



MONTANA MOUNTAIN BIKE  
A L L I A N C E

September 7, 2020

Attention: Objection Review Officer

USDA Forest Service, Objection Reviewing Officer  
Custer Gallatin National Forest  
10 E Babcock Ave  
Bozeman, MT 59715

Montana Mountain Bike Alliance has several objections to the Custer-Gallatin Forest Plan.

**Objection One**

We object to the Key Linkage Area restriction on bicycles traveling cross-country within the Gallatin Key Linkage Area. MMBA feels that the restriction is discriminatory, arbitrary, and capricious. To explain our stance, we feel it is important to first revisit the history of the area.

In 1917 Bozeman City Commission closed the Bozeman Creek Watershed to the general public. Prior to the closure, people enjoyed picnics at Mystic Lake. Logging and grazing took place. Mystic Lake supplied the city with its water. City records don't show why the watershed was closed, only that it was closed by commission vote. This may have been a misguided attempt to improve Bozeman's water quality while the city bought additional shares in the Mystic Lake water company, or it may have been a reaction to WWI hysteria. There was no sunset date for the closure, no pending evaluation of the water supply, or whether the public could ever be allowed to enjoy the area once again. It was an arbitrary decision.

In the 1960's a Bozeman District Ranger tried to have the city open the watershed, but met significant resistance and gave up the effort. In the mid 1960's scientists conducted a water bacterial study through the Montana State University (MSU) Joint Water Resources Research Center. Funded by the US Department of Interior, the study's findings suggested that the density of wildlife in the closed watershed was a contributing factor to high bacterial readings in the water (ecoli). During this time, the Gallatin

National Forest began a campaign to re-open public access to the area, spearheaded by Ross MacPherson, the new District Ranger. Ross proposed reopening the watershed to the public on a trial basis. He campaigned hard to overcome city objections and finally prevailed when the city opened the watershed for a two-year trial in 1970, 53 years after closure. The trial period was a success, water quality greatly improved due to the public applying some pressure on the huge elk herd causing them to move on from their favorite hangouts, and so the watershed was permanently opened in 1973.

The watershed contained a route to Mystic Lake, and roads to City of Bozeman sections that are periodically harvested. People hiked in, biked in, and even used horse drawn wagons at times. More trails were built or improved resulting in the legacy trail system we have today, some of it adopted as official and some of it remaining in limbo. Many of the routes are now over 100 years old. All of these routes were created by hunting, hiking, or logging. Now that modern mountain bikes exist, for the past 50 years all of the cross-country routes have been host to bicycles and riders from time to time, but are still mostly frequented by hikers. Bicyclists ride and push their bikes as needed on these routes for the same exact reason as people hike; the need to escape into our wild backyard.

Mystic drainage, also known as Bozeman Creek, to this day remains open to non-motorized recreation while maintaining a healthy wildlife population and providing approximately forty percent of Bozeman's domestic water supply.

The first aspect of MMBA's objection is that the proposed Key Linkage Area restriction on bicycles traveling cross-country on established non-system trails is discriminatory. Hikers make up the majority of users on the historical cross-country routes. If somehow removing bicycle riding from these routes will improve wildlife linkage across to the west Bridger KLA, why isn't hiking cross-country being restricted? Bicycling is apparently an easy target to attain the overall wildlife connectivity goals.

The second aspect of our objection is that the proposed restriction is arbitrary. Bicyclists have been singled out as the sole user group to be reigned in, in order to improve wildlife connectivity. Never mind that houses continue to be built in the area between the Key Linkage Areas at an alarming rate. Never mind that the absolute primary obstacle to wildlife migration is Interstate 90! Never mind that hikers are the majority cross-country travelers in and near the Gallatin Key Linkage Area. Cross-country bicycle travel, whether pushing or riding, is proposed to be restricted without data, without metrics to work from, without a measurable goal, without a baseline to understand its effectiveness.

As our opening statement relayed, Bozeman Creek watershed was previously closed for 53 years without data, without a system for review, without a sunset date. Now the Custer-Gallatin wishes to restrict bicycling and only bicycling without using any data, formulation of a relevant baseline or review of the effectiveness of the restriction. This is an autocratic restriction. No sunset date is proposed.

