

Dennis Kuhnel  
Forest Supervisor  
Rio Grande National Forest  
1055 9<sup>th</sup> St.  
Del Norte, CO 81132

Dear Supervisor Kuhnel,

Please accept and consider the following comments on the Rio Grande National Forest Over Snow Travel Management Project scoping documents on behalf of the Quiet Use Coalition.

The Quiet Use Coalition (QUC) and its members are very familiar with the Rio Grande National Forest (RGNF, USFS, the Forest) with winter recreational experiences for over 50 years on many parts of the Forest that included skiing, snowshoeing, hiking, camping, nature study, use of over snow vehicles (OSV) etc. Our members have visited the Forest to hike, camp, climb, hunt, bicycle, etc. in non-winter months also. We are based in Salida, Colorado a short distance from the RGNF, although we have members that live throughout the U.S. including the San Luis Valley.

The Quiet Use Coalition is a 26-year-old non-profit environmental organization that works to preserve and create quiet use areas on our public lands and waters, while protecting natural soundscapes and wildlife habitat.

The following comments address a number of aspects of the proposed plan and action.

**What is the No Action Alternative? (Where exactly are OSVs allowed and how exactly are OSVs managed?)**

The USFS needs to clarify where exactly OHV use is allowed on the forest, and how exactly OSVs are managed on the forest.

This is necessary in order to provide the public with accurate supported information about current OSV use/management to develop a no action alternative.

We are hearing people provide comments (perhaps not substantive comments) stating they do not want anything about OSV management to change.

What exactly does no change mean?

The posted project Purpose, Need and Proposed Action document (“PNP”) states on page 2 that existing OSV trails, roads and areas is the “culmination of multiple decisions over past decades.” What are those decisions???

We believe those decisions must be documented decisions. Documented decisions normally are decisions recorded in written form on real paper, or virtually in a document, and the decision is normally dated and signed by a USFS official. A documented decision can be referenced and copies of those decisions can be shared with others.

We believe that all documented decisions (Forest Orders, project level decisions, special use permits, grooming permits, commercial outfitter/guide use permits, maps, etc.) relevant to

OSV use on the Forest should be at least listed and the actual documentation made available to the public.

There seems to be some confusion and the USFS has made statements to the public at recent meetings regarding current OSV regulations that are contradictory.

Properly depicting a no action alternative is very important as it will help evaluate any need for change. Defining a no action alternative will be the existing use/management until another alternative is selected, finalized and implemented (if another alternative is selected).

We believe this would allow the Forest and the public to review and analyze all existing decisions to consider if they comply or conflict with management direction, and to evaluate if those decisions need to be reconsidered or revised.

### **The Purpose, Need and Proposed Action includes statements that unfairly favor OSV recreation over conservation**

The list of six bulleted statements on page 2 of the PNP document contains language that unfairly favors OSV recreation over conservation, and that is not balanced. These points are desired conditions/goals/proposed results of this planning process.

The first point indicates the plan will provide high quality over snow access and experiences, and the use of the words “high quality” suggests the plan will provide exceptional and superb recreational use and experience well above and beyond normal. The final two points use of the word “minimize” suggesting that the plan will allow OSV use to negatively impact some resources and contribute to some conflict.

Using only the word minimize does not consider actions that will potentially avoid impacts to resources or conflict, or potentially mitigate any of those impacts that must occur.

There are ways to fully avoid OSV impacts to resources and fully avoid conflicts with other recreationists and uses of adjacent land, but the plan may not consider those if the current seemingly biased language is retained.

Perhaps this language was selected based on the ORV Executive Orders, that are sometimes referred to as the “minimization criteria” and frequently use the word “minimize”. But while those Orders are valid and must be applied to OSV use, they are over 50 years old and do not fully reflect current conditions and best management practices.

The current best management practices for recreational trail and use planning involve following a hierarchy of first considering avoidance, then minimization, and finally mitigation. These practices and their application are fully explained in the 2021 Colorado's Guide to Planning Trails with Wildlife in Mind<sup>1</sup>. The USFS was fully involved in the multi-year development of that document, and key USFS representatives fully endorsed and supported

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<sup>1</sup> Colorado Trails with Wildlife in Mind Taskforce, 2021. Colorado's Guide to Planning Trails with Wildlife in Mind. Prepared by Wellstone Collaborative Strategies and Rocky Mountain Innovation Lab. Project supported by Colorado Parks and Wildlife in collaboration with land managers in City, County, State, and Federal government across the State of Colorado. Avoid-Minimize-Mitigate practices explained on pages 22-32. Full document available online June 2024 via <https://cpw.state.co.us/aboutus/Pages/Planning-Trails-for-Wildlife.aspx>

the findings and recommendations it contains.<sup>2</sup> Although that document is focused on planning trails with wildlife in mind, the framework and practices it contains can and should be applied to other applications as well.

