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**Ben Burr, Executive Director**  
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**August 28, 2023**

Pacific Northwest Regional Forester's Office  
Attention: Pacific Northwest National Scenic Trail Comprehensive Plan Comments  
1220 SW 3rd Avenue, /Suite 1700  
Portland, Oregon 97204

**RE: Objections to Pacific Northwest Trail Comprehensive Plan**

Dear Objection Reviewing Officer:

Please accept these objections to the Pacific Northwest National Scenic Trail Comprehensive Plan. These objections are submitted on behalf of BlueRibbon Coalition (BRC), including BRC's individual and organizational members who have enjoyed, and plan in the future to enjoy, access to the PNT

These objections are submitted in accordance with 36 C.F.R. part 218. BRC filed comments on the PNT Comprehensive Plan raising the stated issues or otherwise providing a basis for these objections. The point of contact for this objection is Simone Griffin, please direct all communication regarding these objections to Simone Griffin at PO Box 5449 Pocatello, ID 83202, brsimone@sharetrails.org. We formally request a resolution meeting in accordance with 36 C.F.R. § 218.11. We hereby authorize, indeed encourage, the Reviewing Officer to extend the time for a written response to objections, particularly if it will facilitate a thorough effort to explore opportunities to resolve objections. See, 36 C.F.R. § 218.26(b).

**I. Interest of the Objector**

BRC has a unique perspective and longstanding interest in recreation access on public lands. BRC is a nonprofit corporation that champions responsible recreation and encourages individual environmental stewardship. BRC members use various motorized and nonmotorized means to access public lands and waters, specifically including use of the PNT.

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BRC has a long-standing interest in the protection of the values and natural resources addressed in this process, and regularly works with land managers to provide recreation opportunities, preserve resources, and promote cooperation between public land visitors.

## **II. Objection Issues**

We note at the outset that the agency has conducted a lengthy process, and addressed many of our concerns. We want to express our appreciation for the agency's thoughtful effort, support of stakeholder involvement and collaboration, and patience in this lengthy process. Still, there remain concerns with the current approach, and we raise the following objections, which provide a legal basis for our requested changes to the Comprehensive Plan.

The objection process necessarily anticipates the possibility and potential likelihood of success in subsequent litigation brought by an objector. In such a challenge the Administrative Procedure Act (APA) waives the United States' sovereign immunity for those aggrieved by "final agency action." 5 U.S.C. §§ 702, 704; *Lujan v. National Wildlife Federation*, 497 U.S. 871, 882 (1990). APA section 706(2) provides the relevant standard of review: a reviewing court shall "hold unlawful and set aside agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; [or] (C) short of statutory right; [or] (E) unsupported by substantial evidence...." This standard of review is "narrow" but the agency:

must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made....Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

*Motor Vehicle Mfrs. Ass'n. v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 43 (1983) (citations omitted). This is considered a deferential standard of review. Still, there always exists some level of litigation risk, and we believe the decision can be improved.

### **A. Objections**

BRC recommends additional language with the following: "...when the Forest Service selects the national trail planning corridor for the PNT, the agency intends to move the PNT off a road or motorized trail segment or, in limited cases where appropriate, convert a road segment to a nonmotorized trail segment...". Language should be included which requires any road or motorized trail that is converted to non-motorized be re-routed that still provides recreation experiences that are lost through re-designation of these routes.

PNT should also analyze the allowance of e-bikes where human powered bikes are permitted. President Biden has issued an *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. Because this information constitutes new information based on *CFR § 218.8 C*, the USFS should update the plan and proposals to be consistent with the President Biden's *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* and the Department of Agriculture's *Equity Action Plan*. 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. This includes persons with

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disabilities and limited physical access. The Americans with Disabilities Act requires all people be given the same opportunities to access public land. Without access to some areas, this marginalized group will not be able to access parts of the route let alone the entire trail.

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 e-bikes, which are restricted to certain acreage and specific dates of use.

Management policies focused on “minimizing” the environmental impacts of motorized recreation have 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 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 closures and seasonal restrictions in the PNT Comprehensive Plan would disproportionately harm disabled users’ ability to access this trails.

Any approach to f 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 for this management plan and ensure that people with disabilities who depend on motorized means do not lose access.

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Sincerely,

A handwritten signature consisting of the letters 'B' and 'B' in a cursive style, followed by a long horizontal line extending to the right.

Ben Burr  
Executive Director  
BlueRibbon Coalition

A handwritten signature in cursive script that reads 'Simone Griffin'.

Simone Griffin  
Policy Director  
BlueRibbon Coalition