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First name: Keith

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Title: Chair

Comments: We are uploading here our letter of comment in this matter. We will hand deliver a hard copy to the Forest Supervisor's Office along with the Flash Drive of cited documents.

May 2, 2024

Anthony Botello Forest Supervisor

Flathead National Forest 650 Wolfpack Way

Kalispell, MT 59901

Submitted online at <https://cara.fs2c.usda.gov/Public/CommentInput?Project=61460>

Re: Flathead Forest Plan Suitability Changes: Winter Travel Management and Recommended Wilderness EA

Dear Supervisor Botello;

Thank you for this opportunity to comment on the EA in the above matter. In addition to the electronic submission of this letter, we will be delivering a flash drive containing documents cited in this letter to your office by May 6. Citations to documents on the Flash Drive will be made in the format of FD/Folder/Sub-Folder/File Name. We incorporate by reference the comments being submitted by Friends of the Wild Swan and WildEarth Guardians.

Uses Not Allowed in Recommended Wilderness Areas (RWAs)

We appreciate that public use of mechanized vehicles will not be allowed in RWAs, nor on a number of trails leading into RWAs. As during scoping, we still do not agree with allowing administrative use of mechanized and motorized vehicles and equipment in RWAs. Moreover, the newly proposed language to allow for these administrative exemptions is overbroad and allows any kind of motorized use. There are plenty of places outside RWAs for the Forest Service to conduct whitebark pine restoration and trails can be maintained without motorized vehicles or tools. Ditto for igniting prescribed fires.

If the protection and restoration of whitebark pine is such a big issue in the EA, why does it not propose more areas closed to OSVs to prevent damage to whitebark pine? Why does the EA, at 19, say only that "We would consider monitoring options to assess potential over-snow vehicle damage to whitebark pine the acres proposed for designation of over-snow vehicle use in the Upper North Fork, Canyon and Big Creeks, and Skyland Challenge areas?" "Consider" is a wholly non-committal word and aren't there also whitebark pine in areas open to OSVs in the Swan Range, for example?

Nor does the EA revisit the selection of RWAs (EA at 1) in the face of numerous changed circumstances, among them the listing of wolverine and whitebark pine as threatened species and the documented shortening of the

grizzly bear denning season, all in the face of climate change. Where is the practice of "adaptive management" in these matters, as the Forest Service so often claims as its policy? The EA and this planning process instead demonstrate stubborn inertia and unwarranted faithfulness to outdated circumstances and political tradeoffs.

Over-Snow Vehicle Suitability and Designation for OSV Use

The EA does not solve the problems of non-compliance with the OSV Travel Planning and Forest Planning rules that numerous groups and people detailed in their Objections to the revised Flathead Forest Plan. For those details, see the Objections filed by SVC, FOWS, HSUS, WWA, and WG et al at FD/Flathead Plan Objections.

The EA does not provide the site-specific detail necessary to again designate areas as suitable or open to OSV use as they were under the former Plan Amendment 24, a matter not revisited adequately in the revised Plan and its EIS. Instead, the EA simply refuses to revisit the matter of suitability (EA at 1) and again fails to provide adequate site-specific details to support designations for OSV use.

The necessary consideration of site-specific details and circumstances are instead overridden by the Plan's apparent previous commitment to not cause a net reduction in OSV use areas. The EA proposes to not designate for OSV use only 260 acres of OSV "suitable" areas, due to the danger of OSV use causing avalanches onto a groomed OSV trail (the Kimmerly area describe in the EA at 9 and 17). Where is this same level of concern for OSV riders and a groomed trail similarly expressed for the wellbeing of other humans, wildlife and plant life?

