

August 28, 2023

Deputy Regional Forester (Reviewing Officer)

Northern Regional Office

26 Fort Missoula Road

Missoula, MT 59804

Submitted electronically via: <https://cara.fs2c.usda.gov/Public//CommentInput?Project=53091>

Attn: Kaniksu Over Snow Vehicle Travel Plan

Dear Reviewing Officer:

WildEarth Guardians (“Guardians”), Inland Empire Task Force, the Alliance for the Wild Rockies, Friends of the Clearwater, the Selkirk Conservation Alliance and local citizen Laura Westbrook, collectively “Objectors,” hereby submit this objection to the Idaho Panhandle National Forest’s combined Environmental Assessment, Finding of No Significant Impact, and Draft Decision Notice (collectively, “DDN”) for the Kaniksu Over-Snow Vehicle Use Designation Project (Project).

Project Objected To

Pursuant to 36 C.F.R. § 218.8(d)(4), we object to the following project:

Project: Kaniksu Over-Snow Vehicle Use Designation Project, Bonners Ferry, Priest Lake, and Sandpoint Ranger Districts located within Bonner, Boundary, and Kootenai Counties, Idaho; Lincoln and Sanders Counties, Montana; and Pend Oreille County, Washington

Responsible Official and Forest/Ranger District: Heather Degeest, Acting Forest Supervisor, Idaho Panhandle National Forests

Timeliness

These objections are timely filed. Notice of the Draft Decision Notice and FONSI was published in the Coeur d'Alene Press Legal Notice on July 14 2023. The deadline to submit objections is thus Monday August 28, 2023.

Lead Objector

As required by 36 C.F.R. § 218.8(d)(3), the Objectors designate the “Lead Objector” as follows:

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I. Issues and Parts of Decision to Which the Objection Applies

We recognize that the Forest Service modified the proposed action to address Tribal concerns within the Minerva and Bernard Peaks area, which we fully support. DDN at 95. In addition, we appreciate adding an opening date of November 16 to the over-snow vehicle management strategy #1, and considering potential impacts to white sturgeon and bull trout in the planning area. *Id.* at 96. Yet, the agency's failure to prepare an Environmental Impact Statement (EIS) combined with fundamental flaws in the agency's analysis, failure to comply with subpart C of the Travel Management Rule (TMR) at 36 C.F.R. § 212, failure to comply with the 2015 Idaho Panhandle Land Management and Resource Plan (Forest Plan), and failure to demonstrate compliance with the Endangered Species Act all translates to a number of deficiencies in the DDN, including insufficient snow depth requirements, questions about whether the Forest Service has adequately minimized harm to natural resources including damage to vegetation, harassment of wildlife and significant disruption of species' habitat, and conflicts with non-motorized uses.

Adopting *some* direction from Alt. A is necessary, but not sufficient, to satisfy governing legal requirements, including the minimization criteria. Notably, these directions include:

- closing the west side of the Headwaters Pack River subwatershed to over-snow vehicle use year-round to minimize effects to Canada lynx; and
- eliminating proposed grooming of the Cow Creek trail (upper National Forest System Road 655) to minimize effects to Canada lynx.

Again, these actions would improve, but hardly meet, the minimization criteria established under the travel management rule (TMR) at 36 C.F.R. § 212.55(b) as we explain below including:

- i. Failure to include an adequate and mandatory minimum snow depth requirement and to ensure OSV use occurs only where snowpack is sufficient, and demonstrating full compliance with the minimization criteria;
- ii. Taking a hard look at the direct, indirect, and cumulative impacts of the OSV designations and analyzing a reasonable range of alternatives; and
- iii. Ensuring compliance with the National Forest Management Act and the Endangered Species Act.

II. Objections and Suggested Remedies

A. The Forest Service Failed to Demonstrate Compliance with the Travel Management Rule

As we explained in our comments, Subpart C of the Travel Management Rule requires the Forest Service to designate trails and areas for OSV use where snowfall is adequate for that use to occur, and reflect those designations on an over-snow vehicle use map (OSVUM). 36 C.F.R. § 212.81(a). When designating areas or trails available for ORV use, agencies must locate them to:

1. minimize damage to soil, watershed, vegetation, or other resources of the public lands;
2. minimize harassment of wildlife or significant disruption of wildlife habitats; and
3. minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.¹

The Forest Service codified these “minimization criteria” in subparts B and now C of its travel management regulations.² The agency has struggled, however, to properly apply the criteria in its travel management decisions, leading to a suite of federal court cases invalidating Forest Service travel management plans.³ Collectively, these cases confirm the Forest Service’s substantive legal obligation to meaningfully apply and implement – not just identify or consider – the minimization criteria when designating each area and trail, and to show in the administrative record how it did so.

Our comments detailed several instances where the Forest Service failed to demonstrate compliance with the minimization criteria, and the agency failed to address this issue in any meaningful way as the following examples demonstrate.

1. Failure to Minimize Damage to Soil, Watershed, and Vegetation

Our comments explained that the Forest Service failed to demonstrate how it located OSV areas and trails to minimize damage to soil, watershed, and vegetation, and that this was apparent in relation to whitebark pine trees. The agency explained that for this threatened species

Snow depth is the greatest factor that determines severity of damage. The deeper the snow, the more protected young trees such as seedlings and saplings are (Baker and Buthman 2005). Trees that are taller than the snow base and have live branches above the snow and

¹ *Id.* § 3(a).

² 36 C.F.R. §§ 212.55, 212.81(d).

³ See *Friends of the Clearwater v. U.S. Forest Serv.*, No. 3:13-CV-00515-EJL, 2015 U.S. Dist. LEXIS 30671, at *37-52 (D. Idaho Mar. 11, 2015); *The Wilderness Soc’y v. U.S. Forest Serv.*, No. CV08-363-E-EJL, 2013 U.S. Dist. LEXIS 153036, at *22-32 (D. Idaho Oct. 22, 2013); *Cent. Sierra Envtl. Res. Ctr. v. U.S. Forest Serv.*, 916 F. Supp. 2d 1078, 1094-98 (E.D. Cal. 2012); *Idaho Conservation League v. Guzman*, 766 F. Supp. 2d 1056, 1071-74 (D. Idaho 2011); *WildEarth Guardians v. Mont. Snowmobile Ass’n*, 790 F.3d 920, 929-933 (9th Cir. 2015).

exposed may result in damage to terminal leaders and potentially prevent them from growing taller or reaching seed-bearing maturity.

DDN at 70. Yet, the Forest Service dismisses our call to establish minimum snow depth thresholds to minimize whitebark pine tree damage, stating that “[a] minimum snow depth would be challenging to enforce,” and that “[i]t is assumed that the majority of over-snow vehicle use would occur during periods of sufficient snow depth because the vehicles do not operate properly without sufficient snow depth and the expensive machines are prone to damage when they strike rocks, stumps, and other obstacles that are not covered by snow.” Project Response to Comments at 307, 308. The agency’s responses remains unconvincing. For example, in the Final Environmental Impact Statement (FEIS) for the Plumas National Forest Over-Snow Vehicle (OSV) Use Designation Project, the Forest Service explains the following:

The interdisciplinary team agrees that designating a minimum snow depth requirement when considering areas to designate for OSV use was mutually beneficial and provided a means to minimize resource damage. Designating a minimum snow depth requirement provides a quantifiable and tangible mechanism for managing when OSV use occurs during times of the year when snow depths are most variable. Minimum snow depth provides a way to ensure adequate snow is present before OSV use occurs. The minimum snow depth is included in each alternative to minimize potential effects to resources.

Plumas OSV Project FEIS at 26.⁴ Further, the Forest Service provided a monitoring and enforcement plan that includes the following directions:

2.5 Snow depth will be monitored to ensure the minimum snow depth requirements are being met. Recreation staff will continue to monitor minimum snow depth at trailheads, staging areas, and parking areas to authorize trail grooming activities to commence. Snow depth stakes and OSV regulations will be added to plowed trailhead areas that access designated OSV trails and areas as an indicator and education tool for OSV recreationists. Snow depth measurements will be located in areas that are relatively uniform and undisturbed, and will consist of a series of measurements located on the landscape in areas located away from tree wells, fence lines, wind-blown mounds, etc. Periodic monitoring of snow depths in more remote use area locations will help determine if access point snow depth measurements correlate with conditions on the landscape.

2.6 Staff conducting the monitoring will assess: (1) if the minimum snow depth requirements are being met; (2) if resource damage is occurring (below, at, or above the minimum snow depth requirements); (3) the extent of any observed damage; (4) what, if anything, can be done to address use occurring on snow depths below the minimum snow depth requirements; and (5) snow depth monitoring will consider best management practices (BMPs) and will evaluate whether OSV use is impacting the roads, routes, or soils that underlie trail surfaces and OSV-use areas.

⁴ Exhibit 1.

Enforcement

3.1 The Forest will enforce the OSV use designations using a variety of approaches: 1) education; 2) warnings; 3) citations. These approaches will be used, if during routine winter recreation field visits, recreation and FPO staff observe 1) OSV use is occurring on NFS lands outside of the designated OSV-use area or trails; 2) OSV use is occurring when snow depths are below the designated minimum snow depth requirement; 3) OSV use is observed to be causing resource damage.

Id. at 48. In comparison, for the Project the Forest Service simply states “[p]roject design features specific to whitebark pine, including public education (Botany-1) and monitoring considerations (Botany-3), would minimize effects.” Kaniksu Over-Snow Vehicle Use Designation Project: Framework for Applying the Minimization Criteria at 14 (hereafter “Minimization Criteria Framework”). Looking at those design features, they rely only on public education and will “consider monitoring options.” DDN at 109-10. The agency fails to demonstrate how public education effectively protects whitebark pine trees, and it is apparent that the Forest Service has yet to develop a detailed monitoring plan or if one will be in place before the agency issues its final decision:

We would consider monitoring options to assess potential over-snow vehicle damage to whitebark pine within the project area. Details would be determined through consultation with the U.S. Fish and Wildlife Service.

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The forest will create a monitoring program to gather data on floral, aquatic, and cultural issues, monitor caribou restoration, and monitor compliance with the project decision. This monitoring program would provide a positive and knowledgeable public face to the over-snow vehicle program. Additionally, it would provide an opportunity for forest staff to work in the field on education and public relations with over-snow vehicle recreationists and businesses.

DDN at 10-11. Unlike the Plumas NF OSV project, the DDN provides no detailed monitoring or enforcement plan, and fails to specify what the agency will do to actually enforce the travel plan. Rather the emphasis is on education and public relations. This fails to comply with the minimization criteria.

2. Failure to Minimize Harassment of Wildlife & Significant Disruption of Wildlife Habitat.

Grizzly Bear

The Forest Service fails to minimize grizzly bear harassment and significant disruption of grizzly bear habitat, including denning habitat. One reason is that the agency arbitrarily asserts there are no significant impacts to grizzly bears emerging from their dens prior to April 1st citing that date as the beginning of the administrative bear year. Project Wildlife Report at 28. Here the Forest Service fails

to consider declining levels of snowpack from the human-caused climate crisis, as we discuss below. Further, the agency does not consider the harmful effects of OSV noise on denning grizzly bears or those emerging from their dens. In addition, the Forest Service proposes to allow OSV use within the Roman Nose and Moose Lake Areas through May 31st once the area has reached its secure habitat objectives under the 2015 Revised Forest Plan. Not only will this hinder further recovery of the population, it is a violation of the minimization criteria. We urged the agency to minimize significant habitat disruption to denning and emerging grizzly bears within these late season de facto play areas by only designating use on groomed trails. Specific to the Roman Nose play area, we stated the following:

We strongly recommend the Forest Service minimize the harmful effects of OSV noise disturbance by protecting the Roman Nose Area from cross-country travel and limiting winter motorized use to groomed trails only to the Lower and Middle Roman Nose Lakes with a seasonal closure beginning March 15 to protect grizzly bears' denning habitat.

The Forest Service does not respond directly to our comments and instead focuses on our concern that the minimization strategy the agency deploys here is for the bear to den elsewhere, stating that its Project Wildlife Report “does not imply that bears “can simply go somewhere else,” but that there is a low probability that any individuals would be substantially affected by this activity.” Project Response to Comments at 331. The response does not address our comments or recommendation for how to minimize significant disruption of grizzly bear habitat within the Roman Nose de facto play area. In fact, the agency explains how high levels of motorized activity already displaced grizzly bears in this area, and the proposed action would continue this harmful effect. Wildlife Report at 38.