We recommend modifying the wording of these bulleted points to better balance and more fairly the messaging. We recommend either removing the words high and/or quality from the first bullet point, and/or adding the words avoid and/or mitigate to the last two points.

### **This plan must fully protect big game and big game winter range**

The 2020 Forest Plan contains a Management Approach Standard for General Forest management areas on page 86 that states “S-MA5-1: Off-road travel, including over-the-snow travel, is not allowed on big game winter range areas during the primary use seasons for big game (December 1 – April 15). Exceptions may be allowed under contract or special use authorizations.”

As a Standard that statement provides one of the highest levels of management direction from that Plan. Use of the words “is not allowed” is clear and absolute meaning there should be no open public OSV travel off road. Big game should include those harvestable species that have Colorado Parks and Wildlife (CPW) defined winter range on RGNF land, including elk, mule deer, bighorn sheep and pronghorn antelope.

The PNP contains a Project Design Feature on page 5 which states “To reduce impacts to big game during critical points in their lifecycles, as necessary, restrict activities on winter range from approximately December 1 to April 15, allowing only designated routes through big game winter range.

Design Features mitigate potential impacts that could result even after Land Management Plan direction is followed, according to the PNP on page 3.

This project design feature seemingly would not be as restrictive for OSV use than Forest Plan Direction. The design feature states activities on winter range should be restricted as necessary. The Forest Plan states travel including OSV travel is not allowed, and not allowed is a much clearer and direct word than restrict.

The design feature allows an exception to allow designated routes through big game winter range. Presumably those designated routes could be open to the general public. That is much less restrictive than the Forest Plan that does not allow travel on big game winter range, with an exception of contracts or authorized special uses that would presumably not permit public travel.

The design feature states restrict “activities” as necessary. Activities might include any type of activity including hiking, skiing, snowshoeing etc. or even camping, photography or other use that is not specifically travel (including OSV travel) as only travel forest plan states.

We believe that restrictions and prohibitions on human use should apply to all types of human use, and not only certain modes of human travel. Restrictions that apply to all human

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<sup>2</sup> Ibid. Appendix D. Page 55. USFS Region 2 Trails Lead Chad Schneckenburger and USFS Zone Wildlife Biologist Lead Melissa Dressen both fully helped develop and fully endorsed that document.

use reduce real or perceived conflicts between different user groups, as they are more equally applied to everyone. Restrictions that apply to everyone result in higher levels of compliance for similar reasons. One quality study indicated that one big game species (elk) avoided any mode of human travel to a greater extent than avoidance attributed to the differences between various modes of human travel.<sup>3</sup>

While we support and encourage the RGNF to fully apply the forest plan to restrict and not allow all types of human travel and any human activity in big game winter range, we do not believe that would be within the scope of an OSV planning process.

This design feature and how it relates to Forest Plan direction is not clear and needs to be clarified.

There is recent documented support and direction for not permitting recreational travel in elk, bighorn sheep, mule deer and pronghorn antelope winter range<sup>4</sup> The most up to date seasonal closure dates for winter range of species in CO include:

- Bighorn Sheep November 1-April 30
- Elk December 1-April 30
- Mule deer December 1-April 30
- Pronghorn antelope January 1-April 30.

These dates differ than the December 1-April 15 dates in the Forest Plan and PPN. The PPN and potentially the Forest Plan should be modified to include seasonal winter closures for the dates listed above. The above dates were developed using the latest best available science considering recreational impacts to wildlife. They were released to the public in 2021, a year later than the Forest Plan, so they are more current and up-to-date. These dates better reflect and include considerations for climate change, growing and increasing recreational use, and are species specific. This plan is an opportunity to use the best available scientific data and update and improve Forest Plan recommendations.