Rather than designate other "suitable" areas as closed to OSVs to protect non-motorized recreationists, grizzly bears, lynx, wolverine, and whitebark pine, the EA instead sticks to the failed notion of political tradeoffs. For example, the EA sticks to essentially trading lynx security in the Sullivan area for lynx displacement in the Whitefish Range, especially the Canyon Creek, McGinnis and Big Creek areas. Page 29 of the EA states:

The proposed designation of over-snow vehicle use would not result in a net change to over-snow vehicle use in lynx habitat on the forest. Over-snow motorized access in lynx habitat would be decreased in the South Fork of the Flathead, Upper Sullivan area (figure 6), and increased mainly in the southern part of the Whitefish Range (Upper North Fork area, figure 3) in the Canyon Lynx Analysis Units. Overall, in lynx habitat proposed for over-snow vehicle use, 83 percent of the new areas would be concentrated north of Columbia Falls in the Canyon Lynx Analysis Unit, or in the Bear Creek Lynx Analysis Unit adjacent to existing over-snow vehicle use, in the Canyon and Big Creeks area (figure 4). (Parenthesis in original).

This area southern Whitefish Range area, where OSV use would be concentrated in lynx habitat, is smack in the middle of the most likely lynx summer and winter travel corridors determined by Squires et al (2013; Combining resource selection and movement behavior to predict corridors for Canada lynx at their southern range periphery; in Biological Conservation 157 (2013) 187-195). Squires (FD/Squires et al 2013) concludes:

. . . maintaining connectivity for lynx may become increasingly difficult due to climate and anthropogenic change .
. . Long-term population recovery of these species requires maintenance of short and long-distance connectivity .
. . We found a primary putative corridor for connectivity of lynx from Canada to the Northern Rockies that extended from the Whitefish Range in the north, along the western front of the Swan Range and ended near Seeley Lake, MT (Fig. 4).

Below (see attachment Squire et al Figure 4.jpg) is the referenced Figure 4 from Squires et al (2013):

The EA does not discuss Squires et al (2013) nor list it in the Reference section. Rather than account for the effects of the proposed action on lynx and other species, the EA discounts them and arbitrarily claims that lynx connectivity will not be harmed. Moreover the EA's treatment of the effects of snow compaction on lynx is inadequate and discounts the effects. In a 5/6/14 email to Supervisor Weber, we included photos of snowmobiles accessing the Swan Crest via Doris Creek's Silver Basin on Memorial Day Weekend. During a time when the snowpack is otherwise "rotten," I was able to walk in hiking shoes all the way to the Swan Crest due to the compacted snowmobile tracks past where the snowmobiles were running on bare ground/road. I have in the past seen coyote tracks in the high country of Krause Basin on compacted snowmobile trails and tracks.

The EA is no more kind to people that prefer non-motorized recreation. On page 59, the EA says of newly designated OSV use areas:

In summary, short term user conflicts over the desire for quiet recreation and competition for fresh snow may occur in this area before users learn of the changes in allowed use. However, over the long term, users will likely adjust use patterns to use the available terrain.

In other words, there will be short term impacts until non-motorized folks learn to stay the heck out of the motorized OSV areas, move to their ever-shrinking remainder, and in this way prevent impacts from persisting long term! This bullish attitude, while perhaps shared by many OSV enthusiasts, has no place in an EA attempting to fairly and objectively account for and minimize effects. This is an utter failure to adequately apply the minimization criteria of the OSV Travel Planning Rule and also a violation of NEPA. The displacement of non-motorized recreationists will be long term, whether their memories are short or long.

Similarly, the EA is no kinder to soils and vegetation and the folks that have asked for application of a minimum snow depth requirement to protect them from OSV damage. The EA, on page 19, responds to this suggestion:

While a minimum snow depth might in theory help minimize impacts to soils, soil damage from over-snow vehicle use is such an isolated occurrence on the Flathead National Forest in existing over-snow vehicle use areas, that minimum snow depth would not meaningfully contribute to minimizing impacts to soils.

Please see our "Snowmobiling's Endless Winter" report at FD/Late Season Snowmobiling Docs/Snowmobiling's Endless Winter. This report includes documentation of snowmobile use occurring on the Flathead NF as late as July and as early as November, along with its attendant damage to soils, vegetation and wildlife security. This report shows such damage to be anything but "an isolated occurrence" and paints a picture of damage to OSVs being a bragging right, contrary to the EA's assertion that "users of over-snow vehicles self-regulate because over-snow vehicles are expensive and can be damaged by use on insufficient snow. See also our 5/6/14 email to Supervisor Weber at FD/Late Season Snowmobiling Docs/ SVC to Weber et al 140506 for photos of snowmobiles having run a full two miles on bare road.

