Data Submitted (UTC 11): 8/18/2023 6:00:00 AM
First name: Maddy
Last name: Munson
Organization: Wild Montana
Title: Public Lands Director
Comments: Thank you for the opportunity to comment on the Kootenai National Forest's Proposed Over-Snow Motorized Use Travel Plan. Please accept the attached pdf comments on behalf of Wild Montana, Winter Wildlands Alliance, and Idaho Conservation League.

August 18, 2023

Kootenai National Forest

Attn: Over-snow Motorized Travel Plan

31374 US Highway 2

Libby, Montana 59923-3022

Dear Supervisor Benson,

Our organizations appreciate the opportunity to comment on the Kootenai National Forest Over-Snow Motorized Use Travel Plan scoping documents. The Forest has clearly put a great deal of thought into this Proposed Action and in the development of the accompanying documents. This is helpful in informing our comments, and demonstrates that the Kootenai is taking this process seriously. Going forward, we would also recommend that the Kootenai create maps depicting current use compared to each alternative in the environmental analysis (EA). This will help the public compare the alternatives to the status quo and better understand what is being proposed. We look forward to working with you and your staff through this process, including once the Forest moves into implementation and enforcement of the new plan.

Since 1958, Wild Montana has been uniting and mobilizing people across Montana,

creating and growing a conservation movement around a shared love of wild public lands and waters. We work at the local level, building trust, fostering collaboration, and forging agreements for protecting the wild, enhancing public land access, and helping communities thrive. Wild Montana routinely engages in public land-use planning processes, as well as local projects such as habitat restoration and timber harvest proposals, recreational infrastructure planning, oil and gas lease sales, and land acquisitions. Wild Montana and our thousands of members and tens of thousands of supporters are invested in the ecological integrity and quiet recreation opportunities on public lands, as well as the impact of climate change on Montana[rsquo]s wild places.

Winter Wildlands Alliance (WWA) is a Boise, Idaho-based nonprofit national advocacy organization representing the interests of human-powered winter recreationists across the U.S. We work to inspire and empower people to protect America[rsquo]s wild snowscapes. Our alliance includes 34 grassroots groups in 16 states, including groups in Montana such as Wild Montana, and has a collective membership exceeding 130,000. WWA members who live in and/or visit the Kootenai National Forest enjoy Nordic and backcountry skiing/splitboarding, snowshoeing, ice climbing, and winter hiking on the forest.

The Idaho Conservation League (ICL) has been protecting Idaho[rsquo]s environment since 1973. We represent over 26,000 members and advocates who care about Idaho[rsquo]s land, water, air, fish and wildlife. ICL protects these values through public education, outreach, advocacy and policy development.

1. Over-Snow Vehicle Rule Background

In response to the growing use of dirt bikes, snowmobiles, all-terrain vehicles, and other

off-road vehicles (ORVs) and corresponding environmental damage and conflicts with non-motorized users, Presidents Nixon and Carter issued Executive Orders 11644 and 11989 in 1972 and 1977, respectively. The executive orders require federal land management agencies to plan for ORV use to protect other resources and recreational uses. Specifically, the executive orders require that, when designating areas or trails available for ORV use, the agencies locate them to:

(1) minimize damage to soil, watershed, vegetation, and other resources of the public lands;

(2) minimize harassment of wildlife or significant disruption of wildlife habitats; And

(3) minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.1

Thirty-three years after President Nixon issued Executive Order 11644, the G.W. Bush Administration [ndash] citing unmanaged recreation as one of the top four threats facing the national forests [ndash] published the Travel Management Rule in 2005. The rule codified the executive order [ldquo]minimization criteria,[rdquo] but it specifically exempted over-snow vehicles (OSVs) from the mandatory requirement to designate areas and trails in accordance with the criteria.2 WWA successfully challenged the exemption in federal court. In the resulting 2013 decision, the court determined that Subpart C of the rule violated the mandatory executive order requirement that the Forest Service designate a system of areas and routes [ndash] based on the minimization criteria [ndash] where OSVs are permitted.3 The court directed the agency to issue a new rule consistent with the executive orders

and the revised Subpart C was finalized in January 2015. Given this history, OSV travel planning is of extreme interest to WWA and our partners.

