Background
Motorized use has been allowed on the Slag-A-Melt trail since 1982 according to the 1982 Beaverhead National Forest Travel Plan Map. Slag-A-Melt trail offers access to Slag-A-Melt Lake and various other lakes at the base of the Continental Divide in the ruggedly beautiful Upper Big Hole River Valley of Southwest Montana. The project was proposed because the steepness, stream and wet area crossings, and general location do not meet current Forest Service OHV trail Class 3 standards. Improper trail location and construction has led to loss of trail tread which exposed rock and large boulders creating difficult passage. This in turn caused people to pioneer new routes to Slag-A-Melt Lake causing further erosion, sedimentation and degradation.

Decision
I have decided to authorize maintenance and reconstruction of the existing 2.5 miles of motorized trail along Slag-A-Melt Creek Trail # 3186 in the West Big Hole management area, to meet the needs of multiple users including hikers, stock, and OHV riders. The trail will be constructed to ATV Trail Class 3 standards, which include 60” width, some obstacles, intermittently rough areas, and 5 to 15% grades. Work may include installing rolling dips, switchbacks, climbing turns, turnpikes, log cribbing, signs, rock excavation or blasting, and miscellaneous associated items. A trail excavator may be used.

Mitigation and Design Features

Heritage
- Unplanned discoveries of heritage resources during project implementation shall cause project operations in the area of the discovery to cease until analysis and evaluation of the heritage resources are completed, including consultation with the Montana SHPO and appropriate Indian tribes.

Recreation
- Public notice will be placed in local newspapers and other appropriate media to inform recreation users of the project and activities. Signs will be placed on roads and trails entering the project area to notify users of activities or potential hazards and to post any necessary instructions.
- Trail design will limit, where possible, the ability of the trail user to go off trail with motorized vehicles.
Scenery

- Avoid rock slopes if possible, or utilize vegetation and/or topography to screen views of trail from the surrounding area

Vegetation

- Noxious weeds will be controlled following procedures in the Noxious Weed Control Program ROD (2002) for the Beaverhead-Deerlodge National Forest.

Wildlife Habitat

- Large snags will be avoided
- Trees greater than 10" dbh will not be targeted
- To reduce impacts to wildlife: Blasting, cutting, and mechanized trail excavation associated with reconstruction will not occur during elk calving and most wildlife breeding periods from May 15 to July 15th. If threatened, endangered or sensitive species are observed at or within ½ kilometer of the project area notify the district wildlife biologist within 24 hours and appropriate mitigation will occur at the biologist's discretion; If an active bald eagle, goshawk, great gray owl, or flammulated owl nest is found within the project area, appropriate mitigation measures as determined by the biologist will be implemented.

Reasons for Categorically Excluding the Proposed Action

An action may be categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA) if it is within one of the categories identified by the USDA in 7 CFR part 1b.3 or 7 CFR part 1b.3 or 36 CFR 220.6(d) or (e), and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

This project has been reviewed in accordance with FSH 1909.15 Chapter 30. I have determined the project fits the following category: 36 CFR 220.6(e)(1):

Construction and reconstruction of trails.

My decision is based on a review of the project record which contains a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information. The record includes the following resource specialist reports:

- Biological Assessments and Evaluations for Aquatics, Botany, and Wildlife
- Tribal and Heritage Resource findings
- Soils Report
- Hydrology Report
- Recreation Report
- Scenery Report

By definition, categorical exclusions do not individually or cumulatively have significant effects on the human environment (40 CFR 1508.4). Resource specialists considered direct and indirect effects from the proposed action coupled with past, present, and reasonably foreseeable actions. I have examined the proposed action and the effects analyses disclosed in the resource specialist reports listed above and have concluded that without notable individual effects from the proposed action, there would be no discernible cumulative effects.
The interdisciplinary team reviewed the resource conditions listed in FSH 1909.15 Chapter 30 (31.2) and other concerns applicable to this project to determine whether any extraordinary circumstances exist. The mere presence of one or more of the resource conditions listed below does not preclude the use of a categorical exclusion. It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists, the degree of potential effect of a proposed action on these resource conditions that determine whether extraordinary circumstances exist.

