

Alan M. Keeffe
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PO Box 772450
Steamboat Springs, Colorado 80477

September 24, 2023

Mr. Russ Bacon, Reviewing Officer
Atten: Objections
USDA Forest Service
Medicine Bow-Routt National Forests and Thunder Basin National
Grassland
2468 Jackson Street
Laramie WY 82070-6535

Hahns Peak-Bears Ears Ranger District
Atten: Mad Rabbit Trails Project
925 Weiss Drive
Steamboat Springs, CO 80487

Re: Mad Rabbit Trails Project

Kindly accept this correspondence as my objection to the draft decision notice and finding of no significant impacts for the Mad Rabbit Trails Project.

The problems created by the 44 miles of non-system illegal bike trails is entirely the result of the FS's failure to police the development and use of the trails. The FS has even rewarded the biking community by converting some illegal trails into legal trails as occurred on Buffalo Pass. The implication of the decision is that the FS will continue with this same lack of enforcement unless Mad Rabbit is constructed. The threat is not subtle. Not only is making such a threat an illegitimate basis upon which to justify the construction of biking trails in areas protected under the Colorado Roadless Rule (CRR), it also exposes that the FS staff handling this project is incapable of conducting the unbiased analysis required under the CRR and NEPA.

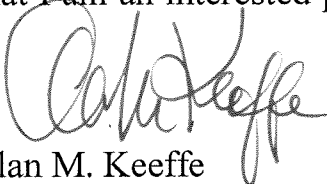
The analysis failed to include alternative locations for new biking trails outside of areas protected by the CRR. While the FS may have felt

constrained by keeping with only those the trails designated for funding under the 2A ballot measure, the source of funding is not the part of the required legal analysis. The analysis required under CCR and NEPA are not limited by the funding source. The alternatives not included within the 2A funding source were not given the consideration required by law.

As provided in my prior comments, the construction of linear roads intended for fast moving mechanical travel in areas protected by the CRR will significantly alter the undeveloped character of the CRAs. Under the CRR, the FS may not proceed without a full environmental impact statement. Moreover the FS's cumulative impacts analysis failed to adequately address the effects and impacts of all past, present, and reasonably foreseeable actions, which include (i) all bike trail projects in the Steamboat Ski Resort, Emerald Mountain, Spring Creek, and Buffalo Pass, and (ii) the expansion of parking on Rabbit Ears for snowmobile use.

While this cover letter constitutes a concise statement of my comments, please refer to my prior comments and objections in the letters I previously submitted on this project dated November 23, 2022, June 6, 2019, and November 18, 2018, copies of which are enclosed. Those letters, together with the enclosures submitted with those letters, are incorporated herein, for my complete comments.

I am submitting these comments based on my letter to the Forest Service, dated December 16, 2016, and the email from the Forest Service on October 22, 2018. I understand that I am an interested person for notice and appeal purposes.



Alan M. Keefe

Encl.

Alan M. Keeffe
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PO Box 772450
Steamboat Springs, Colorado 80477

November 23, 2022

Brendan Kelly Project Lead
Hahns Peak-Bears Ears Ranger District
Atten: Mad Rabbit Trails Project
925 Weiss Drive
Steamboat Springs, CO 80487

Re: Mad Rabbit Trails Project

To justify the need for the construction of those portions of the Mad Rabbit Trail system in areas protected by the Colorado Roadless Rule (CRR), the Forest Service (FS) principally relies on two justifications: (i) because the heavy use on the existing bike trail system creates “**conflicts, safety issues, resource damage, and an overall undesirable outdoor experience,**” there exists a need to expand that same use into protected areas; (ii) because there exists 44 miles of illegal non-system bike trails, there is a need to build more trails in protected areas. Both justifications are contrary to the intent and purposes of the CRR and NEPA.

Spreading the existing “**undesirable outdoor experience**” into Colorado Roadless Areas (CRAs), particularly given the projected growth in the recreating population’s future use of the Mad Rabbit Trails, will just perpetuate the problem. The fundamental concept of a roadless area is to protect it from those undesirable impacts. If dispersing undesirable impacts is a need sufficient to justify the future development of protected areas, then there will be no protection for protected areas.

The problems created by the 44 miles of illegal bike trails is entirely the result of the FS’s failure to police the development and use of the trails. If the FS’s own dereliction in duty is a need sufficient to justify developing protected areas, then there will be no protection for protected areas.

CRR and NEPA require a balancing of the need versus the impact. Dispersing undesirable uses and failure to police illegal use are not sufficient justifications under CRR and NEPA to develop CRAs. The desire by a small group of biking advocates for more and more bike trails that could readily be constructed outside of protected areas is not a “need” as contemplated by CRR and does not justify the harm this project will do to the protected areas under CRR and NEPA.

The construction of linear mini-roads and the spread of the “undesirable outdoor experience” into CRAs will significantly alter the undeveloped character of the CRAs. Under the CRR, the FS may not proceed without a full environmental impact statement. Moreover the FS’s cumulative impacts analysis failed to adequately address the effects and impacts of all past, present, and reasonably foreseeable actions, which include all bike trail projects in the Steamboat Ski Resort, Emerald Mountain, Spring Creek, and Buffalo Pass.

While this cover letter constitutes a concise statement of my comments, please refer to the comments I made dated November 18, 2018 together with the supporting analysis and the exhibits and the supplemental comments I submitted, dated June 6, 2019, all of which are incorporated herein, for my complete comments.

