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Comments: We appreciate that the Flathead National Forest is moving to implement the suitability changes in the 2018 Forest Plan. Comments on behalf of Winter Wildlands Alliance are attached as a pdf. A hard copy can be provided upon request.

April 29, 2024

Anthony Botello Forest Supervisor

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

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

Dear Supervisor Botello,

Thank you for the opportunity to comment on the Flathead Forest Plan Suitability Changes: Winter Travel Management and Recommended Wilderness draft Environmental Assessment. On behalf of Winter Wildlands Alliance, I appreciate that the Flathead is moving to implement the suitability changes in the 2018 Forest Plan, and that this EA is responsive to many of our scoping comments.

Recommended Wilderness

Winter Wildlands Alliance strongly supports the Flathead's actions to prohibit public mechanized transport and motorized use in recommended wilderness areas (RWAs). We also appreciate that the Flathead is proposing to use trailheads or other obvious geographical features to delineate where different modes of travel are or are not allowed, rather than having trail usage change at the RWA boundary. This management will be easier for the public to understand and comply with, and easier for the Forest Service to enforce. We would like to know what the enforcement mechanism will be for prohibiting public mechanized uses in RWAs. Will the Forest be issuing a special order to address mechanized uses?

We continue to have concerns about the proposed plan amendment for RWA management. In our scoping comments we suggested the Flathead adopt language from the Custer Gallatin forest plan, "Recommended wilderness areas are suitable for low impact restoration activities that move toward desired conditions (such as prescribed fires, active weed management, planting) and that protect and enhance the wilderness characteristics of these areas." We understand that you considered this language and opted instead to more closely align with

language in the Helena-Lewis & Clark forest plan. However, there is a key difference between the Helena-Lewis & Clark plan language and what the Flathead has proposed - the Flathead's proposed plan amendment opens the door to motorized transportation within RWAs so long as it is for administrative purposes. The Helena-Lewis & Clark plan language limits motorized use in RWAs to motorized equipment. We understand the Flathead's rationale for wanting to retain the ability to use helicopters and motorized equipment for whitebark pine restoration in RWAs, but we are concerned that the proposed plan amendment would also allow wheeled (OHV) and over-snow vehicle (OSV) use in RWAs. Even if only for administrative purposes, OHV and OSV use in RWAs would significantly affect Wilderness character and leave tracks and ground disturbance that would serve as an invitation for public use incursions. The proposed plan amendment should be revised to read "Mechanized transport and motorized use are not suitable for use in recommended wilderness except for the administrative use of motorized and mechanized equipment, and helicopters, to accomplish administrative purposes such as restoration activities (for example, management of ignited trees or using chainsaws to reduce stand densities around whitebark pine trees) and trail maintenance."

Over-Snow Vehicle Designations

We strongly support prohibiting OSV use in RWAs, and appreciate that the Forest Service has sought to locate OSV area boundaries in an intuitive manner. For example, the new Slippery Bill-Puzzle RWA will limit OSV incursions into the Badger-Two Medicine, helping to protect wildlife and cultural resources. We recognize and appreciate that the Forest Service has thoughtfully considered where the designated area boundary should be for purposes of enforcement and compliance. For these reasons, we suggest the boundary be moved near the Morrison Creek bridge where the warming hut and bathrooms are located. Likewise we suggest adjusting the boundary of the OSV area at Marias Pass. OSV incursions onto non-motorized terrain on the Helena-Lewis & Clark National Forest from this area are already a problem and, while we agree with the Flathead that a shorter boundary will help reduce incursions by being easier to enforce, we believe that moving the boundary away from the Continental Divide and not including Flattop Mountain would also help to reduce these incursions. Maintaining all of Flattop Mountain as non-motorized would also help to minimize conflict between OSV use and non-motorized winter recreation uses in this area.

