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BlueRibbon Coalition (BRC) is writing to provide feedback for the Northwest Forest 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 forests of the northwest. Many of our members and supporters live in Oregon, Washington and northern California or travel across the country to visit national forests in these areas and use motorized vehicles to access USFS managed lands throughout Oregon, Washington and northern California. BRC members visit these 17 forests for motorized recreation, snowmobiling, sightseeing, photography, rockhounding, hunting, wildlife and nature study, camping, observing cultural resources, and other similar pursuits. BRC members and supporters have concrete, definite, and immediate plans to continue such activities in the future.

General Comments

We support any additional comments that encourage the USFS to designate the maximum number of routes in this area as open. Many of our members are organizations with extensive on-the-ground experience. The Forest Service is required to show a broad range of alternatives when undertaking a NEPA process. In order to adequately comply with NEPA the USFS must have alternatives that explore a range of alternatives. In the case of the Northwest Forest Plan, we hope USFS will consider the feedback of BRC and our members to come up with a range of management alternatives to meet the purpose and need since the original proposal suffers from several deficiencies. USFS often creates a “conservation” alternative, then it is typical to present several other alternatives that include varying levels of closures and restrictions from the baseline. That USFS has conditioned itself to believe that it must never expand or enhance recreation access through the planning processes is an inherent and fundamental flaw of this process and a violation of NEPA. This inequitable privilege of one stakeholder’s interest over the interests of other stakeholders taints the integrity of the NEPA process. USFS should form a range of alternatives where each of the alternatives accomplishes the goal of the project. The purpose and need of this plan is to create better management strategies, not to simply close and restrict use. Closure is not management. These areas provide a purpose and need for outdoor access that improves physical and mental health for public land users.

These areas are already surrounded by and include, wilderness areas and highly restrictive management areas. USFS should work to maximize OHV use in this area, since minimization of OHV related impacts occurs by land management designations in surrounding areas. Closure should not be an option. Management solutions should be used in order to mitigate any identified damage.

BRC recommends a goal including: “Complete surveys on a minimum of 100 acres of land each year to identify new routes, singletrack or two track in order to help the forest keep up with recreation demands and provide safe and sustainable recreation access.”

Completing an inventory of dispersed sites and creating designated dispersed camping is counterintuitive as many people practice leave no trace principles. Therefore, oftentimes a beloved campsite will not be able to be inventoried by USFS because it has been cleaned up. In order to comply with objectives to accommodate increased recreation use, the USFS should not be limiting dispersed camping.

BRC supports the creation of new system roads and motorized trails in order to accommodate the growing demand of users in the forest. The Northwest Forest Plan should mandate creating new system roads and motorized trails.

E-bikes

The Northwest Forest Plan needs to consider the e-bike community users within this plan. There

currently is not a concise policy between federal land management regarding the use and definition of e-bikes. Oftentimes e-bikes are considered an OHV and only allowed on motorized routes. However, the impact of e-bikes is identical to human powered mountain bikes. Because the impact is the same, e-bikes should be allowed on any bike trails and should simply be considered a bike. USFS should analyze this within this planning process.

Constitutional Concerns

Many of our members hold organized events that include organized rides 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.

The socioeconomic analysis should acknowledge the direct financial impact that will occur to organizations like ours if the agency were to adopt the conservation alternative. The Administrative Procedures Act is important to a planning process such as the development of this plan, because this statute makes it clear that agency actions that are both contrary to “the constitutional right, power, privilege, or immunity;” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right must be held unlawful.” The plan should acknowledge these important statutory and constitutional provisions.

We consider any heavy restrictions and restrictive management designations to constitute a scheme of prior restraint that could potentially limit protected rights such as freedom of speech and freedom of assembly. A “scheme” of prior restraint is one which gives “public officials the power to deny use of a forum in advance of actual expression” and “comes to [a] Court bearing a heavy presumption against its constitutional validity.” Am. Target Advert., Inc. v. Giani, 199 F.3d 1241, 1250 (10th Cir. 2000).

Users with Disabilities

We recommend that the 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.