I am submitting these comments based on my letter to the Forest Service, dated December 16, 2016, and the email from the Forest Service on October 22, 2018. I understand that I am an interested person for notice and appeal purposes.

Alan M. Keeffe

Encl.

Alan M. Keeffe
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PO Box 772450
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June 6, 2019

Hahns Peak-Bears Ears Ranger District
Atten: Mad Rabbit Trails Project
925 Weiss Drive
Steamboat Springs, CO 80487

Re: Mad Rabbit: Supplemental Comments

VIA US MAIL

During a presentation made at the Steamboat Spring City Council meeting held May 14, 2019, the Forest Service made several statements that implied the Forest Service has already determined that it will issue an Environmental Assessment (“EA”) with the cumulative impact analysis limited to the Buffalo Pass Trail Project and will then make a finding of no significant impact (“FONSI”) for the Mad Rabbit Trail Project. Despite this proclamation of a predetermined outcome, there exist several reasons why this course of action will not withstand scrutiny.

First, a thorough NEPA analysis will demonstrate that Mad Rabbit, when taken in context with other related actions, may cumulatively have significant impacts or, at the very least, have unique of unknown risks.

Second, the Colorado Roadless Rule requires an EIS for proposed actions if the intensity of the action would significantly alter the undeveloped character of any portion of a roadless area.

I. **NEPA**. An EA and FONSI may only be used when agency action “will not have a significant effect on the human environment.” *Utah Shared Access Alliance*, 288 F.3d at 1213. Regardless of whether an agency uses a single NEPA process or a tiered NEPA process, the agency must examine the significance of the entire proposed project. 40 C.F.R. § 1508.27. This inquiry requires an analysis of both **context** and **intensity** and when this analysis concludes significance is present, the agency must prepare an EIS. 40 C.F.R. § 1508.27. The context prong requires federal agencies to analyze different contexts, “such as society as a whole (human, national), the affected region, the affected interests, and the locality.” 40 C.F.R. § 1508.27(a). The intensity prong goes to the severity of the impacts. 40 C.F.R. § 1508.27(b).

In conducting this analysis, agencies are directed to look at ten different factors:

- (1) beneficial and adverse impacts;
- (2) effect on public health and safety;

- (3) unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas;
- (4) the degree to which the effects are likely to be highly controversial;
- (5) the degree to which the possible effects on the environment are highly uncertain or involve unique or unknown risks;
- (6) the degree to which the action may establish a precedent for future actions;
- (7) whether the proposed action is related to other actions that individually have insignificant impacts but cumulatively significant impacts;
- (8) the degree to which the action may adversely affect districts, sites or other places listed or eligible for National Register of Historic Places or may cause destruction or loss to significant scientific, cultural, or historical resources;
- (9) the degree to which the action may adversely affect threatened or endangered species or established critical habitat; and
- (10) whether the action threatens to violate Federal, State, or local law or requirements imposed to protect the environment.

40 C.F.R. § 1508.27(b)(1)-(10). The presence of **one such factor** may be sufficient to deem the action significant and require the preparation, analysis, and disclosure of an EIS. *Nat'l Wildlife Fed'n v. Norton*, 332 F. Supp. 2d 170, 181 (D.D.C. 2004). Significance does not require absolute certainty that significant impacts will result, rather it is enough that a proposed action **may result** in a significant environmental impact. *Id. citing Grand Canyon Trust v. FAA*, 290 F.3d 339, 340 (D.C. Cir. 2002).

Based on the above principles, the NEPA analysis for Mad Rabbit includes an inquiry of the context of the Mad Rabbit Project in relation to other related projects in the affected region and in relation to the other affected interests. If any one of the 10 factors demonstrate the likelihood of a significant impact, an EIS is required.

And the standard is not whether the people submitting comments have provided convincing evidence to prove to the Forest Service that significant impacts exist or will occur with some degree of certainty. The standard is whether the related projects **may result** in significant impacts.

In the case of Mad Rabbit, factors 5 and 7 are perhaps the most salient, but certainly not the only, factors that demonstrate that an EIS is warranted. These two factors require that the Forest Service consider if Mad Rabbit when viewed in the context of other related actions may either (i) cumulatively may have significance or (ii) cumulatively may have possible effects on the environment that are highly uncertain or involve unique or unknown risks. As discussed in my comment letter dated November 8, 2018 (contents incorporated), the other related projects include the following:

A. 2A Trail System. The entire 2A mountain bike trail system is one large, master planned project. The trails constructed on Buffalo Pass, in Spring Creek and on Emerald Mountain were phases of the master plan. Mad Rabbit is the next phase of the comprehensive plan. Each was funded by a single source, the City of Steamboat Springs. Each portion of the 2A trail system share a common stated purpose: to generate more tax revenue. Each of the four phases is part of a

common a master plan developed for the 2A trail system, to be developed as an overall plan. The plan is driven by a single mountain biking user group who regularly has asserted that Mad Rabbit is an essential component, given the type of trail and terrain, to the overall 2A trail system. It would be ingenuous for anyone to assert that the other 2A mountain bike trails are not connected actions that are closely related and interdependent to Mad Rabbit. The entire 2A mountain bike trail system is required to be included in the cumulative effects analysis.