We appreciate the detailed minimization screening exercise and descriptions in this EA and that the Forest Service is seeking to comply with the Over Snow Vehicle Rule as it designates OSV use areas within those places where suitability changed in the 2018 Forest Plan. While the Forest Service has clearly put thought into how to apply the minimization criteria here, the Flathead must do more minimize, and document minimization of, impacts to wildlife and natural resources and conflict between uses. Slight modifications to the proposed OSV area boundaries (such as the examples given above), along with visitor education, some changes to the proposed season dates, and adaptive management direction, is needed to ensure that OSV management in these areas complies with Subpart C of the Travel Management Rule. Furthermore, unless the Flathead National Forest can show where in its administrative record it has conducted this level of analysis and application of the minimization criteria to support other OSV designations across the rest of the forest, the forest cannot claim to be in compliance with the OSV Rule forest-wide. Having not seen this documentation despite extensive research, we believe the Flathead needs to address OSV designations at a forest-wide scale. Amendment 24 lacks this level of site-specific analysis, with the possible exception of designations in the Whitefish Range.

The EA states that the Flathead National Forest will be issuing an over-snow vehicle map (OSVUM) to reflect the new OSV designations. Please explain how the Forest will depict other OSV designations on this map? Given that other OSV designations on the forest are potentially not in compliance with the OSV Rule, it would be misleading and potentially unlawful to include them on the OSVUM but it also doesn't make sense to publish a map that only shows the designations from this project without additional context. This is one reason WWA has repeatedly urged the Flathead National Forest to conduct comprehensive OSV planning rather than just address

suitability changes.

We commend the Flathead for developing Appendix D, the Information and Education Strategy for Prevention of Over-Snow Vehicle Trespass, and for discussing implementation in this EA. We are very supportive of the strategy described in this Appendix but we also encourage the Flathead to describe an enforcement strategy in the final EA as well. For example, the Kaniksu OSV plan includes the following enforcement actions:

- * Provide two snow rangers to regularly patrol trailheads and trails and contact and educate users as funding allows. Each of the nine trailheads listed above should be visited at least every 2 weeks to conduct snowmobile user counts beginning February 1, 2024. Moose & Roman Nose Lakes [popular late-season OSV areas] should have at least 2 visits each in April (conditions permitting) once they are opened for late season use.
- * The Forest will also develop a standardized snowmobile trailhead monitoring form by February 1, 2024, which will be used by the snow rangers.
- * Report information about unauthorized use annually by July 1st to the Service as part of the annual report.
- * Visit warming huts after May 31 to assure food storage order is adhered to and take actions to remedy the situation if it is not. Raise possibility of involving partner orgs in monitoring, helping install signs, etc. (Footnote 1).

The Flathead should include similar enforcement measures as part of implementation of this project.

Programmatic Versus Site-Specific Analysis

Throughout the forest plan revision process, and now in this EA, the Flathead has repeatedly conflated programmatic and site-specific levels of analyses. Forest planning, and the process of determining OSV suitability, does not meet National Environmental Policy Act (NEPA) obligations to take a hard look at the site-specific impacts of motorized route designations. Travel planning is a site-specific process through which specific trails and areas are designated for motorized, in this case OSV, use. Chapter 10[sect]11.2 of the Travel Management Planning directives state "The Responsible Official generally should avoid including travel management decisions in land management plans prepared or revised under current planning regulations (36 CFR Part 219, Subpart A). If travel management decisions are approved simultaneously with a plan, plan amendment, or plan revision, the travel management decisions must be accompanied by appropriate environmental analysis." Appropriate environmental analysis would include compliance with the minimization criteria, as described in 36 C.F.R. [sect] 261.14. Suitability determinations are completely acceptable in a forest planning context but cannot be substituted for the much more rigorous, site-specific analysis required to actually designate an area for OSV use under the Travel Management Rule. Application of the minimization criteria was not part of the process of making OSV suitability determinations during forest planning and the Flathead cannot shirk its responsibility to fully consider and apply the minimization criteria in this designation process.