The resource specialist reports have provided the necessary information to make a determination on the cause-effect relationship between the proposed action and the potential effect on the resource conditions listed below and thus the presence of extraordinary circumstances, as summarized below:

<table>
<thead>
<tr>
<th>RESOURCE CONDITION</th>
<th>POTENTIAL EFFECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federally listed threatened or endangered species or designated critical habitat,</td>
<td><strong>Threatened or Endangered Species</strong>: There would be no effect to the threatened grizzly bear.</td>
</tr>
<tr>
<td>species proposed for Federal listing or proposed critical habitat, or Forest Service</td>
<td><strong>Sensitive Species</strong>: May impact individuals or habitat, but would not contribute to a trend towards federal listing or loss of viability to the population or species for bald eagle, blackbacked woodpecker. There is possible short term disturbance for spotted bat and Townsends' big eared bat.</td>
</tr>
<tr>
<td>sensitive species.</td>
<td>No Impact – all other Sensitive terrestrial, aquatic, and plant species.</td>
</tr>
<tr>
<td>Floodplains, wetlands, or municipal watersheds</td>
<td>The project is not in a municipal watershed. However it is in a wetland and RCA but the project is expected to improve aquatic habitat, wetlands, RCAs and water quality.</td>
</tr>
<tr>
<td>Congressionally designated areas, such as wilderness, wilderness study areas, or</td>
<td>No congressionally designated areas occur in or near the project; therefore no negative impacts to any congressionally designated areas are projected.</td>
</tr>
<tr>
<td>national recreation areas.</td>
<td></td>
</tr>
<tr>
<td>Inventoried Roadless Areas (IRA)</td>
<td>This trail project is located partially inside the West Big Hole IRA. The only potential negative effects to Roadless character are short-term during construction associated with the sights and sounds of machinery or blasting to accomplish the relocation. Long-term effects are expected to be beneficial from an increase in water quality.</td>
</tr>
<tr>
<td>Research Natural Areas</td>
<td>There are no research natural areas within the project area. Therefore, no negative impacts to any research natural areas are projected.</td>
</tr>
<tr>
<td>American Indians and Alaska Native religious or cultural sites.</td>
<td>A heritage survey was completed and the project will have no effect on historic resources. Mitigation</td>
</tr>
</tbody>
</table>
A categorical exclusion is appropriate in this situation because the proposed action fits within the category described above and there are no extraordinary circumstances present.

Scoping and Public Involvement

The project was first published on the SOPA on August 24, 2011. The proposal was provided to 80 interested members of the public and required agencies for comment from August 23 through September 23, 2011. Wildlands CPR (WCPR) wrote comments specific to this project. The project was published for a formal 30-day comment period beginning on February 18 to March 20, 2011. Only one comment was received. Jim Manning sent an email expressing support for the project.

INITIAL SCOPING COMMENTS AND RESPONSES

WCPR Comment 1: Our main objection is that these actions are being proposed before a travel plan decision designates them for off-road vehicle use. While these areas fall within the BDNF Revised Forest Plan allocations for summer motorized use, there has been no official determination that they are appropriate for such use and the proposed actions suggest that a decision has already been made that they are.

Response The allocations to the north and south of Slag-A-Melt Creek are summer and winter non-motorized allocations. The creek corridor is in a Backcountry allocation that was developed during the forest plan revision process to provide semi-primitive motorized recreation settings and opportunities for varied types of travel and recreational activities (FP p. 297). The allocation was established in the Plan to accommodate motorized use to the lower lake, on this trail.