B. Ski Area Expansion. The Steamboat Ski and Resort Company's expansion of the Steamboat Ski Area, recently approved by the Forest Service, includes a dense web of mountain bike trails with structural bridges, ramps and jumps. The Mad Rabbit project is immediately adjacent to the mountain bike trail system in the ski resort. Mad Rabbit and the ski area share common water drainages and wildlife migratory routes. Habitat for many species, as identified in the EIS for the ski resort expansion, share the areas encompassed by the roadless areas affected by Mad Rabbit and the ski resort. The 2A mountain bike trail system, with Mad Rabbit completed, virtually surrounds the ski area on all sides. Biking routes on Mad Rabbit will physically connect with mountain bike trails at the ski resort. Mad Rabbit is related to the ski resort and is just another slice of the same pie: High density mountain bike trails constructed in Routt National Forest.

To approve the ski area expansion, the Forest Service required an EIS for a project that was only a fraction of the size of the area affected by the 2A mountain bike master trail plan. Even though it knew about the Mad Rabbit trail system at the time, the Forest Service failed to include the Mad Rabbit trails in the cumulative impacts analysis of the EIS prepared for the ski resort expansion. It is inconceivable that the Forest Service would have mandated an EIS for a bike and ski trail expansion in an area designated for commercial development and then to refuse to conduct similar environmental analysis for the next slice of similar impacts from the interrelated and connected mountain bike routes to be constructed in areas designated for environmental protection.

C. Snowmobile Use. The Forest Service has undertaken a number of projects, including constructing parking lots and toilets, for the expansion of over the snow motorized travel in the roadless areas affected by Mad Rabbit. Expansion of the parking area near Dumont Lake was completed last year and similar improvements are in process at Dry Lake campground. The Mad Rabbit trail users will also use these same parking lots and toilets. But for the fact that they do not share an overlapping season of use, the management of the improvements used by both of these two projects are intertwined. Both will use the Buffalo Pass road. Both will use the parking on Rabbit Ears. The Forest Service could not likely be able to segregate the costs to maintain these common improvements between the snow mobile users and the maintain bike riders. It will be one pot of money. The snow mobile use and Mad Rabbit are interconnected, related projects.

These uses may create unique and unknown risks as is more thoroughly explored in my comment letter of November 8, 2018, including those risks described in the comments delivered by the Department of Parks and Recreation. As stated in my prior comments, the impacts acts of the increased snowmobile use and expansion of the ski area, when combined with the impacts of mountain biking on the entire the 2A trail system, have never been studied, but for a cursory EA conducted for the Buffalo Pass Trail Project.

The likely cumulative impacts of these related project have significance or, at the very least, unknown risks. An EIS is warranted.

II. Colorado Roadless Rule.

Colorado Roadless Rule states that proposed actions “that would significantly alter the undeveloped character of a Colorado Roadless Area require an Environmental Impact Statement.” 36 CFR 294.45(a).

This requirement is in addition to the customary NEPA analysis. The CRR requires a second, separate determination as to whether an EIS is required.

Once again, the inquiry requires an analysis of both **context** and **intensity** and when this analysis concludes significance is present, the agency must prepare an EIS. In the case of Mad Rabbit under the CRR, it is the intensity of the development within the roadless areas that alter the essence of its undeveloped character. While the improvements to be constructed may be limited in geographic scope considering the size of the total acreage of the affected roadless areas, the areas to be developed with the Mad Rabbit improvements will be a significant alteration of the undeveloped character of the areas developed with mountain bike trails and associated improvements.

As is simply demonstrated by its name, the essential purpose of the Colorado Roadless Rule was to prevent the construction of new roads for travel by motorized vehicles, except for very limited exceptions. The CRR distinguishes trails and roads by measurement: 50 inches. Anything less than 50 inches wide is a trail. Anything more than 50 inches wide is a road, with an exception: A road of more than 50 inches can be managed as a trail.

Mountain bike trails are more than 50 inches wide. Attached are three photos of popular local mountain bike trails showing routes in excess of 50 inches: 1. The Rotary Trail at 74 inches; 2 the Ridge Trail at 140 inches; and 3. NPR at 84 inches. These pictures demonstrate that it would not be possible to construct the Mad Rabbit trails such that they would never exceed 50 inches. So once constructed, the proposed mountain bike trails for Mad Rabbit will be roads. To prevent them from being illegal roads, the Forest Service will have to manage them as trails. But they are still roads being built in a roadless area. If the 50 inch rule were not intended to distinguish trails from roads, then CRR would have just stated that anything, regardless of width, managed as a trail is a trail. It did not, and the 50 inch rule seems to be the dividing line. Also, mechanized use by mountain bikes is not that dissimilar to prohibited motorized use in that both are forms of mechanized travel. There is even some indication in the Vail Valley I-70 animal crossing study that bike use may have even more severe impacts on wildlife than do motorized vehicles (see presentation materials enclosed). Arguably the construction of new 50 inch plus roads to be managed as trails for mountain bike use is either expressly prohibited or is at least as close to being expressly prohibited by the CRR as would be any other imaginable use.

Mad Rabbit violates the fundamental essence of the CRR: no new roads for mechanized travel. Violating the essence of something demonstrates significance alone.

But that is not all. The intensity of the proposed use also indicates significance. The trail alliance estimates that there may soon be 180,000 visitors using these trails. Commercial outfitting of mountain bike tours will be inevitable. All this use generates more tax dollars. The project proponents intend to use the roadless areas for what is essentially a commercial use. Arguably, using a roadless area as a commercial mountain bike park is a significant alteration of its undeveloped character.

