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Almquist Comments 2023 B-D OG EA submitted via: <https://www.fs.usda.gov/project/bdnf/?project=56926>

Please accept these comments on the 2023 Outfitter Guide Project's Revised Draft Environmental Assessment and thank you for the opportunity to comment on this proposed change to the Beaverhead-Deerlodge NF's management of the Outfitter and Guide program, a tremendous undertaking! I incorporate, with their approval, the entirety of comments submitted by Greg Munther for the Montana Sportsmen Alliance (Appendix A).

I, and others, have commented throughout this lengthy process, beginning with the initial 2020 proposal and then for the 2022 Preliminary EA. The Revised EA shows that care has been taken to address concerns raised in prior comments, including displaying proposed use by compartment, adding Appendix C - Permittees and Uses; an almost overwhelming abundance of Appendix D maps; and depth of analysis.

There are, however, remaining concerns about lack of transparency and accountability; methodology; proposed pool; other general proposal concerns; maintaining wilderness character in Designated Wilderness, Wilderness Study Areas (WSAs), and Recommended Wilderness (RWAs); and need for a Forest Plan Amendment.

I start by reinforcing this context from 2022 comments: The Beaverhead-Deerlodge NF is geographically positioned to provide connectivity between the Yellowstone and Selway Bitterroot ecosystems and characterized by landscapes with exceptional wildlife and wildland values. These landscapes are directly and especially impacted by the management of Outfitter and Guide permitted activities, which permeate the entire forest - top to bottom and in all seasons. That is why it is so important the proposed priority and temporary service day pools, along with an expansion of existing or new authorized activities, conserve and enhance ecosystem function, not jeopardize this part of America's finest remaining wild landscapes, increasingly rare and greatly valued in today's world.

Lack of Transparency and Accountability

The Purpose and Need for this Proposal describes the two types of special use permits used to manage commercial outfitting (priority and temporary) but does not explain that priority permits include both the maximum 10-year permits authorized for outfitters with proven acceptable performance and transitional 1 or 2-year permits issued to new permit holders while they establish acceptable performance. For background, in 2008 the Forest Service revised directives for managing outfitter and guide special use permits, including changing the maximum term for holders of priority permits in good standing from five to ten years and outlining a process for allocation of use through the "formation and operation of temporary and priority use pools. *These pools will be formed from unemployed use. The appropriate distribution of priority use, temporary use, and unguided use will be determined on a site-specific basis [emphasis added]* using processes outlined in these and existing directives" [from the 2008 Final Directives for Forest Service Outfitting and Guiding Special Use Permits and Insurance Requirements for Forest Service Special Use Permits], processes that include a needs assessment (to evaluate the need for a public service, either public need for guidance, skills, or equipment and agency need

for services such as to promote leave no trace ethics), resource capacity analysis (the amount and type of activities that can be accommodated in a geographical area), and visitor use monitoring.

The section then goes on to state “The BDNF has not issued any new priority use permits since 2009 other than changes in ownership...As a stop-gap measure, a handful of short-term permits were issued in the last several years with the intent to eventually transition some or all of these special use authorizations into long-term priority use permits”. This is a contradiction in statements. In truth, beginning at least by 2018, if not previously, this “stop-gap measure” was used to authorize a combination of new priority FS-2700-4I permits in 2-year transitional term-length and 1-year temporary FS-2700-3F permits (this does not include permit re-issuance related to change in ownership). Note: 2018 is the same year the BDNF drafted the Preliminary EA, not scoped until January 2022, and then raising public concerns that the Beaverhead-Deerlodge had been shortcutting NEPA to issue permits.

Responsive records supplied per 2022 FOIAs (2022-03949 Rissien and 2022-00907 Hutton) showed new priority permits first issued in (year) and now included in Appendix C - List of Authorized Permittees: ALPINE RUNNING GUIDES (2018); BEARTOOTH PLATEAU OUTFITTERS (2017); IRON WHEEL GUEST RANCH (2019); MONTANA WILDERNESS SCHOOL (JOSH OLSON) (2018); GRIZZLY PAW OUTFITTERS (2018); MONTANA LLAMA GUIDES (2018); MONTANA BIBLE COLLEGE (2018); THE PEAK (2015). Another 2022 FOIA document (Forest 153 List) indicates that the following permits were either issued or amended to include new activities or areas: DROPSTONE (2021); JUSTIN GNERER (2021). There are likely other current holders that have received transitional priority or temporary permits, but the BDNF has not provided transparency with a full list.

In addition, this EA’s Change between the Preliminary and Revised Environmental Assessment states that the “Proposed Action was updated to remove individual activity requests that were received in response to the 2017 solicitation letter the Forest issued to existing holders and new proponents” [this solicitation followed the Forest’s 2015 Needs Assessment]. It goes on to state “The authorization of those requests as well as any future requests will be considered using the final EA and Decision Notice.” It is entirely relevant to the public’s understanding of need that any holders of transitional priority or temporary permits authorized since the 2017 solicitation letter (other than business ownership changes) be provided transparency with a full list and, at minimum, each compartment’s priority/actual use for authorizations (other than business ownership changes) since 2017.

An unidentified change from the 2022 Preliminary EA is the 2022’s recognition that “Some permits... fall outside of policy. They were issued as temporary, term or are still in the probationary stage, in anticipation of a decision based on the EA and have been extended beyond their term. We acknowledge the delay that resulted in those permits falling out of compliance with policy.” This 2023 Revised EA instead portrays their mismanagement as the Forest being forced into “stop-gap” permits rather than admitting a calculated avoidance of required NEPA.

These new permits and/or activities and areas were authorized “outside of policy” since at least 2018 (prior to completed NEPA, including scoping) and extended through 2023, also outside of policy. If the intent is to authorize these transitional priority and temporary permits that “need to transition to 10-year priority use”, full disclosure requires flagging these in Appendix C.