See also our email reports to then-Supervisor Chip Weber about late-season snowmobiling in the vicinity of known grizzly bear den sites during emergence, as well as photos of snowmobile damage to soils and other wildlife security. (FD/Late Season Snowmobiling Docs/SVC to Weber et al 140429; SVC to Weber et al 140506; and Weber's responses). As documented therein, Amendment 24 failed to minimize such damage and instead institutionalized it with late seasons. Then the revised Forest Plan simply followed suit and now this EA also fails to properly apply the OSV Travel Planning minimization criteria in order to adequately minimize this damage.

Moreover, the above email exchanges document an extraordinary case where snowmobile incursions into denning areas were known to be occurring only by the sake of MDFWP grizzly bear monitoring. While the temporary 2014 closure of the Skyland area to OSVs was instituted and appreciated, along with the subsequent proposed closure to OSVs in the Puzzle Creek area, these measures do nothing to stem what must reasonably be the ongoing but undocumented incursion of OSVs in denning areas during den emergence.

In fact, while the Skyland area was temporarily closed in 2014 to OSVs due to grizzly den emergence, the Flathead NF encouraged OSV use in other late-season OSV areas where grizzly bears could be expected to be emerging from their dens. (FB/Late Season Snowmobiling Docs/ FNF Press Release 140501). It is apparently a matter of "see no evil, hear no evil, speak no evil" on the Flathead NF, resulting from its bias to minimize impacts to OSV riders at the expense of everything else.

Also in our 5/6/14 email to Supervisor Weber are photos of unlawful (post-season) OSV high-marking in Camp Misery as well as recent OSV damage to Jewel Basin Road 5392 used to access the post-season high-marking (FD/Late Season Snowmobiling Docs/SVC to Weber et al 140506). Then and now (according to the most recent OSVUM available on the FNF web site, which is dated 2011 and included at FD/SLRD North- Half OSVUM 22011) this road and many others are "Open Yearlong to Over Snow Vehicle Access, Conditions Permitting." According to actual OSV users, this includes bare roads and the EA does nothing to mitigate or prevent such trespass and damage.

Speaking of Jewel Basin Road 5392, we found a dead, decomposing wolverine on a spur to the Jewel Basin Road ("closed" road 5392Y) on 10/21/21. In our 2023 road closure effectiveness report, "Road Hunt," we note that the boulders intended to close this road had been out of place and being trespassed since at least 8/25/16, was still in dis-repair on 10/28/22, and 5392Y has been cleared of deadfall as far as Birch Creek, where the wolverine carcass was found (FD/Road Hunt). Did OSV access on this "closed" road contribute to the trapping of fur-bearers and the subsequent death of this wolverine, if not outright poaching? The EA is wholly inadequate in its assessment of how the Flathead's road system contributes to the harm of wildlife and other resources by OSV access - even more so when considered cumulatively with non-OSV uses.

Worse yet, the revised Forest Plan has replaced Amendment 19's road "reclamation," where roads not counted in Total Road Density must "no longer function as a road or trail" with "impassable" road status, where roads not counted in TRD need only be blocked to be "inaccessible to wheeled motorized vehicles during the [grizzly bear] non- denning season." In other words, "impassable" roads can continue to function as roads and trails for OSVs during the denning season, (revised Forest Plan Glossary, at 199).

The Flathead NF has thus far proposed some 83 miles of new road be built or previously decommissioned roads rebuilt in the grizzly bear Primary Conservation Area under the revised Forest Plan then, at best, be rendered "impassable" to wheeled motorized vehicles but left available for OSV use (FD/Hammer Declaration). An example of one such timber sale and road building project would be the Spotted Bear Mountain Project, where we opposed and formally objected to this increase in OSV access in otherwise remote habitats (see FD/Spotted Bear Mountain for a more detailed accounting of this example). The EA, at 28, acknowledges that clearing overgrown roads and logging "allow for easier winter snowmobile access" but then wrongly concludes that OSVs "cannot physically maneuver between or over the trees." What once may have been true for snowmobiles is no longer true for more maneuverable single-ski "snow-bikes." It does no good for the EA to list how many miles of road are open to OSVs and then simply dismiss or discount the direct and cumulative effects.