Revised Subpart C of the Travel Management Rule, the OSV Rule, requires each national forest unit with adequate snowfall and designate and display on an OSV use map (OSVUM) a system of areas and routes where OSVs are permitted to travel; OSV use outside the designated system is prohibited.4 Thus, rather than allowing OSV use largely by default wherever that use is not specifically prohibited, the rule changes the paradigm to a [ldquo]closed unless designated open[rdquo] management regime and puts the onus on the Forest Service to justify OSV designations, rather than justifying why an area or route would be closed to OSV use. To support and inform designation decisions, forests must apply and implement the minimization criteria when designating each area and trail where OSV use is permitted.5 Any areas where cross-country OSV use is permitted must be [ldquo]discrete, specifically delineated space[s] that [are] smaller . . . than a Ranger District[rdquo] and located to minimize resource damage and conflicts with other recreational uses.6

The 2015 OSV rule requires the agency to designate specific areas and routes for OSV use, and prohibits OSV use outside of the designated system.7 In other words, subpart C requires forests to make OSV designations under a consistent [ldquo]closed unless designated open[rdquo] approach and not to designate areas as open essentially by default. Consistent with the closed unless designated open approach, subpart C requires that any areas designated for cross-country OSV use be [ldquo]discrete,[rdquo] [ldquo]specifically delineated,[rdquo] and [ldquo]smaller . . . than a ranger district.[rdquo] Accordingly, the Forest Service may not adopt decisions that fail to specifically delineate discrete areas where cross-country travel is

permitted. Although not required by the OSV Rule, we also encourage the Kootenai not to designate small, isolated parcels of land that lack public access or do not provide meaningful OSV opportunities. Again, OSV designations must be justified and not designated as open by default.

To satisfy the Forest Service[rsquo]s OSV designation obligations under the executive orders, the agency must apply a transparent and common-sense methodology for meaningful application of each minimization criterion to each area and trail.8 That methodology should, at a minimum: provide opportunities for public participation early in the process;9 incorporate site-specific data, the best available scientific information, and best management practices;10 account for site-specific and larger-scale impacts;11 account for projected climate change impacts, including reduced and less-reliable snowpack and increased vulnerability of wildlife and resources to OSV impacts;12 and account for available resources for monitoring and enforcement.13 The work that the Kootenai has already put into developing its scoping documents is a good start on this methodology and in these comments we will provide suggestions for how to build upon the work you and your staff have begun.

2. Compliance With the Minimization Criteria

The minimization criteria are the heart of any Forest Service travel planning process and we appreciate that the scoping materials include detailed information about how the Forest has applied the minimization criteria to the routes and areas in the Proposed Action. We are supportive of the screening questions already developed by the Kootenai National Forest, but also suggest the Forest include the following additional questions in this exercise, to better inform the analysis:

* Would OSV use in the area, including at the staging area, create air qualityimpacts that would be detrimental to forest visitors?

Motorized and non-motorized winter backcountry recreationists are often confined to the same plowed parking areas to prepare for their day on the forest. However in these [ldquo]staging areas[rdquo] snowmobile emissions can be concentrated and lead to an additional source of conflict and potential health concerns. While technological advances have produced cleaner four-stroke engines (and even zero emission electric snowmobiles), the vast majority of snowmobiles still use two-stroke engine technology. In two-stroke engines lubricating oil is mixed with the fuel, and 20% to 30% of this mixture is emitted unburned into the air and snowpack.14 In addition, the combustion process itself is relatively inefficient and results in high emissions of air pollutants.15 As a result, two-stroke OSVs emit very large amounts of exhaust which includes carbon monoxide (CO), unburned hydrocarbons (HC) and other toxins.16 Carbon monoxide impacts the human body[rsquo]s ability to absorb oxygen,17 and thus OSV exhaust is particularly harmful to those who are engaging in aerobic exercise (skiing and snowshoeing).

In a study on the Medicine-Bow National Forest researchers documented a decline in air quality with increased snowmobile activity.18 They measured higher ambient concentrations of CO2, NOx, NO, and NO2 at a snowmobile staging site and found significantly higher concentrations of these air pollutants on days with significantly more snowmobile activity. The researchers concluded that snowmobile exhaust was degrading local air quality.

Concerns over human health related to snowmobile emissions have led to extensive research on snowmobile pollution in Yellowstone National Park,19 and conclusions from these studies have led to a ban of older technology two-stroke engines from the Park.