Finally, we turn to the intensity of the improvements themselves. The project proponents have announced that they intend to build bike ramps and jumps in the roadless areas, for more radical turns, air borne tricks, and speed. Enclosed is a copy of the presentation materials given a public meeting for the project that include pictures of the types of biking ramps and structures the project proponents have announced that they would like to construct in the roadless areas. These physical structures would undoubtedly significantly impact the undeveloped character of the roadless areas in the location in which they are built. The counter argument is that these structures will only affect the immediate vicinity in which they are constructed. However, there is nothing in the CRR that allows the project proponents to average out the impacts of one location across all the acreage of the entire roadless area. A significant impact in any one location is still a significant impact on the undeveloped character of that portion of the roadless area.

These factors all indicate that an EIS will be required for Mad Rabbit.

III. Conclusion.

Arguably any single small segment of any one particular mountain bike trail may not have any significant impact on the overall quality of a roadless area. That is what everyone sees when one looks at a mountain bike trail. But the cumulative impacts analysis demands that we examine that which we cannot see from our present location: the entire trail, as long as that trail may be. And in the case of Mad Rabbit, that trail is over 180 miles long. Certainly the three projects identified above (2A Trails, Ski Area and Snowmobiles) are related and share a common thread: they each involve high intensity, mechanized recreational use of protected roadless areas and adjoining interrelated lands. They all must be included in the cumulative impacts analysis. The unknown risks that have not yet been assessed are the cumulative impacts of the extensive wide reaching, disbursed mountain bike use and snowmobile travel throughout the national forest and the adjoining lands in Routt County (see Comments dated November 8, 2018). The possible effects of these uses on the environment are highly uncertain and involve unique and unknown risks, particularly with regard to elk migratory routes. The Forest Service's predetermined path to limit the cumulative impact analysis to the Buffalo Pass Trail Project and to issue a FONSI is inconsistent with the requirements of NEPA and the CRR.

The time has come for the Forest Service to conduct a thorough environmental impact statement concerning the cumulative effects of all mountain bike and other mechanized use of wildlands throughout Routt County. Mad Rabbit is the slice of the pie that tips the scale. Even more so because as proposed it will principally be located in an area designated for protection.

Alan Keffe

Encl.

Alan M. Keefe
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PO Box 772450
Steamboat Springs, Colorado 80477

November 8, 2018

Hahns Peak-Bears Ears Ranger District
Atten: Mad Rabbit Trails Project
925 Weiss Drive
Steamboat Springs, CO 80487

Re: Mad Rabbit Trails Project

VIA US MAIL

Many of the proposed Mad Rabbit Trails are to be constructed in the Mad Creek, Long Park, and Walton Peak Colorado Roadless Areas. The Colorado Roadless Rule regulations afford certain protections to these areas, including a general prohibition on cutting trees, with certain narrow exceptions. The exception to allow tree cutting for new trails may only be made during a travel management process. The Forest Service must satisfy the requirements of, and make a series of determinations under, the Travel Management Rule. Evidence suggests that the Forest Service cannot make those determinations.

The Mad Rabbit Trails project will significantly alter the undeveloped character of the Roadless Areas which requires an environmental impact statement. The Forest Service must consider the cumulative effects and impacts of all past, present, and reasonably foreseeable actions, which include all bike trail projects in the Steamboat Ski Resort, Emerald Mountain, Spring Creek, and Buffalo Pass. Finally, the Colorado Department of Parks and Wildlife should be acting as a cooperating agency for the NEPA process.

While this cover letter constitutes a concise statement of my comments, please refer to the supporting analysis and the exhibits for my complete comments.

Alan M. Keefe

Encl. Supporting Analysis and Exhibits 1-15

SUPPORTING ANALYSIS

I. Project Background.

The Mad Rabbit Trail Project is an effort being pushed by several project proponents, principally mountain bike riding advocacy groups, and is funded by the City of Steamboat Springs through a tax referred to as “2A” (Exhibit 1; Request for Proposal (RFP) for Use of Steamboat Springs Accommodation Tax and Appendix). The project proponents describe the proposed trails in their written materials using words such as “single track,” “intermediate,” and “directional” (see Exhibit 1; multiple pages of the Appendix). These are terms used by mountain bikers to describe a type of mountain bike trail. For example, a “directional” is a one-way trail intended for riding a mountain bike downhill at high rates of speed.

These are not terms used by hikers, hunters or equestrians. Only by mountain bikers. While there has been input from other user groups, the interests of the other user groups are not the gravamen of the Mad Rabbit proposal. Of the 69 miles proposed of trails, only about 2 miles would be off limits to mountain bikers. The project proponents did not include an alternative option that excludes mountain bike use.

Even more telling, the proposal is funded by the City of Steamboat Springs from taxes, used to promote bicycling oriented tourism, which drives more traffic to the hotels, which increases the taxes, which results in more bicycling use of the proposed trails. The project advocates estimate that there may soon be as many as 111,000 new visitors using the bike trail systems (see Exhibit 1; Appendix Page 18).

If mountain biking use was taken out of the Mad Rabbit proposal, it is doubtful that there would be enough community support for the project to move forward. The Mad Rabbit proposal is about mountain bike use.

