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First name: Karie
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Title: Director of Wildlife and Habitat
Comments:

September 12, 2023

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

The Rocky Mountain Elk Foundation would like to submit the following objections for the proposed Mad Rabbit Trails Project in the Medicine Bow-Routt National Forests, Hahns Peak/Bears Ears Ranger District.

Name and address of Objector
Karie Decker
submitting on behalf of the objector, the Rocky Mountain Elk Foundation (as an entity)
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(Signature for Karie Decker, representing the Rocky Mountain Elk Foundation)

RMEF objection standing per 36 CFR Part 218 Subpart A and B:
RMEF qualifies as an entity, as defined in § 218.2, who has submitted timely, specific written comments regarding a proposed project or activity that is subject to these regulations during any designated opportunity for public comment. Opportunity for public comment on an Environmental Assessment (EA) includes during scoping or any other instance where the responsible official seeks written comments. RMEF submitted two separate comment letters during the periods when the responsible official was seeking written comments: February 9, 2018 (scoping) and November 22, 2022 (during the 30-day review of the draft EA); letters included in the Appendix.

Name of Project: Mad Rabbit Trails Project

Responsible Official: Michael J. Woodbridge, District Ranger Hahns Peak/Bears Ears Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland

Location: Medicine Bow-Routt National Forests, Hahns Peak/Bears Ears Ranger District

Statement that Demonstrates Connection between Prior Specific Written Comments on the Proposed Project and Content of the Objection.

Statements are provided within each section below, referencing connection to prior comments.

Objection: Request for an Environmental Impact Statement (EIS)
[Objection relevance: In RMEF's comment letter dated November 22, 2022, we expressed concern about an EA being conducted rather than a full Environmental Impact Statement (EIS). We continue to justify this concern and request that an EIS be conducted.]

RMEF is discouraged by the decision to not conduct a full EIS. The scale and network of this project has impacts well beyond what is formally recognized in the Final EA. Based on details below, RMEF requests a decision of No Action and that a full EIS be prepared. The Proposed Action is likely to significantly affect the quality of the human environment, individually or cumulatively.

Comments related to a Finding of No Significant Impact (FONSI) criteria and justification for an EIS request:
* Criteria 1: Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on the balance the effects will be beneficial.
o The Terrestrial Biological Evaluation, Wildlife Specialist Report (Wildlife Report, pages 39-44) repeatedly recognizes the impact of increased recreation to elk behavior, breeding success, distribution and population-level responses. There is recognition of direct and indirect, long-term effects to elk due to increased trails and recreation activity. However, the EA states: 'Although elk are an important big game species, they are not a Region 2 sensitive species and so no determination will be provided' (EA page 58, 61). Many adjustments were made throughout project development to help conserve elk populations, yet the EA refuses to make a determination as to direct, indirect or cumulative impacts.
With the Wildlife Report (pages 39-44) clearly pointing out the impacts of this project to elk, a non-determination is inappropriate. The USFS agreed to include elk in the assessment, despite not being a sensitive species. If an evaluation (in the Wildlife Report) is completed for the species, a determination must be made in the EA.
o The Federal agency believes that on balance the effects of the Proposed Action will be beneficial; however, this alone does not warrant a FONSI.
* Criteria 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 ecological critical areas.
o The Proposed Action is still likely to significantly impact elk populations and their habitat, primarily in the Ferndale area. This area is identified by Colorado Parks and Wildlife (CPW) as High Priority Habitat and thus, an ecological critical area. The current evaluation, EA and Proposed Action do not appropriately address this issue. While some adjustments were made to protect the High Priority Habitat, a full analysis and determination is needed to fully understand the effects. An EIS would help accomplish this.
o Much of the proposed project would be implemented in Colorado Roadless Areas. With a significant increase in use anticipated, the Roadless Areas will likely exceed the designated Recreational Opportunity Spectrum as identified in the 1998 Routt National Forest Plan. An EA does not appropriately analyze or address this potential impact.
* Criteria 6: The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future decision.
o Several elements in the Proposed Action qualify for further analysis due to their potential in setting a precedent for future trail development in Colorado. Not only does the Proposed Action include the first-ever 'gravity driven downhill mountain bike park,' constructed within a Colorado Roadless Area, but the Action is among the highest density of trail networks overlapping with mapped High Priority Habitat (elk production habitat). The trail network density exceeds what is allowed in the 1998 Routt National Forest Plan.

