In addition, the EO also requires the NPS to "monitor the effects" of snowmobile use. The NPS has relied on the direction and guidance provided by the EO to justify, in part, its ban on snowmobile use in national parks.

This preservation mandate is also reflected in NPS regulations which, except in very rare circumstances, prohibit the destruction, injury, or disturbance of living wildlife from its natural state. 36 C.F.R. §2.1(a)(1). These regulations authorize people to come and enjoy the spectacular beauty and natural wonders found within America's park, but does not permit the public to kill or remove the natural wonders, to disturb wildlife, or to diminish the natural serenity and tranquility which are intended to be the cornerstones of the national park experience.

Despite the intent of these regulations, the NPS has permitted snowmobile use in 28 parks in the

conterminous United States. General NPS snowmobile regulations, as presently written, authorize snowmobile use on "designated routes and water surfaces that are used by motor vehicles or motorboats during other seasons" as established by special regulation. 36 C.F.R. §2.18(c). Each park in the conterminous United States open to snowmobile use has promulgated special regulations to authorize that use. The special regulation authorizing snowmobile use in YNP, restricts such use to the "unplowed roadway," *id.* at §7.13(1)(2), which is defined as "that portion of the roadway located between the road shoulders designated by snow poles or poles, ropes, and signs..." *Id.* It is important to note that, though YNP has groomed its snowmobile routes for over thirty years and intends to continue to groom snow roads to facilitate snowcoach access into the park, road grooming is not an authorized means of delineating a route open to oversnow vehicle traffic. Furthermore, there is not a single NPS regulation which authorizes snowcoaches to operate within the parks.

It is these statutes and regulations, in combination with the scientific evidence, which provides a strong foundation for the NPS decision to ban snowmobiles in national parks in the conterminous United States. Far from being a drastic change in NPS public use policy, the decisions reflect the NPS's commitment to its preservationist and protectionist mandate and corrects misguided decisions made in the past to open park units to snowmobile use. While it is inevitable that certain special interests and some politicians will be offended by the NPS decisions to comply with existing law and to protect America's parks, these individuals and organizations should applaud and congratulate the NPS for protecting the natural integrity of our parks for the benefit of future generations. The intent of those wise members of Congress who had the vision to establish the NPS and to create a distinct set of laws maximizing the protection of national parks should be upheld, not tarnished by those interested in allowing snowmobile to continue to degrade our country's most beautiful lands.

#### SCIENTIFIC EVIDENCE SUPPORTING BAN ON SNOWMOBILES IN NATIONAL PARKS:

##### Wildlife Impacts:

In addition to the NPS legal mandates, there is considerable scientific evidence documenting the adverse impact of snowmobiles on wildlife, air quality, water quality, natural quiet, and non-motorized park users. Additional evidence demonstrates the unnatural impact that road grooming can have on many species of wildlife, including but not limited to Yellowstone's bison.

Snowmobiles can impact wildlife both directly and indirectly. Direct impacts include wildlife being chased by snowmobilers. Such chases are not only unethical but, in some cases, the animals are struck and killed by snowmobilers. In other cases, the animals subject to pursuit are so exhausted by their experience that they are more susceptible to predation or they otherwise may succumb to the adverse impacts of stress or energy loss.

Indirectly, snowmobiles assert a significant adverse impact on wildlife as a result of disturbance. The disturbance caused by the sight, sound, or smell of snowmobiles causes animals to flee from the source or site of the disturbance leading to animal displacement from important habitat, abandonment of habitat, habitat fragmentation, increased stress, alterations in species home range sizes and ecology, and increased energy use. These impacts, in turn, result in nutritional deficiencies, diminished productivity, increased intra and interspecific competition, alterations in predator-prey dynamics, fundamental shifts in ecological relationships, and animal mortality.

Of particular importance is the impact of snowmobiles on an animal's energy balance. Energy is critical for

survival of any living creature. For those animals who inhabit areas which experience snow and cold temperatures, energy use in the winter months can influence an animal's productivity and survival. Since food is generally less available in snow covered areas, an excess of energy use during the critical winter months can result in reduced productivity and death. The flight response and stress caused by snowmobile recreation adversely impact an animal's energy balance. If the energy consumed while responding to the presence of a snowmobile cannot be replaced, a negative energy balance may occur resulting in reduced productivity, increased susceptibility to disease or predation, and an increased likelihood of death.

