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July 20, 2025

James Innes
White Mountain National Forest
33 Kancamagus Highway
Conway, NH 03818

Sent via the Internet: <https://www.fs.usda.gov/r09/whitemountain/projects/67593> and via email to james.innes@usda.gov and scott.hall@usda.gov

Dear Mr. Innes:

These are comments from Wilderness Watch on the EA for the Webster Cliff Trail relocation and an amendment to the White Mountain National Forest Plan. Wilderness Watch is a national wilderness advocacy organization, headquartered in Missoula, Montana with offices in Idaho, Minnesota, and Vermont. Wilderness Watch is dedicated to the protection and proper administration of the National Wilderness Preservation System.

Background

As noted in our scoping comments, we commend the Forest Service for taking our earlier suggestions into account by doing a site-specific plan amendment for the Webster Cliff Trail and doing an environmental assessment (EA). Further, the commitment that any trail relocation would be done by traditional methods, because motorized or mechanized equipment is not needed, is also positive. While we were not on the field trip, we have heard about the field visit from Zack Porter of Standing Trees.

Wilderness Watch and Standing Trees also met via zoom in 2023 with Forest Service staff to discuss the issue of a plan amendment for trails in Wilderness. Thus, we at Wilderness Watch were a bit puzzled by the omission of our organization (Standing Trees too) in the draft EA of organizations consulted. It sent us the signal that Wilderness is of lesser importance to the agency than high-intensity recreation in Wilderness. We address this issue in more detail in the section below.

Wilderness and Wilderness Analysis

The official wilderness boundary and boundary descriptions excludes the Appalachian Trail. It is clear the intent of Congress in designating the Presidential Range-Dry Ridge Wilderness was to exclude the Appalachian Trail. Yet, the on page 14 is very misleading when stating, “This project maintains existing access on the Appalachian National Scenic Trail that is partially located within the Presidential-Dry River Wilderness.”¹ We addressed this in the 2023 meeting with staff, in our 2023

¹ See also the subsection immediately following this one.

scoping letter on a proposal for a general forest plan amendment applicable to trails in Wilderness, and in the site-specific Webster Trail scoping letter earlier this year. We stated in our comments in 2023, “The Webster Cliff Trail is not in the Wilderness, rather it is 300 feet from and outside of the wilderness boundary according to the legal description.” A footnote was included in our comments that stated, “Presumably, the boundary is 300 feet from the location of the trail at the time of designation.” We also raised this issue in the scoping comments earlier this year and pointed out the incongruity of the plan maps and the scoping letter map (and now the EA map) with the official boundary and the legal description. All the EA does is inform us of what we already had surmised, namely the Forest Service had relocated the trail since designation without considering the implications of the placement of the wilderness boundary by Congress, doing a forest plan amendment, or doing proper NEPA analysis (see EA page 4).

Put another way, the EA evades any discussion of the clear legal, policy, and management problems of relocating a trail in Wilderness that Congress explicitly excluded from the Wilderness, undoubtedly because such intensive use was deemed inconsistent with preservation of wilderness character. Also, the EA biases the analysis by stating the impact is minor, adding only .35 cumulative miles of additional trail in the Wilderness (while closing some). The EA completely ignores analyzing the impact of the kind of heavy recreation use that Congress purposely excluded from the Wilderness. In essence, the previous decision referred to the EA and this pending decision, thwart the will of Congress and amount to an administrative (and unofficial) de-designation of part of the Wilderness. This is not any trail, but a section of the Appalachian Trail. The official boundary map and the official legal description for the Presidential Range-Dry Ridge Wilderness bear this out. They are attached.

The EA misquotes the Wilderness Act, omits key provisions of the Wilderness Act, and conflates Wilderness with the Appalachian Trail in its too brief analysis. Rather than analyze Wilderness separately, the EA analyzes Wilderness in a section called Special Management Areas. The EA states in its Rationale for Compliance subheading in this section:

The Wilderness Act of 1964 states “wilderness areas shall be devoted to the public purpose of recreational, scenic, scientific, educational, conservation and historical use.” This project maintains existing access on the Appalachian National Scenic Trail that is partially located within the Presidential-Dry River Wilderness. This aligns with the Wilderness Act by continuing to provide for recreational, scenic and historical uses in this area. The work will be completed using non-motorized and non-mechanized tools which is in compliance with restrictions outlined in the Wilderness Act. This environmental analysis process meets the compliance requirements for the National Forest Management Act of 1976.

EA at 14.

While recognizing that the work will be done with non-motorized and non-mechanized means is consistent with Wilderness, there are serious problems with this paragraph.

This paragraph misquotes and omits key provisions of section 4(b) of the Wilderness Act. Section 4(b) states:

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 as also

to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the **public purposes** of recreational, scenic, scientific, educational, conservation, and historical use.

Emphasis added.

Using the singular in this case, as the EA does, is misquoting the Wilderness Act. Further, the public purposes (plural) are not the overriding purpose (singular) of the Act. The omission of preserving wilderness character in this section, which is mentioned twice to emphasize its importance, is very misleading.

The first sentence of Section 2(a) of the 1964 Act gives the overarching mandate. The “purpose” (singular) is “to secure for the American people of present and future generations the benefits of an enduring resource of wilderness” through the establishment of “a National Wilderness Preservation System” and that system “shall be administered for the use and enjoyment of the American people in such a manner as will leave them unimpaired for future use and enjoyment **as wilderness** and so as to provide for the protection of these areas, the preservation of their **wilderness character** . . .” (emphasis added). It is instructive that recreation does not appear in this singular purpose. Even in the balance of Section 2(a) the words “use and enjoyment as wilderness” refer not just to all six of the acceptable uses listed in Section 4(b), but also to the enjoyment derived from knowing that Wilderness is protected, even if one never visits it.

Section 4(c) of the Wilderness Act uses the singular purpose, which refers back to the preservation of Wilderness and its character in section 2(a). Thus, there is a clear hierarchy. The public purposes are allowed only to the degree that Wilderness and its character are preserved. As the author of the Wilderness Act, Howard Zahniser, stated in front of Congress, “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.”

The Forest Service Manual states in 2320.6:

Where a choice must be made between wilderness values and visitor or any other activity, preserving the wilderness resource is the overriding value. Economy, convenience, commercial value, and comfort are not standards of management or use of wilderness.

As pointed out in the above paragraphs, the EA ignores clear congressional intent in drawing the boundary of the Wilderness while also conflating the Appalachian Trail with the purpose of Wilderness. This conflation of Wilderness and recreational use on the Appalachian Trail is not supported.²

The EA fails to consider any alternatives. By ignoring these serious legal and policy implications, the Forest Service omitted considering other alternatives. None were fully analyzed in this already overly

² Also see Forest Service Manual 2353.44a 2 directs the agency to “Manage each National Scenic and National Historic Trail in a wilderness area so that the trail and its associated uses are compatible with wilderness management direction.” This proposal does the opposite.

truncated EA (pages 4 and 5) and no alternative was even considered that asked for Congress to address the issue as only they have the authority over wilderness designation.

Summary

While we appreciate the fact that no motorized or mechanized use will occur on this trail relocation, the fact remains that the EA is seriously flawed. It fails to recognize that Congress drew the Appalachian Trail out of the Wilderness. Moving the trail in the Wilderness creates a conflict with congressional direction. The EA also misquotes and omits key provisions of the Wilderness Act to bolster the only option it considers.

Please keep us updated on this proposal and send us any further documents.

Sincerely,

A handwritten signature in black ink, appearing to be 'MP' followed by a horizontal flourish.

Mason Parker
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