The latest winter range GIS data from CPW should be used in deciding which areas should be closed to all OSV use, especially open cross country OSV use, for the four species listed above. The most recent GIS data for bighorn sheep, elk, mule deer and pronghorn antelope is available online.<sup>5</sup>

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<sup>3</sup> Wisdom, M. et al, 2018. Elk Responses to trail based recreation on public forests. Journal of Forest Ecology and Management 411 pages 223-233. Available online June 2024 via <https://www.fs.usda.gov/research/treesearch/56220>

<sup>4</sup> Colorado Trails with Wildlife in Mind Taskforce, 2021. Colorado's Guide to Planning Trails with Wildlife in Mind. Prepared by Wellstone Collaborative Strategies and Rocky Mountain Innovation Lab. Project supported by Colorado Parks and Wildlife in collaboration with land managers in City, County, State, and Federal government across the State of Colorado. Appendix A pages 44-45.

<sup>5</sup> Colorado Parks and Wildlife, 2023 Species Activity Mapping GIS data for elk, mule deer, bighorn sheep and pronghorn antelope. Accessed online June 2024 via <https://www.arcgis.com/home/item.html?id=804abf2794b346828eef285bffe9259>  
<https://www.arcgis.com/home/item.html?id=e10b0db0167a4dde909357b5c13354f1>  
<https://www.arcgis.com/home/item.html?id=d1359dc6cf6e44979cacbfdbc34691e4>  
<https://www.arcgis.com/home/item.html?id=658ca28f48d4451f9eb4d60e3e9b573d>

We believe that winter range for bighorn sheep, elk, and mule deer should be closed to OSV travel, and winter concentration areas for pronghorn should be closed. That is the direction contained in the Planning Trails document. We are not sure why pronghorn winter concentration areas and not winter range was specified in that document. Perhaps local CPW consultants can modify this.

It should be noted that winter range areas are different than winter concentration areas and severe winter range area. The Forest Plan, PNP, and Planning Trails all specify winter range so those areas should be used. Other recent planning processes such as those for oil and gas leasing generally consider only winter concentration and severe winter range for some species but not the broader winter range. Public recreational use especially OSV use is very different and has different impacts on wildlife than oil and gas development. Oil and gas leases are temporary; recreation decisions are more permanent. Oil and gas leases involve a single entity that can be educated, regulated and easily identified and cited if violations occur. Public recreation potentially hundreds of thousands or more individuals that are difficult to educate, regulate or identify.

The current GIS data for winter range of the four big game species is generally more extensive than that considered and depicted as OSV closed areas on previous Forest Visitor Maps. Reasons are unclear but the locations of winter range areas may have changed, methods of determining winter range may be different or more accurate, and/or previous data did not fully consider bighorn sheep or pronghorn antelope winter range, which generally are more distinct and separate from elk and mule deer winter range.

There are apparently no designated roads on the Forest that are seasonally closed for wildlife. This plan is an excellent opportunity to apply Forest Direction and a Standard and seasonally close roads to protect wintering big game, at least for OSV related use. A separate Forest Order should be issued to close and protect these areas and the routes within them from other uses. Area closures are important, not just route closures in those areas, as uses like OSV use are not necessarily restricted to designated routes.

There are numerous examples in Colorado of other Forests seasonally closing areas to all human use to protect wildlife and important habitat areas.

The Forest Plan provides clear direction for these seasonal closures. Wildlife is under new and growing pressure from all forms and types of recreational use. One recreational user and one or two disturbances per day can result in measurable adverse impacts to wildlife individuals and at the population level. Low and infrequent human use and associated wildlife disturbance can no longer be guaranteed. Recreational use is rapidly growing and expanding on the RGNF and management of that use must be proactive.

### **This plan must consider raptor nesting avoidance**

There are numerous raptor Species of Conservation Concern with identified nest locations on the Forest that are potentially active and occupied during times of the year when there is snow on the ground and OSV use is possible.

Many raptors begin nesting earlier in the spring (generally March 1) than general smaller migratory birds. Snowmobile recreational use occurs regularly and frequently on the RGNF during March and April. Those are two of the months where there is more frequent and amounts of new snow on the Forest. Accumulated snowpack is greater allowing potential riding to more areas than earlier in the winter. Longer and warmer days facilitate longer and more comfortable OSV activity.

Raptors are sensitive to human disturbance when nesting and CPW has developed species specific recommendations to protect raptor nests from any and all type of human use/encroachment.<sup>6</sup> Information below includes Raptor Species of Conservation Concern, number of nest occurrences on the Forest (from SCC evaluations, first date recommended areas around nests be closed to human presence and use (from CPW) and buffer distance from nest sites to be closed to human presence and use (from CPW).