Another reason the Forest Service fails to comply with the minimization criteria for grizzly bears is that it did not identify and protect high and medium quality suitable denning habitat where grizzly bears may be present. Instead the agency focuses on recovery zones and BORZ areas. The Kootenai National Forest is also conducting winter travel planning and in its proposed action the Forest Service includes the following direction:

Grizzly bear denning habitat was considered as follows.

- Grizzly bear high denning habitat (modeled as high probability for suitability) will be open December 1 to March 31
- Medium denning habitat is open unless:
 - (1) the habitat is spatially connected to high denning habitat;
 - (2) limited denning habitat is available; or,
 - (3) local knowledge indicates the area is sensitive/important to grizzly bears.

Kootenai National Forest Over-snow Motorized Use Travel Plan Scoping Packet, July 2023 at 2-3. We believe this was a good start, but that the closure dates need to be sooner and have flexibility to accommodate bears emerging from their dens prior to April 1. Still, we support the Forest Service’s approach to protect all high and certain medium quality denning habitat, and urge the agency to

adjust the Kaniksu proposed action accordingly. Further, the Forest Service should identify suitable grizzly bear denning habitat based on Bader & Sieracki, 2022.⁵

Another area where the Forest Service fails to comply with the minimization criteria is in regards to wolverine. The agency discloses that its modeled amount maternal habitat spans across 105,613 acres and across 263,115 acres of primary habitat, with 692,006 acres of dispersal habitat. Project Wildlife Report at 64, Table 13. Currently OSV use occurs across 44 percent of maternal habitat and this would increase to 52 percent under the proposed action. *Id.* Similarly, 39 percent of primary habitat is currently available for OSV use and this would increase to 51 percent under the proposed action. *Id.* The Forest Service states in several places that “both alternatives would provide, at the scale of a wolverine home range, undisturbed areas of predicted primary and maternal denning habitat,” and that “this would minimize effects. Minimization Criteria Framework at 7. To be clear, expanding OSV use within maternal and primary wolverine habitat does not comply with the minimization criteria. The TMR does not limit the application of the minimization criteria to “the scale of wolverine home range,” and the Forest Service is implying that it is acceptable to harass wolverines and significantly disrupt wolverine habitat because the species has a large home range. We urge the agency to comply with the minimization criteria by protecting wolverine maternal and primary habitat from OSV designations, which would still leave available 462,384 acres of dispersal habitat. This approach is already proposed for the Kootenai National Forest in the aforementioned OSV travel plan proposed action. Kootenai National Forest Over-snow Motorized Use Travel Plan Scoping Packet, July 2023 at 3. The Forest Service should adopt this minimization strategy for the Kaniksu OSV plan as well.

3. Failure to Minimize Conflicts and Protect Important Quiet Use Areas

The Forest Service fails overall to minimize conflicts among recreational uses, specifically between areas identified for primitive and semi-primitive, non-motorized uses. This is evident in the lack of a monitoring and enforcement plan that will prevent motorized violations into protected areas such as recommended wilderness that we highlighted in our comments. It is also evident in areas where the agency proposes to designate OSV use within non-motorized settings:

The actions proposed under this alternative could result in an increase of approximately 3 percent of the north zone of the Idaho Panhandle National Forests being open to motorized forms of off-route recreation during the winter season. This could alter the currently managed recreation settings within the project area. These changes would focus on areas managed for semi-primitive motorized versus semi-primitive non-motorized forms of recreation. Currently, approximately 21 percent of the north zone is managed for semi-primitive non-motorized forms of recreation. Under this alternative, 18 percent of the

⁵ Michael Bader and Paul Sieracki "Grizzly Bear Denning Habitat and Demographic Connectivity In Northern Idaho and Western Montana," *Northwestern Naturalist* 103(3), 209-225, (17 November 2022). <https://doi.org/10.1898/NWN21-17>

project area would be primarily managed for semi-primitive non-motorized forms of recreation.

Project Recreation Report at 12. One area the agency proposes to decrease its non-motorized recreation setting is within the Headwaters Pack River subwatershed where the Forest Service describes the existing condition as follows:

Within the Headwaters Pack River subwatershed, the following recreation opportunity spectrum management prescriptions are currently open to over-snow vehicles during the winter season of use: primitive (1,596 acres), semi-primitive non-motorized (7,699 acres), semi-primitive motorized (12,868 acres), and roaded natural (3,720 acres). An additional 33 acres are not assigned to a recreation opportunity spectrum management prescription.

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The proposed action would open the entire Headwaters Pack River subwatershed to off-route over-snow vehicle use throughout the winter season. On April 1, the entire area would be closed to off-route over-snow vehicle use.

DDN at 37. Our comments explained the proposed action would result in a new de facto play area in this subwatershed and represents a conflict of recreational uses given the area's current ROS settings under the Forest Plan, and given the history of quiet recreational use the area receives. Rather than minimize these conflicts, the Forest Service's proposed action would increase them, especially given the designation would occur right up to the recommended wilderness boundary.

Suggested Resolution: Provide buffers based on noise disturbance when designating OSV use in a manner that complies with the minimization criteria. Establish minimum snow depths of at least 24 inches for cross-country travel and 18 inches for travel on groomed trails. Follow the Kootenai National Forest's example by protecting accurately mapped maternal and primary wolverine habitat from OSV designation, and protect high and medium quality suitable grizzly bear habitat as identified by Bader & Sieracki, 2022.⁶ Protect appropriately mapped whitebark pine stands and replanted areas from cross-country travel, and includes a design feature requiring monitoring areas of potential whitebark pine habitat to maintain mapped inventories. Protect primitive and semi-primitive, non-motorized ROS settings in the Forest Plan from OSV designations. Create and adopt a monitoring and enforcement plan that effectively monitors OSV use, directs issuing citations for violators, and includes automatic closures for areas with repeated violations.

B. The Forest Service Violated NEPA by Failing to Take a Hard Look at the Direct, Indirect, and Cumulative Impacts of the OSV Designations.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., is designed to facilitate informed decision-making and public transparency by requiring federal agencies to take a "hard

⁶ The Objectors agree to provide the Forest Service GIS-based data layer displaying suitable grizzly bear habitat utilized in Bader & Sieracki, 2022.

look” at the direct, indirect, and cumulative impacts of their proposed actions and reasonable alternatives. By selecting to prepare only an environmental assessment, the Forest Service failed to adequately analyze certain impacts, including disclosing site-specific baseline information, best available science, impacts to future potential wilderness recommendations, impacts to wildlife and habitat connectivity corridors, impacts of authorizing OSV use, and the cumulative impacts of climate change and the OSV designations.

1. Failure to analyze noise disturbance

Our comments spent significant time discussing the need for the Forest Service to consider the effects of noise disturbance on wildlife, wildlife habitat and quiet recreation opportunities. We provided an example of how the agency could use a GIS-adapted sound model, including several maps displaying noise disturbance within specific areas including the Roman Nose and Headwaters Pack River subwatershed soundscapes. These maps illustrated how noise disturbance overlaps with grizzly bear denning and wolverine habitats within the Roman Nose area. Our comments emphasized that if the Forest Service didn’t use our approach, then it could certainly utilize another method for analyzing this important issue. In fact, the agency asserts in its analysis that “we considered the “compatibility of motor vehicle use with existing conditions in populated areas, *taking into account sound*, emissions, and other factors” (36 CFR 212.55(b)(5)).” DDN at 3. Yet nowhere does the agency use sound or noise disturbance as an indicator for measuring potential harmful impacts to wildlife or recreational uses, and arbitrarily dismiss our example for how the Forest Service could conduct the requisite analysis NEPA demands. Specifically, the agency responds that

[I]t is impossible to separate noise from other aspects of disturbance related to OSV use, and the analysis does not attempt to.

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The IPNF does not assert that running the SPreAD-GIS model would be “too difficult” – rather we believe it would be very time consuming and, as discussed above, would do little (if anything) to inform the decision.

DDN at 307. The response also delves into the limitations of the model we provided without providing an alternative approach. The agency’s arbitrary assertion that it is impossible to separate noise from other OSV disturbance and has limited utility is belied by the Forest Service’s own analysis on the Tahoe National Forest, which we explained in our comments:

This analysis uses SPreAD-GIS: an ArcGIS toolbox for modeling the propagation of engine noise in a wildland setting Version 2.0. SPreAD-GIS is based on the System for the Prediction of Acoustic Detection, a model developed by the Forest Service and Environmental Protection Agency to predict and plan for recreation opportunities in national forests. Input data include commonly available datasets including:

- Digital elevation model (DEM)
- Land cover

- Local weather conditions (average air temp, relative humidity, wind speed and direction for given season)
- Sound source characteristics (from a table of built in source types)
- Ambient sound conditions (a tool is available to estimate this based on land cover and a table of background sound for various environmental conditions)⁷

The Tahoe NF analysis demonstrates both the feasibility and need to model noise disturbance, and answers the agency's own question:

How, then, would the IPNF model the expected noise dispersal in an area open to OSV use where the disturbance is not confined to defined pathways, short of manually placing a nearly endless number of points throughout the area?

Project Response to Comments at 307. Further, the Forest Service has access to supercomputers that could rapidly model sound propagation across numerous points had it conducted the detailed analysis NEPA requires. In fact, point distributions in dispersed areas can be located on a grid as was done for the Spread-GIS modeling, which shows areas of high sound impacts away from the play areas. Conducting grid analysis would reveal the amount of noise disturbance within de facto play areas such as Roman Nose, Upper Pack River, Moose Lake, Porcupine Creek and Wellington Creek. It would also disclose the disturbance within suitable grizzly bear denning habitat and wolverine habitat, which we explained was necessary in our comments. To this point, the Forest Service responds

At what noise level are grizzly bears adversely impacted? Would a wolverine even react to the sound of a snowmobile one mile distant? Three miles? One-half mile? The commenters offer no information to inform this, as we doubt it exists.

Id. This response arbitrarily dismisses the very real impacts of the anthropogenic soundscape on wildlife, and had the Forest Service conducted detailed analysis under an environmental impact statement, it could have answered its own questions. Further, while detection thresholds may be difficult to assess and vary by species, the Forest Service must develop its own methods to analyze the harm noise disturbance has on a range of species, harm that should not be in dispute because we provided that information in our comments. For example, Switalski 2016 states that “As supported below, these three species [grizzly bear, wolverine and lynx] are highly susceptible to snowmobile noise and disturbance, and need additional management actions to ensure winter recreation does not compromise their recovery.”

Further, disturbance from anthrophony (sound produced by human activities) emanates from the edge of the de-facto play areas and designated trails as demonstrated by our sound modeling. The likely result from such OSV disturbance is displacement of grizzly bears for at least 500 m for individual bears out of their den (similar to displacement from roads) and 1km for denning selection.

⁷ See Tahoe National Forest Over-Snow Vehicle Use Designation – Final Environmental Impact Statement – Volume I Chapter 3: Affected Environment and Environmental Consequences at p. 118. Exhibit 2.

“A comprehensive review on the topic found that human disturbance within one kilometer of a den site has a significant risk of abandonment, especially early in the denning season.” (Linnell et al. 2000). How do bears detect activities within a kilometer? By sight, sound and smell, obviously. The harmful effects of motorized disruption, including noise, is clear:

Motorized access, which brings humans and their vehicles into grizzly bear habitats, may indirectly influence grizzly bears by reducing the availability of large, intact blocks of land or directly by disturbing, displacing, or killing individual bears through *increased noise*, activity, presence, vehicle strikes, or other activities associated with human-caused mortality (Figure 27, above).

Species Status Assessment for Grizzly Bear in the Lower-48 States at 117 (emphasis added).⁸ Noise emanating from de facto play areas and OSV trails creates a zone of disturbance that results in a permanent loss of grizzly bear denning habitat, and after emergence bears will expend much-needed energy to avoid areas of high activity.

Snowmobile sound modeling provides a tool for managers to inform minimization strategies to reduce this impact, such as designating specific trails instead of de-facto play areas, and locating designated trails far enough away from medium and high quality denning habitat.

In addition, OSV noise disturbance also harasses wolverines and significantly disrupts maternal wolverine habitat. “Snowmobile use commonly overlaps with wolverine denning habitat, and the noise may cause female wolverines to abandon their denning sites, potentially reducing reproductive success.” Switalski, 2016. Our comments also cited Heinemeyer, et al. (2019) that studied the harmful effects caused by OSV use, and includes a detailed methodology that certainly could inform the distances when wolverines exhibit a negative response from OSV noise. Alternatively, the Forest Service could ask a wolverine biologist what distance noise disturbance harms wolverines. Instead, the agency arbitrarily dismisses the issue. Had the Forest Service modeled sound disturbance, it could have identified where OSV designations have the potential to harass wolverine and significantly disrupt wolverine habitat, including crucial maternal habitat areas.

