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USDA Forest Service, Custer Gallatin National Forest

Attn: Forest Plan Revision Team

P.O. Box 130

Bozeman, Montana 59771

RE: Custer Gallatin Forest Plan Revision #50185

Dear Forest Plan Revision Team:

The Sustainable Trails Coalition (STC) hereby comments on the above-captioned Forest Plan Revision (hereafter "the proposal").

STC wishes to compliment the Forest Plan Revision Team for a clearly written and succinct Draft Revised Forest Plan of March 2019, the document on which STC relies for the comments that follow.

I. The Basis for STC's Interest in the Proposal

STC is a nonprofit organization with donors in the thousands and supporters in the tens of thousands nationwide. We are working to restore the Wilderness Act of 1964, 16 U.S.C. [sect] 1131 et seq. (the Act), and agency interpretations of the Act to the Act's two original purposes: conservation and rugged, self-reliant recreation.

II. Discussion

A. Background

1. The Wilderness Act of 1964

For decades now, the Forest Service's codified regulations and management practices have rested on a misinterpretation of the Act's specifications regarding human-powered travel in Wilderness. This misinterpretation undergirds all of the alternatives set forth in the forest plan revision, although Alternative E remedies the problem by not designating any new Wilderness-rules-based management areas.

In Wilderness and in many Recommended Wilderness Areas (RWAs) and Wilderness Study Areas (WSAs), the Forest Service disallows human-powered land travel unless it is on foot and unaided by anything except a walking stick. Human-powered travel using bicycles, adaptive cycles, baby strollers, hunters' game carts, canoe portage wheels, and anything else that's human-powered but has a wheel is forbidden.

This management practice misreads the Wilderness Act of 1964, in which Congress earmarked the National Wilderness Preservation System for conservation and "a primitive and unconfined type of recreation." (16 U.S.C. [sect] 1131(c).)

"Primitive" means, among other things, self-powered travel, but the term was not limited to certain forms of walking. During congressional debates, a member of Congress asked the chairperson of the House Committee on Interior and Insular Affairs, Representative Wayne N. Aspinall, "On page 17 of the bill . . . the language is as follows: 'has outstanding opportunities for solitude or a primitive and unconfined type of recreation.' I wonder what 'a primitive and unconfined type of recreation' might be?" Representative Aspinall replied, "it just simply means that there will not be any manmade structures about in order to embarrass [i.e., hinder] and handicap the enjoyers of this particular area." (110 Cong. Rec. 17443 (1964).)

The federal trails system is heavily impacted by erroneous federal agency rules barring human-powered travel. In Colorado, more than 80 percent of all roadless federal land is Wilderness. About 15 percent of the entire land area of California—not just of public lands, but of the whole state—is Wilderness.

The Wilderness Act of 1964 is a conservation landmark and is not the problem. The Act valuably set aside scenic public lands for nonmotorized visitors and celebrated the recreational opportunities they would experience. Congress wanted to preserve roadless areas as Wilderness and maintain trails in them to encourage intrepid visitors to see wild places under their own power.

In 1977, Senator Frank Church (D-Idaho), one of the Senate's renowned conservationists, gave a Wilderness Resource Distinguished Lectureship speech before the University of Idaho Wilderness Research Center. He warned that the Forest Service's Wilderness travel policies were too severe and that established uses should continue even in designated Wilderness areas:

"Such policies are misguided. If Congress had intended that wilderness be administered in so stringent a manner, we would never have written the [Wilderness Act of 1964] as we did. We wouldn't have provided for the possibility of insect, disease and fire control. We wouldn't have allowed private inholdings to remain. We wouldn't have excluded condemnation as the means for forcibly acquiring developed ranches within wilderness areas—a practice allowed on ordinary national forest lands from which wilderness is created. We wouldn't have

made wilderness classification subject to existing private rights such as mining and grazing. We wouldn't have provided for the continuation of nonconforming uses where they were established-including the use of motor boats in part of the Boundary Waters Canoe Area and the use of airfields in the primitive areas here in Idaho. As these examples clearly demonstrate, it was not the intent of Congress that wilderness be administered in so pure a fashion as to needlessly restrict its customary public use and enjoyment. Quite the contrary, Congress fully intended that wilderness should be managed to allow its use by a wide spectrum of Americans." (Italics added.) (Church, "Wilderness in a Balanced Land Use Framework," March 21, 1977, p. 11.)

2. The Montana Wilderness Study Act of 1977

Understanding the Montana Wilderness Study Act of 1977 (MWSA of 1977) also will help to determine the management of the lands in question here.

The MWSA of 1977 provides in pertinent part:

"Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." (Act of Nov. 1, 1977, Pub. L. No. 95-150, [sect] 3(a), 91 Stat. 1243, 1244.)

The MWSA of 1977 does not itself define "wilderness character." Rather, Congress defined wilderness character in committee sessions. It prescribed that existing uses, even off-road motor vehicle use, should continue in nine specified Montana WSAs pending any eventual congressional Wilderness designations.

The Senate report stated that people should continue to be able to visit these nine WSAs unless their activities would make a future Wilderness designation impossible, presumably by building hard-to-remove infrastructure or otherwise permanently altering the landscape:

"[U]ntil Congress determines otherwise, these areas are to be managed by the Secretary so as not to diminish their presently existing wilderness character and potential. This language regarding wilderness character and potential was added by the committee last Congress (and retained in this year's version) to assure continued enjoyment of the areas by those recreationists whose pursuits will not, in the judgment of the Secretary, preclude potential wilderness designation for the areas." (Montana Wilderness Study Act: Hearing Before the Comm. on Energy and Natural Resources, U.S. Senate, 95th Cong., 1st Sess. (1977), p. 2.)

