

June 14, 2024

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Submitted via: <https://cara.fs2c.usda.gov/Public//CommentInput?Project=65529>

Re: Rio Grande National Forest Over-snow Motorized Use Travel Plan

On behalf of San Juan Citizens Alliance, Rocky Mountain Wild, High Country Conservation Advocates, Center for Biological Diversity, and WildEarth Guardians, please accept these scoping comments on the proposed action described in the Over-Snow Travel Management Project Rio Grande National Forest Purpose and Need/Proposed Action May 2024 (Scoping) document. For reasons explained below, we urge the Forest Service to consider a reasonable range of alternatives, including alternatives that maximize wildlife protection, and restrict winter motorized use in Colorado Roadless Areas. These alternatives are not only reasonable but must be analyzed to counter the current proposal that has identified these areas in the Rio Grande Forest Plan as suitable for over-snow vehicle (OSV) use, subject to limited exceptions. Protections and restrictions are crucial for a variety of species, as well as compliance with the over snow rule and Forest Service management duties, including Canada lynx, big game such as bighorn sheep and elk, and, after reintroduction, wolverines.

The Forest Service explains the need for the project is “to provide a manageable, designated system of National Forest System roads, National Forest System trails, and areas for OSV use across the Rio Grande National Forest that is consistent with and achieves the purposes of the Forest Service Travel Management Rule at 36 CFR part 212 [subpart C].”¹ The project’s overall purpose “is to effectively manage OSV use on the Rio Grande National Forest to:

- Provide high quality over-snow access and experiences;
- Ensure that OSV use occurs when there is adequate snow to protect underlying resources;
- Promote the safety of all Forest visitors and users;
- Enhance public enjoyment;
- Minimize impacts to natural and cultural resources;
- Minimize conflicts among the various uses; and

¹ Scoping at 1.

- Identify roads and trails where the Forest Service or its contractors would conduct snow grooming for OSV use.²

The Forest Service proposes to designate approximately 1,382,276 acres (74 percent) of the Rio Grande National Forest (RGNF) for public cross-country over-snow vehicle use and designate 260 miles of groomed OSV trails.³ The Forest Service proposes seasonal restrictions on OSV use only on groomed snowmobile trails through suitable lynx habitat and on designated routes through big game winter range.

We believe additional seasonal restrictions should be analyzed as alternative design features, given the declining levels of snowpack predicted due to the increasing effects of the climate crisis. A declining snowpack will likely expose soils and vegetation to damage from OSVs. While a minimum snow depth requirement, as proposed, may help avoid damage to exposed soils and vegetation, snow depths can be difficult to measure accurately, and different slopes and aspects often result in widely varying snow depths even within a limited area. Because of these reasons, the Forest Service should consider limiting OSV travel to designated seasons of use across the Forest. Start and end dates offer certainty and are therefore easier to enforce than minimum snow depths. Seasonal use restrictions should serve as the “belt” while minimum snow depths function as “suspenders” in low snowpack years within the permitted season of use. Given climate change, the Forest Service must disclose and discuss current and predicted trends in snowpack levels and explain how late-season cross-country travel would comply with the minimization criteria under the Travel Management Rule (TMR). One other key variable the agency must consider is the level of noise disturbance OSVs produce and how that affects habitat quality for sensitive and at-risk species. We provide examples of how the agency may conduct this analysis in our comments below.

We do recognize the Forest Service has taken some steps to protect wintering wildlife and threatened species such as Canada lynx. We strongly support such measures described in the proposed action. We urge the Forest Service to build upon these steps to protect all wildlife and roadless characteristics, which we explain more fully in our comments below.

I. The Forest Service must analyze a reasonable range of alternatives and proper scope of purpose and need.

In taking the “hard look” at impacts that NEPA requires, the Forest Service must “study, develop, and describe” reasonable alternatives to the proposed action.⁴ This alternatives analysis “is at the heart of the NEPA process, and is ‘operative even if the agency finds no significant environmental

² *Id.* at 2.

³ *Id.*

⁴ 42 U.S.C. § 4332(2)(C) & (E).

impact.”⁵ 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.”⁶

In determining whether an alternative is “reasonable,” and thus requires detailed analysis, courts look to two guideposts: “First, when considering agency actions taken pursuant to a statute, an alternative is reasonable only if it falls within the agency’s statutory mandate. Second, reasonableness is judged with reference to an agency’s objectives for a particular project.”⁷ Any alternative that is unreasonably excluded will invalidate the NEPA analysis.⁸ The agency’s obligation to consider reasonable alternatives applies to citizen-proposed alternatives.⁹ The “touchstone” for courts reviewing challenges to an EIS under NEPA “is whether an EIS’s selection and discussion of alternatives fosters informed decision-making and informed public participation.”¹⁰ NEPA’s implementing regulations require that an agency “[r]igorously explore and objectively evaluate *all* reasonable alternatives.”¹¹ The agency’s purpose and need statement sets the parameters for what constitutes a reasonable alternative.¹² Although agencies “enjoy[] considerable discretion” in defining their objectives and are not required to consider an unlimited number of alternatives,¹³ they may not dismiss an alternative unless they have, in “good faith,” found it to be “too remote, speculative, or impractical or ineffective,”¹⁴ or not “significantly distinguishable from the alternatives already considered.”¹⁵ Further, “[t]he existence of a viable but unexamined alternative renders an environmental impact statement inadequate.”¹⁶ The agency’s obligation to consider reasonable alternatives applies to citizen-proposed alternatives.¹⁷ Courts routinely set aside

⁵ *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)).

⁶ *Wilderness Soc’y v. Wisely*, 524 F. Supp. 2d 1285, 1309 (D. Colo. 2007) (quotations & citation omitted).

⁷ *Diné Citizens Against Ruining Our Env’t*, 747 F. Supp. 2d at 1255 (quoting *New Mexico ex rel. Richardson*, 565 F.3d at 709).

⁸ *Id.*

⁹ See *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217-19 (9th Cir. 2008) (finding EA deficient, in part, for failing to evaluate a specific proposal submitted by petitioner); *Colo. Emvtl. Coal. v. Dombeck*, 185 F.3d 1162, 1171 (10th Cir. 1999) (agency’s “[h]ard look” analysis should utilize “public comment and the best available scientific information”) (emphasis added).

¹⁰ *California v. Block*, 690 F.2d 753, 767 (9th Cir. 1982).