The 2022 EA further stated “To resolve this situation, we extended those permits to December 31, 2022. At that point all current permits displayed in Table 2 will expire. We will then issue new priority permits in January 2023 with a 2-year probationary period that includes rigorous inspections and monitoring. Operators who pass inspections and performance evaluations and meet the terms and conditions of their permits during the probationary period, will be issued the balance of their priority use permit.” Have these permits been extended

for yet another end-of-2023-year and what would the balance of remaining years be? Have the ones issued as temporary been authorized in transitional priority permits? And what is the result of the “rigorous” inspections and performance evaluations committed to by the BDNF for each permit issued “outside policy”?

Methodology

An impressive amount of supporting analysis is shown in the Updated Recreation Report, now clarified using GIS capabilities. There are, however, concerns with how these outcomes were achieved and melded into the EA.

ROS analysis is used to describe and manage geographic settings with the goal of providing visitors a range of opportunities while the carrying capacity analysis is used to determine how much visitor use can be accommodated and still meet visitor expectations. This EA and supporting analysis use some form of both ROS and capacity analysis but it is not clearly disclosed, is limited in depth, and has merged what should clearly be two processes into one.

The 2009 B-D Forest Plan used the ROS process (somewhat like that displayed in Table 2 & 3 of this EA) primarily to develop geographic boundaries for motorized/non-motorized and summer/winter opportunities relating to travel management but did not do a carrying capacity analysis. I have been unable to locate supporting 2009 ROS maps in the Forest’s online Planning Area other than two summer/winter maps showing locations east of Ennis that were contracted through Kirk Engineering and Natural Resources. All Forest Plan ROS maps must be included in the Project File for comparison to the Figure 2 & 3 ROS summer/winter maps. Have BDNF ROS boundaries been revised for this 2003 EA? If so, modifications must be clearly disclosed.

It appears the 2023 EA’s ROS GIS mapping is limited to the six broad primary settings (Primitive to Urban) rather than applying the current and informative analysis outlined in the 2017 National Recreation Opportunity Spectrum (ROS) Inventory Mapping Protocol that provides for subclasses within the setting to address Wilderness, Wilderness Study Areas and, as was used in the draft NPCW Forest Plan Revision process, Recommended Wilderness. Subclasses are also used when conditions on the ground do not reflect definitions outlined in the ROS User Guide. An example given is if an area is remote enough to be in the Primitive class, but Primitive size criteria was not met in the GIS mapping: “For those areas initially mapped as “smallP” (Primitive but smaller than 5,000 acres), consider adjacent ROS determinations and settings.

- If the “smallP” area is within or adjacent to a designated wilderness area or wilderness study area, then map it as P. Consider wilderness areas on adjacent federal lands.
- If the “smallP” area is adjacent to SPNM areas, then flag the area for further assessment by recreation specialists. Determine if the area can still provide a primitive setting. The determination requires subject matter expertise and informed professional judgement of the area and its features, such as topography.
- If the “smallP” area is isolated from other P, SPNM or wilderness settings, then flag the area for further review by recreation specialists. Subject matter expertise and informed professional judgement is necessary when considering isolated situations that do not meet the size or adjacency criteria identified above but may still meet the over-all ROS characteristics for P and SPNM.”

The Protocol also gives guidance on topography when mapping ROS settings: “Where roads are contained within steep canyons or mountainous terrain, the “influence” zone of those routes [distance from roads or trails] may be less than ½ mile. It is recommended to refine ROS class boundaries in mountainous landscapes where terrain has a substantial effect on the remoteness of the settings.” These refinements are significant in analyzing impacts to wildlife as well as use conflict.

If Step 5 (Apply size criteria), Step 6 (Conduct adjacency assessment) and Step 8 (Apply other considerations and recreation subject matter – including topography) of the 2017 ROS Protocols were not taken, as is apparently so, the figure 2 & 3 ROS maps need correction.

For those of the public concerned with preserving wildlands, these subclass boundaries are critical to the analysis process, especially when use of the chosen analysis coefficients shown in Table 4 are then applied to ROS setting acreage, as shown in Table 5, to define Carrying Capacity and provide the basis for these significantly high pool numbers! We anticipate a greater proportion of Primitive acres would considerably lower the Table 5 Maximum Service Days (Existing Authorized + Remaining Available). Reference FSH 1909.12, sec. 23.23a, 2.a.

We also question where the arbitrary numerical coefficients came from? Wilderness Study Areas and Recommended Wilderness should have the same “1” as Designated Wilderness and this is certainly so for Semi-Primitive Non-motorized Wilderness Study Areas! Why are there no 3 or 4 coefficients? A suggestion would be to instead use a coefficient system to layer the potential for activities to cause resource impacts or social issues. As example, day use educational hikes would have a “1” coefficient while lion hunting with hounds from remote camps reserved for an entire season would have the “5” coefficient. This would be a defensible use of the concept.

Proposed Pool

Buried in the Updated Recreation Report is the map on page 11 that displays the factor of increase in change between the existing condition (No Action) and the Proposed Action. Using shades of the same color does not do justice to the magnitude of change, for example on the Boulder River landscape (143 times greater than existing) or the Upper Clark Fork landscape (27 times existing) and that is based on permitted rather than actual use, certainly lower. While smaller magnitudes of change for the Big Hole or Pioneers landscapes are rationalized in the table on page 16 as having a low likelihood of encounters, we are talking about six times the outfitted use in the Big Hole landscape and doubling that in the Pioneers, a landscape that includes both Wilderness Study Areas and Recommended Wilderness.

Page 17 of the Updated Recreation Report shows a table reflecting the projection of use density based on concentrated use corridors for the no action and proposed action alternatives. This, to an unscientific eye, is an apparent minimal difference. The outcome would be quite different if the methodology followed the 2019 Interagency Visitor Use Council’s Visitor Capacity Guidebook suggesting to model use corridors separately from destinations (the potential encounters along the trail separately from the potential at the summit of a hike was an example given or where overnight use occurs at popular lake basins to create crowding, a criterion commonly used in many wilderness management plans).