Minimize Use Conflict

Throughout this EA the Forest Service conflates use and user conflict. The purpose of Executive Order 11644 was "to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands." Eventually, this became the basis of the minimization criteria outlined in the Travel Management Rule that now[mdash]since 2015[mdash]guides Forest Service OSV planning. The OSV Rule requires the agency to minimize use conflict. The planning requirement is not about the minimization of conflict between individual users who might for one reason or another disagree with each other. It does not presume or insist upon prior demonstrated instances of

hostility between individual people. Rather, the requirement is to minimize any inherent or possible conflict between two different recreational uses[mdash]or activities, or user groups[mdash]in this case between the use of motorized over-snow vehicles and other winter recreational uses such as cross-country or backcountry skiing or family snowplay. Recreational use conflict is often fundamentally asymmetrical, with one user group feeling the impacts of a certain activity and another group not feeling any impacts at all. This asymmetry does not mean that the conflict between uses is not significant or that it does not require minimization. On the contrary, it is often precisely the asymmetry that requires intervention[mdash] minimization[mdash]by the Forest Service because without intervention it is likely that the use that feels the impacts will be displaced. This topic has been the subject of several social science studies. For example, Adams and McCool (2010) found that asymmetrical motorized/non- motorized conflict is common and can result in non-motorized users being displaced or abandoning of the use of a particular trail or area, or changing when they use a trail or area (Footnote 2). These outcomes are a symptom, not a resolution, of use conflict.

Furthermore, the EA only discusses OSV noise as a cause of conflict. While this is certainly one way in which OSV use can cause conflict with other uses, it is not the only, or often even primary, source of conflict. Equally if not more important is the impact that OSV use has on the physical properties of a snowscape. OSVs are able to access and "track up" slopes and meadows much quicker and more extensively than other uses, degrading the quality of the recreation experience for others. Downhill skiing and OSV hill climbing, in particular, are at odds because the deep ruts left in the snow by OSVs pose a significant safety issue for skiers and snowboarders, and because OSV use on a slope that a skier or splitboarder is ascending can put the non-motorized user in a situation of heightened avalanche danger. As defined by the Forest Service in the Lassen National Forest Over-Snow Vehicle Use Designation Revised Final EIS, "Conflict between motorized and non-motorized winter uses can arise due to differing desired recreation experiences, public safety concerns, noise, air quality, and access issues." (Footnote 3) (our emphasis). In analyzing and resolving potential use conflict from proposed OSV designations, the Flathead must consider a much broader spectrum of ways in which conflict may occur.

The Flathead has not demonstrated in this EA that the designation of the proposed new OSV areas at McGuinness Creek and Marias Pass are located in a manner that minimizes use conflict. Instead, the Forest Service proposes that displacement of non-motorized users by OSV use will eventually minimize conflict (Footnote 4). What the Forest Service is proposing, however, is essentially to allow, and in fact encourage, conflict to occur at such a level that it leads people participating in all uses other than OSV recreation to abandon an area where they currently recreate. This is a far cry from minimizing conflict. Indeed, as described above, displacement of one use by another is a classic example of use conflict. Likewise, relying on the weather to achieve the Forest Service's use conflict mandate is also inappropriate. The EA states that "backcountry skiers sometimes avoid south facing slopes [on Flattop Mountain] following sunny and warm weather, which would reduce the potential for conflict in this area during those times" (Footnote 5). It's likely that the same undesirable snow conditions brought on by sunny, warm weather that cause skiers to avoid the south facing slopes of Flattop Mountain will also be undesirable for snowmobilers. Heightened wet slide avalanche danger, breakable crust, or thin and patchy snow cover are undesirable conditions for all snowsports. This is irrelevant to the question of whether OSV use on the south slopes of Flattop Mountain will displace or otherwise cause conflict with other uses. We recommend that the Forest Service adjust the boundaries of the new OSV use area at Marias Pass to not include Flattop Mountain. If the Flathead chooses to move forward with designating this area (and McGuinness Creek) for OSV use, it must do more to minimize the use conflict that will occur. This could include additional efforts to educate OSV users of how their activity impacts other uses and "share the trail" messaging.