While some believe that animals may habituate to the presence of snowmobiles, some or all of this so-called habituation behavior may actually represent the animal's response to a declining and diminished energy supply. In other words, in the beginning of the winter an animal may flee

in response to an approaching snowmobile while, later in the winter, when the animal's energy is diminished, the animal may not demonstrate a flight response. Thus, though the animal may still experience significant stress in association with the presence of the snowmobile, his or her lack of response is less a reflection of habituation to the disturbance and more a response necessitated by a diminished energy supply. There is little question that wildlife can habituate to human disturbance, but the disturbance may still cause substantial stress to the individual animal which, in turn, results in energy consumption and its associated complications.

Few species, if any, who inhabit lands suitable for snowmobiling are immune from the adverse impacts of snowmobile recreation. The available scientific evidence demonstrates that elk, mule deer, bighorn sheep, antelope, white-tailed deer, moose, grizzly and black bears, wolves, bobcats, lynx, bison, furbearers, game birds, eagles and hawks, swans, rabbits, fox, subnivean wildlife (animals who live between the soil and snow interface who are crushed or otherwise directly and indirectly impacted by snowmobile traffic), and a variety of other species, including federally and state listed endangered and threatened species, are adversely impacted by snowmobiles. While the severity of the impact may vary depending on the species, the consequences, direct or indirect, may diminish the productivity and survival of individual animals of these species and facilitate their death.

Unlike most wildlife species who flee from the sight, sound, or smell of an approaching snowmobile, many Yellowstone bison tolerate the presence of the machines. This may represent an energy saving strategy or, more than likely, is a product of the stolid temperament of bison which enables bison to remain in the vicinity of snowmobiles. In addition, this relationship is a function of the groomed road system in YNP. Bison have learned to use the groomed road system as energy efficient travel routes facilitating their movements both within and outside the park. The fact that bison frequently are seen sharing a snow road with snowmobiles does not mean that the experience does not result in stress or trauma to the animals. Not only is it likely that these animals experience substantial stress in the presence of snowmobiles, but some bison will flee from approaching snowmobiles diminishing their energy supplies. In addition, snowmobilers in Yellowstone have been known to push entire groups/herds of bison along groomed roads as they attempted to maneuver around the animals. Other Yellowstone ungulates, particularly mule deer and elk, also have been documented using the groomed roads and have likely experienced impacts similar to those documented here for bison.

Bison use of the groomed road system in YNP has substantial adverse consequences for the bison, other wildlife, and park ecology. As previously stated, bison use of the road system facilitates their emigration outside of YNP where many are shot or captured and shipped to slaughter. Unlike other wildlife who are permitted to emigrate from YNP, Yellowstone's bison are generally not welcome in Montana because of the

perceived, yet unsubstantiated, threat of *Brucella abortus* transmission from bison to domestic cattle.

As Dr. Mary Meagher, the world's foremost expert on the ecology, biology, and behavior of Yellowstone bison has determined, bison use of the groomed trail system has also resulted in shifts in the species distribution, movement, and habitat use patterns which has also, indirectly, increased bison emigration rates. In general, Yellowstone's bison are occupying spring and summer range earlier than they did in past years resulting in early dispersal to winter range habitat within the park. In time, once the winter range is no longer functionally sufficient to sustain groups of bison, they must emigrate to alternative wintering sites within and outside of the park to survive. The early departure of bison from their spring, summer, and winter ranges is not, as some have suggested, a product of degraded rangelands. Rather, this behavior is a consequence of bison feeding ecology and their preference to travel in groups. The groomed snowmobile roads facilitate this group movement within and outside of the park.