<i>Species</i>	<i># nests</i>	<i>Begin closure date</i>	<i>Closure distance from nest</i>
Northern Goshawk	18	March 1	½ mile
Peregrine Falcon	14	March 15	½ mile
Boreal Owl	11+	Mid-April	?
Flammulated Owl	65	Late April	?
Mexican Spotted Owl	?	March 1	½ mile
Golden Eagle <sup>7</sup>	?	Dec 15-July 15	½ mile
S. White Tailed Ptarmigan <sup>8</sup>	many	Dec 1	mapped winter habitat

We strongly recommend the RGNF begin to apply protective management action to these avian Species of Conservation Concern and nationally protected Golden Eagles by prohibiting OSV related use in within specified distances of active nest sites beginning on the specific recommended dates. A Forest Order should be issued to seasonally close these areas to appropriate uses.

### **Imperiled plants and their habitat must be protected from adverse impacts associated with OSV use**

There are 30 different plant species identified as Species of Conservation Concern on the Forest.

All of these species and their habitats are potentially vulnerable to adverse impacts from OSV use. This planning process must fully analyze, consider and proactively apply management

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<sup>6</sup> Colorado Parks and Wildlife, 2020. Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors. Pages 1-5 or 11. Available online June 2024 via

<https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/Raptor-Buffer-Guidelines.pdf>

<sup>7</sup> Golden Eagles are not a RGNF Species of Conservation Concern, but are protected under the Bald and Golden Eagle Protection Act.

<sup>8</sup>Ptarmigan are not raptors, but included here as another bird. CPW has mapped winter habitat areas that should be closed to OSV use.

actions (beginning with consideration of OSV area closures and avoidance) to ensure that OSV use will not damage or adversely impact these species.

Unlike wildlife, plants cannot move to avoid oncoming OSVs or areas where OSV use occurs. Many of these plants of concern depend on unique and specific habitat conditions for their survival. Those conditions are not point specific but are the result of a combination of a number of elements coming together to collectively create a sustainable ecosystem for plant survival.

OSV use can adversely impact plants and their habitat in a number of ways. Larger perennial plants may be crushed or damaged directly by contact with an OSV or indirectly by snow, ice and/or soil compaction and/or movement due to OSV use. OSV use can modify surface or subsurface hydrologic which and negative impact plants. Compacted snow takes longer to melt than uncompacted snow, so plants under compacted snow will have a reduced snow free growing season which can limit flowering, seed production and/or growth. Alpine plants already have a short active growing season and slower snowmelt due to OSV snow compaction would limit that season even more. OSV use lays down compacted snow tracks which are make many types of subsequent over snow travel by people and animals easier and more concentrated. That subsequent use further compacts snow. During spring conditions with partially melted snow that subsequent use will continue to stay in those tracks and potentially damage exposed sensitive plant species. The presence and use by OSVs or subsequent other users in OSV tracks may displace, kill, disrupt or damage plant pollinators.

A bullet point on page 2 of the PNP states that the plan will “Ensure that over-snow vehicle use occurs when there is adequate snow to protect the underlying resources.” SCC plants are an underlying resource that must be protected, and we cannot envision how this plan will ensure that open cross country OSV use will always occur on enough adequate snow to protect sensitive plants.

While we support a minimum snow depth that must be present before OSV use to occur, we do not believe 12” of all types of snow will protect sensitive plants. We have a great deal of experience and knowledge about snow, and 12” of fluffy dry high elevation Colorado powder snow will not protect a 1-inch-high plant from direct damage by OSV contact. Snow depths are inconsistent and can vary widely within a few feet due to wind, sun, previous compaction, presence or lack of underlying vegetation, rocks, ice, soil, elevation, etc. It can be difficult to accurately estimate snow depth due to numerous factors including lighting knowledge of what plants are protruding from the snow, etc.

If a snowmobile passes over 12” of new snow with no snow base layer underneath, is use of the front of the machine legal as it floats over the minimum required amount of snow while use by the rest of the machine illegal as it is traveling over <12 inches of compacted snow

When asked at the Saguache meeting about how the USFS might ensure that OSV use will only occur on adequate snow, the response was the USFS was increasing winter travel equipment to aid enforcement, and they can open or close any designated OSV trails in response to measurements of the snow depth on those routes.

Those actions are good and may work, but how will the USFS ensure cross country OSV use only occurs in on adequately deep snow over the vast amount of acres proposed to be open to that use? There is no way to measure snow depths everywhere in areas where open cross country riding is allowed. There is not a way to monitor and enforce and minimum depth regulations with dispersed cross country use over the forest. There is no way to effectively close large areas of land to OSV use when there is inadequate snow cover.