The EA not only fails to account for the effects of the proposed OSV designations, it fails to account for the cumulative effects of OSV use of the Forest's road system by OSVs, wheeled vehicles, and other human uses. Importantly, the EA fails to use the best available science in determining the grizzly bear denning period and instead sticks to the outdated December 1 - March 31 time period. A recent lawsuit against the trapping of wolves while grizzly bears are out of their dens used an abundance of scientific expert testimony to determine that

almost all grizzly bears can be considered reliably in their winter dens only from January 1 to February 15. See FD/Wolf Trapping Injunction Docs for the expert testimony and Plaintiffs' Statement of Undisputed Facts. See the Court Orders' sub-folder for U.S. District Judge Molloy's order and the Ninth Circuit Court of Appeals affirmation of the denning season dates.

The EA deceptively dismisses impacts of OSVs in grizzly denning habitats by stating, at 36, "The agencies have not detected [denning] conflicts due to over-snow vehicle use on the Flathead National Forest." This in spite of the Flathead NF's 5/1/14 press release closing the Skyland/Challenge OSV late-season area "for the protection of a grizzly bear and possibly cubs emerging from a den in the area," a closure also intended to prevent continued snowmobile trespass from Skyland/Challenge into an area where snowmobiles were documented near a den site in the adjacent closed area on the Lewis and Clark NF's Badger-Two Medicine area. (See our email correspondence with Supervisor Weber, his press release, and Amendment 24's BiOp requiring the closure at FD/Late-Season Snowmobiling Docs).

The revised Forest Plan's and this EA's treatment of protecting denning and emerging grizzly bears is wholly inadequate, arbitrary, capricious, and downright reckless. As the Amendment 24 BiOp noted, "Discovery of an individual grizzly bear injury or mortality attributed to snowmobiling is very unlikely." (Id. at 54). The 2014 Skyland/Challenge/Two-Medicine discovery and documentation stands out and yet the Flathead either forgets it in this EA or simply doesn't want to talk about it. The revised Forest Plan, its BiOp and this EA all fail to provide an adequate means to insure OSVs don't come into conflict with denning or emerging bears, fail to account for the times when they do, fail to adjust the denning season to reflect the best available science (January 1 - February 15), and fail to, at a minimum, restrict OSV use to those dates and do away with the extraordinarily risky "late seasons."

The measures to protect emerging females described on page 18 of the EA and in Design Feature Wildlife 3 are wholly inadequate, describe vague and lesser protective measures that Amendment 24, and apply only to the Skyland/Challenge area. What about denning and emerging females in the northern Swan Range late-season area and elsewhere? Moreover, page 38 of the EA attempts to sidestep the impacts on denning by stating "There are no reports of den abandonment by grizzlies in the lower 48 states," while ignoring just such evidence in Canada and elsewhere. For more detail, see FD/Flathead Plan Objections/WG Forest Plan Objection, at 73.

The EA similarly fails to make adjustments for the now-threatened wolverine. Page 22 notes that "Wolverine denning and kit rearing occurs from mid-February to mid-May. In spite of the fact that the EA (page 23) shows the Flathead NF is lucky to be a part of the ecosystem that has "the highest predicted wolverine occupancy," it then does nothing to protect wolverine by closing "suitable" OSV areas to OSV use. Perhaps OSV closures after mid-February would align better with both wolverine and grizzly bear denning? The EA doesn't discuss such an alternative.

Overall, the EA at 21 finds that, under the proposed action:

"The proposed action would reduce over-snow vehicle use in habitats that are important to wolverines in the winter months. There would be a decrease in potential disturbance from over-snow vehicle use in potential maternal [wolverine] habitat by approximately 1 percent and in primary wolverine habitats by less than a percent."