Emissions from OSVs emit many carcinogens and can pose dangers to human health.20

Several [ldquo]known[rdquo] or [ldquo]probable[rdquo] carcinogens are emitted including nitrogen oxides, carbon monoxide, ozone, aldehydes, butadiene, benzenes, and polycyclic aromatic hydrocarbons (PAH). Particulate matter, also found in OSV exhaust, is detrimental in fine and coarse forms as it accumulates in the respiratory system and can lead to decreased lung function, respiratory disease and even death.21 While these pollutants are more concentrated at OSV staging areas and parking lots, OSV exhaust on trails can dramatically reduce the quality of the experiences of non-motorized users along the trail as well.

Due to concerns with air pollution, particularly at OSV staging areas or where OSV use is concentrated, in addition to screening for air pollution impacts as part of the minimization criteria exercise, we recommend separating motorized and non-motorized winter recreationists to the extent possible. Separate parking lots for motorized and non-motorized users in popular recreation areas can help skiers and snowshoers limit their exposure to snowmobile exhaust. Separating parking areas will also help to relieve congestion as snowmobile trailers take up considerably more space than passenger cars and trucks, often leaving little or no room for non-motorized users to park at trailheads.

Would noise from OSVs in this area/along this trail be audible from adjacentnon-motorized areas?

Or

How far would OSV noise from this area or trail travel on a typical winter day?

And

Would sound, emissions, or other factors from OSV use of the area or trail be compatible with the nearby populated area, neighborhood, or community or private land?

The Forest Service has previously recognized that OSV use creates noise that has the potential to impact wildlife and other recreation uses, therefore it is important to analyze this impact. For example, in the Stanislaus National Forest[rsquo]s OSV designation EIS, the Forest Service considered, by Alternative, the total acres of NFS lands designated for OSV use, and therefore potentially affected by noise, and the acres of Forest Service lands where noise is predicted to increase above ambient levels in sensitive areas (non-motorized recreation areas, communities, wildlife habitat) by 5 or more decibels as a result of moderate to high OSV use levels.22

National forests in Region 5 conducted noise analyses as part of their OSV designation processes to understand the noise impacts of potential designations. Using the SPreAD-GIS model and average environmental factors for the winter season, the Forest Service modeled sound propagation away from point source sound locations along OSV trails and are located near non-motorized areas or trails.23 While this modeling exercise does not perfectly capture noise impacts, it provided the Forest Service with at least some understanding of noise impacts resulting from potential OSV designations. Because most OSV use in Region 5 occurs along groomed trails, Region 5 forests chose to focus this modeling on trails. The Kootenai may want to consider also applying this modeling to popular OSV use areas or along the groomed trail system.

(Following up on the Table 79 Screening Questions) Is there a potential for conflicts between OSV use and other existing or proposed recreational uses to occur and/or are conflicts already known to be occurring?

Motorized and non-motorized winter recreationists often seek out the same winter

backcountry settings and look for similar experiences such as solitude, fun, and the enjoyment of the natural beauty of the mountains. But as winter recreation grows on Forest Service lands, so does the potential for impacts on natural resources and conflicts between these two user groups. In terms of recreation opportunity, OSV use adversely impacts the recreation experience sought by many non-motorized users, and high levels of motorized recreation can displace non-motorized use, while the reverse is rarely true. This is a phenomenon that has been well documented in Forest Service literature and analyses. Where displacement does not occur because of the high level of demand for a particular area or a lower density of OSV use, conflicts among uses may still be present and can be substantial. Additionally, advancements in technology and changes in use patterns among both user groups have increased the need for proactive management. While early snowmobiles were relatively slow and generally limited to groomed trails, today[rsquo]s OSVs can go almost anywhere a skier can go. New technologies, combined with growing numbers of people in the backcountry have led to increased use conflict. For more information on use conflict, and minimization approaches, please see Attachment 1 - Use Conflict in OSV Planning.