Minimize Impacts to Natural Resources

We are disappointed that the Flathead has dismissed minimum snow depth as a management tool, claiming that it would be too difficult to enforce and that OSV users self-regulate to avoid areas of low snow. Considering other

forests utilize minimum snow depth as a management tool, this is clearly an achievable approach. The Stanislaus National Forest concluded that "Not implementing this [12 inch] minimum snow depth requirement could result in increased erosion and sedimentation of streams and SAFs and potential impacts to beneficial uses of water. BMPs such as this minimum snow depth requirement are required to protect beneficial uses of water and show compliance with the Clean Water Act" (Footnote 6) There is no reason this would not also be the case on the Flathead. It is not just forests in California that require a minimum snow depth - the Chugach, in Alaska, manages OSVs with a minimum snow depth requirement and the Rio Grande, in Colorado, is proposing to do so in the OSV plan they are currently drafting.

Almost any OSV use area in spring, fall, or other times of low snow will provide evidence that OSV users do not self-regulate, and indeed will commonly ride across areas of low or no snow, sometimes for long distances, to access deeper snowpacks. The following photos (see attachment Custer Gallatin National Forest Photo's.png) from this past season on the Custer Gallatin National Forest all demonstrate this fact.

If the Flathead does not want to use minimum snow depth as adaptive management approach, then it must take other measures to ensure that there is sufficient snow on the ground when OSVs are operating, such as placing more restrictive dates on the OSV season. This statement from the EA, "Over-snow vehicles operate on a protective blanket of snow and typically do not disturb ground cover" (Footnote 7) is inaccurate and should be deleted or accompanied by additional contextual information. For example, OSV use typically does not disturb ground cover when there is several feet of consolidated snow, but OSV use can certainly cause ground disturbance when the snow is melting and soils are thawing. Ground disturbance can also occur when the snowpack is unconsolidated, faceted, or thin, especially if the soils underlying the snow are highly erosive or otherwise vulnerable to disturbance. With climate change, snow accumulation and the start of winter in Montana is becoming more variable. While there is typically a foot or more of snow on the ground by December 1 on the Flathead, at least at higher elevations, this will likely not always be the case given the impact of climate change on winters. Likewise, the spring melt is changing, and it cannot be assumed that there will always be a "protective blanket of snow" on the ground through March, and certainly not through May 14, even in high elevation areas.

If the Flathead chooses not to utilize minimum snow depth as a management tool, it must employ other approaches to ensure there is sufficient snow to minimize impacts to soils and vegetation. Currently, this EA essentially ignores these responsibilities.

The EA should provide more detail about how the Flathead has located OSV area boundaries in a manner that minimizes impacts to whitebark pine. The EA lists various mitigation measures, but to minimize impacts the Forest Service must consider where whitebark stands are located and designate OSV use areas either outside of these stands, or at least outside of vulnerable stands (those with many younger age-class trees). Because OSVs are known to damage young whitebark pine, potentially preventing them from reaching cone-bearing maturity, in order to contribute to the recovery of the species the Flathead must ensure that this OSV designation project doesn't expose additional vulnerable trees to damage and potential mortality. The EA does not provide sufficient information to assess whether the proposed designations minimize impacts to whitebark pine because there is no information about how the proposed use areas overlap, or not, with whitebark stands of various size classes.

This EA also ignores the Flathead's responsibilities to minimize OSV impacts to water and air quality. OSV use can impact water quality through exhaust deposition onto the snow, which pollutes surface waters, and by causing erosion into surface waters when OSV use occurs in areas of low snow adjacent to open water, and directly when OSVs cross streams or other open water bodies. OSVs also occasionally fall through ice on frozen lakes, causing significant point- source pollution.

Scientists who have studied snowmobile impacts on the environment have found many changes to snow chemistry on snowmobile trails when compared to snow where snowmobiles had not traveled. These changes included elevated numbers of cations and some anions and a significant drop in pH (Footnote 8). Other studies

have shown that snowpack concentrations of ammonium and sulfate positively correlate with snowmobile activity (Footnote 9). Concentrations of toluene and xylene in the snow are also positively correlated with snowmobile traffic and snowpack concentrations of benzene are higher in areas with heavy snowmobile use (Footnote 10). When the snow melts, these pollutants, which are stored in the snowpack throughout the winter, are released in a concentrated pulse and can seep into groundwater or enter surface water.