II. Colorado Roadless Rule.

The Colorado Roadless Rule was adopted in 36 CFR 294 Subpart D (Exhibit 2; Colorado Roadless Rule). The Rule applies to the Colorado Roadless Areas as designated on the map adopted by the Forest Service (Exhibit 3; Map of Colorado Roadless Areas). Virtually all of the proposed

mountain bike trails as shown on the map are located within the Mad Creek, Walton Peak, and Long Park Roadless Areas.

The Colorado Roadless Rule states that “The intent of this regulation is to protect roadless values by restricting tree cutting... with narrowly focused exceptions” 36 CFR 294.40. The drafters clearly stated their intent to restrict the scope of the exceptions and to demand a high level of scrutiny when an exception to the general prohibition is to be applied.

To build and maintain the Mad Rabbit Trails within the Roadless Areas, trees will be cut. So the Forest Service needs to find an exception to the general rule. That requires the Forest Service to make certain specific determinations. 36 CFR 294.42.

Presumably the Forest Service will make the determination based on implementing a “management activity not otherwise prohibited by this subpart.” Id. Although the Rule does not expressly prohibit the construction of new trails, it does contain a prohibition on the process used to make a decision to construct new trails in Roadless Areas:

“Decisions concerning the management or status of motorized and non-motorized trails within Colorado Roadless Areas under this subpart shall be made during the applicable forest travel management processes.”

36 CFR 294.46(e). The use of the word “shall” means that the travel management process is mandatory. If any management decision is to be made to cut trees for a non-motorized trail within Colorado Roadless Areas, then the Forest Service must approve the Mad Rabbit trails as National Forest System trails under a travel management process.

III. Travel Management Rule.

Travel management processes are found in the Travel Management Rule. 36 CFR 212. To proceed with the Mad Rabbit Trail project, there are four things that the Forest Service must do under the Travel Management Rule.

1. Trails Necessary. First, under the Travel Management Rule, a “Forest road or trail” is one that the “Forest Service determines is necessary

for the protection, administration, and utilization of the National Forest System and the use and development of its resources.” 36 CFR 221.1. Quite obviously, the Mad Rabbit Trails have not yet been approved as part of a prior travel management process for Routt National Forest. The Forest Service needs to make the determination that the Mad Rabbit trails are “necessary” for all three elements: the protection, administration, and utilization of the forest.

A. Protection. It is implausible that that the Forest Service could make the determination that the Mad Rabbit Trails are “necessary” for the protection of the Roadless Areas. The term necessary is a synonym for something that is needed. The Mad Rabbit trails are not needed to protect the Roadless Areas. They may be wanted, or desired, for human recreational use, but they not needed to protect the forest. In fact, taking a bulldozer to the forest is just the opposite of protecting it.

B. Administration. Nor are the Mad Rabbit Trails are “necessary” for the administration of the Roadless Areas. The Forest Service has no need for mountain bike trails for any of its administrative functions. Forest Service personnel do not undertake any administrative functions in the Roadless Areas while riding mountain bikes.

C. Utilization. Finally, the Roadless Areas are presently being utilized for a wide variety of uses other than mountain biking, including hunting, camping, back country skiing, and in some areas over-snow machines. These uses can continue without new trails. The proposed trails are only necessary for mountain biking use. But there already exists about 186 miles of mountain bike trails in the nearby area so new trails are not necessary.

If the Forest Service cannot make any one of three of these determinations for the Mad Rabbit Trails, then they cannot become National Forest System trails under the Travel Management Rule and no management decision to cut the trees can be made under the Colorado Roadless Rule.

2. Amend Atlas. Second, trails are defined as a “route 50 inches or less in width or over 50 inches wide that is identified and managed as a trail.” 36 CFR 221.1. Most mountain bike trails constructed with a bulldozer with vegetation cut for the width necessary for riding mountain bikes are commonly more than 50 inches wide. So the Forest Service needs to identify and manage the Mad Rabbit trails as trails. Unless the trail is included in a

“forest transportation atlas,” the trail is deemed “unauthorized.” Id. So the Forest Service must amend the travel management map for the Routt National Forest to show the Mad Rabbit Trails as trails identified as trails. Otherwise, they are unauthorized. If the Forest Service does not amend the atlas to include the Mad Rabbit Trails, then the Mad Rabbit Trails cannot be National Forest System trails under the Travel Management Rule.

3. Impact Analysis. Third, designations of new trails as National Forest System trails under 36 CFR 212.54 require the Forest Service to make certain determinations under the criteria found in 36 CFR 212.55. These topics include:

- (1) Conflicts among other users of National Forest;
- (2) the Damage to soil, watershed, vegetation, and other forest resources;
- (3) Harassment of wildlife and significant disruption of wildlife habitats;
- (4) conflicts with motor vehicle users; and
- (5) the need for administration of the trails that would arise if the uses under consideration are designated.

36 CFR 212.55.

A. Other Users. The Forest Service needs to evaluate the effect the Mad Rabbit trail system would have on hunters and other users of the forest. The Forest Service should consider whether, to minimize effects on other users, any mechanized use in a Roadless Area is consistent with the protections afforded to a Roadless Area, as the Forest Service has done for similarly protected areas like Wilderness Study Areas. It should also consider issuing a ban in the Roadless Areas on all mechanized travel off the trails designated as National Forest System trails, which would assist in preventing future unauthorized mountain bike trails.

