



Anthony Botello, Forest Supervisor
Flathead National Forest
650 Wolfpack Way
Kalispell, Montana 59901

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

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

May 3, 2024

Please accept these comments on behalf of Wild Montana (formerly Montana Wilderness Association) and our members in response to the public comment period for Flathead Forest Plan Suitability Changes: Winter Travel Management and Recommended Wilderness Project.

I. Organizational Background

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 more than 3,500 members are invested in the ecological integrity and quiet recreation opportunities on public lands across Montana, as well as the impact of climate change on Montana's wild places.

Wild Montana participated in the Flathead Forest Plan revision process during all available opportunities and was an active member of the Whitefish Range Partnership. Wild Montana is pleased to have the opportunity to contribute to this important step



following the forest plan revision process and we commend the Forest Service for following through on its commitment to initiate this within three years after the Record of Decision was signed. We appreciate the work that has gone into this process thus far and can see the Flathead National Forest took into consideration the public's scoping comments.

II. Recommended Wilderness Suitability

Wild Montana strongly supports prohibiting public motorized and mechanized use in recommended Wilderness areas designated in the 2018 Revised Flathead National Forest Plan. This includes closing the identified areas and trails in Alcove-Bunker, Java-Bear Creek, Jewel Basin, Limestone-Dean Ridge, Slippery Bill-Puzzle, and Tuchuck-Whale. By eliminating these uses which are not suitable in recommended Wilderness, the Forest Service will ensure that the Wilderness character of these areas is maintained and enhanced.

The Flathead National Forest has identified three critical desired conditions for recommended Wilderness area management, including the following:

MA1b-DC-01: Recommended wilderness areas preserve opportunities for inclusion in the National Wilderness Preservation System. The Forest maintains and protects the ecological and social characteristics that provide the basis for wilderness recommendation.¹

The proposal to prohibit unsuitable uses in recommended Wilderness areas will create a future condition that allows recommended Wilderness areas to retain their social and ecological wilderness characteristics and opportunity for future inclusion, thus upholding the Forest's responsibility under the 2012 Planning Rule. In the Record of Decision, Supervisor Weber stated:

I have included [MA1b-SUIT-06] in my final decision because I believe it is necessary to protect and maintain the ecological and social

¹ *Flathead National Forest Land Management Plan*, U.S. Forest Service (November 2018), at 89 [hereinafter *Flathead National Land Management Plan*].



characteristics that provide the basis for their wilderness recommendation (described in Appendix G of the land management plan). Although a number of commenters and objectors expressed concern that the management of recommended wilderness creates “de facto wilderness areas” in lieu of action by Congress, the land management plan does not create wilderness. The Forest Service has an affirmative obligation to manage recommended wilderness areas for the social and ecological characteristics that provide the basis for their recommendation until Congress acts. The land management plan does not allow for continued uses that would affect the wilderness characteristics of these areas and possibly jeopardize their designation as wilderness in the future.²

We also thank the Forest Service for responding to scoping comments and adjusting designated OSV use boundaries to better protect recommended Wilderness and limit trespass issues. We appreciate the proposed use of trailheads and other clear geographic features as boundaries for OSV areas rather than the edge of designated recommended Wilderness areas.

III. Programmatic Amendment

We are not necessarily opposed to the administrative use of motorized and mechanized equipment, including chainsaws for trail clearing, when appropriate in recommended Wilderness areas. However, we want to ensure that changes to plan components do not create room for interpretation that could lead to confusion or lack of clarity down the road. In our scoping comments, we suggested the Flathead adopt language from the Custer Gallatin Forest Plan and we understand the Flathead National Forest has instead opted to follow the language put forward by the Helena-Lewis & Clark Forest Plan.

The Custer Gallatin Forest Plan language includes the following suitability standard:

FW-SUIT-RWA-03 Recommended Wilderness areas are suitable for low

² *Final Record of Decision: Flathead National Forest Land Management Plan*, U.S. Forest Service (November 2018), at 20.



impact restoration activities that move forward desired conditions (such as prescribed fires, active weed management, planting) that protect and enhance the wilderness characteristics of the area.³

The Helena-Lewis & Clark Forest Plan language includes the following suitability standard:

FW-RECWILD-SUIT03 Motorized and mechanized equipment (such as chainsaws to clear trails) are suitable for accomplishing restoration activities and/or administrative work.

The currently proposed standard for the Flathead National Forest is missing two crucial elements from the other forest plan examples. The Custer Gallatin Forest Plan provides clarity about the level of intensity for restoration activities and that the goal of the activities must be linked to the desired condition of protecting and enhancing wilderness characteristics. Additionally, the Helena Lewis & Clark Plan language limits motorized use in recommended Wilderness areas to motorized *equipment*. The currently proposed standard for the Flathead National Forest would allow for any mechanized and motorized use for administrative purposes. While we appreciate that MA1b-SUIT-03 would remain, we request the proposed language for MA1b-SUIT-06 be amended to also discuss Wilderness characteristics and only provide for “motorized equipment” to ensure OHV and OSVs are not being used in recommended Wilderness areas where they could significantly affect Wilderness character.