One example of a plant potentially threatened by OSV use is stonecrop gilia (*Aliciella sedifolia*). Limited numbers of this extremely rare SCC exist on high altitude terrain proposed as open and accessible to cross country OSV use a relatively short distance north of Stoney Pass. The Silverton Snowmobile Club has mapped and promoted snowmobile use to Stoney Pass, and there is a high potential that OSV users are already riding over this species.

The documented evaluations for some of the SCC plants stated they were protected from OSV impacts as they were in Backcountry or Winter Range management areas where cross country OSV use was prohibited. The Forest Plan eliminated those Management areas and any associated OSV restrictions. The SCC evaluations were completed before the specifics of a new plan were proposed. How will this plan consider, evaluate and potentially restore protections for SCC plants that no longer exist?

### **What percentage of land is available for OSV use?**

The posted PNP (page 2) and the power point presented at the Saguache public meeting state that 74% of Forest land will be open for public OSV cross country travel. The 2020 Forest Plan Record of Decision (page 35) states that 64% of the Forest is designated for over-the-snow use.

Why are these percentages different? Where did the apparently extra 10% of land available for open cross country OSV travel in the proposed action come from, and how was that decision made?

### **Land areas that allow open OSV riding should be more accurately determined**

ROS map inaccurately depicts many areas of the Forest as open to OSV use where OSV use is physically impossible due to a variety of factors. The Record of Decision in the Forest Plan accurately states on page 35 that terrain and vegetation reduce the claimed amount of land available for OSV use.

It would not take much effort to identify and exclude areas on the map where open cross country use is impossible. A more accurate map, especially when digitized, would facilitate better and safer riding and ride planning. It would be extremely valuable for riders to know that they will not be able to climb up and down cliffs, get through dense vegetation or areas with large amounts of fallen trees.

A more accurate map might help quiet recreational users who wish to avoid OSV use to select areas where OSV will not be. Quiet recreationists, including backcountry hunters, similarly use the summer MVUM to identify areas without motorized use.

An improved map would help reduce conflict and OSV users could assist with its creation.



### **This process must consider and plan for comprehensive management of OSV use**

All aspects of anything related to OSV use must be considered. This includes but is not limited to:

- parking and staging areas
- restrooms
- trash and litter management
- maintenance and/or plowing of parking/staging access roads
- education including public contacts, maps, signage
- planning
- grooming
- enforcement
- repair, replacement and maintenance
- existing and future funding
- existing and future internal and external capacity for comprehensive management
- benefits and risks of designated OSV trails or areas
- monitoring
- growth and capacity limits
- adaptive management with identification of desired future conditions, monitoring, what triggers additional action revealed through monitoring, what actions will occur when triggered.

Comprehensive management of any type of recreational use is time consuming, costly and can be difficult. The Rio Grande National Forest has limited resources, funding and capacity to properly and comprehensively manage existing and growing OSV use. The RGNF must be careful so that it does not overextend and overcommit to recreational desires that it cannot manage.

The USFS must anticipate and plan for potential non-standard abnormal use and behavior as part of comprehensive management. The 1% of people that do not conform to the norms cause the most problems, and the USFS must anticipate and plan for management of that type of use as best it can.

We strongly recommend that only the OSV use that can be comprehensive managed given existing time, funding and resources be approved. The essence of this plan is areas of land are closed to OSV use unless opened. This plan provides an opportunity for a fresh start through planning to truly designate and manage high quality OSV access and use. If it cannot be comprehensively managed, keep it closed and do not open it.

The USFS should only consider new additional OSV use beyond what it can internally manage now if a long term committed relationship with an established and reputable partner group can be established to assist with comprehensive management of that additional use. These groups should be strongly encouraged to become involved with and assist with all aspects of comprehensive management, including the aspects of management not directly

associated with improved user riding experiences. These partnerships should be formalized with documented MOUs.

### **OSV designated roads, trails and areas, and cross country areas that permit OSV use should be opened conditionally**

All OSV riding opportunities should be opened conditionally. If desired conditions cannot be achieved and maintained with adaptive management every form of OSV riding opportunity should be considered for potential closure.

The possibility of potential loss of OSV riding opportunities and route/area closure provides a powerful incentive and opportunity for the majority of riders that are responsible users to assist with comprehensive management, including educating irresponsible users. Riders need to learn and understand that the USFS cannot comprehensively manage OSV riding opportunities without the support, involvement and assistance of responsible OSV users. Educational messaging that comes from another rider and not an agency staff person is often better received and considered, and more effective at modifying undesirable behavior.