Under Recreation and Travel management Standard 3 . . . “where routes have not been designated through site specific travel planning, restrict motorized vehicles to open motorized routes identified on the Forest Plan Interim Roads and Trails Inventory GIS Layer displayed on page 53.” (FP p 32) The Slag-a-melt trail is displayed on the Forest Plan Interim Roads and Trails Inventory GIS Layer.

Historically this trail has been managed as a motorized trail per the 1982 Beaverhead National Forest Travel Plan Map. This analysis discloses the effects of the proposal described above and does not constitute a decision to designate this trail as motorized. The decision to reconstruct parts of the trail to meet OHV standard 3 and reduce the damage that is occurring on that trail does not preclude future travel management decisions.

WCPR Comment 2: According to the INFRA database, this is a pack and saddle trail. . . . The proposed action would reconstruct this trail for ATV use along two miles starting in section 27. While this may now be a defacto ATV trail we are not aware of any decision that re-purposed this trail for such use and the proposed action would skew any future travel plan decision. While we support reconstruction this trial to . . . pack and saddle use in order to address resource impacts, we do not feel it is appropriate to reconstruct into a 60-inch wide ATV tail before travel planning process can determine if such action is appropriate.

Response The INFRA database is only a tool the Forest Service uses to track trails management activities. Ideally it would be kept current but there are constant revisions, additions, and deletions. The INFRA database does not necessarily reflect current status of trails and their designated use. The trail shows up as a motorized route as far back as the 1982 Beaverhead Travel Plan Map. The 2009 Forest Plan Interim Road and Trail Map (FP p. 53) Updated in ROD 2, displays this route as motorized.
Once complete the INFRA database will be updated to reflect management of this trail as a motorized route for vehicles less than 50 inches in width. If sometime in the future there is a decision to manage this trail under a different designation, the trail classification will be updated in INFRA, and it will be managed to the appropriate standard.

**WCPR Comment 3:** This is especially important this trail turns into the CDNST to Slag-a-Melt Lakes and beyond. The propose action would accommodate and encourage motorized use on the CDNST, which goes against Congressional and Forest Service direction. . . . Citations from 1997 Memorandum, comprehensive plan for CDNST, and FS Manual 2300, Ch. 2350 . . . Even if the proposed action is limited to only the Slag-a-Melt Creek Trail in section 27, it is more than reasonable to expect increased ATV traffic on the remaining trail in Sections 28 and 29 up to Slag-a-Melt Lakes; perhaps even beyond. . . . The proposed action would enshrine motorized use on an important segment of the CDNST and thereby violate congressional and Forest Service direction. . . . we urge you to reconstruct Trail #3186 in sections 26 and 27 back to pack and saddle design standards.

**Response** The proposed action complies with the 2009 Continental Divide National Scenic Trail (CDNST) Comprehensive Plan and the 2009 Beaverhead Deerlodge Forest Plan direction for the CDNST. Where the CDNST is designated for non-motorized use, barriers will be constructed such as fences or boulders, to prevent motorized use.

**WCPR Comment 4:** We further encourage the BDNF to end motorized use on this trail, especially since there are loop opportunities on roads in section 26 before the trail begins.

**Response:** The Road in section 26, (FS Road # 3944) is not open to motorized use. The trail in section 26 is also closed year-round to motorized use and gated. In addition to the gate this route does not meet standards for motorized use. It leads to an active mine claim and would present health and safety concerns if it were open for public use. Only the miner has motorized access past the gate under a special use permit.

**Manning Comment 1:** I support the proposed trail reconstruction. This facilitates multiple use (motorized use). Revisions to travel plans consistently advocate net decreases in motorized use throughout USFS Region 1 but do not acknowledge or accept the increase in the number and use of OHV by the public.

The Slag-a-melt Trail project appears to be an instance where it is possible to maintain and improve motorized use for the benefit of the OHV user groups for multiple use.