It's important at this point to note that bicycles have been allowed to travel on all of these routes for 50 years. In spite of bicycle use, wildlife remains abundant in the Gallatin Key Linkage Area, and still being killed while trying to cross Interstate 90. MMBA must ask, how will the bicycle restriction be measured and evaluated? What data will form a baseline? Why is bicycling, a minor cross-country activity for about 2 months, the sole activity to be singled out for restriction? What about horse riders and hikers, the majority users of the cross-country routes? The proposed restriction is arbitrary by any definition.

The third aspect of our objection is that the proposed restriction is capricious. As presented, this bicycle restriction is a step beyond what was presented to the public for comment last year. Previously the restriction was only that no new trails could be built within the Key Linkage Areas, but bicycling wasn't singled out as it now is. Because this is now an objection period, this new restriction isn't being brought forth in a manner that allows public comment. Most cyclists don't have standing to file an objection. The timing of this restriction skirts the NEPA process. The surprising presentation of a bicycle restriction at this point of the process is capricious.

The fourth aspect of our objection is that the Key Linkage Areas are not presented in a forthright manner in the Forest Plan documents. While the Key Linkage Areas are briefly mentioned, they aren't defined and the intended purpose isn't made clear in a manner that can be searched for or easily understood in the documents. Indeed when the plan is searched the term "linkage" is most attributed to Lynx habitat, not the two Key Linkage Areas. Key Linkage Areas aren't included in the Designated Areas and Plan Allocations, which lists areas such as Recommended Wilderness, Wilderness Study areas, Backcountry Areas, and Recreation Emphasis Areas. Because the Key Linkage areas aren't presented in a forthright manner, it seems as though the Custer-Gallatin National Forest is trying to downplay the designation, or actually trying to be deceptive about it. At some point the Custer-Gallatin National Forest will have to become proactive in communicating the Key Linkage area concept and restrictions to the public. It shouldn't be buried so deeply in the plan it can't be located.

The fifth aspect of our objection is that the Key Linkage Area restriction on cycling isn't based on relevant data or a demonstrated need. The restriction lacks quantifiable control data, a defined method for review of effectiveness, and a method or future date to sunset the restriction if or when it proves ineffective. In this respect the Custer-Gallatin National Forest is being reckless with public trust in land management and cavalier regarding public access. The Key Linkage Area is an experiment in wildlife migration patterns that now involves our recreational trail system and an unfounded restriction on cycling. The restriction has only a beginning, not an end, lacks relevant data or demonstrated need, lacks baseline data on cross-country cycling, and lacks a method to evaluate the effectiveness of the proposed restrictions that could have long lasting effects on the bicycling public. Possibly longer than the 53 year long City of Bozeman Watershed Closure!

Montana Mountain Bike Alliance recommends the Custer-Gallatin National Forest Plan refine and clearly define the entire Key Linkage Area concept. Set clear attainable goals based on real data. Drop the unfounded cross-country cycling restriction, instead take a hard look at the real problems for wildlife migration such as housing sprawl encroaching into the forest interface and wintering habitats, new roads and fences, potential changes from wildfire, effects of major predators like wolves on wildlife and how to possibly ease Interstate 90 wildlife crossings! Goals should be realistic and measurable. Hard data could result in meaningful wildlife conservation advances such as a series of new crossings along Interstate 90, better fencing, better monitoring.

As a related talking point; Leverich Canyon loop trail is the most heavily used cycling trail near Bozeman. It's not in a Key Linkage Area, but immediately adjacent. A grizzly bear has now moved in to the nearby woods and has been spotted by hikers and cyclists. A wildlife biologist has confirmed this bear as one being monitored. Grizzlies appear to be a species that is unaffected by frequent bicycle activity. This example shows that wildlife movements can be confounding, not predictable. Often wildlife simply does what it will do no matter what might be in the way.

## **Objection Two**

Removing bicycling from a Recommended Wilderness within a Wilderness Study Area without providing evidence of harm.

