



BlueRibbon Coalition
P.O. Box 5449
Pocatello, ID 83202
208.237.1008
brc@sharetrails.org

Ben Burr, Executive Director

BlueRibbon Coalition
P.O. Box 5449
Pocatello, ID 83202

November 14, 2024

Karen Hardwick, Project Team Leader

Nez-Perce Clearwater National Forest
831 Selway Road
Kooskia, ID 83539

Dear Ms. Hardwick,

BlueRibbon Coalition (BRC) is writing to provide feedback for the FSR 1114 Closure Modification proposal. BRC is a national non-profit organization that champions responsible recreation and encourages a strong conservation ethic and individual stewardship. We champion responsible use of public lands and waters for the benefit of all recreationists by educating and empowering our members to secure, protect, and expand shared outdoor recreation access and use by working collaboratively with natural resource managers and other recreationists. Our members use motorized and non-motorized means of recreation, including OHVs, horses, mountain bikes, and hiking to enjoy federally managed lands throughout the United States, including those of the United States Forest Service. Many of our members and supporters live in Idaho or travel across the country to visit Idaho and use motorized vehicles to access USFS managed lands throughout Idaho. BRC members visit these areas for motorized recreation, sightseeing, photography, hunting, wildlife and nature study, camping, water sports, and other similar pursuits. We would like to add our support to any comment submitted by any

other individuals or organizations that advocate for motorized use and increased recreation access overall. BRC members and supporters have concrete, definite, and immediate plans to continue such activities in the future.

FSR 1114 and FS 286

There should not be a closure of FSR 1114 and FS 286 or any type of seasonal closure. These roads are not on tribal lands and therefore need to be available to the public. The USFS has not given sufficient evidence to support that keeping these areas of roads open year round will guarantee a decline or permanently prevent hiding cover to grow back. Season of use dates are arbitrary and capricious. If the purpose and need is to prevent hunter access proper signage and fencing if needed should be installed. Management Area 15 is managed for multiple uses. This needs to be honored by the USFS. However, permanent or seasonal closure is unnecessary and unnecessarily restricts the public from accessing their public lands.

Another major concern is the lack of user data in the FONSI. The public should be given information on current use of the road. It is highly likely that use is not significant enough to have a significant impact on the road anyway. In that case, the USFS should not close it to the few members of the public who do utilize and love these two roads. Without best available information, the public cannot provide accurate public feedback which is undermining the NEPA process.

FONSI:

“During the extended closure period, recreationalists hoping to access the area on motorized vehicles would lose access, while those preferring to access the area on foot, horseback, or on bicycle or other non-motorized wheeled transport, would gain access.”

BRC Response:

This statement implies that those preferring to access the area on foot, horseback, or on bicycle or other non-motorized wheeled transport currently do not have access because the FONSI claims they would “gain access”. This is false as they will not gain access because these users currently have access. Motorized access of these roads do not prevent any of the aforementioned users to utilize this road or areas. Only those who utilized motorized forms of transportation and those who require it for disabilities will be harmed by the proposed and no action alternatives.

Users with Disabilities

We recommend that the USFS use this planning process to finally begin to reverse its decades-long systematic discrimination against those with mobility impairment-related

disabilities. On his first day in office, President Joe Biden issued an “Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” This executive order established “an ambitious whole-of-government equity agenda” which focuses on addressing “entrenched disparities in our laws and public policies,” and mandates a “comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”

Under this executive order, “The term ‘equity’ means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as ... persons with disabilities....” Historically, there has been no group more greatly marginalized and excluded by public land management policies, and motorized travel management policies in particular, than people with disabilities. Outdoor enthusiasts with ambulatory disabilities frequently rely on motorized travel as their sole means to enjoy recreating on public lands. Not everyone has the ability to hike into a remote wilderness area, but many such people are still able to drive Jeeps, side-by-sides, and ATVs, which are restricted to the designated motorized route network.