**Response:** We appreciate your support. Please note the decision makes no changes in existing use. Historically this trail has been managed as a motorized trail per the 1982 Beaverhead National Forest Travel Plan Map. Reconstruction does not constitute a decision to designate this trail as motorized. The decision simply authorizes reconstruction of parts of the trail to meet design parameters for OHV Trail Class 3 and reduce the damage that is occurring. It does not preclude future travel management decisions.

**Forest Plan Direction**

The National Forest Management Act (NFMA) requires the development of long-range land and resource management plans. The Beaverhead-Deerlodge National Forest Plan was approved in 2009 and provides guidance for all natural resource management activities on the Beaverhead-Deerlodge National Forest. NFMA also requires that all projects and activities be consistent with forest plans. The decision is consistent with Forest Plan direction including all applicable standards.

**Forestwide Road and Trail Use Goal:** A system of routes and areas designated for non-motorized and motorized use are identified and available for public use. A Roaded or Backcountry recreation allocation does not determine the motorized status of any route, including the CDNST, within those allocations. A non-
motorized recreation allocation (Summer Non-Motorized, Recommended Wilderness, or designated Wilderness) does close all routes within the area to motorized use. (FP pg. 31

**Trails Objective:** Maintain motorized and non-motorized trails to standard. Reconstruct trails that do not meet standards based on the following Region One priorities:

- a) Safety hazards to users
- b) Actual or potential resource damage, especially in key watersheds,
- c) Level of use

**Findings Required by Law**

**National Forest Management Act** - The Beaverhead-Deerlodge National Forest Land and Resource Management Plan (Forest Plan) was approved in 2009, as required by this Act. The Forest Plan has been reviewed in consideration of this project and the project meets all applicable management direction found in the 2009 Beaverhead-Deerlodge Forest Plan including consistency with all applicable standards.

**Endangered Species Act** - See the “Reasons for Categorically Excluding the Proposed Action" Section of this document for a summary of the effects of this project to Endangered, Threatened, or Candidate Species. The summary is based on a more thorough analysis available in the project record. This project is consistent with the requirements of the Endangered Species Act.

**Sensitive Species (Forest Service Manual 2670)** - This direction requires analysis of potential impacts to sensitive species and the Regional Forester approved the sensitive species list on October 28, 2004. Our review of the potential effects of this decision upon the sensitive species has been completed and the analysis documented in the project file and Resource Condition Table above.

**Environmental Justice (Executive Order 12898)** - This Order requires consideration of whether projects would disproportionately affect minority or low-income populations in or around the project area. Based on internal review and public scoping, the proposed action did not identify any adversely impacted local minority or low-income populations.

**Clean Water Act** – The intent of the Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of Best Management Practices (BMPs). This decision incorporates Best Management Practices to ensure protection of soil and water resources and complies with the Clean Water Act and State water quality standards.

**Clean Air Act** – Under this Act, areas of the country were designated as Class I, II or III airsheds for “Prevention of Significant Deterioration” purposes. There will be no air quality impacts as a result of this decision.

**The National Historic Preservation Act** – As discussed earlier in this document and in detail in the project file, impacts to cultural resources are not expected.

**Migratory Bird Treaty Act** – There will be no known substantial losses of migratory bird habitat expected from the implementation of this proposal.

**National Environmental Policy Act** - This Act requires public involvement and consideration of potential environmental effects. This document and the project record provide documentation for this decision which supports compliance with this Act.

**Inventoried Roadless Areas** – The actions in the IRA have been evaluated in light of ongoing development of long term roadless policy and relevant court cases. On Jan 21, 2001, the 2001 Roadless Conservation rule was established (36 CFR 220 Subpart B). The 2001 rule prohibited road construction, road reconstruction, and timber cutting, sale and removal in inventoried roadless areas with some exceptions. On July 13, 2003, the 2001
roadless rule was enjoined by a U.S. District Court Judge Brimmer in Wyoming, after which the Forest Service established Interim Directives for the management of roadless areas.