National Forests in Region 5 identified several ways in which OSVs can impact the quantity and quality of non-motorized winter recreation opportunities for those seeking solitude and challenging physical experiences.24 These included: designating for OSV use, popular, highly desirable, non-motorized recreation areas on NFS lands; not preserving areas of NFS lands that are easily accessed for winter non-motorized recreation; reducing the quantity of NFS land available for quiet, non-motorized recreation; and increasing the distance of travel required in order to access desirable quiet, non-motorized recreation areas (perhaps to distances further than an enthusiast is physically able to travel).25 In turn, the Forest Service stated that OSV designations

can lead to conflict between OSV and non-motorized winter recreation by: increasing the area of overlap between non-motorized (e.g., snowshoeing, cross-country skiing, general snow-play) and motorized (i.e., OSV) use; designating non-motorized areas for motorized OSV use; OSVs consuming untracked powder desired by non-motorized winter recreationists, particularly cross-country skiers, snowshoers, and backcountry downhill skiers; OSVs compacting, tracking, and rutting the snow, making the snow surface difficult to cross-country ski, snowshoe, or walk on; OSVs creating concerns for non-motorized winter recreationists[rsquo] safety where winter recreation trails and areas are shared with OSV usage; OSVs creating noise impacts that intrude on the solitude these enthusiasts seek; OSVs creating local air quality impacts that intrude on the unpolluted air and solitude these enthusiasts seek; OSVs creating visual impacts that intrude on the unaltered scenery these enthusiasts seek; OSVs impacting the quiet characteristics of non-motorized trails; and OSVs impacting the Natural, Undeveloped, Outstanding opportunities for solitude or primitive and unconfined recreation in Wilderness Areas.26

We appreciate that the Kootenai has already screened the Proposed Action (and will presumably screen additional alternatives) for potential impacts to locations valued for non-motorized use. However, we suggest that the Forest Service follow up on the use conflict screening question it[rsquo]s developed to also ask what the potential is for conflicts to occur and what sorts of conflicts may occur. In considering these questions, it[rsquo]s important for the Kootenai to include backcountry skiing and splitboarding among the non-motorized uses that can be impacted by OSV use (as a separate and different use than cross-country skiing or ski area skiing). Non-motorized winter recreation - backcountry skiing and splitboarding, cross-country skiing, and snowshoeing - are the fastest-growing segments of the winter recreation industry. There are likely far more people enjoying these activities on the Kootenai today than there were in the past, or

than the Forest Service is aware of. Non-motorized winter recreationists generally stay within 5-10 miles of plowed parking areas because it is difficult to travel further (under one[rsquo]s own power) through snow in a single day. Therefore, these potential non-motorized envelopes are where the Kootenai should pay particular attention to potential OSV-related use conflicts.

In addition to the minimization criteria screening questions, we urge the Forest to think more broadly about current OSV use on the forest, and urge the Forest Service not to consider current use as an accurate baseline for understanding or minimizing potential effects. For example, on page 2 of the minimization criteria screening document, the Forest Service states that [ldquo]By co-locating the ungroomed trails with roads, these trails have been designated within the objective of minimizing adverse effects.[rdquo] However, roads were designated with minimization of wheeled impacts in mind. Over-snow use, winter impacts, and winter conflicts are potentially different and must be considered as part of designating these routes for OSV use. Likewise, in describing how the Forest Service developed the Preliminary Proposed Action, the Forest Service states that one way in which proposed designations were refined was by [ldquo]Keeping cross country ski areas non-motorized where the current recreation uses are separated. If motorized over-snow travel and cross-country skiing are currently co-located this will be continued in most cases.[rdquo]27 While we appreciate that the Forest Service is not proposing to designate OSV use in places where it[rsquo]s currently not allowed for purposes of preserving non-motorized recreation opportunities, the Forest Service cannot assume that simply not designating currently non-motorized cross-country ski areas is enough to comply with the minimization criteria. OSV use has never previously been analyzed or designated and it has spread organically across the forest, often to the detriment of non-motorized uses. On the Kootenai, as with virtually every other National Forest that

supports winter recreation, non-motorized winter recreation has been displaced by OSV

use as OSV technology has changed and allowed users to travel in all snow conditions

and through all types of terrain and vegetation. Today, almost no terrain is technologically or physically inaccessible to a skilled OSV user with a powerful,

lightweight machine (such as a timbersled).

Furthermore, the EA should consider whether to designate areas or trails by class of

vehicle and include analysis of potential environmental effects from the use of the

different vehicle classes (for example traditional snowmobiles versus OSVs over 50

inches wide or exerting over 1.5 pounds per square inch (psi)). The Tahoe National

Forest used this type of analysis and differentiated between Class 1 and Class 2 OSVs,

with Class 2 OSVs only allowed on designated groomed trails. As defined by the Tahoe,

Class 1 OSVs include those that typically exert a ground pressure of 1.5 psi or less

while Class 2 OSVs typically exert a ground pressure of more than 1.5 psi.28

It[rsquo]s also important to differentiate between mitigation and minimization, as mitigating

impacts is not equivalent to minimizing impacts. Federal courts including the Ninth

Circuit Court of Appeals have repeatedly affirmed the substantive nature of the agency[rsquo]s

obligation to meaningfully apply and implement the minimization criteria. 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. See Exec.