Such unnatural disruptions in bison distribution, movement, and habitat use patterns have consequences which extend beyond bison to the ecology of the geothermal habitats which are so unique to YNP. These habitats, which provide survival habitat for many of Yellowstone's wildlife in the most severe winters, are extremely fragile. The unnatural impacts of groomed roads on the distribution and movements of bison and other Yellowstone ungulates may have unnaturally increased ungulate use of these fragile habitats resulting in diminished vegetation productivity due to increased levels of consumption, soil compaction, and reduced soil permeability which, in turn, reduces vegetation productivity, abundance, and diversity. Should these safety or survival habitats be lost, a severe winter could force the mass emigration or starvation of thousands of Yellowstone ungulates, including the majority of its bison population.

In addition, bison use of the groomed snow roads has resulted in energy savings increasing bison survival and productivity thereby altering natural bison population dynamics. In 1994, when the YNP bison population reached an all-time high of approximately 4,200 animals, Dr. Meagher concluded that the population at that time was double the number that would have existed if groomed roads were not available in the park. The artificial increase in bison and other wildlife populations, and the consequences of such increases, which are attributable to the existence of groomed snow roads in YNP are inconsistent with the natural regulation mandate with which the NPS must comply. Terminating road grooming in the park will likely, over time, result in a reduction in the size of the YNP bison population reducing the number and rate of animals emigrating from the park. Thus, instead of relying on hunting, expensive capture facilities, state or federal agents, or other techniques to manage the size of the YNP population, terminating road grooming would allow the bison population to be reduced in a more natural manner and to reestablish traditional and natural habitat use, movement, and distribution patterns.

Bison use of the groomed roads also may result in adverse impacts to federally protected species, namely the grizzly bear. YNP grizzly bears, based on a substantial amount of scientific research, rely extensively on bison carrion for survival. By reducing natural winter kill and by facilitating bison emigration out of the park where the bison are removed from the ecosystem, the amount of bison carrion available to grizzlies emerging from their spring dens is reduced, thereby, impacting both the survival and productivity of the grizzly. In addition, gray wolves can be displaced from important habitat in areas -- like YNP -- heavily utilized by snowmobiles. This, in turn, may lead to increased gray wolf activity outside YNP resulting in the potential for increased depredation of domestic livestock.

#### Air and Water Quality Impacts:

Snowmobiles are dirty and noisy machines. The two-stroke engines that power most snowmobiles do not

burn fuel efficiently, resulting in the substantial release of pollutants into the atmosphere and the snowpack. Indeed, 25-30 percent of fuel used in two-stroke powered snowmobiles is unburned and discharged directly into the environment. In addition, snowmobile emissions contain dangerous levels of airborne toxins including nitrogen oxides, carbon monoxide, ozone, particulate matter, aldehydes, benzenes, and polycyclic aromatic hydrocarbons. Several of these compounds are designated as known or probable human carcinogens.

According to emissions data from the California Air Resources Board (CARB), a single hour of operation of a two-stroke engine produces more smog-forming pollution than a modern car creates in a single year. Thus, in YNP, a weekend of snowmobile use at Old Faithful generates as much pollution as a year of park-wide automobile use. Indeed, according to calculations made with conservative CARB emissions data, snowmobile use in YNP during the winter of 1997 generated as much pollution as 68 years of automobile traffic in the park. Pollution studies conducted in YNP determined that national carbon monoxide standards have been violated on several occasions and concluded that snowmobiles were responsible for nearly all of the air pollution in YNP. Remarkably, in February 1996, YNP recorded a carbon monoxide concentration of 36 ppm at a monitoring station near the west entrance of the park which was the highest level recorded on that day nationwide, exceeding carbon monoxide levels measured in Los Angeles, Denver, and Salt Lake City.

The excessive pollution generated by snowmobiles poses a threat to human and animal health. At the park's west entrance station near West Yellowstone, Montana, the NPS had to reconstruct its entrance kiosks to pump fresh oxygen into the individual booths in order to minimize the adverse health impacts (i.e., respiratory complications such as coughing, chest pain, heart problems, asthma, concentration lapses and shortness of breath) of the high concentrations of pollutants from snowmobiles entering the park. Snowmobile generated carbon monoxide has also been determined to be dangerous to the snowmobilers themselves, particularly at high altitudes and if the snowmobiler is pregnant, a child, elderly, or for individuals with asthma, anemia, or other cardiovascular disease.