B. Soil Impacts. Damage to soils and vegetation is inevitable when trails are constructed with bulldozers. Damage to soils and vegetation is also inevitable from mountain bikes, particularly while traveling downhill. There are several research papers that have examined this topic, although the papers do suggest that the impact on soils and vegetation are perhaps worse from equestrian use and about the same for mountain biking and foot traffic (Exhibit 4; Environmental Impacts of Mountain Biking; Off-Road Impacts of Mountain Biking; Mountain Biking: A Review of the Ecological Effects; Ecological Impacts of Mountain Biking; and Comparing Hiking, Mountain Biking and Horse Riding Impacts on Vegetation). The research papers do

state that more research needs to be done on the effects of mountain bike use on soils. And they emphasize that the effects are different for different environments. The effects in a place like Moab, Utah would not be comparable to those effects in Routt National Forest.

Routt National Forest is blessed with a number of environmental conditions that make it unique. It has an abundance of soils which supports extensive and diverse vegetation. It also has the highest rainfall and precipitation in the State of Colorado, and moist soils are more susceptible to erosion than the drier soils in other parts of the state. The effects of mountain bike use on the soils in Routt National Forest have not been studied. But there is anecdotal evidence to suggest it is worse here locally than in other environments. Take for example, the bike trails on Emerald Mountain. For many years, the road up Emerald Mountain (Blackmer Road) to the quarry had a trail that cut off the last bend in the road before ascending to the quarry view overlook. That trail was often used by foot traffic and was a dirt trail covered with vegetation. Once mountain bike riders started using the trail about 15 years ago, the soils broke free and the sediment has been washed away, leaving the trail open to bare rock bed (Exhibit 5; photo of Little Moab Trail). This erosion is likely caused by the combination of the relatively high levels of precipitation in the area and the increased use of the wheeled traffic, particularly mountain bikes coming downhill with the brakes locked. All the soils are now washed downhill. It is so barren of soils that it has ironically been labeled as "Little Moab" a reference to an area that does not have soils. Mountain bikes now leave black skid marks on the bare rock (Exhibit 6; photo of black mountain bike tire skid marks on Little Moab). Other trails on Emerald Mountain display the commencement of similar erosion on trails where only mountain bike tracks are evident (Exhibit 7; photo of mountain bike trail on Howelsen Hill). The risk that this type of soil damage could occur over the 68 miles of new mountain bike trails over the next 40 years needs to be considered.

C. Wildlife Impacts. The mountain bike trails will be built in prime wildlife habitat. Elk, deer Northern Goshawks, Columbian sharp-tail grouse and many other species use the area as their primary habitat and need unfragmented habitat (Exhibit 8; Comments of Department of Parks and Wildlife dated January 15, 2018). Harassment of wildlife and significant disruption of wildlife as a result of the introduction of mountain bikes in the Roadless Areas is inevitable and could be permanent. Some experts estimate that it takes 60-90 years for elk to re-establish habitat lost to disturbances of

their migratory routes. The effects of mountain bike use on wildlife has been studied and found to have a greater impact than other uses. There are several reasons for this. First, users of mountain bikes are capable of traveling faster and covering more mileage than other users (Exhibit 4). As a result, they are more likely to encounter and disturb more wildlife than other users. Second, by traveling faster they are more likely to come upon wildlife before the wildlife has an opportunity to move beyond the impacted zone, and are then more likely to cause a flight effect and expending valuable energy (Exhibit 4).

D. Conflicts with Motor Vehicles. Many of the Mad Rabbit trails are located in areas where over-snow vehicles are permitted to be used. The trails will open up new corridors of cut trees for the snow machines to run at high speeds. With the advent of "fat tire" winter bike users, the possibility of conflicts with snow machines, hikers, bikers and back county skiers needs to be considered.

E. Need for Administration. The Forest Service must determine if the trails to be added to the National Forest System trails will be motorized or non-motorized (and if non-motorized, if mechanical travel should be permitted) and the resulting effects on administration if the uses under consideration are allowed. Motor vehicles are defined as any "vehicle which is self-propelled" with certain exceptions. 36 CFR 212.1. This definition is quite curious. No one would doubt that a 1965 Cadillac is a motor vehicle. If a 1965 Cadillac with the motor removed were to be rolled down a hill into a Roadless Area, we would still call it a motor vehicle. It is of a type of vehicle that is self-propelled. A mountain bike taken from the top of a hill on a directional trail would not necessarily need to be peddled. Many of the "directional" trails are used this way. People obtain rides in motor vehicles up Buffalo Pass Road or Rabbit Ears Pass and then are dropped off, only to glide down the directional trail. In fact, one local mountain bike trail is named "MPR" which stands for "no pedaling required," demonstrating that mountain bikes are self-propelled. The advent of outfitters transporting hundreds of tourists daily up for these descents, as is presently occurring on a large commercial scale on Vail Pass, needs to be evaluated. That will add administrative burden. These trails will add to the vehicular use and parking on Buffalo Pass Road and the impacts of that on the administration of the road need to be evaluated. Even more vexing, mountain bikes are now being manufactured with electronic motors (Exhibit 9; advertisement for e-bike for "Power to Ride More Trail") The Forest Service has issued a Briefing paper

on this issue, basically ruling that e-bikes are self-propelled vehicles and not allowed to be used on non-motorized trails (Exhibit 10). Thus, the Forest Service has ruled that e-bikes are a form of motor vehicle. As with the example of the Cadillac without a motor, all mountain bikes are now of the type of vehicle that can be self-propelled. Adding to the administrative burden are motorized over-snow machines built like motorcycles. When and how will they be able to use the trails and how do you segregate those from the e-bikes. Why would an e-bike with fat tires be prohibited from winter use of these trails when two cycle motorcycles with treads for over-snow travel are not. Confusion among user groups will be inevitable. Approving the Mad Rabbit trails as non-motorized trails would create an enforcement burden that would not be administratively feasible given the recourses available.