Order 11644, [sect] 3(a) ([ldquo]Areas and trails shall be located to minimize[rdquo] impacts and

conflicts.). Thus, application of the minimization criteria should be approached in two

steps: first, the agency locates areas and routes to minimize impacts, and second, the

agency establishes site-specific management actions to further reduce impacts.

However, as noted in the scoping document, mitigation measures are an important

element of any travel plan. Related to mitigation, we ask that Recreation Mitigation Measure #4 ([ldquo]Where over-snow vehicle trails intersect or travel across trails designated for nordic skiing, over-snow vehicles shall yield to non-motorized users.[rdquo]) be modified to state that over-snow vehicles shall always yield to non-motorized users, rather than just requiring OSVs to yield to non-motorized users when crossing designated nordic trails. For public safety, and in accordance with standard multiple-use recreation yielding practices, it[rsquo]s important that motor vehicles always yield to pedestrians.

3. Climate Change

The Forest Service must plan for OSV management in the context of a rapidly changing climate and address how changing winter seasons and snow packs, more intense storms, and more rain-on-snow events affect winter recreation. These climate-driven changes are already altering winter backcountry recreation use patterns and this trend is expected to continue.29

With fewer or smaller areas available for over-snow recreation, these uses will become more concentrated, which may lead to increased crowding, use conflict, new or increased wildlife impacts, and resource damage. For example, not only will there be fewer places with persistent snow cover, access to these areas may change or require travel on non-snow surfaces. Climate change is also altering wildlife behavior and habitat use [ndash] from shifting ungulate winter ranges to earlier bear emergence in the spring. To preserve quality recreation opportunities, protect wildlife, and minimize natural resource damage, the Forest Service should consider the impacts of a changing climate and how the winter landscape may change over the life of the OSV plan. The Kootenai should also address how it will manage shoulder-season OSV use to ensure OSVs are traveling on sufficient snow to protect underlying soils and vegetation. The

shoulder seasons - late fall and early spring - can be a time of frequent and abrupt change in the mountains, with snow accumulating and melting quickly and snow cover changing daily. Snow accumulation is not an altogether steady process - an early storm may blanket the landscape with snow, only to have it all melt away before [ldquo]real[rdquo] winter sets in. Likewise, the spring melt doesn[rsquo]t follow a smooth trend. Spring storms and unseasonably warm days can drastically change snowpacks, especially at lower elevations. The December 1 [ldquo]opening day[rdquo] set in the Preliminary Proposed Action will likely minimize early-season use on insufficient snow, so long as the Forest Service enforces this date restriction. And the March 31/May 31 season end dates will help to minimize impacts to natural resources, along with protecting sensitive wildlife, so long as they[rsquo]re enforced. Other National Forests in Montana, such as the Beaverhead-Deerlodge, have struggled to keep eager visitors from taking their OSVs out for a spin following the first snows of fall. Likewise, it[rsquo]s very tempting for people to continue to ride after the season ends in the spring if there[rsquo]s still snow on the ground. In order to ensure the OSV plan works as intended it[rsquo]s important that the Kootenai have a plan for how it will educate the public and enforce its seasonal restrictions.

4. Wildlife and Vegetation

We appreciate that the Forest Service considered grizzly bear denning habitat, wolverine maternal and primary habitat, big game winter range, and whitebark pine habitat when considering which areas to designate for OSV use. Likewise, we appreciate the inclusion of a minimization screening question related to Canada lynx (screening for potential conflict with lynx analysis units or designated critical habitat).

What the Forest Service has included in the scoping package is an encouraging start but the EA should touch on each of these subjects in more detail. For example, the EA should explain what constraints the Northern Rockies Lynx Management Direction

places on OSV designations and document how each alternative complies with this Direction. Likewise, while we appreciate that the Forest Service has already included a screening question focused on bald eagle nests and winter communal night roost areas, the Kootenai should also screen for potential impacts to owls, goshawks, and other raptors as well as potential noise impacts to breeding songbirds in the spring.