The 1977 Montana Wilderness Study Act was a compromise. **Nothing has occurred in 43 years to alter the terms of that compromise.** Congress deemed management of the WSA's to maintain those wilderness characteristics that continue eligibility for future wilderness designation. The Act allowed for inclusion of off-road vehicles, arguably even bicycles, in the WSAs\*. According to Congress, The agency must show where bicycles and bicycling has physically harmed the land, the wilderness character, within the RWA in order to remove bicycling from the RWA.

"Bicycling wasn't deemed mechanized in 1977. Mechanized, by Forest Service definition meant, "powered by a non-living power source".

Congressional intent.

From the Committee on Interior and Insular Affairs, Representative Morris Udall issued a report September 28, 1977. The report accompanied final legislation for S 393. This vital report covered details for the act plus dissenting views that were left from the final act for brevity. Here is the report's final paragraph:

### Off Road Vehicle Use

"The use of off-road vehicles, while generally prohibited in designated wilderness areas, is entirely appropriate in wilderness study areas, including the nine areas in S. 393. Nothing in S. 393 will prohibit the use of off road vehicles, unless the

normal 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, commonsense dictates that certain areas may be temporarily closed to off road vehicle use where fire danger or physical damage to terrain indicate 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.”

During October 18, 1977 House hearings for S 393, several topics were explained and debated. One topic was continued use of off road vehicles within Wilderness Study Areas. The other topic was the fear of creating de facto wilderness that would endure into perpetuity. Both of these topics were tied to an air of urgency to pass the bill, in order to start the five-year timeline for wilderness study and two-year timeline for presidential recommendation. Congressional committee was assured that the study and recommendation process could occur within those seven years. Hope was expressed that amendments could be added later. The Montana Wilderness Study bill was passed weeks later in November 1977.

The bill did not contain language about off road vehicle use; this language was contained in the committee report that accompanied S 393. During the House hearing, this topic was visited again. Congressional intent by both parties, and by both proponents and opponents of the bill, was to allow continued vehicle access to these Montana areas until such a time they become congressionally designated. After examining congressional record it's apparent without any doubt that S 393 would not have passed unless this fact of management was true.

Here follows excerpts from the October 18, 1977 hearing:

Teno Roncalio, a Democratic Representative from Wyoming, states: “Under the law, wilderness study areas are to be managed so as to preserve their wilderness characteristics. However, this does not mean they are to be managed as if they had already been designated as wilderness. For example, in wilderness study areas the use of off road vehicles is permitted. In designated areas it is not.”

Gillis Long, a Democratic Representative from Louisiana, states: “Additionally, the bill contains a provision which allows existing uses such as snowmobiling and off-road vehicle use to continue virtually unaffected during the course of the study.”

Max Baucus, a Democratic Representative from Montana read from a letter by Rupert Cutler, USDA Assistant Secretary. “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. Nothing in S

393 will prohibit the use of off-road vehicles, unless the normal 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, commonsense 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.”

Removing recreational access in a WSA without providing evidence of harm to wilderness characteristics from that recreation fails to study and provide evidence is counter to Congressional intent of the guidance document for the 1977 Montana Wilderness Study act. The Forest can recommend wilderness but must provide proof of physical damage to the land to remove recreational uses.

Representative Max Baucus also read a letter from Derrick Crandall, Director of Government Affairs for the International Snowmobile Industry Association:

“As you know, both the Montana Snowmobile Association and our organization originally were actively opposed to the legislation during the 94<sup>th</sup> Congress because of the immediate closure of areas now open to snowmobiling which would have resulted.”

“Subsequently, and in part through your efforts, clarifying statements by the Senate author of the legislation have asserted that current snowmobiling usage shall be authorized until and unless Congress acts to designate these areas as Wilderness because snowmobiling results in no permanent, adverse effects.”

“We rely upon your judgment to protect the legitimate interests of snowmobilers in Montana.”

