



BlueRibbon Coalition / Sharetrails

P.O. Box 5449

Pocatello, ID 83202-0003

1-208-237-1008 • brc@sharetrails.org

Ben Burr, Executive Director

BlueRibbon Coalition

P.O. Box 5449

Pocatello, ID 83202

February 7, 2022

Siuslaw National Forest Supervisor's Office

ATTN: Trevor Robinson

3200 SW Jefferson Way

Corvallis, OR 97331

Dear Mr. Robinson,

BlueRibbon Coalition/ShareTrails (BRC) is writing to provide feedback for the Franklin and Wasson Wild and Scenic River Management Plan. BRC is a national non-profit organization that champions responsible recreation and encourages a strong conservation ethic and individual stewardship. We champion responsible use of public lands and waters for the benefit of all recreationists by educating and empowering our members to secure, protect, and expand shared outdoor recreation access and use by working collaboratively with natural resource managers and other recreationists. Our members use motorized and non-motorized means of recreation, including OHVs, horses, mountain bikes, and hiking to enjoy federally managed lands throughout the United States, including those of the Bureau of Land Management and U.S. Forest Service. Many of our members and supporters live in Oregon or travel across the country to visit Oregon and recreate on BLM and USFS managed lands and waters throughout Oregon. BRC members visit the Franklin and Wasson Rivers for recreation, sightseeing, photography, rockhounding, hunting, wildlife and nature study, camping, observing cultural resources, and other similar pursuits. We would like to add our support to any comment submitted by any individuals or organizations that advocate for continued use. BRC members and supporters have

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concrete, definite, and immediate plans to continue such activities in the future. We support any comments made by our members.

Plan Specific Feedback

R-03-S - Social trails and campsites resulting in adverse impacts to river values shall be actively rehabilitated or blocked and disguised to allow for recovery.

BRC Response: Management strategies such as proper education, signs and re-routing should all be exhausted before closures are enacted. Areas with blocked or disguised campsites should be reopened for primitive dispersed camping once the adverse impacts have been recovered.

R-04-G - Social trails that intrude visually on the river corridor should be obliterated.

BRC Response: The Dingell Act says, "The fact that a nonwilderness activity or use on land outside the Wilderness can be seen or heard within the Wilderness shall not preclude the activity or use outside the boundary of the Wilderness." According to the Dingell Act, R-04-G needs to be removed from the plan draft as it is not in compliance with the Act.

Any land not within the Wilderness designation should not be treated and subjected to Wilderness restrictions as it is outside the Wilderness area and the Dingell Act prohibits any type of buffer zone.

Congress was very clear that outside of designated Wilderness, there cannot be restrictions to the VRM plans. Updating these classifications needs to be consistent with congressional intent, and viewshed protections should only be considered for areas within boundaries of protected designations.

Many of our members hold organized events that include organized recreation activities in this area. A significant portion of the education mission of organizations like ours and the fundraising that supports organizations like ours comes from these organized events, and we see the continuation of these events as an integral expression of protected rights including freedom of speech and freedom of assembly. We believe these events are protected by the First Amendment and believe they are crucial to clubs and organizations. No changes should be made to the RMP that would restrict the ability of our members to exercise these rights.

Dispersed Recreation

The capacity per day numbers seems arbitrary and should be based on the best available science and should accommodate the maximum number of people. As outdoor recreation grows

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in popularity land agencies should not stifle the economic opportunities of local communities. They also shouldn't stifle the options of the public to access public lands as there are many physical and mental health benefits.

Users with Disabilities

We recommend that the BLM and USFS use this planning process to finally begin to reverse its decades-long systematic discrimination against those with mobility impairment-related disabilities.

On his first day in office, President Joe Biden issued an “Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” This executive order established “an ambitious whole-of-government equity agenda” which focuses on addressing “entrenched disparities in our laws and public policies,” and mandates a “comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”

Under this executive order, “The term ‘equity’ means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as ... persons with disabilities....” Historically, there has been no group more greatly marginalized and excluded by public land management policies, and motorized travel management policies in particular, than people with disabilities. Outdoor enthusiasts with ambulatory disabilities frequently rely on motorized travel as their sole means to enjoy recreating on public lands. Not everyone has the ability to hike into a remote wilderness area, but many such people are still able to drive Jeeps, side-by-sides, and ATVs, which are restricted to the designated motorized route network.