Management policies focused on “minimizing” the environmental impacts of motorized recreation has resulted in a dramatic decrease in motorized recreation opportunities on public lands over the last 20 years which has disproportionately impacted people with disabilities. Wilderness focused environmental groups with extreme ableist biases have pushed for more and more areas to be closed to motorized recreation and reserved exclusively for hikers, mountain bikers, and other “human powered” and “quiet use” forms of recreation in which many people with disabilities are unable to participate.

Every time motorized routes or areas are closed, people with disabilities that require the use of motorized means to access public lands are barred from those areas forever. There has been little recourse for such people in the past because the Americans With Disabilities Act does not require public land management agencies to consider disproportionate effects on the disabled community, but only requires that they be given access to public lands on equal terms with everyone else. As a result, the USFS has historically failed to give any real consideration to the impacts of motorized route closures on the disabled community when developing travel management plans.

The Biden Administration’s focus on equity, however, changes the equation. While the ADA focuses only on equality of opportunity, equity inherently focuses on equality of outcome. Any policy that is facially neutral but disproportionately harms a disadvantaged or marginalized

group is considered inequitable. The USFS is therefore required by this executive order and others mandating that federal agencies consider “environmental justice” in NEPA proceedings to consider whether any route closures in this proposal would disproportionately harm disabled users’ ability to access public lands.

Any approach to travel management that presumes the superiority of non-motorized forms of recreation like hiking over motorized recreation, or that justifies closing motorized access on the basis that people can still hike on those routes, is inherently discriminatory toward people with disabilities. Any large-scale closures of existing routes would unfairly and inequitably deprive people with disabilities of the ability to recreate in the area using the only means available to them. It is imperative that the USFS consider the access needs of disabled users in drafting the alternatives for this travel plan and ensure that people with disabilities who depend on motorized means do not lose access.

Government to Government Consultation:

The U.S. Forest Service’s reliance on Executive Orders for government-to-government consultations, and any other EO for that matter, as the basis for decision-making in public land management is legally and procedurally unsound, as clarified by a recent court ruling (Case No. 23-1067, D.C. Circuit Court, 2024). This court decision has highlighted critical limitations on executive power in shaping or enforcing policies that impact land use without explicit legislative or statutory authority.

Executive Orders are generally intended to direct internal agency operations and establish procedures for intergovernmental cooperation rather than to serve as substitutes for statutory mandates. The court’s ruling emphasizes that executive actions, while instrumental in agency coordination, lack the constitutional grounding to enforce broad restrictions or confer decision-making authority over land management to specific interest groups unless clearly authorized by Congress. Thus, reliance on EOs for significant land-use decisions, especially those with extensive public impact, oversteps the intended scope of these executive instruments.

Economic Benefits

Local communities rely on recreation for economic opportunities. There has been a surge of use throughout the nation on public lands as well as in these counties. The Bureau of Economic Analysis showed that in 2022 outdoor recreation brought in over \$1 trillion. Closing these roads to public use for any amount of time would greatly hinder economic opportunity. Many local organizations and businesses recognize the influx of traffic and believe that any user conflict can be mitigated through better signage, more amenities, and education.

Conclusion

We would like to close by saying we support “shared use”. As long as overall visitation numbers are appropriate for the affected resources, motorized and non-motorized users can be compatible with one another so long as individual users understand designations and plan their activities accordingly. Indeed, motorized and nonmotorized recreation use often overlap as OHV’s often increase accessibility to non-motorized recreational activities such as hiking, camping, equestrian use, etc. We also hold that responsible recreational use of public lands can exist in harmony with ecosystem needs.

BRC would like to be considered an interested public for this project. Information can be sent to the following address and email address:

Ben Burr
BlueRibbon Coalition
P.O. Box 5449
Pocatello, ID 83202
brmedia@sharetrails.org

Sincerely,

A handwritten signature in black ink, consisting of stylized initials 'BB' followed by a long horizontal line.

Ben Burr
Executive Director
BlueRibbon Coalition

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

Simone Griffin
Policy Director
BlueRibbon Coalition