What is the % of Forest-wide permitted vs actual use averaged over the last 5-year period? Appendix C, in addition to landscape, outfitter, permitted activity and authorized service days, should display the 5-year average actual use for priority permits and average of consecutive authorized use averaged for temporary permits along with permit type (priority vs temporary, having relevance into which pool it belongs). At the very least, documentation of actual vs permitted use should be displayed in the Updated Recreation Report’s table on pages 17 & 18. This has direct relevance to the need for establishing pool service days by landscape. See CHAPTER 10 - SUSTAINABLE RECREATION PLANNING WO AMENDMENT 2300-2020-1 (Reference: FSH 1909.12, sec. 23.23a, 2.d and sec. 23.23l. Pg 29 of 30: 6. Recreation Special Uses data and tools are in the Natural Resource Information System (NRIS) database of the Natural Resource Manager (NRM) data system. Data is used to:

- a. Describe and spatially convey the existing types (such as, hunting outfitter-guides, permitted river rafting shuttle system, and so forth) of recreation services provided;
- b. Convey current use levels [emphasis added] of permitted activities and resulting contributions to local, regional and national economies;

In the Purpose and Need for this Proposal section it is stated: “This project allows the Forest to take a comprehensive look at its outfitting and guiding program, including establishing a capacity limit by creating a service day pool, while completing site-specific environmental analysis to support future recreation special uses decision making.” A carrying capacity analysis is a stand-alone process with significant implications Forest-wide and must be documented and available as part of this NEPA process. The capacity establishes the sideboards for how a pool is used – the pool does not establish the carrying capacity!

Sharing both priority use and temporary outfitting and guiding permits in the same pool is contradictory to Agency intent of use of the pools. Guidance for the priority use pool is that it is distributed *seasonally* [emphasis added] to priority use permit holders and returned to the pool for redistribution during the next open season or distributed for the term of a permit to increase use allocated under priority use permits or to establish use for new priority use permits. The temporary use pool is reserved for short-term, nonrecurring, seasonal distribution during an open season to qualified applicants who do not hold a priority use permit in that use area, and thereafter may be distributed to all qualified applicants on a first-come, first-served basis. Section 41.53n of the final directives, Paragraph 2e provides that the authorized officer may shift service days and quotas between temporary and priority use pools based on their utilization. By combining the pools, priority permit holders authorized increasing service days after a five-year period review can then have their permitted service days increased. They have an advantage over holders with non-recurring use and there is the potential that priority use would dominate a combined pool, leaving limited opportunities for non-recurring uses. By not establishing seasonal sideboards by compartment, the pool does not meet the intent of guidance. And it is critical that the maximum possible use in any compartment or season be well below the threshold of tolerance of any species present!

Have limits not to exceed 200 service days been made for temporary use authorized to any one holder? It is also risky to authorize a new holder in a priority permit with 400 days (backcountry skiing) or 245/300 days (backpacking/mountaineering for youth).

General Proposal Concerns

In the Development of the Proposed Action section, this statement is made: “For example, some landscapes experienced adjustments (additions or subtractions of service days) to reflect existing uses, address potential conflict, respond to crowding, respond to adjacent Beaverhead-Deerlodge National Forest National Forest unit management needs, or support site-specific desired conditions where management is seeking to either concentrate use on already hardened areas or limit future expansion in more sensitive areas. In several cases, the coefficient formula generated larger allocations for landscapes in which the public, concerned stakeholders, and/or land managers had already indicated a wish to see greater restrictions on expansion of commercial use (e.g., the Big Hole, Boulder River, Clark Fork Flints, and the Pioneers).” As an example of the concern, this statement implies that there was less allocation made in the Big Hole landscape, where there is now an almost six times proposed increase of use (from the current 634 to 3,636!). If the process used to initially determine allocation was an even higher number, we appreciate that concerned staff got it lowered and wish that had occurred in more places, especially related to Designated Wilderness, WSAs and RWAs! The rationale in all

landscape decisions made prior to the NEPA process must be documented at least by the landscape level and available in the Project File.

The paragraph of Alternative 2: Proposed Action, emphasized in italics, states that the list is not meant to serve as an exhaustive catalogue and, if a proposal were received in the future for a previously unidentified use but the use's activities were considered in this analysis, that use may be authorized under this environmental assessment with limited review. Another contradictory statement. How could an unidentified use have use activities considered in this analysis? Are you suggesting a proposal to do zipline tours or via ferrata climbing, for example, which includes educational aspects could be considered because educational activities are included and therefore only need cultural or wildlife review? Zipline and via ferrata require site-specific specialist review (including by botanists) and full NEPA!

The table on page 13 of the Updated Recreation Report illustrates that a visitor day (riding) does not equal a visitor day (shuttle) does not equal a visitor day (ATV). Oddly, though, the obvious conclusion – that impacts should be analyzed separately for each type of use – is not, and must be, done. A specific concern with not analyzing activities has to do with the distinctly increased impacts of base camps, especially in the two landscapes that have the dominant amount on the Forest – the Pioneers with WSA/Recommended Wilderness and the Gravelly. No additional summer and/or winter basecamps should be authorized in these two landscapes! And no new basecamps should be authorized in popular or remote lake basins, including in “out of policy” permits authorized since at least 2018.

A statement is made in the Environmental Impacts of the Proposed Action and Alternatives, apparently to rationalize compartment assessments related to potential crowding (measured using concentrated use corridors) but “still not enough to equate to even one whole service day per acre for any of the landscapes and results in a negligible increase when compared to the No Action alternative.” Visitors are using a small % of a landscape and are using trails leading to destinations, so the assessment of crowding is valid (and, as stated previously in the concerns about methodology, would be more significant if destination summits and lake basins were modeled separate from the concentrated corridors).