Two-stroke engines, which represent the vast majority of private OSV use on the Flathead National Forest, pose the most concern in terms of air quality impacts. Two-stroke engines emit dangerous levels of airborne toxins including nitrogen oxides, carbon monoxide, ozone, aldehydes, butadiene, benzenes, and extremely persistent polycyclic aromatic hydrocarbons. Several of these compounds are listed as "known" or "probable" human carcinogens by the EPA. Benzene, for instance, is a "known" human carcinogen and several aldehydes including butadiene are classified as "probable human carcinogens." In a study on the Medicine-Bow National Forest, scientists documented a decline in air quality with increased snowmobile activity (Footnote 11). They measured higher ambient concentrations of CO₂, NO_x, 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 air quality. At shared staging areas and on shared trails, exhaust affecting air quality can also be a significant source of use conflict.

The recently-completed Kaniksu OSV plan includes design features to minimize impacts to natural resources (Footnote 12). Likewise, the Stanislaus and Lassen OSV plans include design features to meet the minimization criteria (Footnote 13). We encourage the Flathead to review these plans and incorporate applicable design features from them into this OSV plan, as well as develop other design features necessary to protect specific natural resources, beyond whitebark pine, on the Flathead National Forest.

Minimize Impacts to Wildlife and Habitat

In addition to considering noise impacts in the context of use conflict, the Flathead should also analyze how OSV noise will affect wildlife, including birds. Vehicle noise can be a significant impact to wildlife, particularly those who rely on auditory communication or species that are particularly sensitive to human disturbance. To analyze this impact the Flathead will need to conduct a noise modeling exercise and apply the results to data concerning various wildlife species (ex: bear and wolverine den sites or denning habitat, raptor nest sites, etc.).

Lynx

While we recognize that the EA aims for no net increase in designated OSV terrain across the forest through this project, the Flathead Forest Plan misstates the Northern Rockies Lynx Management Direction (NRLMD). The NRLMD states that "Designated over-the-snow routes or designated play areas should not expand outside baseline areas of consistent snow compaction, unless designation serves to consolidate use and improve lynx habitat. This may be calculated on a lynx analysis unit basis, or on a combination of immediately adjacent lynx analysis units." The forest plan, in contrast, fails to clarify that this "no net increase" must be calculated either within a LAU or across a combination of immediately adjacent LAUs. Decreasing OSV use in the Upper Sullivan Area while increasing it 50 miles away (as the crow flies) in the Whitefish Range does not meet the intent of the NRLMD, which was to ensure lynx within an analysis unit would have access, within their home range, to an unchanged amount of uncompacted snow. As a result, the OSV designations proposed in this EA also fail to meet the intent of the NRLMD. The Flathead should revisit its proposed OSV designations to ensure that there is no net increase in areas of consistent snow compaction as calculated on a LAU basis or combination of immediately adjacent LAUs, as directed by the NRLMD.

Wolverine

The recent U.S. Fish and Wildlife Service listing decision for wolverine calls out winter recreation as a threat to the species. The decision goes on to say that this threat will become more urgent over time as climate change shrinks snowscapes, squeezing winter recreationists and wolverines into a smaller area (Footnote 14). To address this threat, it is imperative that we do not continue to grow our winter recreation footprint in sensitive wolverine habitat. The Flathead has a responsibility to heed the science and be proactive in protecting wolverine habitat in order to contribute to the recovery of this species. To do so, and to minimize impacts to wolverine habitat, the Flathead must not designate new OSV trails or areas within wolverine maternal habitat.

Grizzly Bear

We appreciate that the Flathead intends to manage OSVs so that, with the exception of a few late-season areas, they are not present on the forest when grizzly bears are out of their dens. However, having personally encountered fresh grizzly bear tracks in the snow when skiing Trail #155 (Middle Fork Flathead) on March 19, 2022, I disagree with the EA's statements that the grizzly bear denning season is December 1-March 31 and that the earliest known den emergence on the forest was April 23. In addition, given the recent 9th Circuit ruling concerning bear denning seasons in Montana, finding that the bear denning season is January 1 through February 15, (Footnote 15) the Flathead must revisit its assumptions about when bears are and are not in hibernation.