In May 2005, the 2005 State Petitions Rule was established, which allowed governors to petition for individual, state-specific rules to manage IRAs in national forests and grasslands in their states. In October 2006, Judge Laporte (Northern District Court of California) set aside the State Petitions Rule and reinstated the 2001 Roadless Rule (California ex rel. Lockyer v USDA). In December 2008, the Court limited its injunction to states within the Ninth Circuit and New Mexico (excluding Idaho). In August 2009, the 9th Circuit Court of Appeals affirmed the Northern District Court of California’s opinions.

On Jan 12, 2007 the state of Wyoming again challenged the 2001 Roadless Rule. On August 12, 2008, in the District Court of Wyoming, Judge Brimmer issued a ruling enjoining the 2001 Roadless Rule for the second time. On October 21, 2011, the 10th Circuit Court of Appeals reversed the district court’s order granting Plaintiff declaratory relief and issuing a permanent injunction, and remanded the case for the district court to vacate the permanent injunction. On February 16, 2012 The 10th Circuit Court of Appeals denied Wyoming’s petition for rehearing en banc and issued its mandate for the District Court to vacate the injunction.

On May 30, 2011, Secretary of Agriculture Tom Vilsack issued Memorandum 1042-156, which reserves “to the Secretary the authority to approve or disapprove road construction or reconstruction and the cutting, sale, or removal of timber in those areas identified in the set of inventoried roadless area maps contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000.” The Secretary has since re-delegated five categories of activities back to the Forest Service. These are:

a) Road construction and timber cutting in emergency situations involving wildfire suppression, search and rescue operations, or other imminent threats to public health and safety.

b) Timber cutting incidental to the implementation of an existing special use authorization.

The cutting, sale, or removal of generally small diameter timber:

c) To improve habitat for threatened, endangered, proposed, or sensitive species;

d) To maintain or restore the characteristics of ecosystem composition and structure; or

e) For personal or administrative use, including construction of trails

The tree cutting authorized by this decision within the IRA complies with the 2001 Roadless Rule. Under the 2001 Roadless Rule tree cutting may be done when it is incidental to the implementation of a management activity not otherwise prohibited (36 CFR 294.13(b)(2). The 2001 Roadless Rule does not prohibit trail reconstruction or maintenance. In addition, I have determined I have the authority to approve this decision based on the May 30, 2011, re-delegation memorandum from the Secretary of Agriculture. The activity falls under the re-delegation for administrative use which includes providing materials for construction of trails.

The decision includes incidental cutting of generally small diameter trees (approx. 6 to 8 inch DBH lodgepole pine) where needed for administrative use to: a) provide materials for turnpikes, log cribbing, and to deter any off-trail use on new portions of the trail as well as to deter any use on the old portions of the trail and/or b) where one of the following scenarios occurs: a tree may be in line with the trail route or within the desired trail clearing limits or where it presents a hazard to the operator or future user of the new trail location. Large diameter trees are not targeted for removal as described in further detail in the mitigations for Wildlife: Large snags will be avoided. Trees greater than 10" dbh will not be targeted.

Other Laws or Requirements – The proposed action is consistent with all other Federal, State, and/or local laws or requirements.

Administrative Review or Appeal Opportunities

This decision is not subject to appeal pursuant to 36 CFR 215.11.
Implementation Date
Consistent with 36 CFR 215, implementation may begin immediately, and is expected to commence in July of 2012.

Contact Person
Supporting documentation for this decision is available for public review at the Wisdom Ranger District, 300 Forest Service Road, Wisdom, MT 59761.
Further information may be obtained at the district office which is open from 8:00 AM to 4:30 PM Monday through Friday excluding federal holidays or by calling Nathan Gassmann at 406-689-3243, fax 406-689-3245, or email ngassmann@fs.fed.us.

Responsible Official

RUSSELL B. RIEBE
District Ranger

April 18, 2012