¹¹ 40 C.F.R. § 1502.14 (emphasis added); see also *New Mexico*, 565 F.3d at 703 (quoting same); *Custer Cty. Action Ass’n v. Garvey*, 256 F.3d 1024, 1039 (10th Cir. 2001) (agencies must “rigorously explore all reasonable alternatives . . . and give each alternative substantial treatment in the environmental impact statement.”).

¹² See *Dombeck*, 185 F.3d at 1174-75.

¹³ *Colo. Emvtl. Coal. v. Salazar*, 875 F. Supp. 2d 1233, 1245 (D. Colo. 2012).

¹⁴ *Colo. Emvtl. Coal. v. Dombeck*, 185 F.3d 1162, 1174 (10th Cir. 1999) (quotation omitted).

¹⁵ “NEPA does not require agencies to analyze the environmental consequences of alternatives it has in good faith rejected as too remote, speculative, or impractical or ineffective.” *New Mexico ex rel. Richardson v. BLM*, 565 F.3d 683, 708 (10th Cir. 2009) (quotation omitted). Moreover, “an agency need not consider an alternative unless it is significantly distinguishable from the alternatives already considered.” *Id.* at 708-09.

¹⁶ *Westlands Water Dist. v. United States DOI*, 376 F.3d 853, 868 (9th Cir. 2004).

¹⁷ *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217-19 (9th Cir. 2008) (finding EA deficient, in part, for failing to evaluate a specific proposal submitted by petitioner); *Colo. Emvtl. Coal. v. Dombeck*, 185

agency NEPA analysis, including those by the Forest Service, where the agency arbitrarily failed to consider a reasonable alternative.¹⁸

Courts hold that an alternative may not be disregarded merely because it does not offer a complete solution to the problem.¹⁹ Even if additional alternatives would not fully achieve the project's purpose and need, NEPA "does not permit the agency to eliminate from discussion or consideration a whole range of alternatives, merely because they would achieve only some of the purposes of a multipurpose project."²⁰ If a different action alternative "would only partly meet the goals of the project, this may allow the decision maker to conclude that meeting part of the goal with less environmental impact may be worth the tradeoff with a preferred alternative that has greater environmental impact."²¹

The courts also require that an agency adequately and explicitly explain any decision to eliminate an alternative from further study.²²

As discussed above, the undersigned propose consideration and analysis in detail of alternatives that maximize wildlife protection, and restrict winter motorized use in Colorado Roadless Areas. These alternatives are reasonable and consistent with the agency's obligation in travel management planning to minimize damage to soil, watershed, vegetation, and other forest resources as well as harassment of wildlife and significant disruption of wildlife habitats as an objective in this over snow travel management process.²³ The Forest Service's purpose and need statement should be revised to explicitly acknowledge these obligations that the agency has in this process as well.

II. The Forest Service must conduct travel analysis to inform its proposed action.

Current Forest Service directives governing travel management planning require the agency to conduct travel analysis to inform its decision-making.²⁴ Travel analysis must be completed prior to formulation of a proposed action and should "form the basis for proposed actions related to

F.3d 1162, 1171 (10th Cir. 1999) (agency's "[h]ard look" analysis should utilize "*public comment* and the best available scientific information") (emphasis added).

¹⁸ See, e.g., *High Country Conservation Advocates v. United States Forest Serv.*, 951 F.3d 1217, 1224-27 (10th Cir. 2020) (finding Forest Service NEPA analysis failed to consider a reasonable alternative concerning roadless area protection, and ordering the lower court to vacate the agency's decision); *New Mexico ex rel. Richardson v. BLM*, 565 F.3d 683 (10th Cir. 2009) (setting aside BLM's EIS concerning oil and gas leasing in the Otero Mesa area); *Wilderness Workshop v. U.S. Bureau of Land Management*, 342 F. Supp. 3d 1145 (D. Colo. 2018) (BLM's range of alternatives violated NEPA by omitting any option that would meaningfully limit oil and gas leasing and development within the planning area); *Colorado Environmental Coalition v. Salazar*, 875 F. Supp. 1233 (D. Colo. 2012) (BLM was obliged to consider an alternative requiring extraction of oil and gas to be conducted through extended-reach multilateral wells).

¹⁹ *Natural Resources Defense Council, Inc. v. Morton*, 458 F.2d 827, 836 (D.C. Cir. 1972).

²⁰ *Town of Matthews v. U.S. Dep't of Transp.*, 527 F. Supp. 1055 (W.D. N.C. 1981).

²¹ *North Buckhead Civic Ass'n v. Skinner*, 903 F.2d 1533, 1542 (11th Cir. 1990).

²² See *Wilderness Soc'y*, 524 F. Supp. 2d at 1309 (holding EA for agency decision to offer oil and gas leases violated NEPA because it failed to discuss the reasons for eliminating a "no surface occupancy" alternative); *Ayers v. Espy*, 873 F. Supp. 455, 468, 473 (D. Colo. 1994).

²³ 36 C.F.R. § 212.55(b)(1), (2).

²⁴ See generally Forest Service Handbook (FSH) 7709.55, chs. 10 & 20; Forest Service Manual (FSM) 7712 & 7715.

designation of roads, trails, and areas for motor vehicle use.”²⁵ More specifically, travel analysis is designed to “[i]dentify management opportunities and priorities[,] formulate proposals for changes[,] . . . [c]ompare motor vehicle use . . . with desired conditions established in the applicable land management plan, and describe options for modifying the forest transportation system that would achieve desired conditions.”²⁶ The Forest Service issued the Rio Grande National Forest Forest-wide Travel Analysis Process Report (TAR) in October, 2015, but winter travel was not included in the analysis—maybe not surprising, given that Subpart C was not promulgated until 2015 and the forest-wide travel analysis process started years earlier. Nonetheless, the lack of winter travel analysis in the report highlights the need for the agency to conduct detailed environmental analysis in a manner that will appropriately identify where OSV use may meet the minimization criteria in areas identified as suitable for OSV use.

III. The Forest Service must demonstrate in the record how it applied the minimization criteria to minimize impacts when designating each area and trail open to OSV use.