We would like to know how the Kootenai will exclude OSV use from whitebark pine habitat when there is low snow cover during the OSV use season (as stated in the Preliminary Proposed Action) and how the agency reached the assumption that whitebark seedlings and saplings will be protected by snow cover from December 1 - March 31. In our extensive experience backcountry skiing in whitebark pine habitat, we have seen whitebark saplings present above the snow even midwinter in areas with deep snowpacks. This is especially true near ridgelines or other wind-blown areas where the snow is shallower than surrounding areas. And, we have frequently observed OSV damage to whitebark pine in these areas. As Forest Service timber managers know, snowmobile damage to trees is common. Gallatin National Forest survey data obtained in a 2008 FOIA request show that between 1983 and 1995, snowmobiles damaged between 12 and 720 trees per acre across approximately 72,393 surveyed acres on the Hebgen Ranger District.30 Considering damage from OSV use can prevent whitebark pine saplings from reaching seed-bearing maturity, this is a serious issue for the future of the whitebark population. Furthermore, because whitebark pine grow in relatively low densities compared to other tree species, each individual sapling is critical to the persistence of a stand. In addition to more carefully considering how to protect whitebark pine from OSV-caused damage, the Kootenai OSV plan should include a monitoring plan so that the Forest Service can accurately assess whether OSV use is cause for concern or not. The monitoring plan should include meaningful measures for

assessing compliance with and effectiveness of the OSV plan, including but not limited to Threatened and Endangered species.

5. Recommended Alternatives

We appreciate that the proposed action does not contemplate opening recommended wilderness areas or research natural areas from the 2015 Forest Plan to OSV use, and want to ensure those areas remain protected in any proposed alternatives going forward. However, 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.31 While the Forest Plan provides a starting point for this process, there are areas of the forest that should not be designated for OSV use even though they are not [ldquo]closed[rdquo] in the Forest Plan.

For example, in 2015, the Kootenai Forest Stakeholders Coalition (KFSC), put together the Common Ground Agreement, based on broad consensus, that provides for Wilderness areas as well as more permanent access for motorized users. The three components of the agreement are special management areas for winter motorized recreation, special management areas for backcountry non-motorized use, and recommended wilderness. We would ask that the Forest Service incorporate the KFSC Common Ground Agreement into one of the proposed alternatives that is analyzed in the EA.32

The KFSC Agreement would designate the recommended wilderness parcels from the 2015 Forest Plan as Wilderness[mdash]Scotchman Peaks, the Cabinet Additions, and the Rodrick Complex in addition to new Wilderness for the following inventoried roadless

areas (IRAs): Cataract Creek, Galena (with the exception of the area around Twenty Odd Peak), Allen Peak, the west side of Barren Creek around Baree Mountain, Grizzly Peak, the northern section of Saddle Mountain, the west side of Gold Hill, and pieces of Cabinet Face West IRAs. The agreement would also designate the following areas as backcountry non-motorized zones: the west side of Zulu IRA, most of the Mount Henry IRA with the exception of the area around Boulder Lakes, the west side of Robinson Mountain IRA, the east section of Saddle Mountain IRA around Arbo Mountain, and portions of Buckhorn Ridge and Northwest Peaks IRAs. Lastly, the agreement creates winter motorized areas around Twenty Odd Peak, Drift Peak, a portion of Dry Creek, the east side of Gold Hill IRA, the east side of Zulu IRA, Big Creek IRA, the east side of Robinson Mountain IRA, and the center portion of the Northwest Peaks IRA. We recommend the Forest Service analyze this agreement and attached map in one of the proposed alternatives as a baseline for where snowmobiling may be appropriate across the forest.

The Forest Service should also seriously consider, analyze and adopt an alternative prohibiting all cross-country OSV use in Bear Management Units (BMUs) and Bears Outside of Recovery Zones (BORZ) Areas after March 31st. The Proposed Action allows cross-country use to continue after that date in the portions of these areas modeled as [ldquo]low[rdquo] potential for grizzly bear denning. This is a violation of the Grizzly Bear Access Amendment to the Forest Plan, which prohibits all motorized access off of designated routes after March 31st (when grizzly bears begin to emerge from hibernation).

To the extent that there is any room for cross-country OSV use in BMUs after March 31st, it is only allowed in BMUs where the amount of core habitat exceeds Forest Plan

standards. If the Kootenai were to designate open areas in BMUs that exceed the standard, then the total acreage cannot exceed the difference between the existing amount of core habitat and the minimum amount of core habitat required by the Amendment. Furthermore, such areas could only be opened after all BMUs are meeting standards.