Best Available Science
[Objection relevance: In RMEF's comment letter dated November 22, 2022, we expressed concern about the use of outdated science to support the draft EA. RMEF's concern continues and is further detailed below.]

The Wildlife Report and EA fail to incorporate the best available science into the draft Decision as is required per 36 C.F.R. § 219.3 Role of science in planning. 'The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.' These regulations also require Federal agencies to 'ensure the professional integrity, including scientific integrity, of the discussions and analyses.'

This objection refers particularly to use of an outdated model to assess habitat effectiveness for elk. The Wildlife Report and EA use the Elk Habitat Effectiveness Model that was developed in 1983 (Lyon 1983). While the 1998 Routt National Forest Plan references and uses this model, this EA should incorporate the best available science, particularly when more accurate, recent models are presented.

In addition, 'habitat effectiveness' is not defined in any of the current Draft Decision or EA documents. Thus, it is assumed that the EA relies on the definition provided in the 1998 Routt National Forest Plan (Glossary page 8): 'Percentage of available habitat that is usable by elk outside the hunting season' and references Lyon and Christensen (1992). By this definition, the

current EA fails to properly analyze 'Habitat Effectiveness.' Furthermore, assuming again, that the 1998 Routt National Forest Plan definition was used, this Plan provides a formula for calculating Habitat Effectiveness in the Final EIS (page 130) as, '…the habitat effectiveness model developed by Lyon (1983) and modified for Region 2 ecosystems, was used to predict effects on Forest Habitat Effectiveness…'. The modifications of the Model for Region 2 are not disclosed in the 1998 Plan nor in the current EA. Nor are any of the methods presented on how the current EA Habitat Effectiveness or Hiding Cover was actually measured in the field (or when). RMEF requests increased transparency of the methodology and formula used to calculate Habitat Effectiveness/Hiding Cover as well as a supplemental analysis that incorporates more recent science that will assess the 'percentage of available habitat that is useable by elk outside the hunting season.'

The Wildlife Report recognizes that trails were not used to calculate Habitat Effectiveness and along with the EA, justifies this exemption, in part, through trail design: concentration of trails along Highway 40. A project adjustment to concentrate trails does not justify performing an outdated analysis. Furthermore, the Travelway Density assessment in the Wildlife Report does include trails in the density calculation. This inconsistency is not explained. RMEF asks that the USFS document how the best available scientific information was used to inform the assessment, particularly regarding 'Habitat Effectiveness,' and how this represents the best available scientific information used to inform the assessment, the plan decision and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4).

Current science also makes clear assertions on the effects of trail users (not just trails) on elk. In the publication that is frequently referenced in the EA (Wisdom et. al 2018), researchers highlight the importance of accounting for direct effects of recreation users. The study found that the mean minimum distance of elk from recreationists was 2-4 times farther than mean distances from trails alone. This manifested across four recreation types, indicating that the direct response of elk to recreationists was more predictable (and impactful) than the responses to trails alone. A separate study found that reproduction success fell nearly 40% when cow elk were disturbed by simulated recreationists during calving season (Phillips and Alldredge 2000). In the study, disturbance was defined as a cow elk taking flight. Eight disturbances led to a 40% reduction in calf survival, approximately 5% mortality rate per disturbance. The researchers speculated an elk calf changing location (due to disturbance) makes it more susceptible to predation, leading to the decline in the number of surviving calves. Thus, it is imperative that the EA take sufficient action to improve the assessment by using this updated science.

In the Proposed Action, where an intense amount of recreational use is expected, an assessment of the trail alone is inappropriate.

RMEF requests that a more thorough analysis to incorporate new information and data concerning the impacts of the severe winter conditions of 2022-2023 and how the Proposed Action might add to these impacts. The Wildlife Report references outdated elk population data that is three years old (Wildlife Report page 39). The 2022-2023 winter had the most severe snow conditions seen in the past 70 years for the northwest corner of Colorado, ranging from Rangely to Steamboat Springs and the Wyoming state line. Multiple heavy snowstorms with strong winds generated hard-packed snow that severely buried food for elk, mule deer and pronghorn. In the Severe Winter Zone of northwest Colorado (including E-2 where the Proposed Action overlaps), severe winter conditions resulted in high elk calf and above-average cow mortality. Survival rates were the lowest CPW has ever documented and below what CPW previously thought possible in elk. Antlerless elk hunting opportunity in E2 was reduced by 89% to help the herd recover (CPW 2023 Colorado Big Game Regulation Brochure; included in the Appendix). The evaluation and EA must incorporate this data to fully assess the effects of the Proposed Action.