4. Public Notice of Travel Management Process. The Mad Rabbit Project is on the SOPA web site as a “recreation management” decision. There does not appear to be any indication, and to my knowledge the public has received no notice, that the Forest Service is engaged in a process under the Travel Management Rule. 36 CFR 212.54. To do so, the Forest Service must provide notice that it is undertaking a travel management process and must obtain public involvement and the coordination with other state, county and local governments. 36 CFR 212.52.

IV. Back to the Colorado Roadless Rule.

Assuming that the Mad Rabbit Trails can be properly approved as National Forest Trails under the Travel Management Rule, then the analysis goes back the Colorado Roadless Rule. Only then can the Forest Service proceed to make the required management determination under the Colorado Roadless Rule to allow the trees to be cut. 36 CFR 294.42.

V. NEPA.

Environmental documentation is required “for any proposed action within a Colorado Roadless Area.” 36 CFR 294.45. That includes cutting trees. Proposed actions “that would significantly alter the undeveloped character of a Colorado Roadless Area require an Environmental Impact Statement.” 36 CFR 294.45(a).

There are nine characteristics of roadless areas include undisturbed soils, sources of public drinking water, diversity of animal species, habitat for threatened, endangered and sensitive species, habitat for species that are dependent on large, undisturbed areas of land, primitive and semi-primitive non-motorized dispersed recreation, reference landscapes, and natural appearing landscapes. 36 CFR 294.41. The Rule specifically restricts linear utility lines.

All of the analysis of the soils and wildlife effects described above under the Travel Management Rule section are incorporated. In addition, Columbian Sharp-tail Grouse are frequently encountered in the Mad Creek area which is known as habitat for Columbian Sharp-tail Grouse (Exhibit 11; Columbian Sharp-tailed Grouse Conservation Plan). Long Park and Walton Peak are known habitat for Northern Goshawks and occasionally lynx. Elk use these areas for calving, reproduction and migration. Cutthroat Trout have been found in the drainages. The Colorado Department of Parks and Wildlife (DPW) comments conclude that the proposal would "create significant impacts to wildlife and associated habitat." Over 9,482 acres of new disturbance in the Colorado Roadless Areas is a significant alteration of several roadless characters.

Disturbing the soils also jeopardizes the characteristic of a roadless area as sources of public drinking water that drains from these Colorado Roadless Areas into the Steamboat Springs water supply and other private water supply systems in the immediate vicinity.

The use of mountain bikes is contrary to the characteristic of the roadless area for "primitive and semi-primitive" recreation. Not many owners of mountain bikes that cost \$6,000 and are made of precious light weight metals and high carbon fiber would call their bike "primitive." They could even be considered high-tech.

One of the most significant restrictions in the Colorado Roadless Rule is that against "linear construction zones." 36 CFR 294.40. Linear construction breaks up the natural-appearing landscapes. Of course, mountain bike trails are linear for many of their courses. The linear trail cuts carve up the natural-appearing and reference landscapes and, particularly in the areas in the proposal where the trails run parallel courses in close proximity to each other, turn them into what looks more like a mountain

bike park. That is a significant alteration to one of the most highly regarded roadless characters.

These factors demonstrate some effects on a significant number of the characteristics of roadless areas and very significant effects on several of the characteristics. These demonstrate that the Mad Rabbit Trail project will be a significant alteration of the roadless characters of the Mad Creek, Walton Peak and Long Park Roadless Areas. Thus, a full environmental impact statement is required.

The National Environmental Policy Act requires the Forest Service to consider the cumulative effects of actions when seen in concert with other actions over long temporal and broad spatial scales. 40 CFR 1508.7. It requires federal agencies to look beyond the incremental impacts of a single decisions, such as the Mad Rabbit Trails, which may be individually insignificant but may cumulatively contribute to significant environmental change. "The CEA regulation requires federal agencies to provide an analysis of the environmental effects, with consideration of past, present and future foreseeable future actions by both public and private parties, often on broad geographic scales." (See; Schultz, "Cumulative Effects Analysis in U.S. Forest Service Decision Making," (2009), Graduate Student Theses, Dissertations & Professional Papers 285). The Council on Environmental Quality's guidance document offered the example that "one mile of the delta of the San Francisco Bay may be affected by the decisions of more than 400 agencies (federal, state, and local)."

The mountain bike community in Steamboat Springs has been very active in constructing new mountain bike trails throughout Routt County and with only limited environmental review to date. They have constructed trails on Emerald Mountain in areas owned by the Bureau of Land Management. An extensive mountain bike trail system, many within just a few yards of each other, has been constructed on lands owned by the City of Steamboat Springs. No environmental study was conducted. The trail map of this area is a dense web of habitat fragmentation.

They have constructed trails in areas in Spring Creek that are closed at certain times as critical winter habitat for elk, on lands owned by the City of Steamboat Springs. No environmental study was conducted.