Additionally, we would like to see the Forest clearly outline a methodology in the plan direction for determining whether motorized or mechanized use is appropriate for a given project to ensure compliance with the 2018 Forest Plan and MA1b-DC-01.⁴ One option could be to include a plan component that directs the agency to essentially use a minimum tools analysis when designing management activities. By using a decision framework that is currently used to

³ Custer Gallatin National Forest Land Management Plan, U.S. Forest Service (Jan. 2022), at 125.

⁴ *Flathead National Land Management Plan* at 89. “**MA1b-DC-01**: Recommended wilderness areas preserve opportunities for inclusion in the National Wilderness Preservation System. The Forest maintains and protects the ecological and social characteristics that provide the basis for wilderness recommendation.”



evaluate proposed exceptions to the Wilderness Act’s general prohibition on motorized and mechanized activities, there would be more assurance that the potential for designation of recommended Wilderness areas is not diminished by administrative use.

IV. Minimization Criteria and Environmental Analysis

While we appreciate the detailed minimization screening criteria in the Environmental Assessment (EA), we believe the Flathead National Forest must do more to minimize and document the minimization of impacts to wildlife, natural resources, and conflicts between uses. The heart of Subpart C of the Travel Management Rule, also known as the “OSV Rule,” is the minimization criteria that requires the Forest Service 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 of neighboring public lands.⁵

We were disappointed to see the Flathead National Forest dismiss the use of minimum snow depth as a management tool. The Flathead has claimed that it would be too difficult to enforce and that OSV users will essentially self-regulate because they will not want to recreate in areas with low snowpack. From our experience working on Forest Service issues, low snowpack and inadequate snow conditions do not necessarily deter OSV use. The EA further inadequately dismisses these concerns by stating that OSV use “typically does not disturb ground cover.”⁶ This is only the case when there are adequate snow conditions. Sufficient snow accumulation is necessary to avoid compaction of the subnivean zone and associated impacts to soil, vegetation, and subnivean mammals. Similarly, south-facing slopes and/or areas that are frequently wind-swept and do not hold as much snow as surrounding areas, may not be appropriate for opening to OSV use all season long. If the Flathead National Forest does not want to use a snow depth adaptive management approach, then it should take

⁵ Exec. Order No. 11644, § 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); 36 CFR § 261.14.

⁶ *Draft Environmental Assessment: Flathead National Forest Plan Suitability Changes: Winter Travel Management and recommended Wilderness Project*, U.S. Forest Service (Mar. 2024), at 70 [hereinafter *EA*].



into account other measures to ensure there is sufficient snow on the ground during the designated OSV season such as changing season date restrictions. The designated areas and relevant minimization criteria should also be examined in the context of climate change. With climate change leading to reduced and less reliable snowpack, and warmer temperatures changing hibernation patterns, it is critical that changing baseline conditions be considered to ensure compliance with Subpart C and the minimization criteria to prevent avoidable resource damage or wildlife disruption.

Additionally, the Flathead is currently using a forest-scale view of impacts to wildlife species.⁷ A forest-wide scale is appropriate to analyze cumulative impacts under the National Environmental Policy Act, but a more in-depth analysis is necessary for the consideration of direct and indirect impacts. The Flathead should conduct a finer-scale habitat mapping and analysis of potential impacts to species, especially lynx, wolverines, and grizzly bear to ensure the plan is appropriately looking at connectivity and denning habitat before designating areas open for OSV use. Otherwise, as is currently the case, the Forest Service can dilute and average the impacts to species across the entire forest even when specific areas might have higher levels of negative effects from the proposed decision to open areas to OSV use. The EA discusses that OSVs can negatively impact species, but does not provide the necessary specificity regarding where wildlife values are located and how the final decision will mitigate impacts, especially in light of changing conditions from climate change.

Lastly, the OSV Rule requires the agency to minimize use conflict. The Flathead has not demonstrated in the EA that the proposed designated OSV areas will minimize use conflict. Instead, the EA discusses that displacement of non-motorized users by OSV use will eventually minimize conflict by stating that “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.”⁸ This implies that the Forest Service is essentially encouraging conflict so that nonmotorized recreationists will eventually abandon areas where they currently recreate due to the presence of OSV users. This is

⁷ For example, the EA states that “[t]he spatial extent of analysis of effects for wolverines is the Flathead National Forest.” EA at 22.

⁸ EA at 59.



not minimizing conflict and is a prime example of displacement as a form of use conflict. The Flathead National Forest must take additional steps to minimize the use conflict that could occur because of this decision.