### **The EIS must consider Colorado laws pertaining to snowmobile use**

The State of Colorado has a number of laws that apply to snowmobile use.

These are documented as Colorado Revised Statutes (CRS).<sup>9</sup>

Colorado law specifically prohibits snowmobile use on private property unless prior permission has been obtained.

CRS 33-14-113. Operation of snowmobiles on private property states, "No snowmobile shall be operated on private property other than that owned or leased by the operator or except when prior permission has been obtained from the owner, lessee, or agent of the owner or lessee."

This is unique as no other modes of recreational travel allowed on the forest are specifically prohibited on private land without permission by Colorado state law. Foot, horse, bicycle, or wheeled motorized travel on private land without permission are not specifically prohibited by a state law as snowmobile use is. Snowmobile trespass on private land in Colorado is more than a civil matter.

OSV use is also unique in that it is the only mode of motorized travel that has previously been allowed to occur cross country off designated routes. Powerful modern snowmobiles permit quick and easy cross country travel over long distances that increases the likelihood of operators riding onto private land in violation of state law.

There are numerous areas on the forest where private land exists adjacent to the forest boundary, or as private land in holdings or edge holdings within the forest. Many of these boundaries are unmarked on the ground (by signs or fences) as they are in areas far from

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<sup>9</sup> Colorado Revised Statutes are available online from a number of sources including a link from the Colorado General Assembly at <https://leg.colorado.gov/colorado-revised-statutes>

designated roads or trails where the general public would not be likely to travel cross country.  
No other mode

A determination/decision that areas of forest land adjacent to private land allow OSV cross country travel will potentially burden private land owners with posting their land to deter snowmobile trespass, it will burden law enforcement with enforcing state law, and it will subject snowmobile operators on the forest to citations from riding on private land.

The 1972 Executive Order 11644-Use of Off-Road Vehicles on the Public Lands Sec. 3 (3) states, " Areas and trails shall be located to...ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors."

Illegal snowmobile operation on private land in Colorado in violation of State law is an "other factor" that the EIS must fully consider and analyze. Public snowmobile use on private land without permission goes beyond the consideration of compatibility and/or conflict as it is specifically unlawful.

We recommend that no areas of forest land permit open cross country use of OSVs near any private land boundary in order to prevent the implications of unlawful use of snowmobiles on private land. The USFS should be a good neighbor by not allowing cross country OSV use near private land. If open cross country OSV is allowed near private land, the edge of that allowed open area should coincide with a natural or other feature on forest land that is easily visible on the ground in winter (examples include a road, a ridgeline, a stream, fence line etc.).

The USFS properly recognized long ago that travel management signage can and has been ripped down, moved, destroyed, stolen, vandalized, etc. so the enforcement tool for summer motorized travel is the Motor Vehicle Use Map. Although a winter Motor Vehicle Use Map will be developed as a result of this planning process, the USFS should not expect private land owners to post and maintain signage on their land to manage OSV use, as that signage is subject to the same fate as signs on USFS land.

Snowmobile trails or permitted grooming operations should not be designated and/or marked on the ground if they pass across private land unless there is clear documentation that a right of way or easement exists across that land, and/or the property owner has formally agreed to that use.

The vast majority of private property owners are likely not snowmobile owners or users, and even if they are they probably do not want to grant permission for unlimited public snowmobile use on their land.

Where streets, roads and highways under other non-USFS jurisdiction cross USFS land, snowmobile use is allowed on the roadway of those unplowed roads, when local government subdivisions have officially authorized snowmobile use on roads under their jurisdiction, and/or on the right-of-way for those roads.

The specific language for those Statutes includes the following

CRS 33-14-110. Snowmobile operation on roadway of streets, roads, and highways.

(3) A snowmobile may be operated on other streets and highways under the following restrictions:

- (a) To cross a street or highway in the manner provided in section 33-14-112;
- (b) To traverse a bridge or culvert on such street or highway;
- (c) During special snowmobile events lawfully conducted pursuant to the authority granted to local subdivisions in this article;
- (d) During emergency conditions declared by proper state authority;
- (e) On the roadway of streets and highways which are not maintained for winter motor vehicle traffic;
- (f) When local subdivisions have authorized by ordinance or resolution the establishment of snowmobile routes to permit the operation of snowmobiles on city streets or county roads. No street or road which is part of the state highway system may be so designated.
- (g) When crossing railroad tracks.