This section then goes on to measure displacement on landscapes with a relatively high increase in service days (see previous concerns on methodology for compartment pool numbers) but with few access points or inventoried campsites. It does not factor in the difference between the multitude of campsites subject to 16-day stay restrictions and authorized reserved sites in place entire seasons of use nor reserved site displacement of wildlife.

This section then goes on to rationalize that crowding and displacement impacts to other users is resolved with the design criteria “Proposals for new or expanded activities will be considered for their potential to crowd areas that unguided visitors seek out for their solitude and remoteness in order to avoid changing the recreation setting or displacing existing users.” When a proposal comes in, how will an authorizing official make this determination without asking the public in site-specific public involvement? Instead, the Proposed Action requires no further NEPA for a decision if the activity is included in Appendix A.

The 2022 Draft EA showed compartments with resource issues in Table 16 (Resource Capacity Issues by Landscape), but that Proposed Action included uses that would exasperate these issues. For instance, ATV & snowmobile use was considered a conflict between quiet and noisy recreation in the Madison and Tobacco Root landscapes, but the 2022 proposal included one using snowmobiles to access a yurt in the Tobacco Roots (and two more proposed yurts in that landscape) and proposed snowcat skiing in the West Fork Madison. Cross country skiing was considered a crowding issue in the Clark Fork Flint Landscape but there was still a proposal for

more use. Backpacking was considered a crowding issue in Clark Fork Flint, Pioneer, and Tobacco Root landscapes but the proposal includes backpacking in each of the three landscapes. Does this Proposed Action include permits issued since 2018 that authorized snowmobile access to basecamps or snowcat skiing?

In Appendix B - Design Features, drones are listed only as a resource concern for wildlife and criteria is limited to grizzly bears: "When drone use is not incidental to the primary use and flight paths occur away from existing motorized roads and trails, developed recreation sites, and base camps inside secure area for grizzly bear, the activity is subject to separate consultation under Section 7 of ESA." Completely inadequate!

The Updated Recreation Report states: "While it is true that the BDNF's recreation special uses program suffered from a lack of personnel in the past, the program is now in a very different position given changes in congressional funding sources...." Regrettably, this has not translated to a backcountry presence – the Wisdom RD had no trail crew or wilderness ranger this year - and, as this quoted statement suggests, funding is quite variable! What percentage of permits are now administered to standard? Authorization of new and expanded uses is left to the discretion of District Rangers and capability concerns are primarily addressed through this EA's proposed reduction of NEPA.

Maintaining Wilderness Character in Designated Wilderness, Wilderness Study Areas (WSAs), and Recommended Wilderness (RWAs)

The 1964 Wilderness Act describes statutory intent in section 2. (a) "In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness." It continues in section 4 (c) to prohibit "Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act..."

The EA does not disclose why "All of these management areas must share the overall service day allocation for the landscape in which they reside; a separate service day allocation by wilderness area within each landscape is not being proposed as part of the Proposed Action." An alternative that does so should be considered.

The philosophical principle that guides management of wilderness areas, regardless of which agency administers them, is found in Section 4(b) of the Act which states that, while the agency administers the area for public purposes (recreational, scenic, scientific, educational, conservation, and historical use), the agency must preserve its wilderness character. The Definition of Wilderness, Section 2(c) in the 1964 Wilderness Act focuses on four qualities: Untrammeled (not hindered or restricted and free from modern human control or manipulation); Natural (conditions are substantially free from the effects of modern civilization); Undeveloped (retaining its primeval character and influence, without permanent improvements or human habitation and where man is a visitor who does not remain); and with Opportunities for Solitude or a Primitive and Unconfined Type of Recreation.

The BDNF analysis of affects to wilderness character for this EA is primarily focused on the quality of solitude (recreational encounters and crowding) and lacks defensible analysis for the qualities of untrammeled, natural, undeveloped, or primitive/unconfined recreation.

The quality of untrammeled, where natural processes occur without intentional human interference, is degraded by activities that add displacement stress on wildlife, especially winter activities that increase stress on denning

bears, foraging wolverine, bog lemmings – in short, wildlife of all sizes and shapes. The quality of naturalness including the presence of native wildlife at naturally occurring population levels is also degraded by activities that cause displacement stress on wildlife. The Updated Wildlife Report's analysis is limited to species required by law, rather than non-iconic species or wildlife that cannot travel to avoid seasonally increased impacts such as bog lemmings impacted by snowmobile use that compacts subnivean habitat, for example. It then uses a list of assumptions that provide a basis for analysis but does not include the potential for increased base camp activities (hunting, winter, accessed by motorized, etc.), critical and relative to all wildlife species!

The quality of undeveloped is degraded by the presence of structures, installations, habitations, and other evidence of modern human presence or occupation, and use of motor vehicles, motorized equipment, or mechanical transport that increases people's ability to occupy or modify the environment. There is no disclosure of the existing condition or analysis of how this quality would be affected by authorizing unrestricted numbers of reserved base camps or increased motorized/mechanized use in WSAs.

The quality of outstanding opportunities for primitive and unconfined recreation includes remoteness from sights and sounds of people inside wilderness and is commonly monitored by amount of visitor use, number of encounters, and number/condition of campsites, less easily monitored by the absence of human noise. The EA's supporting methodology attempts to address and then rationalize the first two measures but does not disclose the existing condition or analyze how a potential and undisclosed increase in base or progressive campsites would affect the experience of remoteness. The opportunity for primitive recreation is also degraded by facilities that decrease self-reliant recreation - authorized reserved base camps, by definition, decrease self-reliant recreation!

The analysis used in this EA contains no defensible evaluation of the dependency on wilderness of Appendix A - Activities (in part because subclasses were not used in compartments), meets the extent necessary to meet the Act's statutory intent, nor of the cumulative impacts of these authorizations on wilderness character in Designated Wilderness, WSAs or RWAs (the latter two for which the BDNF has guidance to "maintain their *presently existing* [emphasis added] wilderness character and potential for inclusion in the National Wilderness Preservation System"). Existing conditions must be known and disclosed to fulfill this Guidance.