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 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 USFS is therefore required by this executive order and others mandating that federal agencies consider “environmental justice” in NEPA proceedings to consider whether any route closures as a result of the Northwest Forest 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 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.

It should also be acknowledged that it is also entirely possible that many of the tribal members who wish to access sacred and cultural sites within the planning area currently or will at some point suffer from mobility impairment disabilities.

Wealth Inequality

The Executive Order on Advancing Equity also recognizes that poverty and inequality can lead to systematic discrimination against historically underserved and marginalized communities. We strongly encourage the USFS to incorporate into their planning the findings of *The Slums of Aspen: Immigrants vs. the Environment in America's Eden* by Lisa Sun-Hee Park and David Pellow and *Billionaire Wilderness: The Ultra-Wealthy and the Remaking of the American West* by Justin Farrell. Both of these works document extensively how Western communities surrounded by public land are undergoing significant socioeconomic changes that result in skyrocketing housing costs, use of conservation and land-use restrictions to limit development, and displacement of the local middle and lower classes from Western Communities.

Conservation policies and land-use restrictions are the primary tools that the ultra-rich use to disenfranchise the remaining American public from being able to access and enjoy the public benefits of public land. In many cases public lands become the private enclaves for the enjoyment of recreation pursuits and cultural values of the ultra wealthy.

Given the land ownership patterns in the northwest area, it is very likely that privately developed land-use restrictions will inevitably result in decreased access to public lands by the public. When combined with the socioeconomic forces behind this trend, this loss of access will disproportionately impact those marginalized by poverty and inequality.

Consider this passage from *Billionaire Wilderness* where Justin Farrell describes how land conservation fueled the intense wealth inequality that is becoming increasingly characteristic of Colorado's gateway mountain communities:

But data reveal that this economic thinking is misguided, *especially in places where ultra-wealth and inequality collide with pervasive land conservation*. What this means is that the “rising tide lifts all boats” approach can have the effect of intensifying economic differences. More specifically, and following the same logic as earlier with the protection and production of wealth, I consider the effect of land conservation on which job sectors are growing or declining (that is, available jobs and total income), and as a result, the staggering decline of reasonably priced housing.

First, conservation has directly and indirectly intensified wealth inequality by making the area uniquely attractive to the ultra-wealthy, creating intense housing demand *and* land scarcity that has dramatically reshaped who lives in the community, and how people make their money. [...] As more and more ultra-wealthy people move to the area for natural amenities (for example, protected lands, abundant wildlife), it dramatically restructures the socioeconomic hierarchy - becoming both a cause, and a consequence, of conservation values. Conservation became a form of elite cultural currency, and conservation organizations benefited from the financial flow down, all while it became harder for middle- and lower-income people to survive there (pp. 96-97).

Farrell’s work also documents how the ultra-wealthy commandeer local governments to the extent that these governments become vehicles for enacting their preferred policy preferences, which include highly restricting public access to public land.

In addition to a recreation alternative, the USFS should consider developing an alternative that corrects the disturbing socioeconomic trends that are taking root in the Western communities that call the areas surrounded by these 17 national forests home. At the very least, the USFS should resist turning these forests into a restrictively managed nature preserve for the growing number of ultra-wealthy residents that are displacing everyone else.

According to, FSH 1909.12- Chapter 70- Wilderness Exceptions are given which would disqualify an area if there are “historical mining routes.” Many of the identified routes and trails in this area are historical mining routes or have some historical significance. “The 2012 Planning Rule requires the Forest Service to identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System (NWPS) and determine whether to recommend any such lands for wilderness designation.” The USFS is not required to recommend lands during a the forest plan revision, only required to identify and evaluate lands that **may** be suitable. BRC does not support any new recommendations for wilderness areas as they do not comply with wilderness requirements.

Wildfires

Vegetation treatments that reduce wildfire risk might compromise the current scenery integrity or

non motorized recreation opportunity, but if a wildfire happens the impact of the fire will likely cause a greater impact to both of these values. Decision makers should be able to make balance-of-harm or benefit determinations for these resource management activities instead of being required to meet arbitrary objectives.