2. Grizzly Bears

As we noted in our comments and above in our objection, the Forest Service must consider the effects climate change has and will have on winter conditions, especially in regards to grizzly bears as they emerge from their dens, which is likely to occur earlier than April 1st due to declining levels of snowpack. The Forest Service asserts that April 1st remains the start of the administrative bear year (implying that the date is appropriate) and cites the Project’s Wildlife Specialist Report:

April 1 remains the start of the administrative bear year in the Selkirk and Cabinet-Yaak ecosystems, and is supported by several decades of research as the date when most grizzly bears begin to emerge from dens (Wildlife Report p. 26).”

⁸ See Exhibit 2.

Project Response to Comments at 302. However, the Wildlife Report simply states the following:

The motorized access direction for the Selkirk and Cabinet-Yaak recovery zones (discussed below) codified April 1 as the beginning of the administrative period when the direction would apply (i.e., the end of the denning period). Although some male bears (and the occasional female) in these ecosystems have been documented exiting dens during the month of March, the vast majority of bears, including nearly all females, begin to exit in April—supporting the continued use of this date as the start of the motorized access administrative period for the recovery zones.

Project Wildlife Report at 26. The agency response and the referenced Project Wildlife Report fail to address our comments about declining levels of snowpack and the potential for increases in grizzly bear den emergence prior to April 1. Further, the agency asserts that even if bears do emerge prior to April 1st, the potential harmful effects do not need consideration because a “vast majority of bears” exit in April. Yet, nowhere does the agency provide a threshold for how many bears would need to emerge prior to April 1st before the agency would recognize the official administrative period is no longer applicable. The Forest Service mentions “a vast majority of bears,” and it would then stand to reason that there is a numeric threshold the agency is using to determine the validity of the motorized access administrative period, but such a threshold is not in the agency’s analysis. Further, it appears that the Forest Service position is that it is acceptable for OSV use to harass some bears because others (a “majority”) would not be harassed. Such a position precludes the Forest Service from making any determination that OSV designations within suitable grizzly bear denning habitat complies with the minimization criteria under the TMR, as we noted above.

In another example, we provided the Forest Service sound modeling maps that illustrated how OSV noise disturbance may affect suitable grizzly bear denning habitat in the Roman Nose de facto play area. Here we cite the Bader & Sieracki, 2022 model that identified low, medium and high suitable denning habitat, and urged the agency to minimize OSV impacts in this area. We also explained that the Forest Service failed to carefully consider the impacts of OSV use in suitable denning habitat. Part of the failure stems from the lack of suitable habitat delineation. Rather the Forest Service provided a description of overall denning habitat and the amount of acres affected by each alternative within the recovery zones and within BORZ areas. Project Wildlife Report at 37. However, the agency does not describe the quality of suitable denning habitat as we did in our comments, and does not consider such habitat outside the recovery zones or BORZ areas. In fact the agency acknowledges the following:

On the North (Kaniksu) Zone of the Idaho Panhandle National Forests, grizzly bears are considered “may be present” on virtually all National Forest System lands except for portions of the Scattered Lands analysis area. Currently there is no forest plan direction to manage habitats for grizzly bears outside of recovery zones, nor are there any established numeric guidelines or standards for providing and managing secure habitat or managing open or total road densities for grizzly bears that are not in recovery zones or BORZ areas.

Project Wildlife Report at 29. Certainly it is important to protect grizzly bear denning habitat within the recovery zones and the BORZ areas, but it is also important to identify suitable denning habitat where grizzly bears “may be present.” Even more, the Forest Service should have delineated different types of suitable denning habitat as we did in our sound modeling. High quality suitable denning habitat and adjacent medium quality habitat should be protected from OSV designation, but the agency cannot consider this action without first specifying the distribution of such habitats. Here the analysis fails. The Forest Service response is that the Bader & Sieracki, 2022 model was not publicly available, and then the agency states:

However, a cursory inspection of the results indicates that while it may differ noticeably in total amounts of predicted denning habitat from the one used in this analysis, the patterns of denning habitat distribution remain substantively similar, and expected effects (percentage of putative denning habitat impacted by various alternatives) would likely be much the same.

Project Wildlife Report at 35. It appears the agency was able to review some of the Bader & Sieracki model results, and we provide the published paper with our objection along with the associated GIS files for the IPNF. See Exhibit 8. Even absent the availability of the model, the agency’s assertion that denning habitat distribution is substantively similar does not address the need to delineate between high, medium and low quality suitable denning habitat. That need stems from the agency’s requirement to comply with the TMR’s minimization criteria. As a matter of fact, the IPNF requested the Bader and Sieracki denning model raster, however they were unwilling to pay a small preparation fee.

The above discussion focuses on just two flaws with the Forest Services analysis regarding grizzly bears, but several more exist. Ultimately, the Forest Service failed to provide detailed analysis of the direct, indirect and cumulative impacts from the proposed action, which we discuss below.

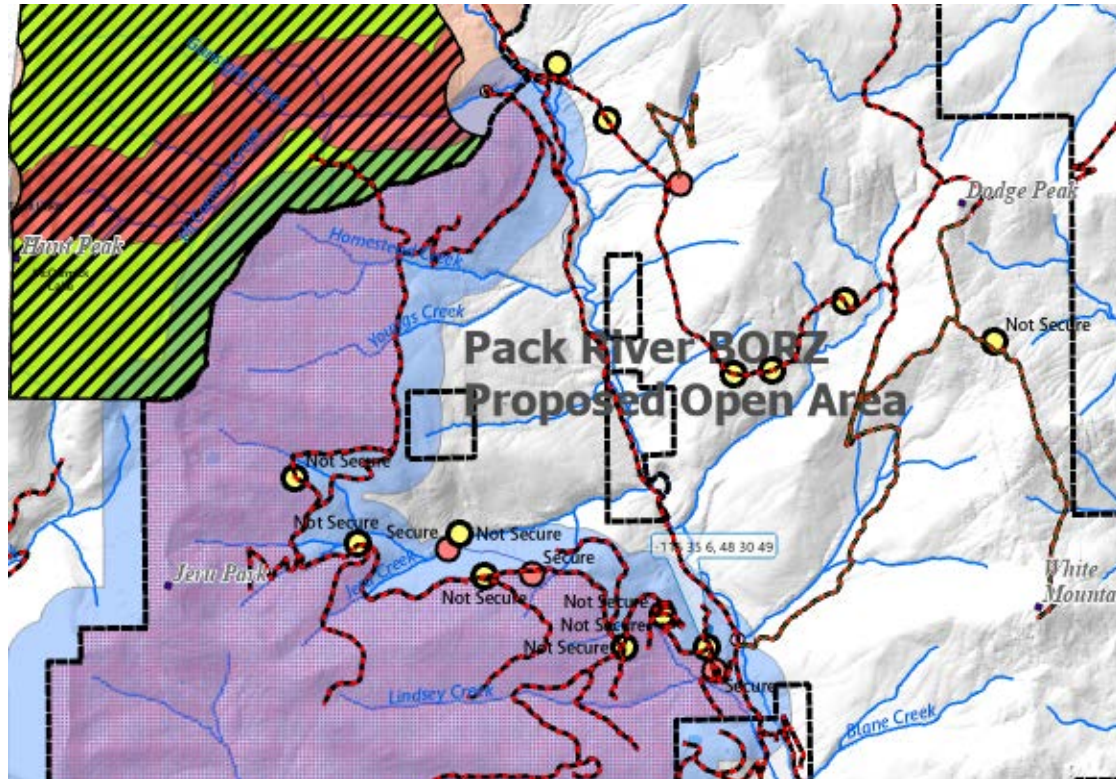
i. Cumulative Effects

Our comments raised the fact that the Forest Service failed to properly disclose or analyze the cumulative effects on grizzly bears specifically, and other forest resources generally. The agency did not adequately address these comments. For example, the Forest Service fails to respond or consider in its analysis the cumulative effects of unauthorized OSV use. Rather, the agency simply makes a blanket statement that illegal OSV use occurs and is expected to continue, having the same effect on grizzly bears as in designated areas. Project Wildlife Report at 45. Such a response fails to disclose or discuss how this affects suitable grizzly bear denning habitat or bears emerging from their dens. We provided extensive documentation of OSV trespass that the agency failed to consider in its analysis. Further, the Forest Service must also consider how illegal motorized use in the summer affects grizzly bears, this is true even in areas outside the recovery zones. This includes the Pack River BORZ where we found evidence of illegal summer motorized use, as illustrated below in Figure 1.⁹

⁹ See Exhibit 4, photo documentation and declaration of Benjamin Malakai Ertz.

The cumulative effect of both summer and winter unauthorized use on grizzly bear habitat security and den selection is a significant issue, and one the agency fails to address.

Figure 1. Priest River BORZ displaying unsecured road closures



The proposed action will increase the size and distribution of the Roman Nose Play area, extending it in a narrow area south down Apache Ridge. The southern portion overlaps the Pack River BORZ.

There are several issues with play areas in regards to grizzly bear cumulative effects analysis.

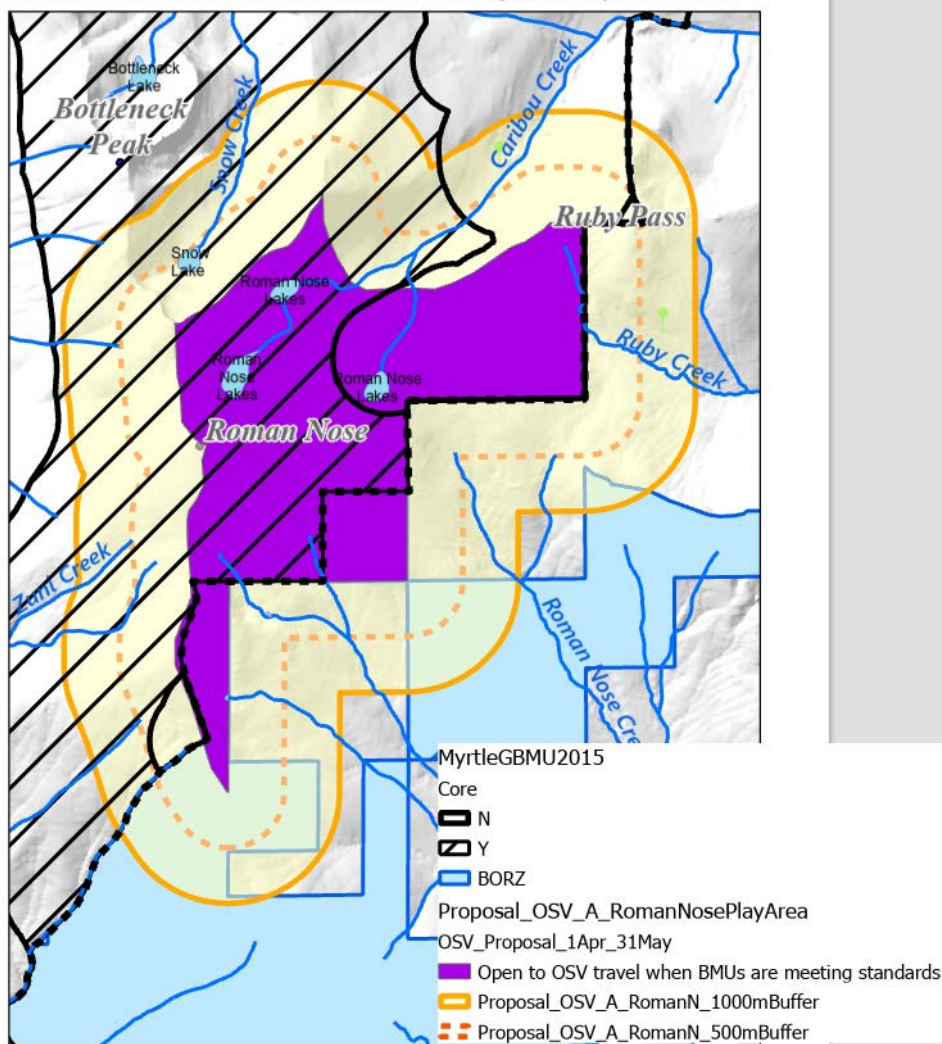
1. The IPNF fails to include a deduction from core from high use trails as described above. Inclusion of high use trails reduces grizzly bear core habitat. Several groups have asked the IPNF to issue a supplemental EA for the Westside Restoration EA (Westside Restoration, Request for Supplemental EA/EIS). See Exhibit 5.
2. The IPNF must buffer the play areas since they are open after April 1 [preferably changed to March 15], during the bear year.
3. The buffer distance should be a minimum of 500 meters based on the displacement from open roads and based on the criteria for delineating security habitat around private and non Federal lands for BORZ areas.
4. The proposed play areas impact grizzly denning habitat even more as denning bears avoid roads and activities, and have the ability to learn where these areas are. Den site selection maximized to natural levels at a distance of 1km from roads. The chronic disturbance areas

need a 1 kilometer buffer for denning habitat analysis. The map below shows 500 and 1000 meter buffers around the Roman Nose play area and effects to the Myrtle grizzly bear management unit and the Pack River BORZ.