The 2008 Keeping It Wild: An Interagency Strategy to Monitor Trends in Wilderness Character Across the National Wilderness Preservation System gave guidance on a process to establish an imperfect baseline of existing wilderness characteristics (having to rely on existing Agency databases of limited field monitoring) that could be then used to assess trends (see "Baseline for Evaluating Change Is the Time of Wilderness Designation or the First Time This Monitoring Is Conducted"). Decades of increasing guided and non-guided recreational use, along with unenforced restrictions on non-conforming uses, has clearly led to degradation of wilderness character in all BDNF wildlands. Has a baseline been completed for either the Lee Metcalf or Anaconda-Pintler Wildernesses and/or the WSAs? If not, no new authorizations or expansion of activities and/or service days should be considered until baselines are completed!

In the Environmental Impacts of the Proposed Action and Alternatives, new proposals for commercial use or changes to existing authorized use (including expanding existing use) in Congressionally Designated Wilderness and Wilderness Study Areas must be evaluated for their dependency on wilderness as well as compatibility with wilderness character before authorizing yet there is no requirement for a Minimum Requirements Analysis (MRA) and the only two related Design Criteria are inadequate to preserving wilderness character:

- Rec Setting/Wild Character - Operators will educate their clients on practicing Leave No Trace (LNT) outdoor ethics and ensure LNT practices are being followed on NFS lands. [It is well known that a

proponent will add this language to an application process but not follow through in practice – this has no teeth.]

- Wild Character - In the Lee Metcalf Wilderness, no more than 15 head of pack or saddle stock in the Spanish Peaks Unit and no more than 20 head of pack and saddle stock in the Monument Mountain and Taylor Hilgard Units will be authorized. [Include language in the Anaconda-Pintler's plan for distance from lakes, grazing, etc.]

The EA goes on to state "For example, in areas of congressionally designated wilderness, wilderness study areas, and recommended wilderness areas already experiencing high levels of visitor use, the Authorized Officer would not consider permitting a new outfitter out of concerns it would further degrade wilderness character by decreasing opportunities for solitude in already congested or heavily trafficked areas." This statement points to recognition that high levels of use are ALREADY impacting visitor the experience in some areas but which of these areas is not fully disclosed in analysis nor considered in Specialist Reports. Since effects to solitude have repeatedly been dismissed in the EA and there are no ROS subclasses for congested or heavily trafficked areas, how would the authorizing Officer defend a decision to deny authorization in those areas, much less maintain the presently existing wilderness character of those areas not already "congested"?

The Appendix D – Maps for Draft EA are much improved from the 2022 maps but still do not consistently show Designated Wilderness, WSAs and RWAs. Full disclosure would require displaying both existing AND proposed summer/winter activities. Since disposition of these wildlands is a significant issue to many of the concerned public, these areas must also be included so folks do not have to go to another map in the planning section of the B-D website to compare existing and proposed activities by compartment area.

The Proposed Action description states that landscape service days would be available for all outfitting and guiding activities and not assigned to specific activities or season of use. This is especially problematic in the Madison landscape that includes the Lee Metcalf Wilderness. The 2015 Needs Assessment indicated requests in the Lee Metcalf to provide outfitting for disadvantaged youth and educational opportunities and other requests to provide outfitted backcountry skiing, mountaineering, hut skiing, guided tours. We can assume in the Madison landscape that winter outfitting would soon displace disadvantaged youth or educational opportunities without Designated Wilderness subclass constraints! This is already being rationalized in the effects section with this statement: "In the Lee Metcalf Wilderness, the likelihood for a decrease in opportunities for solitude is low due to the very small factor of increase in service days and the relatively large number of miles of non-motorized trail with which to disperse the use." Try telling that to non-guided backcountry skiers competing with clients staying in ski huts, much less wolverine and lynx!

In the section on Landscapes with Designated Wilderness (pg. 45 of 60 in rec pdf), the methodology assumes a compartment-wide % factor of increased pool days in calculating the likelihood of increased encounters on non-motorized trails but we don't know what the % of wilderness trails are of total trails in the compartment (since pool days are by compartment and no constraints are put on service days or activities in wilderness). Potentially all increased authorized use could go on those trails! See concerns relating to the Methodology's lack of ROS 2017 National Recreation Opportunity Spectrum (ROS) Inventory Mapping Protocol on subclasses.

Why is there no assessment specific to these wildlands and separate from the Updated Recreation Report, conspicuously limited to social considerations? The use of a hybrid ROS/carrying capacity analysis does not substitute for analysis of effects to wilderness character, effects which this EA dismisses as "negligible direct and indirect effects to wilderness character on NFS lands using opportunities for solitude as an indicator." This dismissive logic continues with statements like "the potential for an additional 10 people on the any part of the

entire project area on a given day, [is] a minimal effect” or “the potential for direct and indirect effects to wilderness character as a result of the Proposed Action is expected to be extremely small or immeasurable”. This is arbitrary, not empirical data.

Although there is a rich and increasing wilderness research literature regarding how to measure wilderness integrity and recreation impacts (much from USFS’s own research arm), there is no indication that the BDNF utilized any of these. There are no citations (in the text or at the end). We are simply told that their ‘expertise’ should suffice. It does not!

I repeat comments made for the 2022 Preliminary EA relating to Congressional statutory intent when designating WSAs:

The S 393 Montana WSA Act mandated these areas be administered to maintain their presently [circa 1977] existing wilderness character. Northern Region FSM direction goes on to state “At the time of designation of the areas, uses that existed in 1977 can be allowed to continue subject to 36 CFR 212.57. If increases in amount of use occur, the line officer should consider how the increases affect wilderness character and the area’s potential for inclusion in the NWPS.”