Travel management policies focused on “minimizing” the environmental impacts of motorized recreation have resulted in a dramatic decrease in motorized recreation opportunities on public lands over the last 20 years which has disproportionately impacted people with disabilities. Wilderness focused environmental groups with extreme ableist biases have pushed for more and more areas to be closed to motorized recreation and reserved exclusively for hikers, mountain bikers, and other “human powered” and “quiet use” forms of recreation in which many people with disabilities are unable to participate.

Every time motorized routes or areas are closed, people with disabilities that require the use of motorized means to access public lands are barred from those areas forever. There has been little recourse for such people in the past because the Americans With Disabilities Act does not require public land management agencies to consider disproportionate effects on the disabled community, but only requires that they be given access to public lands on equal terms with everyone else. As a result, the BLM and USFS has historically failed to give any real consideration to the impacts of motorized route closures on the disabled community when developing travel management plans.

The Biden Administration's focus on equity, however, changes the equation. While the ADA focuses only on equality of opportunity, equity inherently focuses on equality of outcome. Any policy that is facially neutral but disproportionately harms a disadvantaged or marginalized group is considered inequitable. The BLM and USFS are therefore required by this executive order and others mandating that federal agencies consider "environmental justice" in NEPA proceedings to consider whether any route closures in this management plan would disproportionately harm disabled users' ability to access public lands.

Any approach to travel management that presumes the superiority of non-motorized forms of recreation like hiking over motorized recreation, or that justifies closing motorized access on the basis that people can still hike on those routes, is inherently discriminatory toward people with disabilities. Any large-scale closures of existing routes would unfairly and inequitably deprive people with disabilities of the ability to recreate in the area using the only means available to them. It is imperative that the BLM and USFS consider the access needs of disabled users in drafting the alternatives for this travel plan and ensure that people with disabilities who depend on motorized means do not lose access.

Wild River Segments

The proposed maps for the management plans also include buffer zones that extend into some of the washes. We oppose the creation of these buffer zones and believe they contradict the statutory language which states, "Nothing in this subsection creates any protective perimeter or buffer zone around the Wilderness." The statutory language and Congressional intent is so clear on the topic of buffer zones and the need to preserve existing uses, we see no authority in the Wild and Scenic Rivers Act which would allow these buffer zones.

SECTION 10. (a) of the Wild and Scenic River Act states the following:

- Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeological, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

It is consistent with the Dingell Act to allow access to persist in the area of the designation. Many users enjoy using the roads that access scenic viewpoints and riverfront areas to enjoy the scenic values of the Wasson and Franklin Creeks. This use has been ongoing for decades. Many types of user groups have enjoyed this area in ways that do not interfere with public use and enjoyment. Any management decision that limits the use of one user group to give preferential access to another user group would be arbitrary and capricious. BLM and FS should honor the intent of Congress to ensure that no existing uses of this area are limited.

SECTION 10 (b) of the Wild and Scenic Rivers Act states the following:

- Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Act of September 3, 1964 (78 Stat. 890; 16 U.S.C., ch. 23), shall be subject to the provisions of both the Wilderness Act and this Act with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of these Acts the more restrictive provisions shall apply.

The wild designation of the Wasson and Franklin Creeks should not preclude existing uses by private property users and other users. Because private properties exist that are only accessible by Rights of Way that pass through the area designated as wild, BLM and USFS should not preclude a right of way from being applied for and granted that would serve as the only reasonable access to private property. The possibility of all forms of access to these properties should be preserved. Because it is possible that the wild river designation could result in permanent loss of access to private property, it is possible that any restrictions of access will constitute an unconstitutional, uncompensated taking of private property.

We also believe that all current motorized use including vehicles on roads that access the river, motorized watercraft, and aircraft should be able to continue accessing the Wasson and Franklin Creeks as they have prior to the passage of the Dingell Act. It should also be noted that BLM and FS doesn't have jurisdiction over airspace.

Conclusion

We would like to close by saying we support "shared use". As long as overall visitation numbers are appropriate for the affected resources, users can be compatible with one another so long as individual users understand designations and plan their activities accordingly. Indeed, recreation use often overlaps with activities such as hiking, camping, equestrian use, etc. We also hold that responsible recreational use of public lands can exist in harmony with ecosystem needs.

BRC would like to be considered an interested public for this project. Information can be sent to the following address and email address:

Ben Burr
BlueRibbon Coalition
P.O. Box 5449
Pocatello, ID 83202
brmedia@sharetrails.org

Sincerely,

A handwritten signature in dark ink, appearing to be 'BB' followed by a long horizontal line.

Ben Burr
Executive Director
BlueRibbon Coalition

A handwritten signature in dark ink, appearing to be 'Simone Griffin'.

Simone Griffin
Policy Director
BlueRibbon Coalition