Finally, the Forest Service should utilize available habitat models to ensure that some areas are off-limits to OSV use to provide secure habitats for wolverine, lynx or other species that are sensitive to motorized disturbance.

6. Implementation

Once the plan is finalized, the Forest Service must develop educational resources that will help the public understand and comply with the new travel plan, ideally with buy-in and assistance from local partner organizations. These may include winter recreation maps (pairing OSVUM data with additional information about responsible recreation and opportunities for all forms of winter recreation in the region), trailhead and trail signage, and snow ranger programs. We encourage the Forest Service to consider developing an implementation plan congruent with the OSV planning process. Both the White River and Gallatin National Forests created implementation plans shortly after finalizing their respective OSV plans and both provide good examples for an implementation plan. Meanwhile, neither the Lassen nor Stanislaus have implementation plans, nor appear to have given much thought to implementation during the OSV planning process, and both are struggling to engage and educate the public or otherwise implement their new OSV plans. For example, the Lassen OSVUM was not publicly available last winter season and few visitors were aware of the new OSV designations, nor did the forest take steps to enforce the new plan. This is a frustrating situation for the many people and

organizations who engaged in the planning process.

The White River Travel Management Implementation Plan (TMIP)33 was specifically focused on the 5-year period immediately following the publication of the travel plan. Recognizing that [ldquo]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,[rdquo]34 the TMIP initially focused on education. The forest budgeted $300,000 annually for new signs and other education materials to inform the public about travel plan designations and restrictions for the first three years of plan implementation. 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. These talking points (and other materials) focus on positive messaging. Rather than emphasizing where people can[rsquo]t go for their desired activity, they tell the public where they can go. Much of the travel plan-related messaging and educational materials were developed with partners who had participated in the travel planning process. Partner organizations [ndash] including state agencies [ndash] provide funding, volunteer and staff time, and materials to develop and post information about the travel plan.

The goal of the education component of the TMIP was to provide sufficient information to the public so that enforcement would not need to be the primary focus for travel plan implementation. However, enforcement still plays an important role. At the start of the enforcement phase of the TMIP, the Forest increased the number of staff who were

trained and certified as Forest Protection Officers (FPOs) and encouraged all staff to spend more time in the field, to increase Forest Service visibility and presence. The TMIP also calls for close coordination between forest law enforcement officers (LEOs) and district staff, with districts identifying priority or problem areas and LEOs coordinating with FPOs to carry out enforcement. Today, many years into implementation, the Forest continues to conduct routine patrols at identified [ldquo]hot spots[rdquo] where compliance is an ongoing issue [ndash] such as where Wilderness boundaries are near OSV routes.

The Gallatin Travel Plan Implementation Strategy35 is not as detailed as the White River TMIP but it provides a basic outline for implementation. The 3-phase implementation plan started with setting the stage through educating the public about the new plan, identifying grants and volunteers to help with implementation, initiating monitoring, developing maps, and putting up new signs and removing obsolete signs. The second phase, 1-5 years after the ROD, focused on implementing any site-specific projects necessary to open routes designated in the Travel Plan, increasing enforcement through saturation patrols, formalizing relationships with partners through user group agreements, and designating and managing major forest access corridors. Phase 3 of plan implementation, 5-10 years out from the ROD, focused on implementing the site-specific projects necessary to provide for the non-motorized opportunities in the Travel Plan (the Gallatin Travel Plan addresses non-motorized as well as motorized uses, and addresses summer and winter uses), improving or creating new parking areas where needed, decommissioning roads and trails as called for in the Travel Plan, and conducting routine maintenance and improvements for roads, trails, trailheads, and parking areas.

Regardless of whether the Kootenai develops an official implementation plan or not, there should be a clear roadmap for implementing the new OSV plan and we look forward to working with you in this future phase of travel management.

Thank you for your consideration of our scoping comments and we look forward to seeing the forthcoming EA. Please do not hesitate to contact us if you have any questions.