The USFS should be using non-fire techniques such as mechanical thinning as often as possible to keep the forest healthy and thriving. These techniques are the most effective in preserving wildlife, trails and cultural sites. We prefer proactive management within the forest to avoid closures.

Section 40806 in the Bipartisan Infrastructure Law directs the reduction of hazardous fuels in strategic locations. The law authorizes the construction of fuel breaks adjacent to existing features including roads, trails, powerlines, or similar infrastructure. USFS should be utilizing Section 40806 within every single one of the 17 national forests this plan manages in order to create fuel breaks along roads. Because this would already create a disturbance, USFS should consider using these disturbances to increase recreation opportunities, such as single track routes, OHV routes or dispersed camping opportunities off of the main used roads.

OSV Use

We oppose any ROS designations that could set the stage for OSV closures of OSV areas that are currently in use when an OSV use map is developed. According to the Winter Use Monitoring: Summary of Findings 2014-2020 from the National Park Service in Yellowstone.¹ Regarding the effects on OSV use on wildlife, there is not a significant impact. NPS states, “83% of the observed responses by all groups of wildlife were categorized as no apparent response, 11% look/resume, 3% travel, 1% attention/alarm, and 1% for flight and defense/charge combined.” Overexaggerated impacts to wildlife are often used to justify motorized closures. As the Yellowstone study suggests, most wildlife adapt to motorized users. In addition to this study, we recommend that the USFS include the findings found in the Snowmobile Fact Book published by the International Snowmobile Association.²

Sound can be produced by motorized vehicles but also by a barking dog that is with a hiker or other wildlife. Many studies, like the Yellowstone Winter Use Monitoring show that noise produced by OSV users has no significant impact. Snowmobiles made after 1976 are significantly quieter than previous models.

¹ <https://www.nps.gov/yell/learn/news/21030.htm>

² <https://snowmobile.org/docs/isma-snowmobiling-fact-book.pdf>

We are concerned with “minimum snow depth” requirements. These are typically arbitrary and not based on best available science. There are many different factors to determining adequate snow depth such as the machine weight which can be different for each user. In many cases 4 inches of snow is recommended and other situations require more snow. With so many variables OSV users understand their machines and what is necessary to be safe and responsible.

Snowmobiling brings in \$26 billion annually in the United States. The USFS needs to strongly consider the economic benefits of allowing the maximum amount of area open to OSV possible.

Drones

We recommend that the USFS use the planning process to update its commercial film permit requirements to be consistent with precedent set by this case. It should also be recognized that if commercial film permits are unconstitutional, then non-commercial filming is also an activity protected by the First Amendment. Most drone users use their drones for the purposes of filming, and federal agencies should only regulate this activity through the least restrictive means possible. Drone use is already regulated by the FAA and the USFS should stay in their own jurisdiction. Drone users who have gone through the FAA permitting process shouldn't have their 1st Amendment rights curtailed by duplicative policies that are bluntly applied by the USFS.

Roads

Current trends show an increase in outdoor recreation the past few years that isn't looking to slow down. With more users on public lands decommissioning and closing routes would be irresponsible as this would concentrate more users into a smaller space which would increase the potential for injury and impact.

Closures should not be seen as legitimate almost hardwired responses to issues that can all be managed through other management strategies. NEPA requires analysis of impacts to everything on this list, and managers should have flexibility to find other ways to mitigate impact besides temporary or permanent closure.

USFS should acknowledge that the Categorical Exclusions that apply for construction of new roads and trails should be applicable to these classes. In many cases these exclusions are for rerouting existing routes because of erosion events, or creating roads to do vegetation treatments that reduce the risk of catastrophic fire. ROS designations should apply only to recreation use and not create unnecessary restrictions on the Forest for adaptive and active management that relates to other uses. BRC opposes closure of routes because of the economic benefits those provide.

Any route closure or decommissioning due to riparian concerns should be removed from the forest plan, as Riparian Management Zones don't exist in USFS manual. USFS is not required to designate these zones especially if it will cause irreparable harm to local communities and economies.