RMEF has also provided a list of updated/additional science for incorporation in the EA (available in the Appendix).

Closure and Rehabilitation of Unauthorized Non-system Trails
[Objection relevance: In RMEF's comment letter dated November 22, 2022, we provided comment regarding the timing and approach to closing and rehabilitating unauthorized trails. RMEF expands on this initial comment below.]

RMEF appreciates the USFS dedication (through this project) to rehabilitate and close 36 miles of unauthorized non-system trails. However, this activity appears to be used to justify the new trail development in the Proposed Action. Rehabilitation and closure of these trails is an action already authorized and should be conducted regardless of the Proposed Action. It is not appropriate to use an already authorized activity (rehabilitation and closure) as a balance measure to newly created trails and roads. Indeed, the current EA attempts to do so - using it as a reason for not completing a more thorough analysis of the impact to Elk Habitat Effectiveness. The EA also excludes rehabilitation and closure in the No Action Alternative, suggesting closure of unauthorized trails is not required by standard USFS practices unless assessed through NEPA. Furthermore, the EA attempts to offset increased recreational use on new trails with the 'reduction in recreational use' on closed unauthorized trails. Again, this is not an appropriate approach. No analysis was completed on current usage of the unauthorized non-system trails nor the impacts of such trails. There is now an expectation to assess the effects of non-system trails and roads (see recent U.S. District Court Ruling on the Helena-Lewis & Clark National Forest: Case 9:21-cv-00005-DLC, Document 42, Filed 08/03/23), which is particularly appropriate in this assessment, given that such roads are in the Proposed Action. In order to appropriately address the non-system trails, RMEF requests removal of any actions associated with rehabilitation and closure of non-system trails from the Purpose and Need (and the entire NEPA project). A new analysis should be conducted and NEPA decision based solely on the proposed new trails/roads alone and non-system trails addressed with existing authority.

New Information, Changes, or Information not Found in the Final EA or Draft Decision
Socio-economic Impacts
RMEF is concerned with the lack of assessment on the socio-economic effects of the Proposed Action. NEPA requires that prior to funding, authorizing, or implementing an action, federal agencies consider the effects that their proposed action may have on the environment and the related social and economic effects. The evaluation and EA focus on benefits to narrow set of uses (primarily mountain biking and some hiking); however, fail to assess the cost that these increased uses have for other users. The recognition of 'likely to impact' elk in the Wildlife Report has effects on those who participate in elk viewing or elk hunting opportunities. The EA indicates that newly developed trails may benefit elk hunters by providing additional access routes. However, access to

trails does not equate to access to elk. This loss of opportunity is recognized and as stated in the EA (page 59): 'Elk will stabilize their movements and avoid this disturbance over the long-term. Elk hunters may be pushed to hunt areas other than Rabbit Ears Pass. Colorado Parks and Wildlife carefully sets herd objectives to maintain herds and may need to adjust licenses.' This statement suggests acknowledgement of impacts on elk and lost hunter opportunity and that hunters (and CPW elk management through hunting) will not be a priority consideration in the Proposed Action. The EA also fails to evaluate the socio-economics of maintaining new trail systems in the Proposed Action.

Travelway Density

CPW's High Priority Habitat guidance recommends that route (trail and road) density remain below the threshold of one linear mile per square mile within sensitive elk habitat to minimize disturbance. The Wildlife Report recognizes that the project will result in a high route density proposed (>1mi./mi2) in elk production areas (a High Priority Habitat and thus an ecological critical area). This includes all or part of trail segments 14, 19, 20, 21, 22 and 30, where CPW data show high elk occurrence. RMEF requests the trail segments that fall within the elk production area also be put under a mandatory seasonal closure from May 15-June 30.

Design Criteria

With the final Design Criteria available for review, RMEF requests adjustments to the following criteria to maintain consistency across the Proposed Action.