A. Background

In response to the growing use of dirt bikes, snowmobiles, all-terrain vehicles, and other off-road vehicles (ORVs) and the corresponding environmental damage, social conflicts, and public safety concerns, Presidents Nixon and Carter issued Executive Orders 11,644 and 11,989 in 1972 and 1977, respectively, requiring federal land management agencies to plan for ORV use based on protecting resources and other uses.²⁷ 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.²⁸

The Forest Service codified these “minimization criteria” in subparts B and C of its travel management regulations.²⁹ 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.³⁰ Collectively, these cases confirm the Forest Service’s substantive legal

²⁵ FSH 7709.55, §§ 13(3) & 21.6; FSM 7715.03(2).

²⁶ FSH 7709.55, § 21.5.

²⁷ Exec. Order No. 11,644, 37 Fed. Reg. 2877 (Feb. 8, 1972), as amended by Exec. Order No. 11,989, 42 Fed. Reg. 26,959 (May 24, 1977).

²⁸ *Id.* § 3(a).

²⁹ 36 C.F.R. §§ 212.55, 212.81(d).

³⁰ 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 Emvtl. 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).

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.

It has been over five decades since President Nixon first obligated the Forest Service to minimize impacts associated with OSV use, including snowmobiles. Yet the agency has systematically failed to do so. In the meantime, irresponsible and mismanaged OSV use continues to degrade soil, air, and water quality, threaten imperiled wildlife species, and diminish the experience of the majority of public lands visitors who enjoy the natural landscape through quiet, non-motorized forms of recreation. This is especially true now with the growth in OSV technology and use, and declining snowpack from changing climate conditions.

The following discussion describes in more detail how the Forest Service must apply the minimization criteria to designate areas and trails for OSV use that minimize impacts to vulnerable wildlife and the majority of national forest visitors seeking to enjoy nature free from noise and pollution.

B. Proper application of the minimization criteria.

The executive orders require the Forest Service to minimize impacts – not just identify or consider them – when designating areas or trails for OSV use, and to demonstrate in the administrative record how it did so. Importantly, efforts to *mitigate* impacts associated with a designated OSV system are insufficient to fully satisfy the duty to *minimize* impacts, as specified in the executive orders.³¹

Thus, application of the minimization criteria should be approached in two steps: first, the agency locates areas and trails to minimize impacts, and second, the agency establishes site-specific management actions to further reduce impacts. Similarly, the Forest Service may not rely on compliance with the relevant forest plan as a proxy for application of the minimization criteria because doing so conflates separate and distinct legal obligations. To satisfy its substantive duty to minimize impacts, the Forest Service must apply a transparent and common-sense methodology for meaningful application of each minimization criterion to each area and trail being considered for designation. That methodology must include several key elements.

First, proper application of the minimization criteria is not solely an office exercise. Rather, the Forest Service must get out on the ground, gather site-specific information, and actually apply the

³¹See Exec. Order 11,644, § 3(a) (“Areas and trails shall be *located* to minimize” impacts and conflicts.) See also *Friends of the Clearwater*, 2015 U.S. Dist. LEXIS 30671, at *46 (“Merely concluding that the proposed action is consistent with the Forest Plan does not . . . satisfy the requirement that the Forest Service provide some explanation or analysis showing that it considered the minimizing criteria and took some action to minimize environmental damage when designating routes.”)

criteria to minimize resource damage and user conflicts associated with each designated area and trail.³²

Second, effective application of the minimization criteria must include meaningful opportunities for public participation and input early in the planning process.³³ This includes during the travel analysis process, which the Forest Service has not done here. In many cases, public lands users and other stakeholders are the best source of information for identifying resource concerns and conflicts among existing and proposed recreational uses. We recognize the Forest Service conducted an internal process in proposing minimization criteria.³⁴ Yet, had the agency conducted travel analysis with an opportunity for public participation, the proposed action's minimization criteria may have looked quite different, especially as they relate to wildlife habitat protection, minimizing recreational use conflicts and management of Colorado Roadless Areas. Please note an important consideration: there is a clear difference between use conflict and user conflict. The latter focuses on recreational preferences people may have while the former rightly focuses on conflict of management direction. In some cases, we have seen the agency dismiss conflict of recreational uses as merely a difference of recreational preferences. The Forest Service should not take this position with this project.

Third, application of the minimization criteria should be informed by the best available scientific information and associated strategies and methodologies for minimizing impacts to particular resources.³⁵ It is well established that OSV use damages exposed soils and vegetation, and can harm water quality, especially early or late in the season where there is a likelihood of inadequate snow levels.³⁶ It may also occur where wind exposes soil and vegetation.³⁷ OSV use can cause significant damage to browse plants important to wildlife. As snow is compacted, the soil temperature can be reduced and soil microbial activity and germination of seeds can be slowed. Compacted snow can lead to wet and soft trails due to slower snow melt, ultimately leading to damage by other users in the spring. OSVs that run over or near vegetation damage trees and shrubs by tearing bark, ripping off branches, or topping trees. Off-road vehicles—including OSVs—are designed to, and do, travel off-trail, disturbing soil, creating weed seedbeds, and dispersing seeds widely. Plus, fuel leaks and exhaust from OSV use also negatively impacts soil quality and vegetative health.

Further, OSV use can have significant adverse impacts on wildlife by increasing stress at a time when animals are highly vulnerable, facilitating competition, causing displacement and avoidance,

³² See, e.g., *Idaho Conservation League*, 766 F. Supp. 2d at 1074-77 (invalidating travel management plan that failed to utilize monitoring and other site-specific data showing resource damage).

³³ 36 C.F.R. § 212.52(a).

³⁴ See "Minimization Criteria," Scoping at 5-6.

³⁵ See *Friends of the Clearwater*, 2015 U.S. Dist. LEXIS 30671, at *24-30, 40-52 (invalidating trail designations that failed to consider best available science on impacts of motorized trails on elk habitat effectiveness or to select trails with the objective of minimizing impacts to that habitat and other forest resources).

³⁶ See Switalski, A. 2016. Snowmobile Best Management Practices for Forest Service Travel Planning: A Comprehensive Literature Review and Recommendations for Management – Wildlife. *Journal of Conservation Planning*. 12:13-20 at 9-10.

