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Carolyn Upton, Forest Supervisor
24 Fort Missoula Road
Missoula, MT 59804

Dear Ms. Upton,

BlueRibbon Coalition (BRC) is writing to provide scoping feedback for the Lolo National Forest Revised 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 Lolo National Forest. Many of our members and supporters live in Montana or travel across the country to visit Montana and use motorized vehicles to access USFS managed lands throughout Montana. BRC members visit the Lolo 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.

BRC appreciates the collaborative efforts and look forward to working closely with yourself and your team throughout the rest of the planning process to ensure a good outcome for all users.

General Comments

We support any additional comments that encourage the USFS to designate the maximum number of areas in the forest as open. We strongly encourage the Lolo Forest to develop a true recreation alternative that analyzes expanding recreation opportunities to meet the growing demands. Many of our members are organizations with extensive on-the-ground experience. If any route or area specific comments are made which identify missing routes or errors in Recreation Opportunity Spectrum maps and land designations that lead to restricted access, we support USFS addressing these comments in the development of an alternative that maximizes motorized recreation access to the planning area. We strongly advocate against the creation of a “conservation alternative”, as this area is already surrounded by and includes, wilderness areas and highly restrictive management areas. We also support any comments made by Backcountry Sled Patriots, and any other groups that advocate for multiple use.

The Lolo NF is an incredibly popular area for off-highway use, OSV use, dispersed camping as well as target shooting and other recreational pursuits. It covers large areas throughout Montana. This planning area contains excessive amounts of land managed with aggressive restrictions on motorized recreation, dispersed camping, and other forms of outdoor recreation, USFS should work to maximize OHV use in unrestricted areas, since minimization of OHV related impacts occurs by land management designations in surrounding areas.

We strongly oppose any type of conservation alternative being created and the proposed action as it completely disregards the major needs of the broad range of recreation users - especially motorized recreation. BRC ultimately recommends analyzing the possibility of increasing recreation access to account for the reasonably foreseeable increases in outdoor recreation that are likely to occur in this area. To the extent that the U.S. Forest Service feels compelled to analyze a conservation alternative, it should also feel compelled to analyze a full recreation alternative that doesn't just maintain existing roads, trails, amenities and infrastructure, but also expands these resources. Outdoor recreation is rapidly becoming the center of gravity of the public lands system, and the USFS needs to adjust its planning processes to recognize this shift away from a wilderness protection focus towards a recreation focus.

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 proposed action. 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 the heavy restrictions of the Lolo Land Management Plan proposal 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 bears 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. As wheeled, motorized travel is the only option for the physically impaired to connect with nature and experience the Lolo National Forest.

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 in the Lolo NF 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.

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. The average home cost in Montana is, \$448,238, which is higher than the average home cost of the United States of, \$417,700. However, the average home cost of Seeley Lake is \$600,500. 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.

It is often the case when the ultra-wealthy colonize western communities that they use private property and conservation easements to create buffer zones that prevent public access to public lands. Consider this passage from *Billionaire Wilderness* where Justin Farrell describes how land conservation fueled the intense wealth inequality that is becoming increasingly characteristic of Montana'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 restructured 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. Unfortunately, the USFS development of Alternative C, is an expression of the agency's willingness to entertain the worst impulses of those who choose to greenwash the socioeconomic violence that results from unchecked conservation impulses. The fact that USFS is presenting this Alternative as a viable expression of NEPA compliance is evidence that the agency suffers from a significant blind spot and is failing in its legal obligations to take a hard look at the socioeconomic impacts of its land use plans.

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 the Lolo forest home. At the very least, the USFS should resist turning the Lolo forest into a restrictively managed nature preserve for the growing number of ultra-wealthy residents that are displacing everyone else across the West.

Wilderness

According to the Rattlesnake Wilderness Act, "Nothing in this Act shall be construed to permit the Secretary to affect or diminish any water right which is vested under either State or Federal law at the time of enactment of this Act, nor the rights of the owner of such water right to the customary and usual access, including necessary motorized use over and along existing roads and trails to any facilities used in connection therewith, and the right to operate and maintain such facilities." Therefore any lands that have been acquired into the Rattlesnake National Recreation Area should not restrict necessary motorized use along existing roads and trails.¹ Lolo should not create non-motorized areas around previously designated Wilderness areas. These non-motorized areas would essentially be buffer zones. USFS should not be bypassing Congress to create de facto Wilderness.

Watersheds

Non-motorized zones and restrictive management could reduce the long-term beneficial impacts on watershed condition by increasing the potential for high soil burn severity in some watersheds;" BRC recommends active management of the forest to provide long term viability for the watersheds. There should be a focus on wildfire suppression tactics around resources

¹ //efaidnbmnnnibpcjpcglclefindmkaj/https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2271.pdf

such as watersheds, best protecting such valuable water. Active management proposed will best protect the landscape from wildfire, thus protecting watersheds. According to the EPA, road construction and maintenance can be done with management practices to keep watersheds healthy and viable, "This includes installing drainage features as part of the construction process and installing silt fences or windrows where needed to prevent sediment from entering streams."²

Wildfires

The plan states prescribed burn is a possible method. If a wildfire arises, USFS should not allow that fire to burn in order to meet prescribed fire objectives. 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 and catastrophic damage to forest resources.

