



Friends of Allegheny Wilderness seeks to foster an appreciation of wilderness values and benefits, and to work with local communities to ensure that increased wilderness protection is a priority of the stewardship of the Allegheny National Forest.

September 14, 2017

Tracy Ridge Project
USDA Forest Service
Allegheny National Forest
Bradford Ranger District
Attn: Sherry Tune
4 Farm Colony Drive
Warren, PA 16365

Re: Formal Objection to the Tracy Ridge Shared Use Trails and Forest Plan Amendment Project and Accompanying Environmental Assessment pursuant to 36 C.F.R. § 219.

Dear Forest Supervisor Tune,

This objection letter from the Warren-based non-profit organization Friends of Allegheny Wilderness (FAW) is submitted in response to the Draft Decision Notice and Finding of No Significant Impact for the proposed Tracy Ridge Shared Use Trails and Forest Plan Amendment Project (hereinafter the “Project”), outlined in documents dated July 27, 2017.¹ The Project proposal included both a project proposal and a Forest Plan amendment. Pursuant to 36 CFR § 219.59(b), FAW is submitting two separate objection letters; one to address the project and one to address the proposed plan amendment. This objection letter refers specifically to the plan amendment portion of the Project. FAW submitted formal comments² on the EA and therefore meets the regulatory filing requirement for participating in the objection process.³ This objection is submitted to the Allegheny National Forest (ANF) Forest Supervisor, Sherry A. Tune, identified as the responsible official for the decision on the Project in the December 22, 2016 cover letter attached to the EA for the Project. Throughout this letter, we reference statements and materials included in our comment letter and/or documents included herein as attachments.

Statement of Issues

The Project is inappropriate, unnecessary, irresponsible, and should not go forward. The ANF neglected its responsibility to consider all required Project factors, leading to its hasty and ill-informed decision to issue a Finding of No Significant Impact (FONSI) rather than

¹ *Notice of Objection Filing Period, USDA Forest Service, Allegheny National Forest, McKean and Warren Counties, Pennsylvania, Tracy Ridge Shared Use Trails and Forest Plan Amendment Project.* Times Observer, Monday, July 31, 2017, Page B8

² FAW, Comment letter on the Tracy Ridge Shared Use Trails and Forest Plan Amendment Project and Environmental Assessment (January 25, 2017) (hereinafter “FAW Comment”)

³ 36 C.F.R. 219.53(a)

performing a full Environmental Impact Statement (EIS). Without a full EIS, it is impossible to sincerely evaluate the potentially irreversible effects that opening the proposed Tracy Ridge Wilderness Area trails to mountain biking would have.

After raising serious concerns with the Proposal in our comment to the Project's Scoping document, regrettably, the ANF again failed to adequately address the issues raised by concerned wilderness advocates in its issuance of its EA. FAW objects to the Project for five main reasons:

1. The ANF's failure to prepare a full EIS was arbitrary and capricious.
2. The ANF failed to seek meaningful input from wilderness advocates while openly courting mountain biking groups.
3. Opening the Tracy Ridge Trails may permanently bar a wilderness designation under the Wilderness Act of 1964.
4. The Project relies on unsubstantiated reasoning.
5. The Project puts the integrity of the North Country National Scenic Trail at risk.

Considering these issues, FAW makes the following objections to the plan amendment portion of the Project:

- I. We object to the basis of the plan amendment, which must be based on a new assessment, a monitoring report, or other documentation of new information, changed conditions or changed circumstances under 36 C.F.R. § 219.7. This objection is further elaborated below and on pages 13-15 of the FAW Comment.
- II. We object to the ANF's failure to complete a full EIS as required under 36 C.F.R. §220.5(a), which states that proposals substantially altering the undeveloped character of an inventoried roadless area or potential wilderness area normally require full a EIS rather than an EA. This objection is further elaborated below and on page 12 of the FAW Comment.
- III. We object to the ANF's statement that it is "unclear" how opening the trails to mountain biking will impact the Tracy Ridge Proposed Wilderness Area's candidacy for Wilderness designation based on the language in Chapter 2320 of the Forest Service Manual that excludes bicycles from Wilderness areas, and a recent Federal Court of Appeals decision holds that noticeable human imprint from previous off-road vehicle trail use is a valid reason to deny Wilderness designation under the Wilderness Act of 1964.⁴ This objection is further elaborated below and on pages 11-13 of the FAW Comment.