³⁷ *Id.* at 9.

and effectively reducing the amount of available habitat because species avoid motorized vehicles.³⁸ The Rio Grande NF is home to Canada lynx, black bear, and “big game” species like bighorn sheep, mule deer, and Rocky Mountain elk. Harmful impacts from winter motorized use can be significant, especially where specific trails cut through wildlife habitat. Studies show that snowmobile use causes both physiological and behavioral responses by wildlife.³⁹ The Forest Service’s analysis should clearly disclose how the winter motorized use designations proposed in each alternative will *minimize* harassment of wildlife, disruption of wildlife habitat, and disruption of solitude. We note that the scoping notice in several places refers to reducing conflicts or impacts (“to reduce potential damage to resources,” “to reduce user conflicts,” “to reduce impacts to Canada lynx”). This is not the correct standard—the agency must minimize, rather than reduce, conflicts and impacts.

While the minimization criteria include several features for minimizing OSV-caused disturbance to Canada lynx and big game, none account for noise disturbance to wildlife along designated trails or in cross-country areas. The Forest Service must show how its proposed action located OSV designations to minimize noise impacts to wildlife.

Fourth, proper application of the minimization criteria must address both site-specific and larger-scale impacts.⁴⁰ For example, the Forest Service must assess and minimize landscape-scale impacts such as habitat fragmentation; cumulative noise, and air and water quality impacts; and degradation of roadless character, along with an evaluation of quiet recreation opportunities. The agency also must assess and minimize site-specific impacts to soils, vegetation, water, and other public lands resources, sensitive wildlife habitat, and important areas for non-motorized recreation.

Fifth, the Forest Service should account for predicted climate change impacts in its application of the minimization criteria and designation decisions. Already, climate change is leading to reduced and less reliable snowpack, which is increasing the vulnerability of wildlife, soils, and water resources to disturbance, compaction, and pollution impacts associated with OSV use.

Sixth, application of the minimization criteria must take into account available resources for monitoring and enforcement of the designated system.⁴¹ To ease enforcement obligations and ensure user compliance in the first place, OSV designation decisions should establish clear boundaries and simple, consistent restrictions designed to minimize resource damage and conflicts of recreational uses. For example, the Forest Service must avoid designating trails and areas that intersect with non-motorized trails or areas in order to increase the enforceability of the OSV use

³⁸ *Id.* at 14-17.

³⁹ *Id.*

⁴⁰ *See, e.g., Idaho Conservation League*, 766 F. Supp. 2d at 1066-68, 1074-77 (invalidating travel plan that failed to consider aggregate impacts of short motorized trails on wilderness values or site-specific erosion and other impacts of particular trails).

⁴¹ *See Sierra Club v. U.S. Forest Serv.*, 857 F. Supp. 2d 1167, 1176-78 (D. Utah 2012) (NEPA requires agency to take a hard look at the impacts of illegal motorized use on forest resources and the likelihood of illegal use continuing under each alternative).

map and to facilitate effective monitoring of the OSV designations. We discuss this in more detail below.

The Forest Service should consider whether to designate areas or trails by “class of vehicle” as provided for in the OSV rule.⁴² That provision allows forests to tailor their designation decisions to account for snowfall patterns and different and evolving OSV technologies, and to minimize corresponding social and environmental impacts. For example, 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 not be able to travel through such areas. In addition, tracked all-terrain vehicles may cause more damage to exposed soils and vegetation as the snow melts, even on roads that the agency identified as appropriate for year-round motorized use. Where spring melt occurs on such roads, tracked OSVs can cause erosion and increase stream sedimentation, similar to off-road vehicle use in the summer. OSV trails should not be designated within riparian areas, especially when snow-depths no longer provide adequate protection.

The minimization criteria screening questions and the proposed design features are good first steps for the Forest Service in developing an OSV travel management plan and use map for the Rio Grande NF that satisfies its obligation to minimize impacts. However, there is still a need to clarify and refine design features and identify site-specific criteria to minimize resource damage and user conflicts.

We caution the Forest Service against relying on analysis supporting summer motorized designations to authorize OSV use on roads, or to designate winter motorized trails on roads or trails displayed on the MVUM. Winter habitat is distinctly different from summer conditions, and habitat security measures change between the two seasons. In fact, a circuit court of appeals addressed this very issue in regards to a national forest’s decision to allow snowmobile use in big game winter range under its revised forest plan:

Third, the Forest Service argues that it adequately considered impacts on big game wildlife because it acknowledged that “motorized winter recreation can adversely affect wildlife by causing them to move away when demands on their energy reserves are highest,” and provided illustrative data. This data is contained in Table 179 of the EIS showing the comparative probability that elk and mule deer would take flight from all-terrain vehicles, bicycle riders, horse riders, and hikers passing by at different distances. There is no basis for concluding that this table provides probative evidence of how big game wildlife would respond to snowmobiles in winter.⁴³

Certainly OSV designations within big game winter range, even if restricted to designated roads and trails, will need analysis to determine how motorized use, especially vehicle noise, will affect big

⁴² 36 C.F.R. § 212.81(a).

⁴³ See *WildEarth Guardians v. U.S. Forest Service*, 790 F.3d 920, 931 (9th Cir. 2015).

game habitat security. That analysis may show that restricting OSV usage to designated routes will still result in significant impacts, necessitating the re-routing of trails to avoid big game winter range altogether.

Minimizing Conflicts

The Forest Service has a duty to minimize conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands. The Forest Service must “consider the effects . . . with the objective of minimizing . . . [c]onflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands or neighboring Federal lands.”⁴⁴ Here it is important to note that the emphasis is on recreational *uses*. In other words, the regulation’s focus on recreational uses rightly puts the issue on the agency’s management, where motorized designations must not maintain or increase conflicts.

If motorized and non-motorized uses are currently co-located, the Forest Service must take a hard look and determine if there is a conflict in management direction (i.e. uses). It is not the responsibility of individual recreationists to manage conflicts, especially given the fact that conflict between the two groups is asymmetrical; that is, non-motorized users are disproportionately affected by motorized disturbance, but not vice-versa. This is most evident when considering the effects of noise disturbance that we discuss at length below. We urge the Forest Service to forego co-locating OSV and ski uses, and instead identify where such areas occur, analyze the potential for conflicts and consider separating the uses where necessary.