The House report directed that even off-road motor vehicle use might continue unless it was of a type that would be barred under principles applicable to the whole National Forest system:

"The use of off-road vehicles, while generally prohibited in designated wilderness areas, is entirely appropriate in wilderness study areas, including the nine areas contained in S. 393 [the source of the MWSA of 1977].

Nothing in S. 393 will prohibit the use of off-road vehicles, unless the Forest Service planning process and travel planning process, which applies to all national forest lands, determines off-road vehicle use to be inappropriate in a given area. Of course, common sense dictates that certain areas may be temporarily closed to off-road vehicle use where fire danger or physical damage to terrain indicate a closure is warranted. However, absent such circumstances or Forest Service planning decisions, it is the intention of the committee that the areas in S. 393 (and other wilderness study areas) remain open to off-road vehicle use unless and until they are formally designated as wilderness." (Providing for the Study of Certain Lands to Determine Their Suitability for Designation as Wilderness in Accordance With the Wilderness Act of 1964 etc.: Hearing Before the Comm. on Interior and Insular Affairs, House of Representatives, 95th Cong., 1st Sess. (1977), p. 4.)

If mountain biking could alter Wilderness character irremediably and permanently, then no area in which mountain biking had ever occurred would be eligible for Wilderness designation. But a few years ago, a complex of Wilderness areas was created in Idaho, incorporating areas and trails that mountain bikers had ridden for many years, before the Wilderness designation ousted us and we abandoned maintaining the trails-a classic lose-lose result. Years of mountain biking had done nothing to alter the areas' Wilderness character. There are undoubtedly similar examples elsewhere, perhaps even in Region 1.

Isolation, freedom from noise, tranquility and solitude are admirable aims, ones that mountain bikers ourselves prize and seek. Mountain biking honors and preserves these worthy elements of a backcountry experience. Relatively few mountain bikers possess the physical fitness and backcountry skills needed to venture deep into wild territory, so other visitors' reasonably anticipatable solitude and tranquility will not be jeopardized. It is exceedingly unlikely that the presence of an occasional mountain biker in the areas at issue here, located far from major cities, will deprive anyone of a reasonable degree of solitude and tranquility.

B. Alternative E Should Be Adopted, but Alternative B Is Satisfactory If the Forest Service Will Allow Bicycle Access to Continue in Recommended Wilderness

From STC's perspective, Alternative E is the best alternative. The reason is that it avoids all of the problems described above by not adding Recommended Wilderness. Forest Service Region 1's regular banning of mountain biking in RWAs and WSAs is unjustified both legally and as a policy matter, but the adoption of Alternative E will postpone those problems for another day, which should be ideal for the Forest Service's administrative workload.

Alternatively, if the Forest Service decides in this case that mountain biking can continue in the RWAs that would be created under Alternative B, then STC cannot identify any problems with that alternative and would not object to its adoption.

As the Forest Service's guidance document notes, the deciding official may adopt elements from any of the alternatives proffered in the proposal. Elements in any of the alternatives regarding flora, fauna, airstrips, and the like are outside STC's purview and we take no position on them.

We noted with interest, however, the proposed management of "pack goats" under the various alternatives. (P. 94.) STC is not familiar with the impact of these creatures. We do wish to observe generally that one of the ironies that accompany Wilderness management is the significant damage done to many Forest Service Wilderness areas by commercial, profit-oriented packstock trains using large mammals other than goats. The

only legitimate goal for Wilderness management is environmental preservation. A system that allows for pack trains to trample meadows, streams, campsites, and trails, while banning environmentally benign nonprofit activities like riding a 25-pound bicycle, is a system for which reevaluation is both urgently needed and long overdue.

STC recognizes that these problems are too entrenched and complex to be resolved here. However, Alternative E does the best job of avoiding them, as would Alternative B as long as mountain biking may continue in any new RWAs.

Finally, the proposal mentions the Continental Divide National Scenic Trail (CDNST) (p. 183). This brings up the practical realities of the neglected state of parts of this National Scenic Trail. The CDNST looks fine on maps and in planning documents, but on the stretch shown in the photographs in Appendix A attached to this letter, west of Interstate 15 on the Idaho-Montana border, it was overgrown in 2015, with only CDNST poles sometimes pointing to where the route once was. Volunteer mountain bikers do far more to maintain and restore trails than any other user group. Banning mountain biking, as Alternatives C and D would do comprehensively, will inevitably lead to more lost trails that will look like the obliterated CDNST route near Leadore, Idaho.

III. Conclusion

STC recommends adopting Alternative E as the most sensible and administratively workable alternative, but does not object to Alternative B as long as there is no effect on current or future mountain biking access to these lands.

Very truly yours,

Sustainable Trails Coalition

By: Ted Stroll, board president

APPENDIX A Photographs of the obliterated CDNST route near Leadore, Idaho, west of Interstate 15 on the Idaho-Montana border. Each of these pictures shows where the CDNST should exist, alongside or parallel to the fencing that approximately marks the state border, but no longer does. Photographs taken in 2015.