Further Elaboration of Objections

(I) The proposed plan amendment rests on a predetermination that opening the Tracy Ridge Trail System to mountain bikes would be the most beneficial use for the trails in question. The reasoning employed to make this determination lacked the characteristic of objectivity. With

⁴ *National Parks Conservation Association v. US Dept. of the Interior*, 835 F.3d 1377 (11th Cir. 2016)

objectivity lacking, the opinions of mountain biking groups were given disproportionate weight, while the opinions of wilderness advocates were quickly dismissed. As a result, the ANF overlooked important considerations highlighted by wilderness advocacy groups and in some cases rested their conclusions upon unsubstantiated reasoning. Objection is made both to the basis of the plan amendment, resulting from a proposed project, and to the arbitrary and capricious manner in which information regarding the plan amendment was analyzed.

The ANF stated on pg. 8 of their Draft Decision Notice that, “The project is expected to have no impact on the long-range multiple use deliverables envisioned by the Forest Plan, although it will expand the recreation opportunities in Tracy Ridge to include mountain biking.” (Draft Decision Notice, 8). While one would expect this statement to be supported by evidence showing that opening the Tracy Ridge Trail System to mountain biking does in fact expand the recreational opportunities in Tracy Ridge, no such evidence is provided. Instead, the ANF supports this conclusion by stating that “[b]y opening up the Tracy Ridge Trail System to another user group, there is a greater likelihood of attracting new volunteers that can assist with long-term maintenance and sustainability of the trail system.” By arguing that the trails will be better maintained the ANF has ignored an analysis of the multiple use deliverables provided by the Forest Plan.

While the ANF’s objective of keeping the Tracy Ridge Trails in optimal condition is a noble one, it does not justify incomplete analysis of the long-range social, cultural, and economic impacts that opening the trails to mountain biking may have. Evidence suggests that opening the Tracy Ridge Trail System to mountain bikes *would* have significant social and cultural impacts, evidence that was dismissed by the ANF with the sweeping statement that, “[t]he amendment will have nominal impact on social, cultural and economic sustainability.”⁵ This evidence includes the fact that the “*Citizens’ Wilderness Proposal for Pennsylvania’s Allegheny National Forest* is widely supported receiving support of 6,800 commenters for the Allegheny National Forest Draft Forest Plan.” (FAW Comment, 1). Broad, ubiquitous support for the *Citizens’ Wilderness Proposal* indicates that there is great social and cultural value in preserving Tracy Ridge as a wilderness area under the Wilderness Act.

Furthermore, the social and cultural value provided by the Tracy Ridge area cannot be evaluated in isolation. As stated in the FAW Comment, “there are 1,716 miles of mountain biking trails in Pennsylvania, but only 13 miles of federally designated wilderness hiking trail in the Commonwealth.”⁶ As a result, the people of Pennsylvania have much greater access to biking trails in the Commonwealth than they have to hiking trails in wilderness areas. The scarcity of hiking trails in wilderness areas increases the social and cultural value provided by the trails in the Tracy Ridge area. By allowing mountain biking on the Tracy Ridge Trail System, the area may no longer be qualified for wilderness designation and the diversity of recreational opportunities in Pennsylvania will be diminished, rather than expanded as the ANF asserts on pg. 8 of the Draft Decision Notice.

⁵ Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Draft Decision Notice and Finding of No Significant Impact, July 2017. Page, 8

⁶ FAW Comment, 15

The FAW Comment also discusses the Legacy Values and Existence Values added by wilderness designation on pg. 2. These values are legitimate values that will be eroded if mountain biking is allowed on the Tracy Ridge Trail System. The Draft Decision Notice ignores these concerns demonstrating insufficiency in the ANF analysis of the proposed plan amendment. Again, ANF dismisses these values by subjectively stating that “[t]he amendment will have nominal impact on social, cultural and economic sustainability.”⁴ Yet, Legacy and Existence Values have measured social, cultural and economic impacts. This is especially true in light of the cumulative impacts the proposed plan amendment may have, as the amendment will change the trajectory of the Tracy Ridge area from one favoring wilderness designation, to one that does not.