CRS 33-14-111. Snowmobile operation on right-of-way of streets, roads, or highways.

(2)(a) A snowmobile may be operated on the right-of-way of other roads, streets, and highways as far as practicable from the roadway thereof.

CRS 33-14-118. Regulation by political subdivisions.

(1) Any county, city and county, city, or town acting by its governing body may regulate the operation of snowmobiles on public lands, waters, and property under its jurisdiction and on streets and highways within its boundaries by resolution or ordinance of the governing body and by giving appropriate notice thereof if such regulation is not inconsistent with the provisions of this article and the rules and regulations promulgated pursuant thereto.

This analysis must determine and clarify the documented jurisdiction of any and all roads on the forest, especially for any roads that may or may not be Forest Roads or where jurisdiction may be contested. It must also clarify the documented width(s) and boundaries of the any roads not under USFS jurisdiction, on which OSV use might occur. Local political subdivisions (especially Counties) with roads under their jurisdiction that exist on Forest land must be contacted to determine if they have made documented decisions that permit OSV use on those roads.

Those political subdivisions with land adjacent to forest land must be contacted to determine if they have made documented decisions that allow, prohibit or otherwise regulate OSV use on their land.

The USFS does not necessarily have to allow OSV use of forest land that adjoins non-USFS land where OSV use is allowed. The USFS must consider many other elements that other land owners or managers do not.

**Permitted OSV access across Forest land to private land must be clarified**

The USFS likely has granted many private land owners permits to cross forest land in motor vehicles to access their private land.

Since Forest Service staff at the June 4 Saguache OSV public meeting stated that no road plowing is allowed as part of that permitted access, access by OSV use to private lands must be considered and clarified as part of those permits.

This Forest wide OSV planning process may or may not permit open cross country OSV access in areas where winter private land access is desired. It may not be reasonable or appropriate to allow desired winter OSV access to private land on the same route or area where summer wheeled vehicle access is permitted. Resource concerns such as wildlife winter range may require additional regulations to be applied to permitted OSV access, including restrictions on timing, purpose and nature, staging points, mode/speed of the permitted access.

### **OSV access from private land to Forest land must be clarified**

Since this planning process will decide what routes and areas of Forest land will allow or be designated as open for OSV use, OSV access from private land directly to Forest land must be considered.

At the June 4 public Saguache meeting, Forest staff stated that direct access from private land to Forest land that does not allow open cross country OSV use would only be allowed by permit, and that they do not issue permits for individual non-commercial recreational access.

We agree with and support that statement, as it would not unfairly grant OSV access to certain individuals for the personal private enjoyment. Such access from private to Forest land would likely repeatedly occur in the same place, and a permit would help ensure that the route used for access is safe, responsible and environmentally sustainable.

The regulation of OSV access from private land onto Forest land must be more fully considered. The BLM in travel planning has prohibited access and use via motorized and mechanized modes of use from private land directly onto BLM where those modes of use are otherwise limited and restricted on BLM land. We are unsure of USFS policy regarding this and OSV access, but we support consideration of additional management of this type of access. There are advantages to having a limited number of defined and designated travel access points to Forest lands. This allows monitoring, management of safe and appropriate parking, staging and access, focused places to educate users about conditions and responsible use, and any restrictions/regulation/limits to access in response to emergency or other situations.

### **The EIS analysis must consider restrictions on OSV use on adjacent BLM lands**

A 2005 EA and Decision by the San Luis Valley Field Office of the BLM restricted snowmobile use on BLM lands to designated open BLM routes only on the vast majority of BLM lands in the San Luis Valley.<sup>10</sup>

Thus the only points where OSVs can legally transition between SLV BLM land and Rio Grande USFS land are where designated open system roads cross that boundary.

There is one exception to the above. The BLM has a rather small area of land that allows cross country snowmobile use off of designated routes northwest of Villa Grove. This BLM OSV open area shares an approximately 5 ½ mile long boundary with the RGNF between the Kelly Creek Road 873/Kelly Creek Trailhead #933 on the south and Spring Creek Road 875 to the north.<sup>11</sup>

The Rio Grande National Forest shares a common boundary with adjacent BLM lands in the San Luis Valley. That boundary is not always marked or delineated by fences, signs or other structures. If the USFS allowed open cross country OSV use on Forest lands adjacent to that boundary, unauthorized OSV use on BLM land would frequently occur. If the USFS allowed open cross country OSV use near the BLM boundary, it would burden the BLM with educating users of the prohibition of OSV use on BLM land with signage, communication and enforcement, and subject OSV riders to citations if and when they pass onto BLM land.