5. Security habitat in the Pack River BORZ has not been updated according to the “Security Habitat in the BORZ” mapping rules (USFWS BiOP) which require a buffer of 500 m from all non-Forest lands. (see Exhibit 1 in the Appendix of Westside Restoration, Request for Supplemental EA/EIS). In the image below (Figure2), the BORZ (blue polygon) must be buffered in 500m from adjacent non-Forest lands which occur immediately to the SE of the Roman Nose Play area and in other areas.

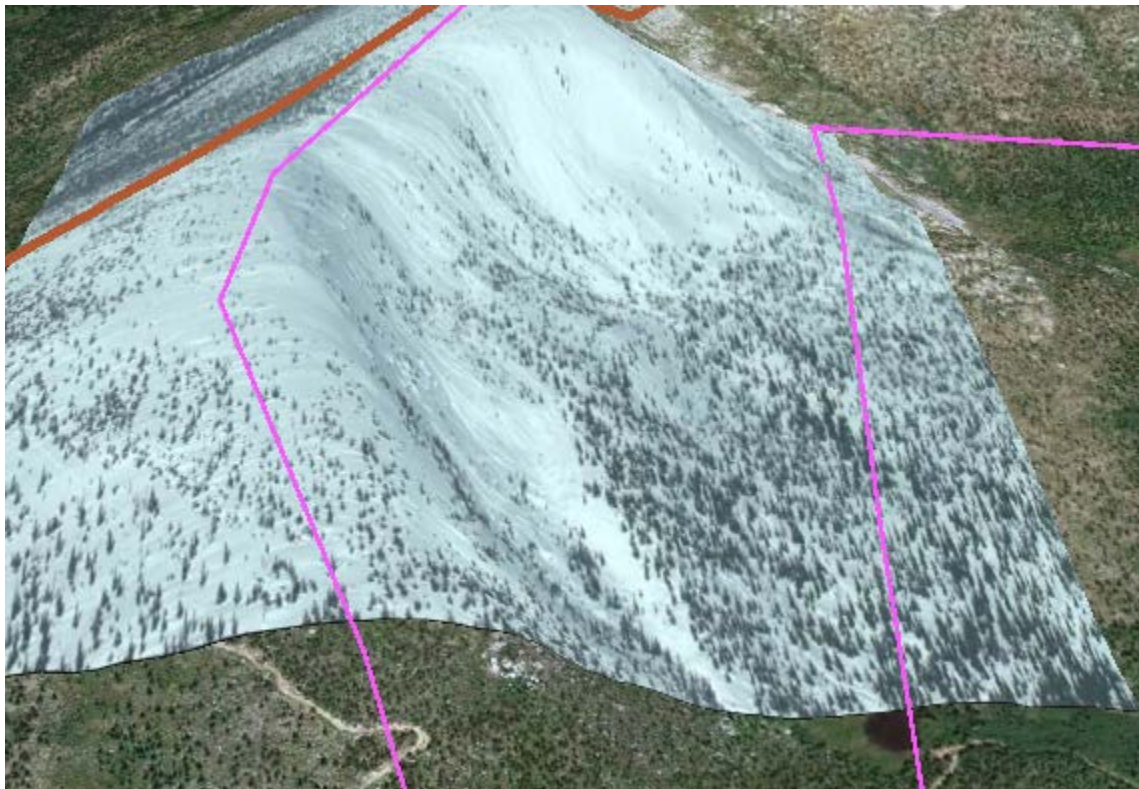
Figure 2. Proposed Roman Nose De Facto Play Area Overlap with the Pack River BORZ.

500 and 1000 meter buffers of the Roman Nose Play Area Proposal - DRAFT



The image in Figure 3 below was taken during a March 2023 Lighthawk flight by an Inland Empire Task Force volunteer. This shows the high snowmobile use levels in the Apache Ridge extension into the BORZ which is outlined in purple. There is also use outside of the proposed play area and on Federal Lands. Displacement from bear year snowmobiling would occur from violations of the play area boundaries, anthropophony from high snowmobile use, and other cues bears use such as smell. This image has been transposed on a Google Earth photo.

Figure 3. Documented OSV use along Apache Ridge (Roman Nose de facto play area), Google Earth Overlay.



The next image in Figure 4 from the same photo, documents use outside of the proposed de facto play area boundary to the SW. The Forest Service fails to discuss or provide evidence for how it will effectively enforce its OSV designations and prevent illegal access.

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Figure 4. Documented OSV use along and outside Apache Ridge (Roman Nose de facto play area)



In addition, our comments explained that it must provide cumulative analysis that takes into account new information confirming four high use trails in the Myrtle Grizzly Bear Unit of the Selkirk Mountain Recovery Area. This includes Trail #165 within the Roman Nose Area. The Forest Service still fails to consider this change in circumstance in its analysis, particularly in regards to the cumulative effects.

3. Wolverine

Our comments explained at length the need to carefully analyze potential impacts to wolverine, which the Forest Service failed to address in its analysis. Rather, it once again arbitrarily asserts that OSV use would not jeopardize the population, without taking the requisite hard look at how motorized impacts will affect wolverine habitat, particularly maternal and primary habitat. For example, the Forest Service states the following:

Finally, more recent scientific literature (Heinemeyer et al. 2019 and Kortello et al. 2019) supports the U.S. Fish and Wildlife Service findings that human disturbance in occupied habitat can affect wolverine habitat use but not at the scale that would be a threat to the distinct population segment. For instance, Heinemeyer et al. (2019) found that wolverine avoided areas of both motorized and non-motorized winter recreation and demonstrated that off-road recreation (backcountry skiing, snowmobiling) elicited a stronger response than road-based recreation, with female wolverines exhibiting stronger avoidance of off-road motorized recreation than male wolverines.

Project Wildlife Report at 63. The two sentences are incongruous. Citing Heinemeyer et al. (2019) to assert human disturbance (generally) would not threaten a distinct population segment does not comport with the findings that winter recreation elicited a stronger response than road-based recreation. Further, the agency should be analyzing how OSV may harass individuals and significantly disrupt their habitat, not comparing the OSV use to road-based recreation.

As we explained in our comments, factors affecting the wolverine's continued existence include projected decrease and fragmentation of wolverine habitat and range due to climate change, lack of secure habitat allowing for connectivity, trapping, lack of regulatory mechanisms to address the threats to wolverine habitat from climate change, and loss of genetic diversity due to small population size. A recent study expands on these threats explaining:

Modeling suggests snow in wolverine range in the USA and southern British Columbia will diminish markedly in the coming century (McKelvey et al., 2011a). Projection models based on climate-change scenarios suggest a marked reduction of persistent spring snow in the lower half of inferred denning elevation bands (Barsugli et al., 2020) and across all elevations in currently occupied states (Peacock, 2011) for the USA population.

Wolverine ranges in the USA are restricted to mountain environments and are fragmented by developed private lands in valley bottoms. As snowpack decreases through the 21st century wolverine populations are expected to become more fragmented and isolated, especially in the USA (McKelvey et al., 2011a).

In the mountain regions of the USA wolverines' close association to snow interacts with backcountry winter recreation. Using simultaneous GPS monitoring of mountain wolverines and winter recreationists, Heinemeyer et al. (2019) showed wolverines avoided otherwise high-quality habitats in areas with higher recreation levels. The strength of avoidance increased with increased recreation, was greater for dispersed off-trail activities, and was greater for motorized than non-motorized recreation (Heinemeyer et al., 2019). As human pressures for recreational space mount, increasing effects on wolverines are expected in

protected areas as last bastions of habitat, adding to the list of stressors for future wolverine.¹⁰

This study bolsters past findings that demonstrate wolverine may be sensitive to disturbance from motorized winter recreation activities, and may alter their behavior in response to motorized winter recreation activities. Wolverine may avoid areas where motorized winter recreation activities occur. Disturbance from foot and snowmobile traffic have been purported to cause maternal female wolverines to abandon natal dens and relocate kits to maternal dens.¹¹ This may be why the Kootenai National Forest rightly identified maternal and primary habitat as not suitable for OSV designations. Further, for this project the agency dismisses OSV impacts to wolverine stating:

The best scientific and commercial information available indicates that only the projected decrease and fragmentation of wolverine habitat or range due to future climate change is a threat to the continued existence of the species. Current information does not indicate that other potential stressors or land management activities such as those proposed under this project (or other activities such as timber harvest, infrastructure development, and transportation corridors) pose a threat to the distinct population segment (USDI Fish and Wildlife Service 2013b).

Project Wildlife Report at 67. Further, even though the agency recognizes that climate change has the largest potential to affect wolverine habitat and continued existence of the species, the project analysis omitted any projections of how declining snowpack could affect wolverine, or other species for that matter. At the very least the agency could have provided some climate projections for the region and how that may affect snowpack. In fact, the Forest Service acknowledges the significance of this issue:

A climate change vulnerability assessment for the Forest Service Northern Rockies Region (Halofsky et al. 2018a), including the Idaho Panhandle National Forests, indicates that temperature is projected to increase throughout the twenty-first century. Snowfall is projected to decrease in the Northern Rockies region, particularly in relatively warm locations such as mid- to low-elevation locations (Klos et al. 2014, Luce et al. 2014). As described in Halofsky et al. 2018b, climate change is expected to have a generally negative effect on snow-based winter activities, although a wide range of effects at local scales is possible because of variations across the region in site location and elevation.

DDN at 26. This information certainly could inform the agency's analysis of wolverines, including the cumulative effects of OSV designations on wolverine habitat and the continued existence of the species. Instead the Forest Service states, "Within the project area, a dependable snowpack can be

¹⁰ Jason T. Fisher, Sean Murray, Mirjam Barrueto, Kathleen Carroll, Anthony P. Clevenger, Doris Hausleitner, William Harrower, Nicole Heim, Kim Heinemeyer, Aerin L. Jacob, Thomas S. Jung, Andrea Kortello, Andrew Ladle, Robert Long, Paula MacKay, Michael A. Sawaya. Wolverines (*Gulo gulo*) in a changing landscape and warming climate: A decadal synthesis of global conservation ecology research, *Global Ecology and Conservation*, Volume 34, 2022, E02019, ISSN 2351-9894, <https://doi.org/10.1016/j.gecco.2022.e02019>.

¹¹ 78 Fed. Reg. 7878 (Feb. 4, 2013).

found consistently at higher elevation. A local ski resort, “Schweitzer Mountain,” has a base area located at approximately 4,000 feet.” *Id.* It is unclear what “dependable snowpack” means in this context, but regardless citing existing or even historic snowpack levels fails to take a hard look at the projected decrease in snowpack over the life of the OSV travel plan, which is also unclear.

In addition, our comments explained the need to better refine the analysis to better identify the distribution of habitat types, particularly maternal denning and primary habitats. In response the Forest Service arbitrarily asserts such refinement is unnecessary and not useful:

Analyzing maternal denning and primary habitat at smaller scales would not change the results of acres potentially affected by over-snow use by analysis area (Wildlife Report tables 16 and 17) in any meaningful way. With male wolverines having home ranges of up to 1,582 square km (390,900 acres) and females up to 384 square km (94,900 acres), one could reasonably ask what might possibly be gained through analysis of sub- 90-meter resolution data? We reject the claim that this resolution leads to “substandard analysis,” much less a “fatal flaw” in how wolverine habitat was characterized.

Project Response to Comments at 331. We disagree that using a coarse grained analysis is sufficient to identify wolverine denning and primary habitats at a site-specific scale, which is what NEPA requires for the following reasons:

1. The original model was developed by Inman et al, 2013 for Western North America.
2. The original model was not designed for site specific analysis as used in the Wildlife Report.
3. The blocky nature of the model reflects the use of the variables at 1km resolution, leaving out significant areas of wolverine habitat, as well as April 1 snow depth and other variables.
4. There is considerable uncertainty with the snow depth dataset at 1km resolution due to the satellite sensors not being able to measure snow in dense forest canopies.