All of the aforementioned concerns are dismissed on the basis that allowing mountain biking on the Tracy Ridge Trail System will lead to enhanced trail maintenance. However, there is no evidence that allowing mountain biking groups to use the trail will result in the level of maintenance desired on the trails.⁷ Additionally, the ANF’s assertion that the Tracy Ridge Trail System is underutilized is unsupported by evidence. The ANF cannot dismiss the legitimate concerns of wilderness advocates on the basis of perceived conditions and future expectations that are unsubstantiated by evidence.⁸ Instead, the ANF must produce evidence to substantiate their claims, and in doing so must address the legitimate concerns of wilderness advocates, giving these concerns the same amount of weight and consideration they would be given if presented by mountain biking advocates.

(II) In another lapse in objectivity the ANF has ignored the unique character of the Tracy Ridge area, which they must consider under Forest Service regulations.⁹ As elaborated in the FAW Comment on pg. 5, the natural characteristics provided by Tracy Ridge are incredibly unique. With this characterization in mind, it is important to realize that “Federal Courts have held impact statements to be inadequate where they have failed to recognize the unique character of pristine wilderness in evaluating environmental impacts.”¹⁰ Where impact statements have been held to be inadequate, it is unfathomable to think that an environmental assessment would be sufficient. As a result of this oversight, the ANF should reevaluate the proposed plan amendment, taking Tracy Ridge for what it is, a unique, “inventoried roadless area”¹¹, that has been seriously considered for wilderness designation under the Wilderness Act.

Under 36 C.F.R. §220.5(a), proposals substantially altering the undeveloped character of a roadless area or potential wilderness area normally require a full EIS rather than an EA. Given Tracy Ridge area’s good potential to be designated as a wilderness area under the Wilderness

⁷ Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Draft Decision Notice and Finding of No Significant Impact, July 2017. Page, 16 – “Introducing a new user group – in this case mountain bikers – will *likely* bring more volunteers...”

⁸ *Marsh v. Oregon Natural Resources Council*, 490 US 360 (1989)

⁹ FAW Comment, 5

¹⁰ See *Sierra Club v. Kimbell*, 595 F.Supp.2d 1021 (D. Minn 2009), *aff’d* 623 F.3d 549 (8th Cir. 2010)

¹¹ See Inventory of Roadless Areas as designated under the 2001 Roadless Rule, USDA, http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5433333.pdf

Act, the proposed plan amendment falls directly within the dictates of 36 C.F.R. §220.5(a). In other words, the proposed plan amendment requires a full EIS rather than the cursory EA that has already been conducted.

In an attempt to address this concern in the Draft Decision Notice the ANF claims that this CFR section (36 C.F.R §220.5(a)) is limited to activities such as timbering, mining or the construction of reservoirs. Additionally, the ANF asserts that “[t]he Tracy Ridge Project falls far short of the impacts of these types of activities.”¹² However, in making this claim the ANF has ignored the language of 36 C.F.R. §220.5(a), which provides that the examples cited by the ANF are included in the regulations, but that the regulations are not limited to the examples provided. 36 C.F.R. §220.5(a).

Additionally, the ANF misstates 36 C.F.R. §220.5(a) when it claims that that regulation is confined to the construction of reservoirs. Instead, the statute refers to the “[c]onstruct[ion] or reconstruct[ion of] water reservoir facilities in a potential wilderness area where flow regimens may be substantially altered.” 36 C.F.R. §220.5(a). This language suggests that the substantial alteration of flow regimens is an alteration to a potential wilderness area that would trigger the application of 36 C.F.R. §220.5(a). While the ANF would like to distinguish the proposed plan amendment from activities such as mining and timber, it would be much harder for them to distinguish substantially increased human activity from substantially altered flow regimens.