Further, the 2001 WSA ruling by Molloy on a suit brought against the Forest Service by the Montana Wilderness Association included his following relevant statements:

“The Forest Service has not considered whether, how, and to what extent its management decisions in the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area in the Gallatin National Forest and in the West Pioneer Wilderness Study Area in the Beaverhead National Forest have impacted the nature, quality, and scope of the wilderness character of those areas as they existed in 1977. Thus, the agency has unlawfully withheld or unreasonably delayed its maintenance of the areas’ 1977 wilderness character.”

“Whether Congress acts tomorrow or years from now or never, the 1977 Montana Wilderness Act requires that the nature, quality, and scope of experiences supported by the Wilderness Study Areas shall be maintained, awaiting Congress’ decision.”

It is not enough to look at whether the same types of use was occurring in 1977. The agency must also evaluate how increased use would impact the wilderness characteristics of WSAs, including the qualities of Untrammeled, Natural, Undeveloped, and Opportunities for Solitude and Primitive Recreation .

The EA provided no analysis of how increased guided commercial activities would affect the qualities of untrammeled, natural, undeveloped, or primitive/unconfined recreation. Without a defensible analysis and explicit measures that maintain each of these wilderness qualities, the BDNF is vulnerable to similar court rulings.

[Need for Forest Plan Amendment](#)

36 CFR 219.12(d)(3) National Forest System Land Management Planning contains direction in section 219.13 (Plan amendment and administrative changes) that:

- (a) Plan amendment. A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and how to amend the plan and to determine the scope and scale of any amendment. Except as provided by paragraph (c) of this section, a plan amendment is required to add, modify, or remove one or more plan components, or

to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas).

(b) Amendment requirements. For every plan amendment, the responsible official shall: (1) Base an amendment on a preliminary identification of the need to change the plan. The preliminary identification of the need to change the plan may be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances. When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documentation for the preliminary identification of the need to change the plan.

The 2006 Forest Plan did not include a capacity analysis; new proposed uses and Forest-wide pools; nor the proposed over three-fold increase in Forest-wide allocation of outfitted use (from 1.8% to just under 5% of existing known use). The Proposed Action includes every geographic compartment on the combined BDNF, with areas that include many of the 31.2 NEPA Extraordinary Circumstances that warrant further analysis and documentation in an EA or an EIS and requires a reasonable range of alternatives, not limited to the No Action & Proposed Action Alternatives, including Congressionally designated Wilderness Study Areas (WSA); Inventoried Roadless Areas (IRA), Recommended Wilderness areas (RWA); Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species; and American Indians and Alaska Native religious or cultural sites. The Forest has underestimated and under-represented the scope of proposed changes that clearly point to the need for an EIS and Forest Plan Amendment!

Recommendations

Note: Incorporates by reference those listed in comments submitted by Greg Munther for the Montana Sportsmen Alliance (Appendix A)

- The No Action alternative is Preferred. It allows existing activities and use levels while requiring site-specific analysis and NEPA for new activities, areas, or increased service days. The priority pool can be created from unused priority service days.
- The Proposed Alternative requires a Forest Plan amendment based on establishing a Forest-wide carrying capacity (not done in the Forest Plan) and increasing the allocation of guided outfitted use.
- The scope of proposed activities and increase in authorized service days across every Forest geographic compartment requires an EIS.
- Redo ROS following the 2017 National Recreation Opportunity Spectrum (ROS) Inventory Mapping Protocols with sub-classes for Designated Wilderness, Wilderness Study Areas and Recommended Wilderness.
- Document and provide the carrying capacity analysis and justify coefficients (not seen in the 2019 Interagency Visitor Use Management Council's Visitor Capacity Guidebook). If the analysis is not seen as defensible, redo.
- Analyze the proposed service day allocation by activity within each geographic compartment.
- Make no authorization for increased winter motorized access in WSAs.
- Require site-specific analysis for new activities/expansions

Closing

"Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established [so]as also to preserve its wilderness character [Emphasis added]."— The Wilderness Act, Sec. 4(b)

"The purpose of the Wilderness Act is to preserve the wilderness character of the areas to be included in the wilderness system, not to establish any particular use." — Howard Zahniser, 1962

The Beaverhead-Deerlodge NF has a Congressionally mandated responsibility to preserve wilderness character in Designated Wilderness as existed at time of designation AND to administer Wilderness Study Areas "so as to maintain their presently existing wilderness character [circa 1977] and potential for inclusion in the National Wilderness Preservation System", with similar Agency guidance for Recommended Wilderness Areas. I encourage you take this opportunity to improve the Proposed Action to meet these responsibilities and submit these comments in the hope they positively influence a decision having critical ramifications for this uniquely valuable landscape, its wildlife and habitat, and cherished wildlands.

Marty Almquist
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Appendix A

Landro, Allison - FS, MT

From: Greg Munther <gmunther12@gmail.com>
Sent: Friday, November 24, 2023 4:33 PM
To: Timchak, Lisa - FS, MT; Landro, Allison - FS, MT
Subject: [External Email]Beaverhead Deerlodge Outfitter Guide Permit project

Some people who received this message don't often get email from gmunther12@gmail.com. [Learn why this is important](#)

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November 24, 2023

Re B-D Outfitter Guide Proposal draft EA (released for public comment about November 18, 2023)

The **Montana Sportsmen Alliance** welcomes the opportunity to comment on the B-D Outfitter and Guide Project Draft Environmental Assessment. Our organization's members are both resident and nonresident outdoorsmen and outdoorswomen. Many of our members recreate on the B-D in a variety of recreational pursuits listed as B-D recreational activities considered for additional outfitter and guide client days.

Some of our members commented on a very similar proposal over two years ago and we understand most of the public comments were not favorable to the very similar proposal. We wonder why, given the negative response over two years ago, why this proposal has been resurrected?

While the State population is indeed growing, and the recreational opportunities for most of us are increasingly forced to occur on public lands, given the trend toward exclusion of the general public on private lands. We can only expect this trend to continue. Frankly, it was noted in both the last Legislative session, as well as in Fish and Wildlife Commission hearings, that Montanans are increasingly frustrated by more people on less available lands. Crowding is now occurring where it was rare before relatively recent population changes and more activities shifting to public lands. This is especially acute in hunting and fishing situations. Some of us experienced nearly every trailhead in elk country to have one or more wall tents, many staying long periods and many with out of state license plates.