Grizzly tracks at approximately 4,100' elevation on Trail #155. March 19, 2022 (see attachment Grizzly Bear.jpg).

We also question the Flathead's rationale for designating additional late-season OSV areas in the Skyland area wherein the EA states that this area is adjacent to existing use, implying it's already a lost cause for grizzly bears anyways. To the contrary, if the surrounding area is impacted by OSV use, this is all the more reason to provide a place of refuge for bears and other wildlife that are sensitive to disturbance.

At the very least, the final decision should strengthen Wildlife Design Feature #3 to require immediate closure of any late season areas if bears are spotted in the vicinity, and a requirement to diligently monitor for bear activity in the late-season areas.

Once again, we thank you for taking action to implement the suitability changes in the 2018 Forest Plan, and appreciate the work that the Flathead National Forest has put into this project to-date. It is clear that the Forest Service considered the public's scoping comments and we hope that you will also take these comments into consideration as you finalize this EA.

Sincerely,

Hilary EisenPolicy Director

Footnotes:

1 See Kaniksu Over-Snow Vehicle Use Designation Project, page 137. Available at <https://usfs-public.app.box.com/v/PinyonPublic/file/1408190217559>

2 Adams, John C. and Stephen F. McCool. 2010. Finite Recreation Opportunities: The Forest Service, the Bureau of Land Management, and Off-Road Vehicle Management. *Natural Resources Journal*. Vol. 49. Available at <https://digitalrepository.unm.edu/nrj/vol49/iss1/3/>

3 See Lassen National Forest Over-Snow Vehicle. Use Designation Revised final EIS Volume 1, page 105. Available at <https://usfs-public.app.box.com/v/PinyonPublic/file/963504922852>

4 Example from page 59 of the EA: "short term user conflicts over the desire for quiet recreation and compeddon 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"

5 Environmental Assessment page 59

6 See Stanislaus Over-Snow Vehicle Use Designation FEIS at page 67, available at <https://usfs-public.app.box.com/v/PinyonPublic/file/933477339439>

7 See EA page 70

8 Musselman, R.C., Korfmacher, J.L. Air quality at a snowmobile staging area and snow chemistry on and off trail in a Rocky Mountain subalpine forest, Snowy Range, Wyoming. *Environ Monit Assess* 133, 321-334 (2007). Available at https://www.fs.usda.gov/rm/pubs_journals/2007/rmrs_2007_musselman_r001.pdf

9 Ingersoll, G. 1998. Effects of snowmobile use on snowpack chemistry in Yellowstone National Park. Available at <https://pubs.usgs.gov/wri/wri994148/pdf/wri99-4148.pdf>

10Id.

11 Musselman, R.C., Korfmacher, J.L. Air quality at a snowmobile staging area and snow chemistry on and off trail in a Rocky Mountain subalpine forest, Snowy Range, Wyoming. *Environ Monit Assess* 133, 321-334 (2007). Available at https://www.fs.usda.gov/rm/pubs_journals/2007/rmrs_2007_musselman_r001.pdf

12 See Kaniksu Over-Snow Vehicle Use Designation Project, Appendix A. Available at <https://usfs-public.app.box.com/v/PinyonPublic/file/1408190217559>

13 See Stanislaus Over-Snow Vehicle Use Designation FEIS, available at <https://usfs-public.app.box.com/v/PinyonPublic/file/933477339439>. See also, Lassen Over-Snow Vehicle Use Designation FEIS, available at <https://usfs-public.app.box.com/v/PinyonPublic/file/933442326126>

14 Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for North American Wolverine. Available at <https://www.federalregister.gov/documents/2023/11/30/2023-26206/endangered-and-threatened-wildlife-and-plants-threatened-species-status-with-section-4d-rule-for>

15 See Flathead-Lolo-Bitterroot Citizen Task Force V. State Of Montana, No. 23-3754 (9th Cir. 2024). Available at <https://law.justia.com/cases/federal/appellate-courts/ca9/23-3754/23-3754-2024-04-23.html>

Attahcments:

Custer Gallatin National Forest Photo's.png

Grizzly Tracks.jpg