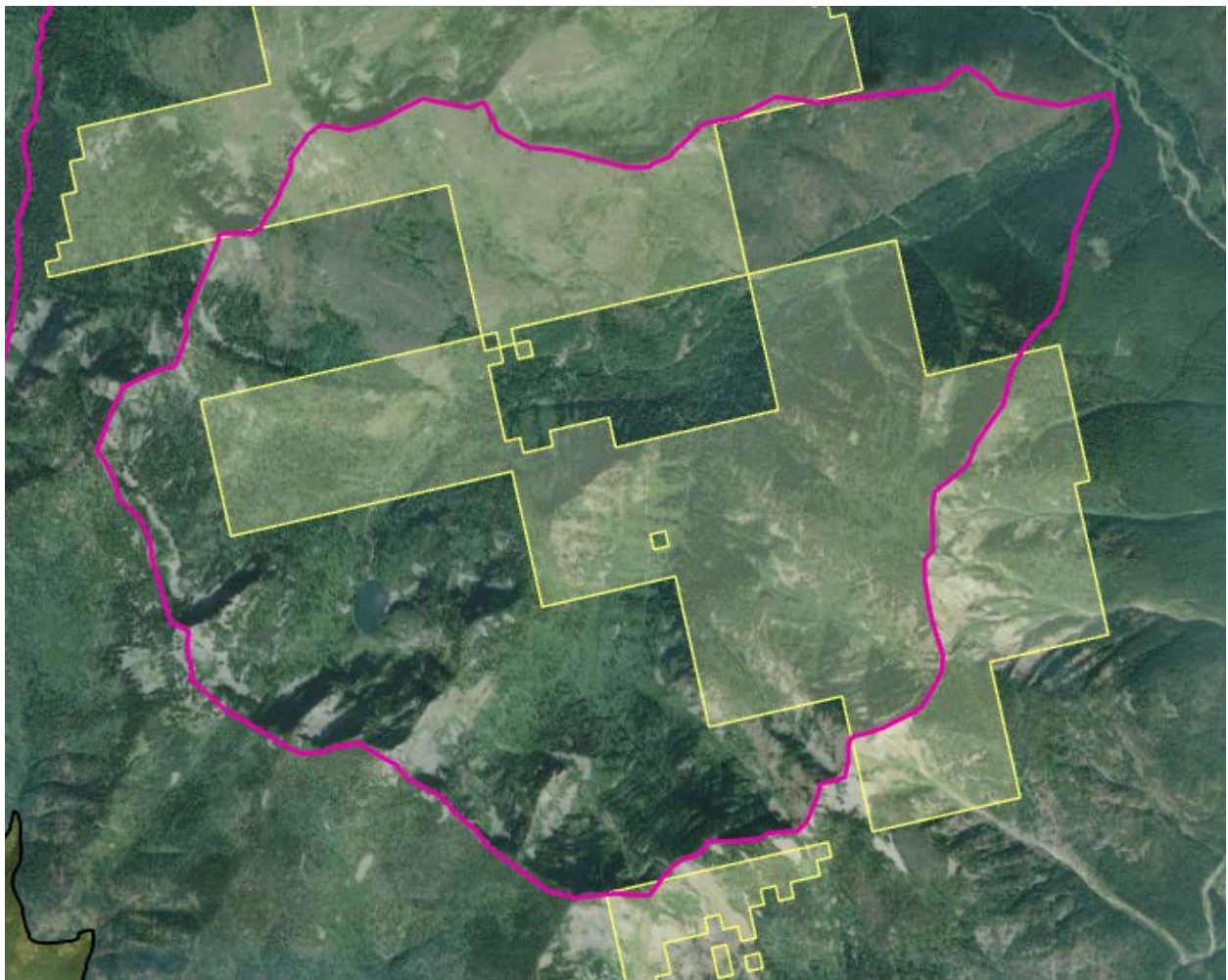
As reported by Barrett, A., 2003:

In general, there is considerable uncertainty associated with satellite derived snow covered area maps where trees are present. Satellites only 'see' snow through gaps in the forest canopy. In spring, in areas of dense canopy, only a small amount of snow is visible to satellite sensors. Much of the reflected radiance is from the canopy itself which will not be snow covered at this time. Therefore areas of dense forest canopy are classified as being free of snow while large amounts of snow remain on the ground beneath the canopy. Ground beneath forest canopies often remains snow covered for longer than ground with no forest canopy. In the Inter-Mountain West and other mountain regions, large areas of drainage basins are covered by trees. This results in a considerable underestimate of snow covered area and snow volume.¹²

¹² See Barrett, A., 2003. National Operational Hydrologic Remote Sensing Center Snow Data Assimilation System (SNODAS) Products at National Snow and Ice Data Center. Digital Media. National Snow and Ice Data Center Special Report 11. National Snow and Ice Data Center, Boulder, Colorado, USA. Exhibit 6.

A glaring example of how the blocky nature of the wolverine dataset leads to site specific errors in estimating the amount of habitat affected by a de facto play area is illustrated in Figure 5. Here, the proposed play area in the Porcupine Creek watershed, where wolverine maternal habitat is in transparent yellow, the blockiness of the large landscape scale model leads to localized errors, where suitable habitat on north aspects with persistent deep snow is missed and areas at lower elevations are added. This illustrates how using coarse scale data leads to site specific errors. Errors in snowpack estimation alone would make a significant difference in the amount and location of wolverine habitat that were impacted by snowmobile use *for the project area*.

Figure 5. Forest Service maternal wolverine habitat (yellow blocks) overlaid with the de facto play area.



Furthermore, using coarse GIS raster data for local, fine-scale analysis can lead to inaccurate results and limitations due to several scientific and practical reasons:

1. Spatial Resolution: Coarse raster data typically has lower spatial resolution, meaning each pixel represents a larger area on the ground. Fine-scale analysis requires accurate representation of small features and variations within the landscape, which may be lost when

using coarse data.

2. **Detail Loss:** Fine-scale analysis often involves studying small and intricate patterns, such as urban development, vegetation cover, and hydrological features. Coarse data may not capture these details accurately, leading to a loss of information and potentially misinterpretation of results.
3. **Smoothing Effects:** The process of resampling coarse data to a finer scale can lead to a smoothing effect, where sharp boundaries and abrupt changes in the landscape are blurred. This can impact the accuracy of analysis that relies on precise spatial delineation.
4. **Misrepresentation of Features:** Coarse data might not accurately represent the distribution and arrangement of local features, leading to incorrect conclusions about their characteristics, relationships, or behavior. (eg the wolverine habitat analysis)
5. **Spatial Analysis Precision:** Fine-scale analysis often involves complex spatial analyses like interpolation, proximity analysis, and network modeling. Coarse data may not adequately support these analyses, as it lacks the necessary level of detail.
6. **Sampling Bias:** When conducting field studies or ground-truthing using fine-scale observations, the results may not align well with coarse data, leading to discrepancies in analysis outcomes.
7. **Accuracy of Derived Metrics:** Calculating metrics like slope, aspect, curvature, or terrain indices requires precise elevation data. Coarse elevation data can result in inaccuracies and distortion of these metrics.
8. **Ecological and Environmental Studies:** Fine-scale analysis is crucial in ecological studies where species distributions, habitat suitability, and biodiversity assessments are considered. Coarse data might fail to capture the nuances necessary for these analyses.
9. **Model Validation:** If you're developing models or simulations at a fine scale, using coarse data for validation could lead to incorrect validation outcomes, making it difficult to assess the model's accuracy.

In summary, fine-scale analysis necessitates detailed and precise data representation to ensure reliable results. Using coarse GIS raster data can introduce errors, inaccuracies, and limitations that compromise the scientific accuracy of the agency's analysis. It's important to match the data resolution to the scale of analysis to ensure meaningful and trustworthy outcomes.

4. Whitebark Pine

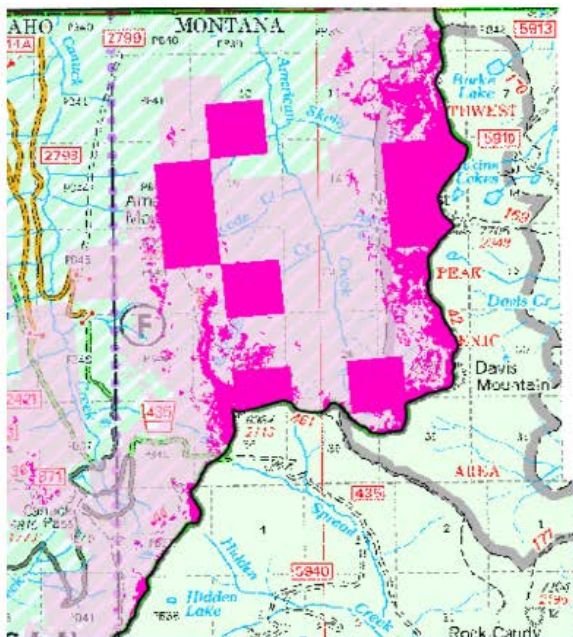
In regards to threatened whitebark pine, our comments explained that the agency must identify areas of known whitebark pine occurrences and display suitable habitat within areas proposed for OSV designation before issuing a final decision. The agency failed to respond to our comments, and instead provides general estimates of existing and potential whitebark habitat across each of the 10 analysis areas, and discloses that “[o]verall, within the ten project areas open to over-snow vehicle use, there are 9,811 acres (1.3 percent) of existing and 85,506 acres (10 percent) of potential whitebark pine habitat.” Project Botany Report at 13. It appears the Forest Service relied on coarse-scale mapping to identify these areas, similar to the wolverine mapping, and therefore is subject to similar errors. Specifically, the Forest Service states:

Whitebark pine effects analysis is based on Region 1 spatial data layer for existing and potential whitebark pine range. The Rocky Mountain Research Station created this layer by assembling results from multiple existing models. Existing range predicts where whitebark pine is likely to exist on the landscape. Potential range includes areas where environmental factors would support whitebark pine existence, regardless of its current distribution.

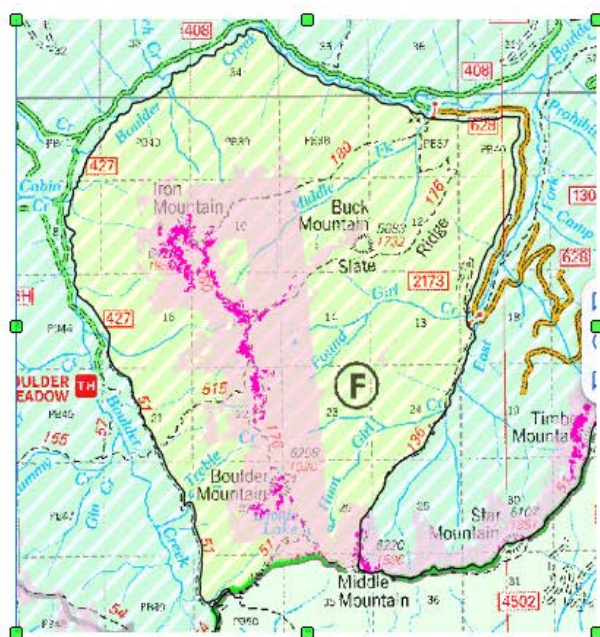
Project Botany Report at 4. Upon closer examination of the data, we found that the agency used a 900m+ pixel size leading to gross inaccuracies in classification spatial accuracy and area calculations for both the R1 potential and existing whitebark pine habitat. The R1 datasets are not useful at the project level. We are assuming that the large pixels are from a climate or snow dataset. This data can now be statistically downscaled for more accuracy. The poor quality mapping and questionable area calculations of existing and potential whitebark pine habitat fails to satisfy NEPA’s hard look mandate, and invalidates any determination that OSV designations will not adversely affect the population. This is especially true given the Forest Service acknowledges that “On the Idaho Panhandle National Forests, populations of whitebark pine have not been widely recorded, so not all occurrences have been documented.” Project Botany Report at 11. Moreso, the lack of detailed analysis precludes the agency from asserting the proposed action complies with the minimization criteria. Credible field based mapping of whitebark pine habitat is critical for the survival of threatened species, and to minimize damage to individual trees. The Figure 6 below displays four maps illustrating the errors we describe.