Minimum Snow Depths

In addition to limiting OSVs to designated trails, another way to minimize impacts is to close designated areas or trails when there is inadequate snowfall.⁴⁵ Snow in higher elevation areas is susceptible to wind movement—which can leave bare or thinly covered areas that would be difficult or impossible to avoid given the speed of snowmobiles. Plant communities, biodiversity and water quality in higher elevation shallow-soil ecosystems may be extremely vulnerable to soil or vegetation disturbance. The impact of a pioneered trail or other disturbance can extend well downslope of the disturbed area, and adversely affect plant communities, biodiversity, and water quality. Fragile vegetation in higher elevations needs protection against such use, since impacts to fragile vegetation may be effectively irreversible. Pursuant to National Best Management Practices, the Forest Service must adopt a minimum snow depth to protect underlying vegetative cover and soil or trail surface.

This is especially true where the agency relies on snow cover to mitigate impacts to soil and vegetation. The proposed minimum snow depth of 12” is not sufficient—the best available science

⁴⁴ 36 C.F.R. §§ 212.55, 212.81(d).

⁴⁵ Switalski, A. 2016. Snowmobile Best Management Practices for Forest Service Travel Planning: A Comprehensive Literature Review and Recommendations for Management – Wildlife. *Journal of Conservation Planning*. 12:13-20.

shows that minimum snow depths should be at least 24 inches for cross-country travel and 18 inches for travel on designated trails. The Forest Service must impose a sufficient minimum snow depth, and address ways and places to enforce those restrictions, including protocols for monitoring, communicating conditions to the public, and implementing emergency closures when snowpack falls below the relevant thresholds. We also reiterate that implementation of a season of use restriction in conjunction with a minimum snow depth will provide greater certainty in reducing snowmobile use in marginally snow covered areas than a minimum snow depth alone, for the reasons mentioned above.

Canada lynx

Canada lynx—a species listed as threatened under the federal ESA—can be sensitive to motorized recreation, especially during denning and diurnal resting periods. Snow compaction from snowmobiles and other sources may increase competition with coyotes, another carnivore that preys on snowshoe hare and thus may negatively affect lynx.⁴⁶ Lynx and coyotes typically are spatially segregated because coyotes are disadvantaged in deep, soft snow because of their high foot load, while lynx are better able to navigate these types of conditions due to their unique paw size and structure. Studies included with these comments note how scientists have observed more coyote activity along snowmobile-compacted trails than non-compacted areas and that coyotes select shallower snow when not on compacted trails. A 2013 study found that coyote use of snowmobile trails was related to how much was available; the authors stated that coyotes movements could thus, be possibly altered by limiting snow compaction.⁴⁷ These impacts could be exacerbated with the reduction in snow pack as a result of climate change.

The Rio Grande National Forest is included within one of six core areas for Canada lynx.⁴⁸ The U.S. Fish and Wildlife Service defines Canada lynx core areas as those “areas with the strongest long-term

⁴⁶ Murray, D. L., S. Boutin, M. O'Donoghue, and V. O. Nams. 1995. Hunting behavior of sympatric felid and canid in relation to vegetative cover. *Animal Behavior* 50:1203–1210. Bunnell, K.D., Flinders, J.T., and Wolfe M.L., 2006. Potential Impacts of Coyotes and Snowmobiles on Lynx Conservation in the Intermountain West. *Wildlife Society Bulletin*, 34(3): 828-838. Koehler, G.M., and Aubry, K.B., 1994. Lynx. pp. 74-98 in L.F. Ruggiero, K.B. Aubrey, S.W. Buskirk, L.J. Lyon, and W.J. Zielinski, eds. *The Scientific Basis for Conserving Forest Carnivores: American Marten, Fisher, Lynx and Wolverine in the Western United States*. Litvaitis, J. A. 1992. Niche relations between coyotes and sympatric Carnivora. Pages 73-85 in A. H. Boer, editor. *Ecology and management of the eastern coyote*. University of New Brunswick Wildlife Research Unit, Fredericton, New Brunswick, Canada. Buskirk, S. W., L. F. Ruggiero, and C. J. Krebs. 2000a. Habitat fragmentation and interspecific competition: implications for lynx conservation. Pages 83–100. L. F. Ruggiero, K. B. Aubry, S. W. Buskirk, G. M. Koehler, C. J. Krebs, K. S. McKelvey, and J. R. Squires, editors. *Ecology and conservation of lynx in the United States*. University Press of Colorado. Boulder, Colorado, USA. Burghardt-Dowd, J. L. 2010. Coyote diet and movements in relation to winter recreation in northwestern Wyoming: Implications for lynx conservation. Thesis, Utah State University, Logan, UT, USA. Kolbe, J. A. and J. R. Squires. 2007. Circadian activity patterns of Canada lynx in western Montana. *Journal of Wildlife Management* 71:1607–1611.

⁴⁷ Gese et al. 2013. The influence of snowmobile trails on coyote movements during winter in high-elevation landscapes. *PLOS One* 8:1-10.

⁴⁸ U.S. Fish and Wildlife Service. 2017. Species Status Assessment for the Canada lynx (*Lynx canadensis*) Contiguous United States Distinct Population Segment. Version 1.0, October, 2017. Lakewood, Colorado. pg. 2. Available at: <https://ecos.fws.gov/ServCat/DownloadFile/213244> (last accessed on June 14, 2024).

evidence of the persistence of lynx populations within the contiguous United States” and that “have both persistent verified records of lynx occurrence over time and recent evidence of reproduction.”⁴⁹ In its five-year status review, the USFWS explains that the Canada Lynx Conservation Assessment and Strategy (LCAS) identified 17 risk factors “with the potential to result in habitat conversion, habitat fragmentation, or obstruction to lynx movement [including] roads or winter recreation trails that may facilitate access to historical lynx habitat by competitors.”⁵⁰ The LCAS characterizes these risks as second tier influences, which “are those that may affect individual lynx but are not expected to substantially impact populations or habitats.”⁵¹ Still, through the lens of compliance with the minimization criteria, winter motorized use can have significant effects leading to harassment of individuals and significant habitat disruption, especially in the context of climate change that may be affecting snow-depths and the distribution of lynx foraging habitat. In addition, a Winter Wildlands report notes the following:

As snow levels diminish with climate change, winter recreation use will become more concentrated in those snowy areas still remaining – where lynx are trying to persist as well. Winter recreation will thus continually become a more serious threat to the persistence of lynx over time.