Given the existing perception of crowding by Montana residents, and worsening trend, we question whether tripling the permitted outfitter/client base is prudent.

We question how public "*Demand*" was determined, which resulted in proposing dramatically increased available client days. According to the recent B-D Needs Assessment : "*Outfitters and guides are utilizing an average of 48% of their permitted days. Every activity offered by outfitters and guides shows some unused permitted days according to SUDS.*" What is the quantity of recreationists contacting the B-D asking for more guided recreation? It has been our experience that many or most hunting/fishing outfitters attend sports shows and mail brochures to certain potential client bases in an effort to fill the existing client days they already have available. They work hard at creating

“demand.” While the B-D has likely received proposals by individuals or organizations to conduct commercial for-profit businesses on the B-D, we do not agree that “*recreational demand*” is the reason increased permitted client days are justified. It appears to us that this bucket of available client days would be administratively convenient and easy to hand out to applicants without going back to the public.

The draft EA notes that elk hunting is the highest recreational activity on the B-D. In addition, we note that, according to the draft EA, that most of the current outfitter/guide client days are related to hunting, including day and overnight big game, lion, spring bear, and game retrieval. The general hunting public is very aware of the increased hunting pressure on the B-D, including pressure by those who are guided. Quality elk hunting requires a very low hunter density for both a quality experience, as well as low human density so elk are not displaced to even more remote activity. It is safe to say that every drainage with elk habitat is presently already occupied by either guided or non-guided hunters during both archery and general season.

The draft EA states “*When establishing new base camps, every effort will be made to utilize existing campsites.*” That would suggest outfitters' new camps could be authorized in exactly the same campsites as used presently by the nonguided public. Some number of unguided hunters will find their favorite elk habitats occupied by new or expanded outfitting.

Although the EA tries to assure us that the land will not be crowded with additional outfitter/guide client days, that is not reality. “*Crowding*” assessments done at the landscape level in this EA, such as people per square mile, does little to accurately assess crowding at the drainage scale. Displacement will indeed occur with such an increase. Some hunters have camped and hunted in the same drainage for decades. Imagine this same group of hunters finding that the B-D has allowed (without specific notification or public input opportunity) that they now must share that drainage with a commercial for-profit hunting operation each year. Similarly, streams or lakes that are favorites of unguided

recreationists will now find an outfitter camped and guiding fishermen in the drainage.

The draft EA states “*Recognizing that this environmental analysis cannot possibly anticipate all future potential outfitting and guiding uses or new technologies, if a proposal were received in the future for a previously unidentified use but the use's activities were considered in this analysis (e.g., establishing a base camp, overnight camping, hiking, practicing Leave-No-Trace techniques, etc.), that use may be authorized under this environmental assessment*”. We, as public landowners, cannot respond to such proposed uses unless we know exactly what type of use is proposed, and exactly where it will occur. In contrast, we doubt the B-D would propose “A tripling of some type of undescribed vegetation treatment of unknown magnitude somewhere on the B-D by somebody” and otherwise leave the public in the dark. Why should a tripling of commercial for-profit outfitting of a variety of recreational activities be permitted without soliciting public input on specific proposals?

In the past, the B-D has allowed the current outfitters to choose what location in the Forest they choose to base their operations. Hunting outfitters dominate the landscape they are permitted to occupy. In the case of elk hunting, they have obviously chosen the best elk habitat not currently under permit to another outfitter. As a result, the general unguided hunters have already been displaced to poorer habitat or smaller parcels of habitat. Therefore, allowing even more outfitters to carve more chunks of the best available habitat will push the general unguided hunters to even more marginal elk habitat.

In some cases, Montana elk outfitters lease choice private lands that were, in the past, open to non-guided hunters. Consequently, outfitting elk hunters on these private lands has worsened the crowding on public

lands, which is increasingly providing the vast majority of hunting opportunities for non-guided hunters. Currently outfitted publics

have numerous elk hunting opportunities with both public land outfitters and private land outfitters.

Wildlife Assessment and Impacts

The EA diminishes the potential and foreseeable adverse effects of certain recreational activities on wildlife.

Unfortunately we, as interested members of the public, don't know the full extent nor location of recreational activities because no comprehensive list of potential activities or their locations has been provided in the EA. Nor do we know what wildlife species could be affected because the EA does not disclose what or where such activities might occur. These gross generalities of this proposed action that omit what activities and their locations would seem to violate the intent, if not the letter of NEPA.

We do know that mountain goats are displaced by both summer and winter human intrusions. Snowmobiling already occurs in mountain goat habitat in the B-D, yet has not been addressed or curtailed. We assert that expanded guided snowmobiling, snow coach or even heliskiing in mountain goat habitat would certainly adversely affect mountain goats. Similarly, mountain goats are displaced from high basins with summer human activity. Guided horseback, llama or backpacking in mountain goat habitat certainly could adversely affect mountain goat distribution. Guided operations have foreseeable wildlife impacts because guided trips generally seek solitude for their clients, thus pushing them into mountain goat habitat not occupied by non-guided humans.

Studies have established that compressed snowmobile tracks provide easy travel conduits for coyotes (and wolves) that are predators and competitors to lynx. Studies have found that both snowmobiling and cross country skiing can adversely affect wolverine distribution and denning. Studies of late spring snowmobiling have shown to adversely affect grizzly bears. Some moose winter on high ridges that are favorite travel ways for snowmobiling. Camping, glamping and yurts provide longer term human impacts to wildlife distribution. Simply encouraging more people into the same habitats for many species of wildlife add stress and potential adverse effects. It is inappropriate to discount that guided operations add to and can have more severe adverse effects. At a larger, landscape scale the increased visitation facilitated by this proposal will exacerbate already serious invasive weed distribution on the B-D. Adding more people, activities and development without acknowledging adverse effects on wildlife habitat and recreational experience is irresponsible.