In addition to the human health impacts, extensive studies have demonstrated the adverse impact of pollutants on the health of aquatic species and the ecology of aquatic systems. In YNP, studies have found increased levels of sulfates and ammonium in Yellowstone's snowpack. These pollutants are deposited directly into the snowpack as unburned fuel or are released into the atmosphere and deposited onto the snowpack by rain and snow. When the snowpack melts in the spring, an acid pulse is released into the soil and aquatic system. Several studies have documented that amphibians, fish, and other animals who rely on the aquatic system may experience significant adverse consequences, including death, as a result of the pulse of acid released by the melting snowpack. Furthermore, the impacts of acid in the environment also affects terrestrial vegetation resulting in foliar injury, reduced productivity, tree mortality, decreased growth, altered plant competition, modifications in species diversity, and increased susceptibility to diseases and pests. If such vegetation is consumed by park wildlife, the impacts of the toxins may extend to the individual animals and ultimately affect the ecology of the park.

In addition to the generation of significant amounts of pollutants, snowmobiles are also loud and disrupt the serenity, tranquility, and natural quiet which comprise a critically important component of the national park experience. Despite regulations to control the noise generated by snowmobiles, the use of the machines in national parks disrupts the national park experience for the non-motorized park users.

Economic Issues Supporting a Ban on Snowmobiles, Snowcoaches, and Trail Grooming in YNP, GTNP, and JDRMP:

Those who oppose the proposed ban on snowmobiles in YNP, GTNP, and JDRMP rely primarily on an economic argument to justify their position. More specifically, these individuals and organizations claim that a ban on snowmobiles will economically devastate the gateway communities in the Greater Yellowstone Ecosystem. While this argument may succeed in generating public and political support for continuing snowmobiling in the parks, it is entirely inaccurate.

First, the NPS is not responsible for the economic well-being or survival of the gateway communities. Indeed, the parks owe nothing to the gateway communities. The gateway communities have benefitted by the establishment and public use of the national parks but the NPS is not obligated to continue to permit public use, in this case snowmobiling, in order to maintain the economic health of the gateway communities. To the extent that the gateway communities have grown based on the presumption that snowmobile access to the parks would always exist, any economic impact to the gateway communities from the termination of snowmobile and snowcoach access is the fault of the gateway communities and must not be blamed on the NPS.

Second, existing economic data contained in the Draft Winter Use Environmental Impact Statement reveal that the economic impact of prohibiting snowmobile access into YNP, GTNP, and JDRMP will not result in a substantial economic impact Greater Yellowstone region. While the economic impact to the gateway communities may be more significant, there is no substantive evidence to suggest that the impact would be severe. Indeed, if West Yellowstone, for example, repackaged and remarketed itself to attract other types of winter uses (e.g., cross-country skiers, snowshoers) it is very possible that it would experience economic growth as a result of the snowmobile ban.

Third, as is common in an economic impact analysis, the analysis prepared by the NPS in the Draft Environmental Impact Statement does not adequately consider the economic impacts of snowmobiling, snowcoach use, and trail grooming on the parks, their wildlife, air and water quality, and natural quiet. There is an economic cost associated with the adverse impacts of snowmobiles within national parks. Economic tools and methodologies are available for estimating these impacts. Unfortunately, such costs are frequently ignored in economic impact analyses resulting in insufficient and incomplete reviews. If the NPS had adequately evaluated the full range of economic impacts in YNP, GTNP, and JDRMP, it would have concluded that the economic costs of snowmobiling, snowcoach use, and trail grooming clearly outweighed whatever economic benefits are associated with such uses.

## CONCLUSION:

A national park is intended to be seen by the eyes, touched by the fingers, smelt by the nose, heard by the ears, experienced by the soul, and otherwise left untrammled by its visitors. Snowmobiles are antithetical to the national park experience. They disturb wildlife and non-motorized park users, degrade air and water quality, and destroy the serenity and tranquility of the national park experience. The legal and scientific evidence support a ban on snowmobile in the national parks, including in YNP, GTNP, and JDRMP. The American public and members of Congress should endorse the decisions made by the NPS to terminate snowmobile use in the majority of the national parks in the conterminous United States and should applaud the NPS for taking decisive action to protect and preserve the national parks for the benefit of current and future generations.

###