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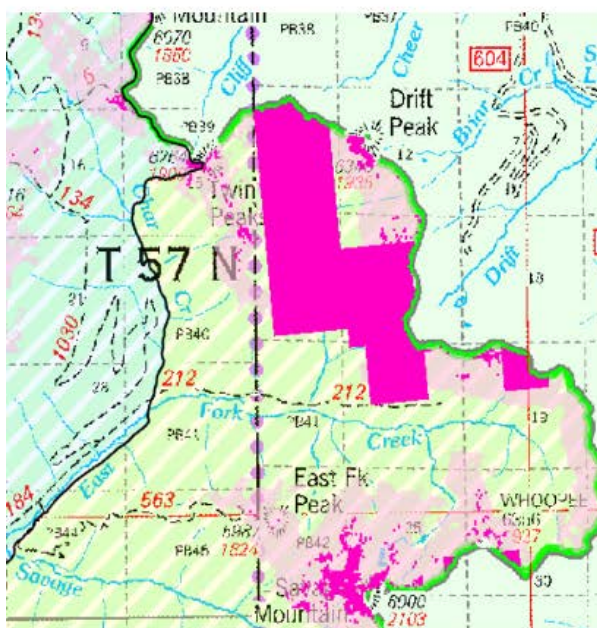
Figure 6. Region 1 Whitebark pine habitat. (Potential whitebark pine habitat is colored light pink, and existing habitat is darker pink).



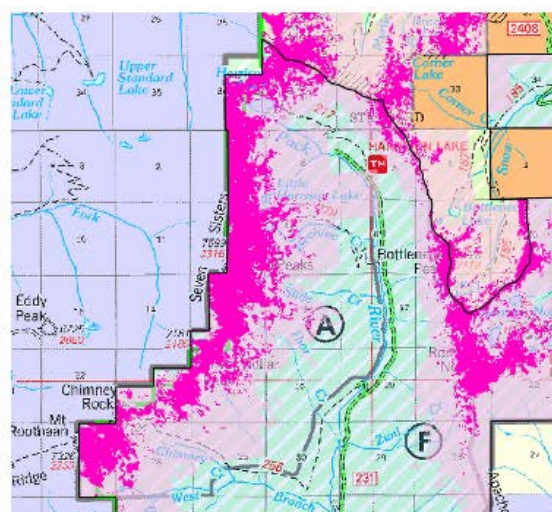
Canyok Basin and Northwest Peak, note the large square areas of habitat, these are not property boundaries but a result of using large pixels in the classification.



Hunt Girl RNA and Buck Mountain, in the Idaho Cabinets



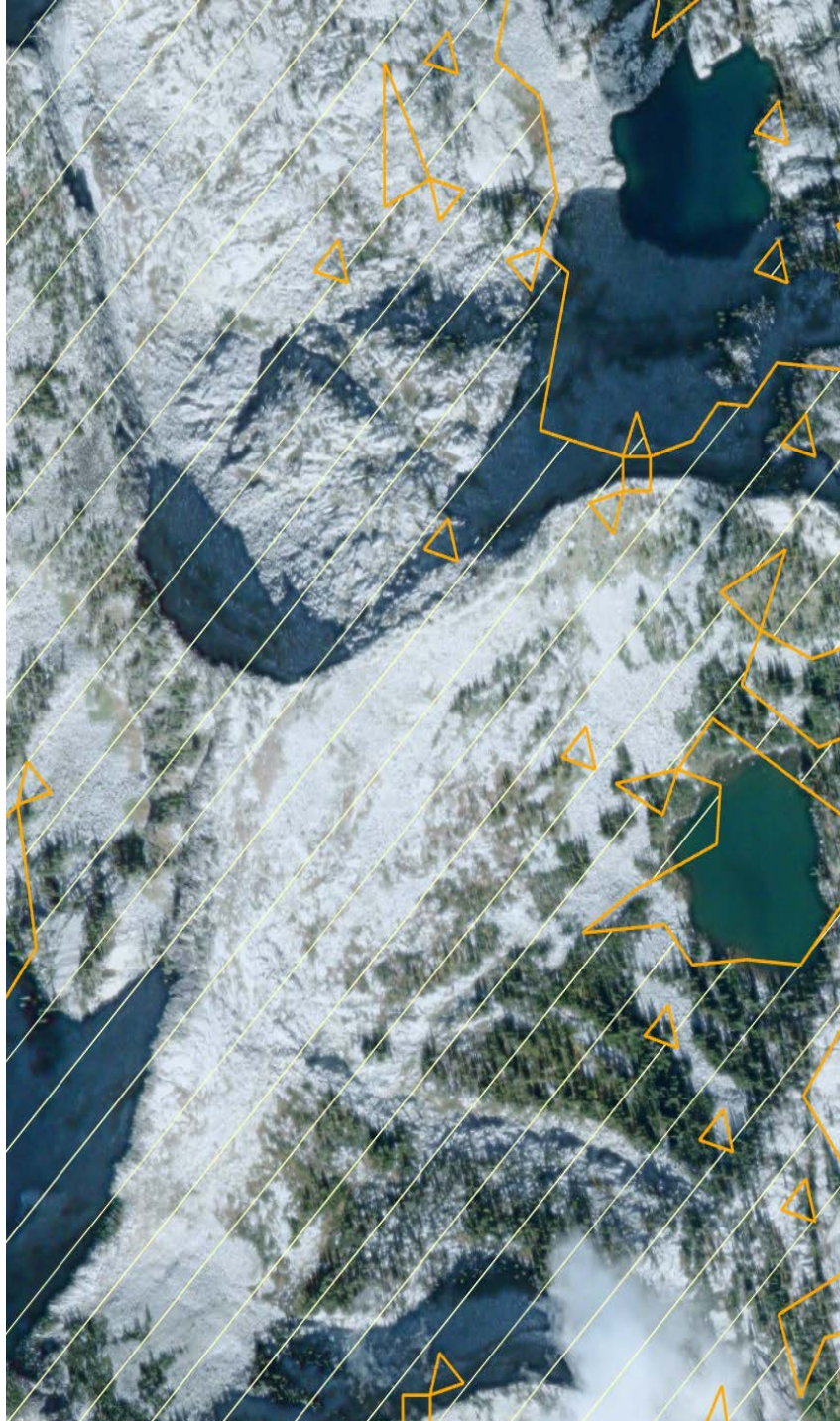
Drift and Twin Peaks Area



Upper Pack River below. Mostly in potential habitat (light pink).

Further, Figure 7 displays an image of Beehive and Little Harrison Lakes showing areas included in “existing habitat” that are not capable of supporting trees: talus slopes and rock slopes, necessitating site specific mapping of tree presence.

Figure 7. Beehive & Little Harrison Lakes identified as existing Whitebark pine habitat (hash marks).

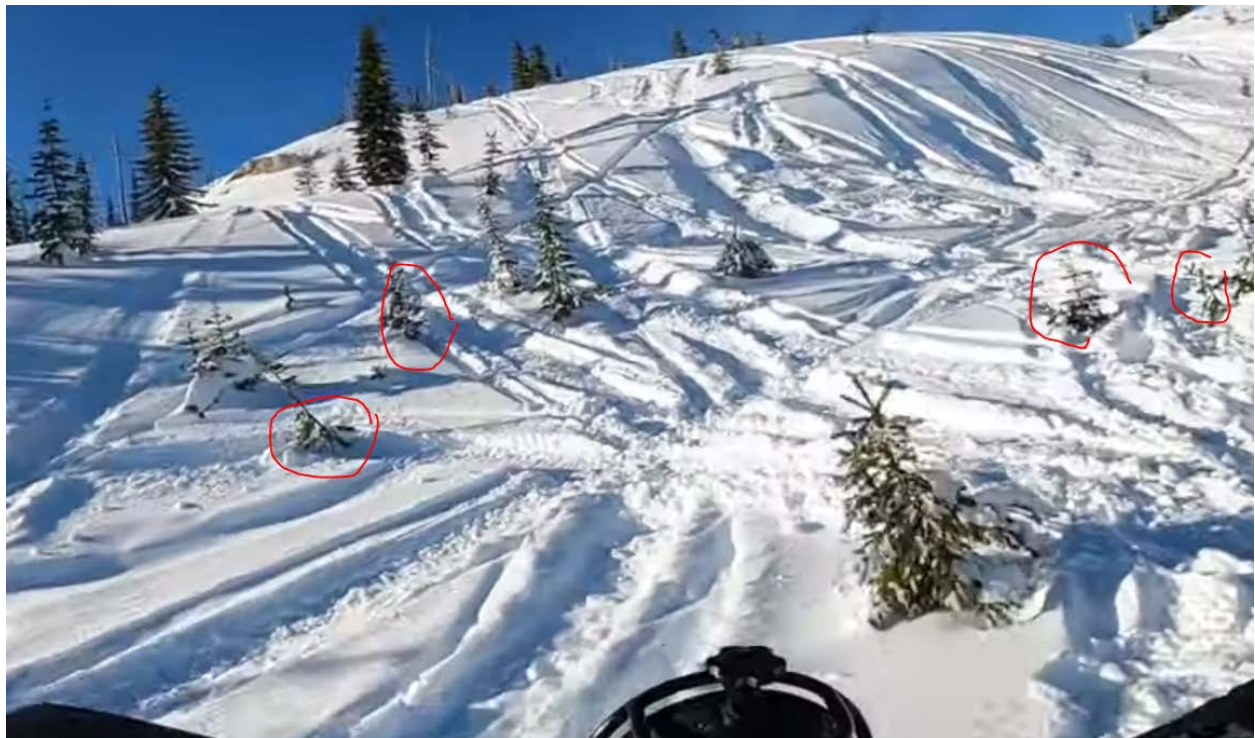


Next, our comments raised the concern about OSV damage to whitebark pine trees, and we provided an example where winter motorized use damaged trees in existing habitat above Lower Roman Nose Lake. In response, the Forest Service asserts the following:

Whitebark pine trees are hardy, have flexible branches, and survive in harsh climatic conditions, seedling and sapling branches above the snow are unlikely to break if contact is made with an over-snow ski or track. Because of these effects from direct physical damage would be low and not likely be of an intensity or magnitude to damage whitebark stands or result in loss of entire populations. Whitebark pine trees would continue to produce seed and propagate seedlings.

Project Botany Report at 11. Again, we remind the agency that it must demonstrate compliance with the minimization criteria, and the response suggests that OSV use would have to “result in the loss of entire populations” before the agency would deem OSV designations as violating the ESA or regulations, such as the TMR. The analysis and agency’s response preclude any finding that the proposed action would not likely adversely affect whitebark pine populations. In fact, Figure 8 displays damage to trees within existing whitebark pine habitat in the Roman Nose de facto play area.¹³

Figure 8. Tree damage (circled in red) from OSV use within the Roman Nose de facto play area.



¹³ The image was captured from a video, https://www.youtube.com/watch?v=zv_AArcfz90 (last accessed 8/25/2023), titled “Snow Biking Roman Nose. One of North Idaho's Best Riding Areas.”

5. Canada lynx

Our comments asked the Forest Service to better disclose where OSV use would occur under each alternative as it relates to Canada lynx, specifically to better disclose the overlap with core habitat, designated critical habitat, denning habitat and areas of connectivity. The Forest Service did not respond to our comments, but did address the issue in response to another commenter:

It is not clear what the commenter refers to when requesting a map of lynx “core” habitat. Upon listing, FWS categorized lynx habitat into core, secondary and peripheral areas to assist with recovery. Areas with strongest long-term evidence of the persistence of lynx populations within the contiguous U.S. were defined as core areas. On the IPNF, this includes only the areas in the Purcells (essentially the same areas defined by designated critical habitat – i.e., the Deer-Skin and American-Canuck LAUs). However, in occupied forests (such as the IPNF), the NRLMD requires that secondary areas be managed by the same objectives, standards and guidelines as core areas.

Project Response to Comments at 309. It appears that the Forest Service answered its own question about what constitutes “core” habitat, and further explains the importance of disclosing core, secondary and peripheral areas that the agency proposes for OSV designations. Yet, such disclosure is missing from the analysis. In addition, the Forest Service explains the importance of daytime resting areas:

However, winter recreation activities occurring near daytime resting sites could compromise their function (Ruediger et al 2000). Daytime resting sites are places where lynx can bed down undisturbed and are similar to den sites in that they are typically located in areas having large woody debris, such as in blow-down pockets, and good overhead cover. Lynx may use little-traveled roadways for travel and foraging in good snowshoe hare habitat, but they prefer to move through continuous forests frequently using ridges, saddles and riparian areas (Ruediger et al. 2000).

Project Wildlife Report at 47. Given the importance of resting sites, the Forest Service should have disclosed how OSV designations would affect the ability of Canada lynx to use these areas, especially given snowbikes can traverse areas with denser tree stands where Canada lynx find maternal denning or diurnal resting sites as compared to larger snowmobiles that may avoid such areas.