We believe the proposed stipulation that proposed activities are "*reviewed by a biologist*" lacks assurance that activities incompatible with wildlife and/or wildlife habitats will still not be approved. Instead, we request that specific guided recreational activities incompatible with specific wildlife species be identified and prohibited for any specific proposal. The EA proposes to routinely convert existing temporary outfitter/guide client use to priority use. While this may seem minor on the surface. it changes the permeance of such client days as they, according to this EA, priority client days are

"routinely transferred". Priority permits are more difficult to terminate even when effects of such use are significant. Outfitter/guide operations are commercially sold and usually valued on having a quantity of priority client day permits.

Wilderness, WSAs, Recommended Wilderness

Expansion of commercial for-profit outfitter/guide client days is inappropriate in these special designated lands , which have been identified as having high ecological integrity providing a visitor high quality experience and relatively high expectation of solitude. Adding more outfitted client days in these settings is inconsistent with their existing values. In addition, giving priority commercial permits in WSAs and Recommended Wilderness increases the risk of lessening the political support for future favorable Wilderness designation. Once established, removing established prior uses is extremely difficult especially when permittees claim that jobs will be lost. Permitting outfitting for activities incompatible with Wilderness greatly diminishes the potential for future favorable Wilderness support in any future political arena considering Wilderness designation.

Management and Public Trust

We question whether the B-D can properly administer a potential tripling of client user days with existing staffing. We doubt each existing outfitter/guide operation has in-the-field inspections at least annually. Resource protection and the general public deserve only authorizing outfitter/guide uses that can be properly administered. As evidence that adequate staffing is lacking, we note that the B-D has yet to complete travel planning, which has now languished for decades, citing lack of staffing.

We believe the management of the B-D and other national forests should have the trust of the public who owns these lands. Administrative efficiency should not adversely affect the public's right to know. The proposed action is too vague to adequately address our concerns. The proposed significant client day expansion will certainly affect the non-guided

public on the B-D, and these publics deserve an opportunity to comment on specific proposals. **We request this EA be withdrawn or choose the no action alternative.**

In addition, the Montana Sportsmen Alliance requests:

- 1. Expansion of outfitter/guide client days only be specifically authorized where a specific recreational activity is identified, the specific area of such activity be identified, and what limitations or restrictions would be applied.**
- 2. We request that any proposed expansion of outfitter/guide client days have at least a well-publicized 30 day public comment period assuring it reach an area's existing users and the proposal be specific to area, scale and accurately describe the proposed activity.**
- 3. We request that no expansion of outfitter/guide client days be authorized for elk or deer hunting.**
- 4. We request that no expansion of outfitter client days be authorized without an analysis of impact to wildlife species located or historically occupying habitats in the proposed recreational activity area authorized.**
- 5. We request that additional commercial for-profit outfitting/guiding client days not be authorized when such activities could instead occur on private lands. NEPA Compliance**

This EA does not meet the requirements for analysis in an environmental assessment. It is incomplete. Many of the issues and concerns identified in scoping comments are not adequately addressed. There are no indices of measures identified for the different resource areas, no reasonable range of alternatives and no discussion of impacts or effects analysis. There is no site-specific analysis. These gross generalities, omitting what activities nor their locations, violate the intent, and the letter of NEPA.

The Council on Environmental Quality (CEQ) Regulations at Title 40, Code of Federal Regulations, parts 15001508 (40 CFR 1500-1508) set forth specific requirements for implementing NEPA. The regulations

establish procedures and rules governing environmental analysis and documentation; ensure that environmental information is available to public officials and the public, including identification of significant issues; and provide direction to assist public officials in making decisions based on an understanding of environmental consequences.

The EA *“by analyzing effects under the assumption that all days in the pool are used, we gain flexibility to adjust current, or issue new, permits without additional NEPA because this EA contains the analysis for those 30,000 service days.”* There is NO analysis in this EA of the effects or impacts that these additional new or expanded use days could create.

According to 36 CFR 220.4(e)(1): A proposed action is a proposal by the Forest Service to authorize, recommend, or implement an action to meet a specific purpose and need. All proposed actions have five parts that comprise their whole: who, what, how, where, and when.

WHO is proposing the action? WHAT is the action being proposed? HOW will the action be accomplished? WHERE is the action being proposed? WHEN is the action being proposed? This EA does not articulate the specific individual proposed actions, nor does it address the effects of 30,000 new and expanded pool days. We know the WHO but we do not know WHAT type of activity is being proposed or WHERE and WHEN those activities will occur. The only HOW is explained by “any new use must comply with Forest Plan direction or Travel Restrictions” and where “district rangers and staff determine they have the administrative staff to manage additional priority use permits”.

This proposal is too broad in scope. This would be an approval issued for many different kinds of outfitting types with many possible impacts. These proposed uses may occur within recommended wilderness areas, WSAs, IRAs, alpine lakes, sensitive species habitat etc. The possible effects from authorizing them are not addressed. There is no site specific analysis. This EA does not support a reasonable conclusion that all these possible future authorizations would not have significant impacts, individually or collectively. Court cases and law supports agencies conducting at site-specific impacts in EAs. Merely stating in the EA *“based on the terms and conditions of permits and the resource protection measures included in the operation and management plans that there are no measurable affects”* is NO analysis of possible impacts. What are possible adverse impacts in proposed wilderness areas, high mountain lakes and sensitive species habitat?

How public "Demand" was determined, resulting in dramatically increasing available client days, is no more than an assumption or perception, it is beyond incomplete and inaccurate.

In conclusion, we believe the proposed action is ill designed, and because it is so vague, the draft EA cannot

adequately describe the environmental effects, including the human environment.

Sincerely,

Montana Sportsmen Alliance

For additional contact: Greg Munther (gmunther12@gmail.com), 1295 Lena Lane, Missoula Montana 59804