Similar to the prohibition of public snowmobile use on private land, we recommend that the USFS be a good neighbor and avoid making a decision to permit open cross country use of OSVs on USFS land adjacent to BLM land. If open cross country OSV use is allowed on Forest land near BLM land, it must end at easily identifiable natural or man-made features on USFS land away from the BLM boundary.

Since the BLM allows OSV use on all of its designated open roads, conflicts may result where BLM roads transition to USFS land where OSV use may not be permitted.

There are a number of designated BLM roads that transition to USFS lands where no corresponding designated USFS road or route open to motorized use exists. Examples of some of these include roads in the BLM 'Poncha Loop' area near USFS road #878 the Poncha Road. BLM roads labeled as the "Haircut Road", "Raghorn Road" and others lead to and sometimes cross the USFS boundary in locations where there is no corresponding designated route on RGNF land. These OSV open routes on BLM land are a concern as they may facilitate OSV use on USFS land where it is not desired or permitted. In addition, snowmobile riders may return to the same area in the summer with their OHVs and try to illegally ride over the same routes they used on a snowmobile. Attempts to close unauthorized wheeled vehicle summer motorized routes with signs and barriers sometimes fail when OSV operators remove or vandalize the closures to ride on the closed summer route.

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<sup>10</sup> BLM San Luis Valley Public Lands Center, 2005. San Luis Resource Area Travel Management Plan Environmental Assessment Record. Number DOI-BLM-CO-500-2005-016-EA. Actions Common to All Alternatives- Snowmobile Use on Page 33. Effects Common to all Alternatives, Snowmobiling. Pages 215-216. Also Appendix 6

<sup>11</sup> BLM San Luis Valley Field Office, 2014. Decision Notice to Revise the San Luis Resource Area Travel Management Plan. Number DOI-BLM-CO-FO3-2014-013-DN.

There is a fence line on at least part of the boundary between USFS and BLM land where BLM land allows open cross country OSV riding. We have not looked it up, but we believe this fence separates different grazing allotments or pastures. Opening all USFS land in that area to cross country OSV use will encourage riding through or over that fence, or the fence may be vandalized to facilitate OSV use. OSV use where there is not an existing designated route between USFS and BLM land (likely with a gate or cattle guard) may damage grazing infrastructure as well as subject OSV riders to injury.

For these reasons we believe there should be consistency between summer and winter route transitions between USFS and BLM land. The USFS should work with the BLM to encourage them to modify their designated route system so that it matches and aligns with the USFS designated route system. All inconsistent travel route designations that we are aware of at the USFS and BLM involve designated BLM routes that transition to areas where no corresponding designated USFS route exists. It seems as though the BLM may have an easier time modifying their designated travel route system using a Decision of NEPA Adequacy than USFS processes to add a new route. If the BLM is unwilling to modify its travel route system, the USFS should install more robust closures and signage at these locations.

This OSV analysis must consider and try to resolve these and other types of inconsistencies.

In conducting this analysis, the USFS must not blindly assume that lower elevation BLM and USFS lands will not have enough snow to facilitate OSV use. The weather is unpredictable and storms can deposit snow at any time. We have seen snowmobiles traveling across bare ground. Some snowmobile riders have 'beater' machines that are similar to 'rock' skis. They are not concerned about damaging these normally older machines by using them when there is low or no snow and/or inconsistent snow conditions.

### **The analysis must consider likely future wolverine presence on the Forest**

Recent decisions by the State of Colorado have approved reintroduction of wolverines to the State at some point in the not so distant future.

*Gulo gulo* is a Federally Threatened species and also a State of Colorado Endangered species. Although currently not known to inhabit Rio Grande National Forest land, wolverines are very mobile and known to travel long distances. If this species is not specifically reintroduced on Rio Grande Forest lands, it will undoubtedly be found on the forest in the future.

Colorado Parks and Wildlife has identified large areas of the Forest as potential wolverine habitat.<sup>12</sup>

This plan must fully consider how OSV use might impact wolverine movement and connectivity, denning and other significant habitats and behavior of wolverines on the forest.

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<sup>12</sup>Colorado Parks and Wildlife GIS data of potential wolverine habitat. 2023 Available online June 2024 via <https://www.arcgis.com/home/item.html?id=be3277c93cac4d6a8d9973dc0df873d1>

We thank you for allowing us to comment on this proposal.

Sincerely

Tom Sobal  
Director  
Quiet Use Coalition