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An additional concern related to over-snow vehicle use is that open roads and motorized winter access increases lynx vulnerability. Human access can increase the potential for mortality or injury of lynx captured incidentally in traps aimed at other species or through illegal shooting. Such vulnerability is reduced if there is less motorized winter recreation access.⁵²

To address potential impacts to lynx, the Forest Service proposes the following design feature:

To reduce impacts to Canada lynx, groomed snowmobile trails that overlap suitable lynx habitat are open and groomed from December 1 to March 31.

We also ask that an alternative that prohibits cross-country oversnow travel in lynx linkage areas be analyzed in full. It is also important to consider that as snow levels diminish with climate change, dispersed use of over snow vehicles will become more concentrated in those snowy areas still remaining – exactly where lynx are trying to persist as well. Winter recreation will thus continually become a more serious threat to the persistence of the population over time. Because of this, the

⁴⁹ Nordstrom, Lori. 2005. Recovery Outline: Contiguous United States Distinct Population Segment of the Canada Lynx. U.S. Fish and Wildlife Service at 3-4.

⁵⁰ U.S. Fish and Wildlife Service. 2017. pg. 54. Available at: <https://ecos.fws.gov/ServCat/DownloadFile/213244> (last accessed on June 14, 2024).

⁵¹ *Id.*

⁵² *See* Nordstrom, Lori. 2005. Recovery Outline: Contiguous United States Distinct Population Segment of the Canada Lynx. U.S. Fish and Wildlife Service at 15-16.

Forest Service should consider closing Lynx Linkage Areas to cross country OSV travel to minimize fragmentation of critical habitat. Climate impacts to habitat must be properly analyzed in the EIS.

Wolverine

In May of 2024 Colorado Governor Jared Polis signed Senate Bill 24-171, “Restoration of Wolverines” into law.⁵³ The statute tasks Colorado Parks and Wildlife with reintroducing the North American wolverine to the state, pending a 10(j) rule that would designate them as a non-essential experimental population under the ESA.

Wolverines are native to Colorado and were extirpated from the state in 1919 by unregulated trapping and poisoning. Today Colorado hosts the largest and best remaining unoccupied wolverine habitat in the lower 48, with significant modeled core habitat overlapping the planning area.

Wolverines are mostly solitary animals with large ranges for each individual. Females in the Greater Yellowstone Ecosystem have an average range of 150 square miles, and males have an average range of 500 square miles. CPW estimates Colorado could hold between 100 and 180 wolverines if they behave similarly here as in other regions. The state’s reintroduction plan is still in development, but CPW anticipates releasing 30 wolverines in the first two years of the effort. The San Juan mountains are one of three zones identified for reintroduction.

Best available science indicates that wolverines exhibit avoidance behavior in response to winter recreation with motorized recreation eliciting a stronger response, leading to indirect habitat loss. Avoidance behavior appears stronger in females and, predictably, tends to increase with higher recreation levels. Impacts will likely be exacerbated by climate change and resulting changes to snowpack. Wolverines prefer high elevation habitat with persistent late-spring snowpack, and generally prefer alpine or subalpine habitats with high topographic ruggedness. Within home ranges, wolverines may select less extreme topography associated with drainage bottoms, riparian areas, and forested edge habitats.⁵⁴

The Forest Service should consider imminent wolverine reintroduction in winter travel planning to minimize impacts to core habitat, particularly the topographic features selected by wolverines, and minimize indirect habitat loss. We suggest close collaboration with CPW as the reintroduction effort progresses.

Ungulates - Bighorn Sheep, Mule Deer, Elk

⁵³SB 24-171 “Restoration of Wolverines” <https://leg.colorado.gov/bills/sb24-171>

⁵⁴ See Heinemeyer, K., J. Squires, M. Hebblewhite, J. J. O’Keefe, J. D. Holbrook, and J. Copeland. 2019. Wolverines in winter: indirect habitat loss and functional responses to backcountry recreation. *Ecosphere* 10(2).

The Forest Service recognizes the importance of the planning area for ungulates that are sensitive to winter motorized disturbance, and proposes to develop specific criteria and design features to minimize harassment of these species and significant disruption of their habitats. The Forest Service must take a hard look at how the proposed action may affect winter habitat security for bighorn sheep, mule deer, and elk. Ultimately, the agency must designate OSV use in a manner that minimizes harassment of these species and significant disruption of their habitat, the importance of which was summarized in Eisen et al, 2021:

Regardless of the species, however, ungulate winter survival strategy hinges on gaining weight in the fall and expending as little energy as possible while they slowly starve their way through winter. Avoiding excess movement is particularly important, as deep snow can increase the metabolic cost of winter movement up to five times normal levels at a time when ungulates are particularly stressed by forage scarcity and high metabolic demands.⁵⁵

The Forest Service must consider all CPW designated high priority habitat (HPH) for all big game species in the planning effort, particularly winter range, and adopt the recommended closures specific to each habitat type. Recommended seasonal closures differ by species and habitat. For example, CPW recommends closures between December 1 and April 30 for mule deer and elk winter range, but recommends a November 1 to April 30 closure for bighorn sheep winter range. Many winter range polygons overlap semi-primitive non-motorized areas on the ROS maps, such as the severe bighorn sheep winter range in Big Meadows and La Jara Meadows and the elk winter high priority habitat in the foothills along the planning area's eastern border. We ask that the Forest Service work closely with CPW to enact closures and otherwise minimize impacts.

Further, the Forest Service should review route density within big game HPH to ensure fewer than one linear mile of routes per square mile within those habitats to minimize fragmentation.

Subnivean Species

Small mammals that remain active during the winter depend on the insulated space between the snowpack and the ground – the subnivean zone – for winter survival. When snow compaction from snowmobiles occurs, subnivean temperatures decrease, which can lead to increased metabolic rates in subnivean small mammal species such as voles, shrews, and mice. For example, if the subnivean air space is cooled by as little as 3 degrees Celsius, the metabolic demands of small mammals living in the space would increase by about 25 calories per hour.⁵⁶ Through controlled experiments, researchers have demonstrated that compaction due to snowmobile use reduced rodent and shrew

⁵⁵ Eisen, Hilary et al. May, 2021. Environmental Impacts Of Winter Recreation: Best Available Science. Winter Wildlands Alliance.