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. BRC would like to document that we are not able to provide accurate public comment on the ROS winter use maps at this time because these maps are currently incorrect according to the Leader's Message dated March 12, 2024³. BRC wants to ensure OSV access and use around Seeley Lake, and St. Regis to Lookout Pass.

According to the Winter Use Monitoring: Summary of Findings 2014-2020 from the National Park Service in Yellowstone⁴ 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%

²

https://cfpub.epa.gov/watertrain/moduleFrame.cfm?parent_object_id=1584#:~:text=Keep%20slope%20stabilization%20and%20erosion,prevent%20sediment%20from%20entering%20streams.

³ <https://www.fs.usda.gov/detail/lolo/landmanagement/planning/?cid=fseprd1162249>

⁴ <https://www.nps.gov/yell/learn/news/21030.htm>

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.⁵

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.

Snowmobiling brings in \$26 billion annually in the United States, and locations within the Lolo are high-value destinations for snowmobiling. The USFS needs to strongly consider the economic benefits of allowing the maximum amount of area open to OSV possible.

Roads

Desired Conditions (LC-LHL-DC)

03 Roads and trails persist in a manner that maintains or improves the National Register integrity of the landmark while providing for safe passage by the public. Non-system roads are not present.

BRC Response: USFS should be analyzing how roads aid users with limitations to access landmarks. USFS should also include desired conditions on maintenance of these roads.

Change “Non-system roads are not present” to “Non-system roads are analyzed” .

Suitability (MA4-SUIT)

01 General forest is suitable for motorized travel consistent with desired recreation opportunity spectrum settings as mapped and on designated roads and trails.

BRC Response: 01 should read, “... desired recreation opportunity spectrum is suitable for growing need for recreation opportunities.”

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. “The bulk of the road system was constructed in the decades following World War II when demand for building materials was high and the Lolo National Forest had a large timber sale program.” These roads have historical significance and should be protected and maintained. As mentioned previously, BRC is not able to provide

⁵ <https://snowmobile.org/docs/isma-snowmobiling-fact-book.pdf>

substantive comments on the ROS summer or winter maps as they are currently inaccurate. This also invalidates the NEPA process in requiring public input.

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.

Economic Impact

The current proposals will greatly affect the local economics of towns such as Seeley Lake, St. Regis, Superior, and Thompson Falls. Local communities rely on motorized recreation for economic opportunities. There has been a surge of use throughout the nation on public lands as well as in the Lolo National Forest. Local groups have worked hard to put the area on the map so that they could reap the economic benefits. Closing roads or areas that would permit roads or other motorized use would greatly hinder economic opportunity. Many local organizations and businesses recognize the influx of traffic and believe that any user conflict can be mitigated through better signage and education. It is important to note the influx of traffic is caused by the closure of other OHV areas such as the Hoodoo area previously or other areas designated or managed as wilderness, therefore the USFS needs to provide as many areas as possible to these user groups.

According to the Bureau of Economic Analysis, outdoor recreation had a record breaking year in 2022. Outdoor recreation now accounts for over \$1 trillion in economic activity. For reference, the oil and gas industry is \$812 billion. Outdoor recreation is popular. It is an economic juggernaut.

Yet, public land agencies act as if this nearly \$1 trillion dollar industry is optional or an afterthought. Instead of building new roads, trails, campgrounds, and infrastructure to accommodate the new growth in outdoor recreation, land managers are relentlessly closing public lands for the public to use.

“Since 1986, the Lolo National Forest has acquired over 200,000 acres of lands previously held by other landowners, including private timber companies. These parcels occur on a variety of sites with a range of ecological conditions as well as established uses and infrastructure. The scope and scale of these lands is distinctive, as is the need to develop a management framework for these lands” Any land acquired by the USFS needs to benefit as many users as possible, especially where this land no longer generates tax revenue. Therefore, no established

routes or areas within these 200,000 acres should be decommissioned or closed due to being acquired.

Dispersed Camping

We have already seen an increase in closing dispersed camping within Lolo NF, Montana, and across public lands across the nation. 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 the Lolo area. Instead, we see a disturbing trend nationwide where the USFS has indulged the elitist attitudes of local residents for the alleged “conservation benefits.” We recommend keeping the 300 ft rule throughout the entire forest for dispersed camping. While some users may prefer developed recreation opportunities such as designated campgrounds, cabins and yurts it is important to note the value that dispersed camping brings and that all users can and should be accommodated.

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 stylized handwritten signature consisting of two large, overlapping 'B' characters, followed by a long horizontal line extending to the right.

Ben Burr
Executive Director
BlueRibbon Coalition

A handwritten signature in cursive script that reads 'Simone Griffin'.

Simone Griffin
Policy Director
BlueRibbon Coalition