This letter from Derrick Crandall is especially poignant. It shows a strong element of trust in Congressional intent and in the guidance document. The Custer-Gallatin National Forest Plan should echo the trust that Derrick Crandall conveyed. The plan could identify Recommended Wilderness within the Hyalite Porcupine Buffalo Horn WSA, but should not restrict recreational access, only monitor and manage that access. The Act passed by Congress is law and CGNF needs to uphold that law.

The Gallatin National Forest Travel Plan of 2006 followed Congressional Intent much more closely than the Interim Travel Plan and this FEIS. Though the Travel Plan was litigated, the subsequent judgments of 2009 and 2011 provided a framework for management of the WSA. Also FSM 2300, chapter 2320 provides guidance for management of the Montana WSAs. Judge Malloy’s rulings left the management door wide open, and remanded the responsibility to craft a new Travel Plan for the WSA back to the Forest, yet for the past 10 years Custer-Gallatin National Forest has instead closed key access routes instead of formally engaging the public in a new focused NEPA process. For all visible purposes the WSA closures enshrined in the FEIS are to

placate the litigants of the Travel Plan and to harmonize with the Gallatin Forest Partnership's goals. Custer-Gallatin National Forest has created an artificial new reality over the past 10 years, mocking Congress and the 1977 Act, mocking NEPA Travel Planning, and marginalizing much of the concerned public.

The burden of proof lies with Custer-Gallatin National Forest to demonstrate the need to restrict bicycles in the proposed Gallatin RWA. In the absence of such proof, it behooves the CGNF to allow continued bicycle access on trails in the Gallatin RWA as this landscape falls under the trust built and compromises made in the Montana Wilderness Study Area Act.

### **Objection Three**

Failure to identify Recreational Corridors in a WSA.

MMBA reminds Custer-Gallatin National Forest that bicycling occurs on routes, not on entire landscapes. These routes have a value and are clearly identifiable. The time to locate and identify recreational corridors is during the Forest Planning process. The Forest Plan should identify those important routes within RWAs, marking them as recreational corridors. Individual routes are straightforward to manage, setting limits of seasonal use and perhaps using a permit system if needed. Gallatin Crest Trail #96 could easily be managed and monitored, as opposed to permanently closing the trail. MMBA also reminds Custer-Gallatin National Forest that the actual season for bicycles and motorcycles averages about 5 weeks. We could all share a trail for 5 weeks, by management as opposed to closure.

National Recreation Trails, a form of corridor, can be administratively identified. Gallatin Crest Trail #96 checks all of the boxes to become a National Recreation Trail. The Forest Plan and previous Travel Plan neglected to identify potential National Recreation Trails. MMBA recommends the CGNF look into National Recreation Trail recognition for Gallatin crest Trail #96.

The National Wilderness Preservation System has thousands of miles of Recreational Corridors. This FEIS lacks corridor identification, but that process begins with the forest Plan. Corridors should be identified to help guide future Wilderness legislation. Gallatin Crest Trail #96 checks all the boxes to potentially become a Recreation Corridor passing through a future Wilderness Area. For over 50 years it has been a route used and treasured for motorcycle travel. For 30 years this was a treasured bicycle route. There has been an ongoing need for the public to be heard, and for remedies to be put forth for trial periods of management. Court documents identified one issue with motorcycle use on the Crest Trail, that of volume. Volume issues could be resolved with a permit system. **There have been no identified issues regarding bicycle use.** Bicycles have been restricted without cause. The court and the CGNF have been silent on this aspect, thus negligent. Ongoing needs of the public continue to be unmet.

For bicyclists, the Crest Trail has been the zenith of Montana summer bicycling goals. Because few can reach the route it is legendary, mysterious, iconic. For those locals who made the supreme effort to ride it each summer, the trail became restorative to the soul. Few trails are so inspiring; it's unique in Montana. Montana Mountain Bike Alliance strongly believes Gallatin Crest Trail #96 deserves Recreational Corridor recognition.

#### **Objection Four**

Closing Windy Pass Cabin to the public.