⁵⁶ Neumann, P.W. and H.G. Merriam. 1972. Ecological effects of snowmobiles. The Canadian Field Naturalist. 86: 207-212.

use of subnivean habitats to near zero – a decline attributed to direct mortality, not outmigration.⁵⁷ Elsewhere, scientists have documented a decline in small mammals following snowmobile activity that compressed the subnivean zone.⁵⁸

Because small mammals make up the majority of prey for many species, from raptors to mesocarnivores, habitat changes that affect subnivean populations could cascade through the food chain.⁵⁹ One way in which the Forest Service can minimize OSV impacts to subnivean mammals is to ensure that OSV use only occurs when there is enough snow accumulated to avoid compaction of the subnivean zone. The best way to do this is through implementation of minimum snow depths of at least 18”, although, again, seasonal use restrictions in conjunction with minimum snow depths are a more effective management tool if they only permit OSV use when there is most likely to be a deep snowpack.

Species of Conservation Concern

The Forest Service must address impacts to Species of Conservation Concern (SCC). The Forest Service’s 2012 Planning Rule requires the agency to identify key ecosystem characteristics for SCC habitat and develop plan components to protect them. Unfortunately the Forest Plan does not identify key ecosystem characteristics for the planning area which makes monitoring impacts to those characteristics a challenge.

Winter travel will likely impact white-tailed ptarmigan, and may impact American marten and boreal owl habitat and populations. Habitat for these SCC species should be mapped, protected, and identified for monitoring to ensure impacts are effectively minimized.

Noise Analysis

In order to comply with requirements under the Revised Plan, the Travel Management Rule, and ESA, the Forest Service must recognize the significant disturbance of noise caused by OSV use and incorporate that in its analysis. The Travel Management Rule directs the agency to consider the “[c]ompatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors.”⁶⁰ Properly managing noise emissions is also crucial to address

⁵⁷ Jarvinen, J.A. and W.D. Schmid. 1971. Snowmobiles use and winter mortality of small mammals. In Chubb, M. (ed.) Proceedings of the Snowmobile and Off the Road Vehicle Research Symposium. College of Agriculture and Natural Resources, Department of Park and Recreation Resources, Recreation Resources and Planning Unit, Tech. Rep. 8, Michigan State University, East Lansing, MI. https://www.snowmobileinfo.org/snowmobile-access-docs/Snowmobile-use-winter-mortality-of-small%20mammals_1971.pdf

⁵⁸ Sanecki, Glenn & Green, Ken & Wood, Helen & Lindenmayer, David. (2006). The implications of snow-based recreation for small mammals in the subnivean space in south-east Australia. *Biological Conservation*. 129. 511-518. 10.1016/j.biocon.2005.11.018.

⁵⁹ Brander, R.B. 1974. Outdoor recreation research: applying the results: ecological impacts of off-road recreation vehicles. North Central Forest Experiment Station, USDA Forest Service St. Paul, MN. General Technical Report NC-9. <https://www.fs.usda.gov/treesearch/pubs/10074>

⁶⁰ 36 C.F.R. 212.55(b)(5).

conflicts with other recreational uses and impacts to wildlife. To best address this issue, we strongly urge the Forest Service to actually measure sound impacts for proposed designations using spatial models and software packages available for analyzing potential noise propagation from OSV use. Modeling results can then be overlaid across secure winter habitats for a variety of species including Canada lynx, ungulate species, and species of conservation concern, in order to determine the potential for harassment and significant disruption of wildlife habitats.

To aid this sort of analysis, some time ago The Wilderness Society (TWS) developed a model for the specific purpose of analyzing noise propagation from off-road vehicles in forest landscapes. This model is based on the System for the Prediction of Acoustic Detectability (SPreAD), a workbook issued by the Forest Service and Environmental Protection Agency for land managers to “evaluate potential ... acoustic impacts when planning the multiple uses of an area.”⁶¹ TWS adapted the SPreAD model to a GIS environment, so that potential noise impacts could be integrated with other variables being considered in the travel management planning process, like type of vehicle, engine stroke, etc. We have attached the user’s guide for the SPreAD-GIS model and believe the Forest Service can replicate this or a similar model to evaluate the potential acoustic impacts on the planning area from engine noise in this process.⁶² Using a model such as this, the agency should be able to illustrate decibel levels along specific paths often utilized by OSVs on both calm and windy days, and how noise disturbance will echo throughout an area.

Colorado Roadless Areas

The 2020 Revised Forest Plan identified almost 520,000 acres of Colorado Roadless Areas (CRAs) within the Rio Grande NF. The Colorado Roadless Rule uses the following roadless character definition:

Roadless characteristics: Resources or features that are often present in and characterize Colorado Roadless Areas, including:

- (1) High quality or undisturbed soil, water, and air;
- (2) Sources of public drinking water;
- (3) Diversity of plant and animal communities;
- (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species, and for those species dependent on large, undisturbed areas of land;
- (5) Primitive, semi-primitive non-motorized, and semi-primitive motorized classes of dispersed recreation;
- (6) Reference landscapes;
- (7) Natural appearing landscapes with high scenic quality;
- (8) Traditional cultural properties and sacred sites; and
- (9) Other locally identified unique characteristics.

⁶¹ See https://www.fs.usda.gov/t-d/library-card.php?p_num=9823%201308 (last accessed May 31, 2024).

⁶² See Reed, S.E., J.P. Mann and J.L. Boggs. 2009. SPreAD-GIS: an ArcGIS toolbox for modeling the propagation of engine noise in a wildland setting. Version 1.2. The Wilderness Society, San Francisco, CA.

In its analysis, the Forest Service should include an alternative that protects all CRAs from OSV designation in order to preserve roadless characteristics. In any case, the agency must evaluate how OSV designations will not degrade these characteristics, and recognize that while the rules may allow semi-primitive motorized uses, OSV designations may not be compatible with other roadless characteristics.

Consider unauthorized use

The Forest Service must consider the effects of the proposed action 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. Specifically, we urge the agency to analyze how the proposed action would contribute to existing illegal motorized use and create new opportunities for violations, especially where the proposed action would designate trails and areas within or directly adjacent to protected areas.

The Forest Service should work closely and transparently with agency law enforcement officers (LEOs) to propose and analyze an alternative that will best meet their law enforcement capacity, and the results of this collaboration should be transparent to the public. There are solutions that can make enforcement easier, such as not having roads dead-end at Wilderness boundaries and creating seasonal closures that correlate with when there is sufficient snow coverage on areas designated for OSV use. We urge the Forest Service to develop a plan that is enforceable and does not create an undue burden on LEOs and other enforcement resources.