V. Suitable Areas for OSV Use

We want to ensure that the minimization criteria are applied to all newly suitable areas for OSV use to determine site-specific impacts and carefully consider where openings are appropriate. The OSV Rule creates an approach where areas are “closed unless designated open” and requires the Forest Service not to designate areas as open by default.⁹ While we supported many of the suitability determinations during forest planning, including those that were a part of the Whitefish Range Partnership, we would like to ensure that the Flathead National Forest takes a hard look at the areas that are proposed for open to OSV use designation and determine whether OSV use is appropriate throughout the area or not based on the application of the minimization criteria. OSV use should not necessarily be permitted in all suitable areas. Rather, suitability determinations are a starting point for conducting site-specific travel management planning and even the 2018 Revised Flathead Forest Plan stated that “[j]ust because an area is suitable for motorized use does not mean motorized use is allowable everywhere in that setting.”¹⁰

As discussed above, we appreciate the changes in boundaries since scoping to better protect against OSV incursions into recommended Wilderness. The proposed closure of the route up Puzzle Creek in the Skyland Challenge area will limit illegal riding in the Badger-Two Medicine. For the same reasons, we suggest the boundary be adjusted to be near the Morrison Creek Bridge where the warming hut and bathrooms are located. This boundary would be more effective and enforceable.

Furthermore, we recommend adjusting the boundary of the OSV area at Marias Pass. This area already has an issue with OSV incursions on the Helena-Lewis &

⁹ See 36 C.F.R. §§ 212.80(a), 212.81(a), 261.14.

¹⁰ FSH 1909.12 § 22.15(1); *Flathead National Land Management Plan* at 55.



Clark Forest and we believe moving the boundary on the Flathead side away from the Continental Divide, and not including Flattop Mountain would help reduce this issue. As discussed above, the Flathead National Forest has not adequately analyzed the minimization of use conflict. Flattop Mountain is an example of where use conflict and specific wildlife considerations need to be analyzed more thoroughly. We recommend that the Forest Service adjust the boundaries of the new OSV area at Marias Pass to not include Flattop Mountain. If the Flathead moves forward with designating this area for OSV use, it also must contemplate additional tools for minimizing conflict that will occur.

VI. Implementation and Next Steps

We commend the Flathead National Forest for discussing implementation and developing the EA's Appendix D, "Information and Education Strategy for Prevention of Over-Snow Vehicle Trespass."¹¹ We encourage the Flathead National Forest to also consider providing snow rangers to regularly patrol trailheads and trails and educate users.

While we appreciate the initiation of this process to align winter travel management with the suitability changes made in the 2018 Revised Forest Plan, we encourage the Flathead National Forest to address the need for OSV designations forest-wide. Currently, OSV travel on the Flathead is governed by Amendment 24, which the Forest Service incorporated into the 2018 Forest Plan. Amendment 24 is fairly thorough in designating specific routes and areas for OSV use in the Whitefish Range, however, OSVs are still allowed across the rest of the forest and these areas were never subjected to the site-specific analysis or minimization required by the OSV Rule. In order to bring the Flathead fully in compliance with the OSV Rule, the Forest must conduct forest-wide OSV planning. If the Forest Service believes that Amendment 24 complies with the OSV Rule, it should demonstrate to the public how that decision incorporated site-specific analysis and applied the minimization criteria. We believe that Amendment 24 is insufficient to meet these requirements and did not take the necessary look at minimization. This EA shows the type of minimization criteria analysis that is required by the OSV Rule and unless the Flathead National Forest can show

¹¹ EA at 90–92.



where it had conducted a similar level of analysis and application of the criteria to support OSV designations across the forest, the Forest Service cannot claim to be in compliance with the OSV Rule.

We would also like further clarification regarding how the Flathead National Forest plans to implement this proposal once the final decision is signed and what enforcement mechanism will be used to prohibit public mechanized uses in the recommended Wilderness areas. Will the Forest Service issue a special order alongside the Record of Decision for mechanized use? Further, the EA states that the Flathead National Forest will be issuing an over-snow vehicle map (OSVUM). Since the Flathead has not completed forest-wide OSV planning, the Forest Service cannot publish a forest-wide OSVUM with designations that have not been subject to site-specific analysis and minimization. How does the Flathead National Forest plan to implement and enforce the newly designated OSV areas?

VII. Conclusion

Thank you for your consideration of our comments. We appreciate the Forest Service following through on its commitment to initiate site-specific planning within three years of the completion of the revised plan, however, we have remaining concerns about the programmatic amendment language, the application of the minimization criteria, and the lack of a forest-wide OSV plan. Please do not hesitate to contact us if you have any questions. We look forward to continued work with the Flathead National Forest as this process continues.

Sincerely,

Maddy Munson
Public Lands Director
Cell: (406) 312-8741
Email: mmunson@wildmontana.org