(III) The ANF’s statement that it is “unclear” how opening the trails will impact the proposed Tracy Ridge Wilderness Area’s candidacy for Wilderness designation based on the language in Chapter 2320 of the Forest Service Manual that excludes bicycles from Wilderness areas is unacceptable. The unique character of Tracy Ridge and its potential to be designated a wilderness area, require that the ANF concretely determine how opening the Tracy Ridge Trail System to mountain bikes will impact its candidacy for wilderness designation.¹³

In response to this contention the ANF stated in the Draft Decision Notice that “[a] recurring theme in some of the comments was that allowing bikes on Tracy Ridge trails will close the door on future consideration of the area for wilderness. I disagree.”¹⁴ Additionally, the Draft Decision Notice stated that allowing bikes on Tracy Ridge “will not jeopardize the areas potential for wilderness designation.”¹⁵ This weak response is not supported by any authority.

The first response is simply an opinion. A two-word opinion which dismisses the issue with no more thought than it takes to formulate the words, “I disagree.” The second response is similarly conclusory and unsupported by authority in the Draft Decision Notice.

¹² Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Draft Decision Notice and Finding of No Significant Impact, July 2017. Page, 49-50

¹³ 40 C.F.R. §1508.27(b)(3)

¹⁴ Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Draft Decision Notice and Finding of No Significant Impact, July 2017. Page, 4

¹⁵ Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Draft Decision Notice and Finding of No Significant Impact, July 2017. Page, 5

Contrary to these bald assertions, a recent Federal Court of Appeals decision held that noticeable human imprint from previous off-road vehicle trail use is a valid reason to deny Wilderness designation under the Wilderness Act of 1964.¹⁶ As the ANF has acknowledged in the EA, “e-bikes are considered a motorized vehicle”¹⁷ and have the potential to leave noticeable imprints on the trails at Tracy Ridge. With these facts and the given precedent, it is imperative that the ANF take every precaution to ensure that Tracy Ridge is preserved in its wild state.

At a minimum this requires that the ANF conduct a full EIS. Conducting a full EIS will provide data that will allow for accurate monitoring of the wildlife and the impacts mountain biking and e-bike trespass may have on the area. And if conducting a full EIS will not be enough to preserve Tracy Ridge’s potential wilderness designation, then the plan amendment should be denied.

Furthermore, opening the Tracy Ridge area up to mountain biking changes the trajectory of its future. Rather than taking steps to ensure that Tracy Ridge can be preserved as a wilderness area in the future, allowing mountain biking at Tracy Ridge would be a regression that moves the area away from future wilderness designation. In the Draft Decision Notice the ANF states that, “[i]t is important to note that wilderness is an essential component of the FS’s multiple use mandate.”¹⁸ While it is nice to see the ANF put these words into writing, it would be better to see them live by them. As they declare that wilderness is an essential component of the FS’s multiple use mandate, they simultaneously threaten to eliminate one of the few remaining qualifying areas left for wilderness designation. It may be best in this case that the ANF take their own advice and utilize Tracy Ridge to fulfil their own multiple use mandate.

Recommended Remedies

In order to resolve these objections, the ANF must complete a full EIS as required under NEPA, regulatory, and decisional law. The plan amendment should also be denied. FAW also believes that the Tracy Ridge National Recreation Area should be designated as a Wilderness Study Area by the ANF, and that the ANF has a responsibility to petition for the area’s inclusion in America’s National Wilderness Preservation System under the Wilderness Act of 1964.

Conclusion

The ANF failed to take a serious look at the potential environmental impacts from allowing mountain biking in the hiking-only trails in the wild, untrammelled proposed Tracy Ridge Wilderness Area would have. The ANF also failed to consider the unique characteristics of the area, including potential for its future designation under the Wilderness Act of 1964, and the long-term impacts that allowing mechanized and motorized transport on those trails,

¹⁶ *National Parks Conservation Association v. US Dept. of the Interior*, 835 F.3d 1377 (11th Cir. 2016)

¹⁷ Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Environmental Assessment, page 35

¹⁸ Tracy Ridge Shared Use Trails and Forest Plan Amendment Project: Draft Decision Notice and Finding of No Significant Impact, July 2017. Page, 4

including the NCT, would have. Therefore, the ANF must rescind their issuance of an EA and Draft FONSI, complete a full EIS, and, ultimately, reject the proposal.

Sincerely,

A handwritten signature in black ink that reads "Kirk Johnson". The signature is written in a cursive, flowing style.

Kirk Johnson, Executive Director
Friends of Allegheny Wilderness