Develop a Monitoring and Enforcement Plan

In order for the travel management plan to be successful, the Forest Service must devote time and resources to effectively monitor OSV use and the resulting impacts to natural resources. The agency must also provide for effective enforcement of the designated system. For this reason we urge the Forest Service to follow the examples from other units and develop a monitoring and enforcement plan.

The White River National Forest travel plan covers both summer and winter uses and defines modes of travel across the forest by area and by route. To ensure the travel plan was successfully implemented, the Forest Service drafted a Travel Management Implementation Plan (TMIP) to accompany the travel plan. The TMIP was specifically focused on the 3 year period immediately following the publication of the travel plan: 2012-2015.

The White River NF emphasized the “4Es” throughout travel planning and implementation – Education, Engineering, Enforcement, and Evaluation (monitoring). White River officials recognized that “without appropriate and adequate information and education materials available for

the public, and personnel to create and distribute them, the designation process alone will not provide the change in awareness and behavior necessary to ensure that the desired positive effects of the new travel rule are realized.” Education materials included up-to-date information posted on the forest website, public information kiosks, digital brochures and interactive maps, motor vehicle and over-snow vehicle use maps, visitor use maps, brochures on responsible use, specific brochures for high-use areas, brochures on safety in mixed-use areas, and talking points for forest staff. However, the plan went beyond education, recognizing that enforcement is absolutely necessary since education alone would not achieve compliance with the designations. Here it is important to note that the proposed action includes design features that heavily rely on simple education, with no features addressing enforcement.

With the White River TMIP, at the start of the enforcement phase, the Forest Service increased the number of White River staff who were trained and certified as Forest Protection Officers (FPOs) and encouraged all staff to spend more time in the field, to increase agency visibility and presence as District staff are primarily responsible for enforcing the TMIP. The TMIP also called for close coordination between forest LEOs and district staff, with districts identifying priority or problem areas and LEOs coordinating with FPOs to carry out enforcement. Here, a successful enforcement plan will ensure the agency conducts routine patrols at identified “hot spots” where compliance is an ongoing issue – such as where proposed wilderness boundaries are near OSV routes.

Another example the Rio Grande NF should study for understanding travel management monitoring and implementation is the Custer Gallatin NF, where the agency immediately launched into implementation once its 2006 Travel Management Plan was complete. While the Custer Gallatin NF’s Travel Plan Implementation Strategy is not as detailed as the White River TMIP, it provides a basic outline for how the forest intended to implement its new travel plan.

Ultimately, the Forest Service must do more than cross its fingers and hope that motorized recreationists follow the rules, even after being educated. The agency must include a detailed and effective monitoring and enforcement plan.

Continuity with Adjacent Land Use Plans

We applaud the Forest Service’s outreach to adjacent national forests and the Bureau of Land Management to ensure continuity across jurisdictions. We ask that the Forest Service pay particular attention to adjacent federal protections for habitat that may be impacted by winter travel. For example, the BLM’s 2014 travel plan eliminated an OSV area east of US-285, eliminated OSV use of system roads in the Gunnison sage grouse area from Dorsey Creek to Hayden Pass roads, established a mandatory Seasonal Closure in the same area from March 15th-May 15th, and established designated routes in the Poncha Loop area (west of Hwy) allowing for OSV access across BLM to FS. Everywhere else, OSVs are restricted to designated open system routes. The planning area also abuts the Trickle Mountain Area of Critical Environmental Concern north of

Saguache, and the Los Mogotes ACEC near Cumbres Pass, both of which establish protections for wildlife. Carson National Forest's San Antonio Special Management Area lies south of the planning area. The SMA protects wildlife as well, with desired future conditions emphasizing habitat function and connectivity and from human disturbance.

We also ask that the Forest Service consider the Continental Divide National Scenic Trail (CDNST) Comprehensive Management Plan in winter travel planning. The Rio Grande Forest plan describes desired future conditions for the CDNST envisioning a "well-defined trail that provides for high-quality primitive hiking and horseback riding opportunities, and other compatible nonmotorized trail activities, in a highly scenic setting along the Continental Divide," where "[w]ild and remote backcountry segments provide opportunities for solitude, immersion in natural landscapes, and primitive outdoor recreation."⁶³

The plan also establishes an objective to "restore or relocate one segment of the Continental Divide National Scenic Trail to improve scenic viewing opportunities and/or to provide for a nonmotorized experience over the next 15 years." A guideline instructs the Forest Service "[t]o provide for a naturally appearing setting while avoiding impacts from motorized use, no new temporary or permanent roads, or motorized trails, should be constructed across or adjacent to the Continental Divide National Scenic Trail, unless needed for resource protection, private land access, or protection of public health and safety."⁶⁴

The 2009 CDNST Comprehensive Management Plan offers additional instruction.⁶⁵ Motorized use is generally prohibited on the CDNST except for several enumerated exceptions. In the context of winter travel planning, OSV use is allowed under Subpart C provided "the use will not substantially interfere with the nature and purposes of the CDNST." The management plan directs land managers to "[u]se the ROS system in delineating and integrating recreation opportunities in managing the CDNST" and "[w]here possible, locate the CDNST in primitive or semiprimitive non-motorized ROS classes."⁶⁶

To avoid "substantial interference" with the user experience and conform to the direction in the CDNST plan, the Forest Service should apply a half mile buffer on each side of the CDNST, using topographic features where possible, and designate specific OSV crossing areas to minimize impacts.

Conclusion

We appreciate the opportunity to provide these comments and we support the Forest Service's effort to conduct a robust winter travel planning effort that will comply with the Travel

⁶³ Rio Grande National Forest Plan at 51.

⁶⁴ *Id.* at 52.

⁶⁵ 2009 CDNST Comprehensive Management Plan, <http://npshistory.com/publications/usfs/cdt/cp-2009.pdf>

⁶⁶ *Id.* at 16.

Management Rule, and ultimately protect wildlife species such as Canada lynx, bighorn sheep, mule deer, and elk. We strongly encourage the agency to properly disclose and analyze the environmental impacts of the proposed action, including considering the results of GIS-based sound modeling. Further we urge the agency to recognize that year-long OSV use on roads designated for summer use does not meet the spirit or letter of the Travel Management Rule, and only allow winter motorized use where appropriate, such as when minimum snow-depths are present. We look forward to staying involved in this process.

Cordially,

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