Removing the Windy Pass Cabin from the cabin rental program is just plain wrong. Generations of people have enjoyed staying at the Windy Pass Cabin. For some families, a stay at Windy Pass Cabin is a long tradition. Frankly, closing the cabin because of the area becoming an administrative Recommended Wilderness is putting the cart before the horse. It's out of sequence. The area isn't Wilderness. The area might not become Wilderness for decades, if ever. There is no pressing need to close or remove the Windy Pass Cabin. Structures can be grandfathered into Wilderness Areas. The National Wilderness Preservation System shows dozens of examples.

Montana Mountain Bike Alliance submitted an earlier comment stating that the Windy Pass Area should have been removed from Wilderness consideration and instead the Lone Indian Peak Area added in to the RWA. Lone Indian is a much larger area than Windy Pass, a more critical wildlife area, and lacks roads or trails. Windy Pass will always have constant human presence. Windy Pass is a crossroads for multiple trails, features views of Big Sky and numerous man-made developments such as the Big Sky and Yellowstone Club ski trails. It will never be a 100% true remote Wilderness. MMBA's suggested reconfiguration of the proposed RWA boundary would have provided accommodation for the traditions of people who apparently aren't being heard. It would have resolved this manufactured RWA conflict attributed to the Windy Pass Cabin.

Removing the public from Windy Pass Cabin feels like a premonition of the next step, fostering intentional structural decay and then throwing a match on it, finishing the deed. We don't pay taxes for this brand of land management. **Keep Windy Pass Cabin open for public rental.**

#### **Objection Five**

Plan components for the Hyalite Recreation Emphasis Area are grossly inadequate. 2020 Land Management Plan, page 180.

By any and all methods of measure, Bozeman and Gallatin County population is exploding in an unprecedented fashion. New arrivals and tourism are fueling rampant growth. The City of Bozeman lacks conviction to set limits on growth. People's rapid dissatisfaction with their environments elsewhere, combined with the pandemic and social unrest have set the stage for massive influxes of new residents looking for a tranquil place to live and enjoy their lives.



Into the middle of this situation has landed the 2020 Land Management Plan's Hyalite Recreation Emphasis Area featuring Desired Conditions well suited to 2010, not 2020 and beyond. Overall the Desired Conditions are spot on but lack a dynamic and visionary framework, and details allowing adaptation to our rapidly growing population demands.

Montana Mountain Bike Alliance warns that the components of the Hyalite Recreation Emphasis Area are inadequate to meet today's needs, and lack a robust, flexible vision required to address needs during the life of the Forest Plan.

The Recreation Emphasis Area details are weak in several respects. Plan components for Hyalite must be bolstered with more detail and vision or Hyalite will suffer from myriad forces that could greatly diminish the resource and our experiences within it. Montana Mountain Bike Alliance strongly suggests these additions to the Hyalite Recreation Emphasis Area (MG-DC-HREA):

**Desired Conditions:**

**06** Improving trail system connectivity within the watershed. Honor the 2006 Travel Plan goals of creating new trails that connect Hyalite drainage to Bozeman Creek and South Cottonwood Creek.

**07** Improving communication for public, emergency services and Law Enforcement. Placing a cell phone tower somewhere in Hyalite.

**08** Developing an overall management plan for Hyalite Recreation Emphasis Area, including a new overall Travel Plan.

**09** Develop two permanent administrative headquarters in Upper Hyalite and Lower Hyalite.

**10** Develop a minimal power system(s) to operate public bathrooms and administrative headquarters.

**Goal:**

**02** Evaluating feasibility of a Hyalite Fee or Permit system to fund improvements and sustained management.

**03** Seek partnerships to foster improved outdoor education and ethics.

**Objectives:**

Replace inadequate objective 02 with this component that better reflects trail-based recreation needs:

**02** Conduct a comprehensive Travel Planning effort to improve the Hyalite trail system. The Travel Plan should attempt to improve connectivity, user experience, find ways to accommodate a wide variety of uses, and identify those uses that require separation from others. The Travel Plan should contain future flexibility for changing recreation patterns, including increased use and adaptability to new technologies.

**Montana Mountain Bike Alliance stresses that adoption of these additional components are vital to maintain Hyalite as a sustainable natural resource.**

Sincerely,

MMBA Executive Officers:



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