Sincerely,

Hilary Eisen

Policy Director, Winter Wildlands Alliance

PO Box 631, Bozeman, MT 59771

Phone: (208) 629-1986

Email: heisen@winterwildlands.org

Maddy Munson

Public Lands Director, Wild Montana

80 S Warren St., Helena, MT 59601

Phone: (406) 312-8741

Email: mmunson@wildmontana.org

Brad Smith

North Idaho Director, Idaho Conservation League

PO Box 2308, Sandpoint, ID 83864

Phone: (208) 345-6933 ext. 403

Email: bsmith@idahoconservation.org

Attachments are in attached comment letter

Footnotes

1 Exec. Order No. 11644, [sect] 3(a), 37 Fed. Reg. 2877 (Feb. 8, 1972), as amended by Exec. Order No. 11,989, 42 Fed.

Reg. 26,959 (May 24, 1977).

2 36 C.F.R. [sect][sect] 212.51(a)(3), 212.55(b).

3 Winter Wildlands Alliance v. U.S. Forest Service, No. 1:11-CV-586-REB, 2013 U.S. Dist. LEXIS 47728, at *27-36 (D.

Idaho Mar. 28, 2013) (explaining that OSV [ldquo]designations must be made and they must be based on the [minimization]

criteria[rdquo]) (emphasis in original).

4 36 C.F.R. [sect][sect] 212.81, 261.14.

5 36 C.F.R. [sect][sect] 212.81(d), 212.55(b).

6 36 C.F.R. [sect][sect] 212.1, 212.81(d), 212.55(b).

7 See 36 C.F.R. [sect][sect] 212.80(a), 212.81(a), 261.14.

8 Idaho Conservation League v. Guzman, 766 F. Supp. 2d 1056, 1071-74 (D. Idaho 2011) (agency may not rely on

[ldquo]Route Designation Matrices[rdquo] that fail to show if or how the agency selected routes with the objective of minimizing

their impacts).

9 36 C.F.R. [sect] 212.52(a).

10 Idaho Conservation League, 766 F. Supp. 2d at 1074-77 (agency failed to utilize monitoring and other site-specific

data showing resource damage); Friends of the Clearwater v. U.S. Forest Service, No. 3:13-CV-00515-EJL, 2015

U.S. Dist. LEXIS 30671, at *24-30, 40-52 (agency failed to consider best available science on impacts of

motorized

routes on elk habitat effectiveness or to select routes with the objective of minimizing impacts to that habitat and other

forest resources).

11 Idaho Conservation League, 766 F. Supp. 2d at 1066-68, 1074-77 (invalidating travel plan that failed to consider

aggregate impacts of short motorized routes on wilderness values or site-specific erosion and other impacts of

particular routes).

12 77 Fed. Reg. 77,801, 77,828-29 (Dec. 24, 2014) (Council on Environmental Quality[rsquo]s revised draft guidance

recognizing increased vulnerability of resources due to climate change and that [ldquo][s]uch considerations are squarely

within the realm of NEPA, informing decisions on whether to proceed with and how to design the proposed action so

as to minimize impacts on the environment[rdquo]).

13 Sierra Club v. U.S. Forest Serv., 857 F. Supp. 2d 1167, 1176-78 (D. Utah 2012) (NEPA requires an 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).

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22 See Stanislaus National Forest OSV Designation FEIS, available online at

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23 See, for example, Stanislaus National Forest OSV Use Designation FEIS Volume 1 pages 106-116. Available

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24 See for example, Stanislaus National Forest OSV Designation FEIS, available online at

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25 Stanislaus National Forest OSV Designation FEIS, Volume I, page x.

26 Id.

27 Minimization Criteria screening document, page 2.

28 See Tahoe National Forest Over-Snow Vehicle Use Designation draft ROD, page 2; Tahoe National Forest

Over-Snow Vehicle Use Designation FEIS Volume 1, page 25, available at

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29 Hatchett et al. 2017. Winter Snow Level Rise in the Northern Sierra Nevada from 2008 to 2017. Water: 9(11),

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30 Winter Wildlands Alliance. 2009. Seeing the forest and the trees: assessing snowmobile tree damage in national

forests. A report by Winter Wildlands Alliance, Boise, ID. See Attachment 2.

31 See Friends of the Clearwater v. U.S. Forest Service, No. 3:13-CV-00515-EJL, 2015 U.S. Dist. LEXIS 30671, at *46 (D. Idaho Mar. 11, 2015) ([ldquo]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.[rdquo]).

32 See Attachment 3, Common Ground Agreement Map.

33 Available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5365835.pdf.

34 White River TMIP, page 6.

35 Available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5130759.pdf.