Further, the Forest Service also explains that “[t]he “baseline” condition for both designated routes and areas of consistent compaction is “during the period 1998 to 2000,” and that “[p]rior to the court injunction closure (the circa 2000 condition), more than 84 percent (almost 517,320 acres) of these lynx analysis units were open to unrestricted over-snow vehicle use.” DDN at 59. Separately, the agency states “[t]o comply with the Northern Rockies Lynx Management Direction, it was necessary to assess conditions for OSV travel present during the 1998–2000 time period.” However, the Forest Service also explains:

In 2007, based on the recommendations of the Lynx Conservation Assessment and Strategy and more recent research findings, the Forest Service adopted the Northern Rockies Lynx Management Direction (USDA Forest Service 2007a) to provide lynx management standards and guidelines that were incorporated into existing forest plans.

Project Wildlife Report at 49. In addition, the Forest Service also states the following:

The potentially affected environment reflects current over-snow vehicle use management activities within the project area and represents the existing baseline condition or trends by which the action alternatives are compared. Current management reflects the 2007 closure order and direction in the land management plan.

DDN at 24. Finally, the agency explains, “the area analysis focuses on where off-trail OSV use is legally allowed to occur during various time periods – providing a reproducible and quantifiable mechanism for comparison of potential effects not subject to the assumptions inherent in designating high use areas.” Project Wildlife Report at 50. To be clear, the legal baseline in regards to Canada lynx is reflected in the 2015 IPNF land management plan that incorporates the 2007 closure order. We acknowledge that there is a difference between the legal baseline and existing condition, especially where the existing condition includes unauthorized OSV use. We provided the Forest Service evidence of such illegal activity in our comments that the agency failed to incorporate into its analysis overall, and specifically how that unauthorized use may affect the legal baseline condition. Overall, the Forest Service fails to demonstrate why the years between 1998 - 2000 condition should serve as the baseline condition, and any claims of OSV use reductions in comparison to that baseline fails to demonstrate compliance with the TMR, or the Endangered Species Act or the land management plan. Further, using the 1998-2000 baseline only serves to skew the agency’s analysis as demonstrated here:

The proposed action and alternative A propose OSV use on 61 percent and 60 percent, respectively, of areas within lynx analysis units. This represents increases in allowed OSV use from the current condition in the South Selkirk (Snow and Pack River lynx analysis units) and Upper Priest (Hemlock, Willow and Sema lynx analysis units) analysis areas, but notable decreases from the 2000 condition in the North Selkirk analysis area (Hughes, Upper Priest, Blue-Grass, Saddle-Cow, Upper Smith, and Trout lynx analysis units).

Id. It is clear that the proposed action will result in an increase in OSV use above the 2007 legal baseline condition, yet the Forest Service arbitrarily dismisses this increase by comparing it to the year 2000 conditions. This is especially problematic for the eleven Lynx Analysis Units (LAU) where the agency proposed to increase OSV use under the proposed action. *See* Table 1.

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Table 1. Increases in OSV use under the Proposed Action.¹⁴

Analysis Area	LAU	NFS Acres Currently Open to OSV Use (%)	NFS Acres Open to OSV Use: Proposed Action (%)
Upper Priest	Sema	15,066 (74)	20,324 (100)
Upper Priest	Willow	21,829 (59)	35,287 (96)
Upper Priest/ North Selkirks	Hemlock	4,555 (16)	16,079 (56)
North Selkirks	Upper-Priest	483 (1)	1,585 (5)
North Selkirks	Blue-Grass	2,458 (10)	4,291 (17)
North Selkirks	Saddle-Cow	9,467 (35)	16,703 (62)
North Selkirks	Upper Smith	9,467 (35)	16,703 (62)
North Selkirks/ South Selkirks	Trout	1,771 (7)	4,736 (20)
South Selkirks	Cascade	2,364 (11)	17,061 (76)
South Selkirks	Snow	7,760 (34)	17,521 (78)
South Selkirks	Pack River	11,279 (60)	18,660 (100)

Any designated OSV routes or “play areas” within these areas cannot exceed the legal 2007 baseline conditions, and the Forest Service fails to disclose how many miles of designated routes would occur under each alternative for each LAU. The failure also extends to new designated play areas. Here, the agency asserts that “[t]here are no designated play areas on the Idaho Panhandle National Forests North Zone, and none would be designated with this action.” Project Wildlife Report at 49. We disagree. As we explained in our comments, the Forest Service fails to define “play areas” or recognize opening the Headwaters Pack River subwatershed constitutes creating a play area. Instead, the agency arbitrarily dismisses this concern by responding to a different commenter as follows:

Although the term “play area” is not defined in the NRLMD glossary, it is apparent from context that this refers to an “area of consistent snow compaction” that is “generally covered with snow and gets enough human use that individual tracks are indistinguishable” (NRLMD Glossary).

Project Response to Comments at 309. Here the Forest Service acts in an arbitrary and capricious manner by inserting its own definition of a play area, and failed to look at the 2007 FINAL Environmental Impact Statement Northern Rockies Lynx Management Direction Volume 1 - Recreation that provides the following: “Designated play areas are places specifically identified for winter recreation, such as tubing or snowmobiling, but not including developed ski areas.” NRLMD

¹⁴ The numbers are based on the Wildlife Report, Table 9 at 52.

FEIS at 280 (Exhibit 7). The definition here makes no mention of “consistent snow compaction,” rather it uses a broad description of an area “identified for winter recreation.” One can look to the Forest Service’s to find additional context for this definition:

The Roman Nose area has been a regional destination for over-snow vehicle users for over 30 years and provides one of the primary riding areas on the east side of the Selkirk Mountains. It is currently accessed by three different groomed trails, two of which are non-Forest Service trails outside of National Forest System lands

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The Trapper Peak and Sundance wildfires played a historically important part of snowmobiling within the analysis area by opening thousands of acres of forested land...Historically popular areas associated with the Sundance burn include Snow Creek, Cooks Lake, Bottleneck Lake, Roman Nose Lakes, Apache Ridge, Ruby Pass, Fall Creek drainage, Dodge Peak, Pearson Basin, and Jeru Ridge and Peak.

DDN at 19 & 25-26. From this description a designated play area could be an area accessed by a designated trail (groomed or ungroomed) that is free from dense vegetation and provides a destination that would be popular for OSV use. It is reasonable to apply these parameters to the Headwaters Upper Pack River watershed the agency proposes to open after more than 20 years of protection and call this an expansion of a designated play area in Canada lynx habitat. In any event, the Forest Service must re-evaluate how it defines “designated play area,” disclose where these will occur under each alternative and only designate OSV areas in accordance with the NRLMD.

Suggested Resolution: Comply with NEPA by providing detailed environmental analysis that addresses the deficiencies we explained above, preferably in an EIS. Such analysis would provide refined mapping for wolverine and whitebark pine habitat, model OSV sound disturbances and analyze how that disturbance affects wildlife and quiet recreation opportunities. Proper analysis would take into account projected declines of snowpack under future climate scenarios, and would properly define and identify play areas within Canada lynx habitat.

C. Failure to Analyze Effects of Unauthorized use and Ensure Protection of Closed Areas

As we explained above in our objection and discussed in our comments, the Forest Service must (but failed to) provide a monitoring and enforcement plan. Given the aforementioned reliance on monitoring to minimize damage to vegetation and soils, the Forest Service must produce a plan before issuing its final decision.

Likewise, the Forest Service must consider the effects of proposed actions on its ability to enforce the entire existing and proposed designated system of roads, trails and areas on the forest. NEPA requires the agency to take a hard look at the impacts of illegal motorized use on forest resources

and the likelihood of illegal use continuing or expanding under each alternative.¹⁵ The Forest Service must consider the impact of its proposal action in conjunction with the persistent and ongoing winter motorized use violations. On March 19, 2023, through a Light Hawk sponsored aerial monitoring trip, we documented numerous instances of unauthorized use that we provided with our comments. The Forest Service failed to analyze how the alternatives would contribute to existing illegal motorized use and create new opportunities, especially given the proposed action would designate trails within protected areas.

Suggested Resolution: Create and adopt a monitoring and enforcement plan that effectively monitors OSV use, directs issuing citations for violators, and includes automatic closures for areas with repeated violations. Increase the number of forest protection officers and coordinate with law enforcement officers to effectively enforce the winter travel plan. Buffer closed areas such as recommended wilderness areas by 1 kilometer to discourage ridgeline border use and spillover of mechanical sounds into recommended wilderness and other areas.

D. Failure to Comply with the National Forest Management Act (NFMA)

Our comments urged the agency to fully implement the 2015 IPNF Revised Forest Plan direction for Recreation Opportunity Spectrum allocations by protecting primitive or semi-primitive, non-motorized settings from motorized use. The Forest Service failed to respond to these comments, rather it states that “the proposed action would trend the north zone of Idaho Panhandle National Forests’ ROS settings toward the desired forest-wide condition.” Recreation Report at 12. The agency illustrates this in its analysis by showing a 3 percent increase toward meeting the semi-primitive, non-motorized ROS allocation across the entire forest. *Id.* at 13, Table 5. However, the agency cannot average out decreases in these percentages. Specifically, the “[w]ithin the Headwaters Pack River sub-watershed, the following ROS management prescriptions are currently open to over-snow vehicles during the winter season of use: primitive (1,596 acres or 6 percent), semi-primitive non-motorized (8,554 acres or 33 percent), semi- primitive motorized (12,013 acres or 46 percent), and roaded natural (3,720 acres or 14 percent). *Id.* at 10. Under the proposed action, the “acres (Headwater Pack) providing a particular ROS setting during the winter season (Dec. 1 – Feb. 28) and spring (March 1 – 31)” would result in 0 percent of the area meeting primitive and semi-primitive non-motorized settings. *Id.* at 16, Table 7. Further, the proposed action would designate OSV use along the Pack River, which is an eligible wild and scenic river corridor.

The 2012 National Forest Management Planning Rule directs the following:

Every **project** and activity must be consistent with the applicable plan components. A **project** or activity approval document must describe how the **project** or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

¹⁵ See *Sierra Club v. U.S. Forest Serv.*, 857 F. Supp. 2d 1167, 1176-78 (D. Utah 2012).

(1) Goals, desired conditions, and objectives. The [project](#) or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to [maintain](#) or achieve any goals, desired conditions, or objectives, over the long term.

36 C.F.R. § 219.15(d). Where the proposed action decreases maintenance or attainment of the ROS primitive or semi-primitive, non-motorized settings, such as in the Headwaters Pack River subwatershed, the Forest Service is in violation of NFMA.

Further, given the arbitrary and capricious nature of how the Forest Service defines “designated play areas,” it cannot claim compliance with the 2015 IPNF Revised Forest Plan that retains the NRLMD guideline:

Guideline HUG 11: designated over-the-snow routes or designated play areas should not expand outside baseline areas of consistent snow compaction, unless designation serves to consolidate use and improve lynx habitat.

2015 IPNF Revised Forest Plan, Appendix B—Summary of Retained Decision at 163. We explained above how the agency’s analysis fails to use the proper legal baseline or disclose the miles of new OSV routes within each LAU that would receive an increase in winter motorized designations, including play areas that the Forest Service refuses to properly define or identify.

In sum, the Forest Service’s failure to contribute to the maintenance or attainment of the primitive and semi-primitive, non motorized ROS settings is a violation of the 2012 Planning Rule and NFMA. Further, the failure to properly define OSV “play areas,” identify those areas in relation to Canada lynx habitats and demonstrate how those areas do not expand outside the baseline of consistent snow compaction precludes the agency from asserting the proposed action complies with Guideline HUG 11; a violation of the Forest Plan.

Suggested Resolution: Revise the analysis in the EA and conclusions in the Draft DN and FONSI to demonstrate compliance with the 2012 planning rule and 2015 IPNF Forest Plan. Specifically, the Forest Service must change its decision to maintain primitive ROS settings and attain semi-primitive, non-motorized settings. The Forest Service cannot claim its decision will “trend the project area’s recreation opportunity spectrum settings toward the forestwide desired condition,” while it opens previously protected areas to OSV use, and fails to protect primitive ROS settings from OSV disturbances and illegal use.