Dispersed Camping

We have already seen an increase in closing dispersed camping within national forests in general. The need for free, dispersed camping continues to grow. The desire and need for outdoor recreation has grown tremendously the past few years with no end in sight. The USFS should recognize the value that connecting with nature through dispersed camping and recreation brings. Restricting this form of recreation and limiting areas of use will only increase impact. We recommend adopting dispersed camping standards within this plan to require public input for any dispersed camping closures. Allowing dispersed camping should also be seen as a management tool for offsetting the socioeconomic inequities that are taking root as ultra-wealthy residents displace lower- and middle-income individuals and families from highly sought after areas. Instead, the USFS has indulged the elitist attitudes of local residents for the alleged "conservation benefits." "Data from campground reservations, trail and road use, and commercial recreation permits across the forest indicate a significant upward trend in recreation uses. The agency's National Visitor Use Monitoring data reports that there are now more than 1 million people living within 50 miles of the forest, which represents a 30 percent increase since 2000."

If the USFS decides to implement dispersed camping closures or length of stay restrictions the agency should adopt policies to provide education materials, and outreach performed to publicize the new restrictions should also include information on how to qualify for and participate in the exempted extended stay permits contemplated by Agency CFRs.

User Conflict

"User conflict" is an inappropriate and often misapplied concept that has generally been created and emphasized by anti-OSV advocates who are looking for any opportunity to restrict or eliminate OSV use. Despite their aggressive litigation efforts, there are few, if any, court decisions that have forced an agency to restrict any motorized recreation based on alleged "conflict." Rather, the courts have generally upheld a reasoned agency conclusion designed to address any alleged "conflict." See, e.g., *Wild Wilderness v. Allen*, 871 F.3d 719, 728-729 (9th Cir. 2017); *Pryors Coalition v. Weldon*, 803 F.Supp.2d 1184 (D. Mont. 2011), *aff'd*, 551 Fed. Appx. 426 (9th Cir. 2013). There are many strategies that can be employed to manage the ever-growing human population that desires to recreate in the National Forest System. We generally support the concept of "shared use." As long as overall visitation numbers are

appropriate for the affected resources, motorized and non-motorized users can be compatible with one another so long as individual users understand designations and plan their activities accordingly. There will always be a handful of pathologically disgruntled individuals seeking their own private rejuvenation in the National Forests. These outliers should not dictate policy or use designations, and should be handled in a similar way as children testing parental boundaries.

Contrasted to those using “conflict” in a transparent effort to put a thumb on the scales of management balance, there are legitimate concerns that usually reflect the simple fact there are too many people trying to enjoy the same areas at the same time. These “conflicts” can occur within user groups or modalities as often as they occur between them. The agency should consider strategies to publicize and manage these situations. One option might be to designate non-motorized companion trails along motorized routes or designate/groom non-motorized only trails to Wilderness or non-motorized land classification to reduce conflict of uses. Such efforts might be coupled with a targeted information campaign to direct non-motorized uses to non-motorized land classifications. Another element might be to consider enhanced staging/parking for non-motorized users so as to provide better access to non-motorized areas. Finally, we have always been and remain strong advocates of an active and effective enforcement program, so that users who violate or choose to remain criminally ignorant of management prescriptions suffer meaningful adverse consequences. All users need to understand and respect the fact that their use of our National Forests is a privilege to be shared with others under the terms established by applicable law.

Conclusion

We would like to close by saying we support “shared use”. As long as overall visitation numbers are appropriate for the affected resources, motorized and non-motorized users can be compatible with one another so long as individual users understand designations and plan their activities accordingly. Indeed, motorized and nonmotorized recreation use often overlap as OHV’s often increase accessibility to non-motorized recreational 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:

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Sincerely,

A handwritten signature in dark ink, consisting of stylized initials 'B' and 'B' followed by a long horizontal line.

Ben Burr
Executive Director
BlueRibbon Coalition

A handwritten signature in dark ink, appearing to read 'Simone Griffin' in a cursive script.

Simone Griffin
Policy Director
BlueRibbon Coalition