Were these small percentages adverse impacts to wolverine, the EA would attempt to dismiss them as insignificant but, because the effects are purported to be positive, the EA attempts to show them off. Contrast this to the 12-15% increase in OSV use in maternal wolverine habitat that is then discounted as "small relative to the needs of an individual wolverine on page 26 of the EA! Impacts to dispersal habitats are similarly discounted/dismissed and, as with lynx, it does wolverine being displaced in the southern Whitefish Range little good to have less OSV use in the Sullivan Creek portion of the Swan Range. Again, this is not how the minimization criteria are supposed to be applied.

While EA Appendix C lists a number of "activities considered for cumulative effects," the EA fails miserably to then disclose and account for the cumulative effects of those activities." This is a violation of NEPA.

While the Information and Education Strategy for Prevention of OSV Trespass (EA Appendix D) may appear impressive, it all boils down to whether there is dedicated and consistent monitoring and enforcement. EA page 91 is telling in its admission that OSV patrols and monitoring are not of highest priority:

Boundary patrols to prevent and detect over-snow vehicle trespass in closed areas are expensive, entail some risk to personnel, and require a sizeable investment in equipment and training. The high cost and risks of a winter patrol is often a deterrent to its implementation. A manager faced with the need to conduct summer patrols when visitor use and encounters with the public are high may not be able to justify the high cost of a winter patrol when visitor use and the number of encounters is lower. Aerial reconnaissance patrol is occasionally possible but generally cost-prohibitive.

Combine the above with the acknowledgement on page 90 that "the odds of being apprehended and the minimal penalty if apprehended may be so small, they are not considered to be a deterrent" to illegal OSV trespass, and one has a pretty sour note on which to conclude a reading of the 113-page EA.

In conclusion, we are very disappointed to see the EA not make the necessary adjustments in where and when OSV use should be allowed in light of new information including the listing of wolverine and whitebark pine as threatened species, the very real-world shortening of winter conditions due to climate change, and the expert opinions and case law shortening the grizzly bear denning season to January 1 - February 15. For the shortcomings in the revised Forest Plan EIS and this EA detailed above and in our companion Flash Drive documents, we find and ask that a full EIS be prepared in these matters.

Sincerely,

Keith J. Hammer Chair

Attachments:

Squire et al Figure 4.jpg

Attachments:

FOWS Forest Plan Objection.pdf

HSUS.pdf

SVC Forest Plan Objection.pdf

SVC Supplemental Objection.pdf

WG Forest Plan Objection.pdf

Winter Wildlands Hilary Eisen.pdf

2023-08-02_Hammer decl..pdf

23-08-07 Doc. 40 Notice of Errata.pdf

2008 12 19 BO Rein FNF A24 G.pdf

A24 FEIS Clarification 031222.pdf

FNF Press Release 140501.pdf

Snowmobiling Endless Winter.pdf

SVC to Weber et al 140429.pdf

SVC to Weber et al 140506.pdf

Weber Response 140506a.pdf

Weber Response 140506b.pdf

Road Hunt Hammer 2023

2011 OSVUM SLRD North

SVC on Spotted Bear Mtn 211209.pdf

SVC on Spotted Bear Mtn EA 220527.pdf

SVC Spotted Bear Mtn Objection 220824.pdf

Squires et al_2013_Bio Con_Combining resource selection and movement to predict corridors Canada lynx

06-1 Mattson Dec.pdf

06-2 Kendall Dec.pdf

06-3 Niemeyer Dec.pdf

06-4 Boyd Dec.pdf

06-5 Horejsi Dec.pdf

06-6 Manley Dec.pdf

22 Barrie Gilbert 2nd Dec.pdf

23 Dave Mattson 2nd Dec.pdf

24 Lance Craighead Dec.pdf

25 Carter Niemeyer 2nd Dec.pdf

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55-3.pdf

55-4.pdf

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SUF filed.pdf

231121 Molloy Wolf Trapping Order.pdf

240325 Molloy PI order change denied.pdf

240423 9th circuit ruling.pdf