The Steamboat Ski area has constructed, within their boundaries, downhill (or “directional”) mountain bike trails with ramps and jumps for high speed travel, within the Routt National Forest. An environmental impact statement was prepared, but specifically excluded the cumulative effects of the extensive mountain bike trail system throughout Routt County (Exhibit 12; Environmental Impact Statement for Steamboat Ski Area Expansion 2018). Of course the Steamboat Ski Area is excluded from the Long Park Roadless Area. The policy here is sound: that higher density use should occur in designated areas outside of the Roadless Areas.

The Forest Service approved numerous new trails that have been constructed with the Buffalo Pass Project. Although an environmental analysis was done by Forest Service staff, no environmental impact statement was prepared. The cumulative effects analysis in the environmental assessment for the Buffalo Pass Trails Project was cursory, did not address many other related actions, and focused principally on the beetle infestation which is a natural event and not a management action (Exhibit 13; Environmental Analysis for Buffalo Pass Trails Project). It also excluded the effects on Buffalo Pass Road, which need to be considered.

The environmental analysis for the Mad Rabbit should be at least as detailed about the environmental effects and the cumulative impact analysis as was contained the Steamboat Ski Area EIS given that the Mad Rabbit trails are proposed to be constructed in what is now unfragmented Roadless Areas and the Steamboat Ski Area is located in an area designated for high intensity, multi-purpose use.

There are also many “unauthorized” mountain bike trails that have been illegally constructed in the Routt National Forest, some of which the Forest Service monitors with electronic surveillance. Obviously, no environmental study was conducted. The mountain bike community has even posted on their web site that these unauthorized trails be brought into the approved trail system and the Forest Service has obliged them, which only incentivizes the construction of more unauthorized trails. The unauthorized trails need to be inventoried and their cumulative effects analyzed. Also, with the construction of the Mad Rabbit Trail system, increased access to construct more unauthorized trails is enhanced and are likely to be constructed. An effort needs to be made to estimate the extent of the cumulative effects of these future unauthorized trails.

Since the action to be taken is cutting trees, other actions that result in extensive damage to trees and vegetation should be included in the cumulative analysis. The Forest Service has undertaken recent actions to increase parking and access for over-snow vehicles on Rabbit Ears Pass. The number of over-snow users has seen explosive growth in recent years. The snow machines cut off the tops of small growing trees and vegetation. The impacts are wide spread throughout all off road areas used by these machines. These impacts have never been studied. Cutting more trees, on top of the losses caused by snow machines, needs to be evaluated.

The cumulative effects of these actions, and in particular the connected mountain bike trail projects and over-snow machines, over these broad areas in Routt County have gone largely unstudied. The environmental impact statement for Mad Rabbit should include the cumulative effects of these past, present and future actions.

The Forest Service is required under the Colorado Roadless Rule to include the State of Colorado in the environmental documentation process. "The Forest Service will offer cooperating agency status to the State of Colorado, for all proposed projects and planning activities subject to this rule that would be implemented lands within Colorado Roadless Areas." 36 CFR 294.45(b). This section applies whether or not an environmental impact statement is prepared. It also applies at the commencement of the process: any project that is "proposed." From a review of the limited public information available on this project, it does not appear that the Forest Service offered the State of Colorado cooperating agency status on this specific project. Simply treating the DPW as a referral agency, and allowing it to comment on the project, is not sufficient under the Rule. A cooperating agency should have meaningful input concerning the scope of the NEPA process.

The extent of the role of the cooperating agency should be viewed under the context of the funding of the 2A trails project. The City of Steamboat Springs funds the trails projects with sales tax proceeds to build new mountain bike trails as part of an economic stimulus effort. More trails, more tourists, more tax revenue. Paying for new trails means salaries. According to a representative of the City of Steamboat Springs, it has entered into an arrangement with the Forest Service to reimburse the Forest Service for the costs associated with this proposal and to help expedite the process. The salaries paid for by this tax, directly or indirectly, include

employees of the Forest Service in charge of the environmental documentation for this project. On its face, there exists an appearance that the process is not entirely unbiased. As evidence of those possible influences, one need only look at the cursory level of environmental analysis completed for the Buffalo Pass Trails Project. This emphasizes the need for the meaningful involvement of a cooperating agency and the need for the engagement of an outside independent consultant to prepare a full environmental impact statement. Since the analysis is principally on wildlife and open, unfragmented forest lands, the DPW is the obvious candidate for acting as the cooperating agency.

VI Closing Remarks.

The intent of the Colorado Roadless Rule is to protect roadless values by restricting tree cutting and linear construction zones with only certain narrowly focused exceptions. For trail building, the Colorado Roadless Rule demands detailed determinations under the Travel Management Rule. The Mad Rabbit trail proposal simply cannot meet those standards and does not fall within one of the narrow exceptions that would permit the project to proceed with any mountain bike trails in Colorado Roadless Areas. The Forest Service should add an alternative proposal moving all the mountain bike trails outside of the Colorado Roadless Areas.

If the Forest Service, nevertheless, proceeds with the project, then an environmental impact statement is required that must encompass the cumulative effects of all the mountain bike trails in Routt County and the cumulative effects of use of over-snow machines in the Colorado Roadless Areas. The DPW should have a meaningful role in determining the scope and depth of the environmental analysis.

I am submitting these comments based on my letter to the Forest Service dated December 16, 2016 (Exhibit 14; letter) and the email from the Forest Service on October 22, 2018 (Exhibit 15; E-mail) and understand that I am an interested person for notice and appeal purposes.

Encl. Exhibits 1-15.