E. Failure to Prepare an EIS - The Finding of No Significant Impact is without merit

This project may have a significant impact on the environment and thus the FS must prepare an EIS. The Council for Environmental Quality’s (CEQ) regulations (1978) define significance in terms of context and intensity, which includes inter alia the scope of beneficial and adverse impacts, unique characteristics of the geographic area, degree of controversy, degree of uncertainty, and degree to

which an action may affect species listed or critical habitat designated under the Endangered Species Act. 40 C.F.R. § 1508.27 (defining “significantly”). The CEQ revised its regulations in 2020, but the Forest Service cannot apply the revised regulations because they were illegally adopted in violation of the Administrative Procedure Act (APA) NEPA, and the Endangered Species Act (ESA). The CEQ is currently revising the 2020 regulations. Given the state of flux and uncertainty regarding the 2020 regulations, the Forest Service provides direction to continue to rely on the 1978 CEQ definition for “significance.”¹⁶ Here the Forest Service must “[f]or all alternatives, be sure to consider the environmental effects in terms of their context and intensity.”¹⁷ However, for this project the Forest Service appears to utilize the 2020 regulation, an error it must correct before issuing a final decision. DDN at 93-94. Ultimately, this project may significantly affect the human environment because it:

- Will have a significant impact in the context of the affected region, affected interests, and locality. As we discuss in length above, the effects of site-specific proposed actions will significantly impact the locale of the IPNF and the people who visit it in a myriad of ways, including their ability to enjoy quiet recreational activities. This is particularly true within the Hidden Lake and Headwaters Pack River subwatershed, especially where area designations adjacent to protected areas will facilitate illegal as we documented in several instances.
- Will have a severe impact in terms of intensity, in light of the impacts listed below.
 - Will cause significant impacts, both beneficial and adverse . The proposed actions will provide additional motorized recreational opportunities for a relatively small segment of forest users, while diminishing value for many other users. Potential beneficial impacts may include less resource damage from motorized recreation, if the FS can effectively enforce user compliance with the designated trails and areas, which it has failed to demonstrate that it can. Significant potential adverse impacts include harassment of wildlife and displacement from critical habitats, diminished quality of wildlife habitat, and increased resource damage from uncontrolled illegal motorized use. Further, the Forest Service expects the OSV designations to be in place for 20 years with effects lasting even longer, which cannot be dismissed as insignificant:

The Kaniksu Over-Snow Vehicle Use Designation Project is expected to be in force for up to 20 years, or until it is revised. It is possible that the proposal could have effects beyond the 20-year implementation period if over-snow vehicle (OSV) use were to cause irreversible impacts to wildlife populations....while individual grizzly bears, Canada lynx and North American wolverine may be impacted by OSV use, this use has not been demonstrated to have population-level effects to these species.¹⁸

¹⁶ See Forest Service Handbook (FSH) 1909.15 Ch. 10 at 40.

¹⁷ *Id.*

¹⁸ Wildlife Report at 13.

Here we remind the Forest Service that the threshold for significance is not solely based on population-level effects, but rather harassment of individual species and significant disruption of their habitat. As we explained in our comments and in this objection, both impacts will certainly occur and over the next 20 years those harmful effects will certainly rise to the level of significant impacts.

- Involves a geographic area with unique characteristics. The planning area includes “24 inventoried roadless areas, totaling approximately 327,519 acres, within the project area.”¹⁹ Many of these areas provide crucial habitat for a range of wildlife as we discussed and have unique characteristics that make them especially suitable as winter habitat. Further, within the Selkirk IRA the proposed action will “Seasonally opens areas which were previously closed along the north end and near Kootenai Peak,” and within the Upper Priest IRA it also “Seasonally opens half of inventoried roadless area to over-snow vehicle travel.”²⁰ Assertions that these actions will not significantly affect roadless quality or the potential for wilderness designation are not supported by the analysis. Further, the designating OSV routes along the recommended wild & scenic Pack River is just another example of how the proposed action involves a geographic area with unique characteristics.
- Will result in effects on the human environment that are likely to be highly controversial. For example, there is a controversy in fact regarding the Forest Service’s assertion that its project design features will “reduce any expected adverse impacts to minimal or low levels and these impacts would not be significant.” Specifically, as we note above, the agency believes that public education to OSV users about the location and importance of whitebark pine trees will minimize damage to this threatened species, without providing any evidence to support this assertion. Similarly, the agency expects OSV users to stay on groomed trails as they bisect protected areas, even though we provide evidence of illegal motorized use in our comments.
- Involves effects that are highly uncertain or involve unique or unknown risks, which is certainly the case regarding the agency’s reliance on unproven project design features, and from the lack of an enforcement and monitoring plan.
- May adversely affect species listed or critical habitat designated under the Endangered Species Act, including grizzly bear, Canada lynx and whitebark pine.

Suggested Resolution: Prepare an EIS because the Kaniksu OSV Use Designation Project may have a significant impact on the environment to ensure the Forest Service takes the required “hard look” at the impacts of its actions.

¹⁹ DDN at 84.

²⁰ *Id.* at 70.

F. Failure to Consider an Appropriate Range of Alternatives

NEPA requires agencies to “present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public.”²¹ In taking the “hard look” at impacts that NEPA requires, an EA must “study, develop, and describe” reasonable alternatives to the proposed action.²² This alternatives analysis “is at the heart of the NEPA process, and is ‘operative even if the agency finds no significant environmental impact.’”²³ Reasonable alternatives must be analyzed for an EA even where a Finding of No Significant Impact is issued because “nonsignificant impact does not equal no impact. Thus, if an even less harmful alternative is feasible, it ought to be considered.”²⁴ When an agency considers reasonable alternatives, it “ensures that it has considered all possible approaches to, and potential environmental impacts of, a particular project; as a result, NEPA ensures that the most intelligent, optimally beneficial decision will ultimately be made.

Our comments explained that the Forest Service’s Alternative A is insufficient for providing a reasonable range of alternatives. The issues we raised in our comments remain unaddressed, and we note further here that Alt. A is fundamentally flawed because it provides some protections from OSV designation while also expanding them in other places. For example, “Alternative A closes the west side of the upper Pack River to over-snow vehicle use year-round. This responds to public comments and minimizes effects to Canada lynx.” DDN at 12. Then “Alternative A adds and expands the following areas with May 31 closure dates: Jeru Ridge, Wellington Creek, and Porcupine Creek in addition to Roman Nose and Moose Lake.” *Id.* The Forest Service should have included a separate alternative specific to expanding protections from OSV use rather than combining them with conflicting management direction. Further, the agency fails to consider an alternative that uses minimum snow-depths to determine when areas should be available for OSV use. The Forest Service arbitrarily dismisses this alternative as being unenforceable. DDN at 19. We explain in our objection why this is a flawed rationale.

Suggested Resolution: Develop and analyze an alternative as we described in our comments:

- Protect highly suitable grizzly bear denning habitat from OSV use, and restrict OSV use past March 15 to protect bears emerging from hibernation and clarify that protections may start sooner if bears begin to emerge sooner;

²¹ 40 C.F.R. § 1502.14 (emphasis added).

²² 42 U.S.C. § 4332(2)(C) & (E); 40 C.F.R. § 1508.9(b) (an EA “[s]hall include brief discussions . . . of alternatives”).

²³ *Diné Citizens Against Ruining Our Env’t v. Klein*, 747 F. Supp. 2d 1234, 1254 (D. Colo. 2010) (quoting *Greater Yellowstone Coal. v. Flowers*, 359 F.3d 1257, 1277 (10th Cir. 2004)). See also *W. Watersheds Project v. Abbey*, 719 F.3d 1035, 1050 (9th Cir. 2013) (in preparing EA, “an agency must still give full and meaningful consideration to all reasonable alternatives” (emphasis added) (internal quotation and citation omitted)); 40 C.F.R. § 1502.14 (describing alternatives analysis as the “heart of the environmental impact statement”).

²⁴ *Ayers v. Espy*, 873 F. Supp. 455, 473 (D. Colo. 1994) (internal citation omitted).

- Protect the Headwaters Pack River subwatershed and Hidden Lake areas to provide quiet recreation opportunities;
- Does not create de facto cross-country “play areas” within the Moose Lake, Porcupine Creek and Wellington Creek areas or other drainages and “polygons,” bounded by steep geography;
- Better identifies and protects maternal wolverine denning habitat from OSV designations, and restrict use to only groomed trails within primary wolverine habitat;
- Protects mountain goat habitat, moose and bighorn sheep winter range from cross-country travel;
- Protects mapped whitebark pine stands and replanted areas from cross-country travel.
 - Includes a design feature requiring monitoring areas of potential whitebark pine habitat to maintain mapped inventories.
- Creates and adopts a monitoring and enforcement plan that effectively monitors high use areas, directs issuing citations for violators, and includes automatic closures for areas with repeated violations.
- Establishes minimum snow depths should be at least 24 inches for cross-country travel and 18 inches for travel on groomed trails.
- Protect areas with a ROS allocation of primitive and semi-primitive, non-motorized in the 2105 IPNF Revised Forest Plan.

G. Failure to comply with the Endangered Species Act

The Forest Service fails to ensure all of the activities authorized under this DDN will not jeopardize the continued existence of grizzly bear, Whitebark pine, Canada lynx, and wolverine, and that the project will not result in the destruction or adverse modification of designated critical habitat as required by the Endangered Species Act (“ESA”). 16 U.S.C. § 1536(a)(2). We were prevented from providing meaningful comments on the content of the consultation or conference documents because the Forest Service failed to provide this documentation during the official notice and comment periods as the agency states: “A biological assessment for the project will be prepared, and Section 7 consultation completed, prior to a decision being issued for the project.” Wildlife Report at 1. Based on the limited information that is available, the Fish and Wildlife Service’s and Forest Service’s determinations regarding impacts from the proposed action to listed species and designated critical habitat, are unreasonable because they, inter alia, fail to consider relevant factors, rely on flawed baseline conditions, lack sufficient information to support the conclusions, and ignore best available science.

For example, the Forest Service asserts that in regards to threatened whitebark pine, “the proposed action may affect, likely to adversely affect the continued existence of whitebark pine.” Botany Report at 12. Yet, the agency contradicts this finding stating “Table 15 summarizes effect determinations for species listed as threatened, endangered, proposed, or candidate under the Endangered Species Act.” DDN at 77. Here the Forest Service lists the determination for whitebark pine as “NLAA - may affect, not likely to adversely affect.” *Id.* at 78. It is unclear if the Forest

Service will consult with the U.S. Fish & Wildlife Service under Sec. 7 of the Endangered Species Act since the biological assessment is not available for review. Further, we explained the agency's current analysis fails to satisfy the requirements under NEPA, and therefore any determination that the proposed action will not likely adversely affect the species is arbitrary and capricious.

In another example, the Forest Service asserts there the proposed action will not jeopardize the continued viability of North American wolverine, even though the agency fails to consider how climate change and declining levels of snow pack will affect the long-term viability of the species in the planning area. This, in addition to the analysis flaws we described in our comments and this objection preclude the agency from asserting there will be no jeopardy to the species.

Overall, the Forest Service fails to ensure all of the activities authorized under this Draft Decision Notice will not jeopardize the continued existence of grizzly bear, Canada lynx, wolverine and whitebark pine, and that the project will not result in the destruction or adverse modification of designated critical lynx habitat as required by the Endangered Species Act ("ESA"). 16 U.S.C. § 1536(a)(2).

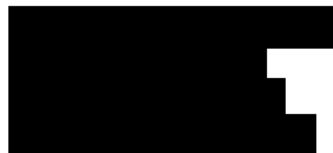
Suggestion Resolutions: Complete a proper BA that sufficiently analyzes the impacts to all Threatened, Endangered and proposed species and includes demonstrable measures to effectively reduce harm to these species. Refrain from any final decision unless and until Section 7 consultation, including any informal consultation or conferencing, is complete, and provide this documentation to the public. We reserve the right to challenge the substance of any concurrence or final Biological Opinion(s) the Forest Service relies on in its final decision, as this information has not been made available to the public during the objection period.

Cordially,



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Exhibits

1. Ex. 1 - Plumas FEIS Vol 1.pdf
2. Ex. 2 - Tahoe OSV FEIS Vol I.pdf
3. Ex. 3 - Grizzly SSA.January.2022.pdf
4. Ex. 4.1 & 4.2 - Pack River BORZ Monitoring
5. Ex. 5 - WestsideRestoration_SupplementalNEPA_IETF_AWR_FOC_2.6.2023.pdf
6. Ex. 6 - Barret 2003 nsidc_special_report_11
7. Ex. 7 - FINAL Environmental Impact Statement Northern Rockies Lynx Management Direction Volume 1 - Recreation.pdf
8. Ex. 8 - Bader & Sieracki 2022, Grizzly Model GIS files, IPNF.zip