* Criteria 39: 'Total miles of completed trail (primary routes and alternate lines) should not be 20 percent greater than the total miles of trail included in the project's decision unless extenuating circumstances require longer than anticipated trails. Supplemental information reports may be prepared by resource specialists to ensure compliance with all laws, regulations, and policies if the percentage may be exceeded.'

o RMEF requests information on how the '20 percent' figure was determined and clarification as to what public engagement opportunities would be available if completed trail miles includes an additional 20 percent. This could equal up to an additional 10 miles of trail development, which currently, as proposed, has no specific location. Depending on where the additional trails occur, they may have sufficient impact to warrant a revised set of specialized reports, review by the public and an amended decision.

* Criteria 40: 'Resource specialists will be consulted before implementation of proposed alternate lines on trails.'

o Given the amount of public engagement needed to arrive at the Proposed Action, RMEF requests that if alternate trail locations are anticipated, that the public be afforded opportunity to review and comment. Depending on where the alternate trail lines occur, they may have sufficient impact to warrant a formal set of revised specialist reports which would be open for public review.

* Criteria 44: 'There may be seasonal restrictions on proposed trails and/or segments of proposed trails to protect elk production (calving) habitat. There will be a mandatory closure from May 15 through June 30 on the route 14 area and in the Ferndale area on segments 23, 25, and 27 based on current information...'

o RMEF requests this seasonal closure (May 15-June30) for all or part of trail segments 14, 19, 20, 21, 22 and 30, where CPW data show high elk occurrence.

* Criteria 45: '… Management actions would be phased in from least restrictive to more restrictive to preserve visitor freedom, to the extent feasible, in balance with resource needs and in coordination with partners…'

o RMEF requests clarity on the timing of the phased action and what the Proposed Action considers least to more restrictive. There is little opportunity to provide feedback when these pieces are not defined. In addition, many of the management actions will occur on new trails (seasonal closure) where users don't already have a predetermined expectation), so should not impact visitor freedom and should be implemented as soon as trails are developed. Other closures (of unauthorized non-system trails) should occur immediately as the FS already has authorization to do so, particularly given the significant impact these trails are having on natural resources and the ROS of the Roadless Area.

RMEF Recommendations Summarized:

* Prepare a more thorough analysis through an EIS, as justified through three of the FONSI consideration criteria

described above.
* Utilize information and assessments made in the Wildlife Report to make a determination in the EA on how the Proposed Action has direct, indirect and/or cumulative effects on elk. The EA currently indicates 'no determination will be made.'
* Incorporate the best available science into the analysis and decision.
o Include trails in the Elk Habitat Effectiveness assessment or utilize more recent models to assess the effect of trails on elk.
o Identify which definition of Habitat Effectiveness is being used in this current EA (assumed to be the Routt National Forest Plan definition). Provide more transparency on what modifications were made to accommodate Region 2 ecosystems in the model and overall transparency on how the field data was collected for the assessment.
o Provide scientific evidence that the Proposed Action to concentrate trails (with a portion still within high priority habitat) will benefit elk.
o Incorporate updated science to assess the effects of increased number of recreationists (and density of users) to elk, not just trail miles or development.
o Respond to inconsistencies in what data was used in various assessments (i.e., trails were incorporated in the Travelway Density assessment but not Habitat Effectiveness).
o Incorporate more recent data on elk population numbers (the EA references 2020 estimates) including an assessment on how new trails and increased use will exacerbate recent winter-related losses to the E2 elk herd.

* Remove portions of the Proposed Action associated with closure of 36 miles of unauthorized non-system trails. As an already-authorized activity, this should not be used to balance out the development of nearly 50 new miles of trails. The assessment should only consider actions not already authorized.
* Conduct a socio-economic assessment of the Proposed Action, accounting for loss of elk viewing and hunting opportunities and future trail maintenance.

* Implement additional seasonal closures (May 15-June 30) for all routes that are in high priority habitat (elk production area), currently without seasonal closures. This includes all or part of trail segments 14, 19, 20, 21, 22 and 30, where CPW data show high elk occurrence.
* Increase transparency in adjustments and public engagement opportunity if Design Criteria 39, 40, 44 and 45 are implemented.

RMEF appreciates the effort of the USFS to engage multiple stakeholders throughout this process and hopes for a new Proposed Action that will have much less of an impact to elk and other wildlife as well as hunting opportunity.

Sincerely,

Karie Decker
Director of Wildlife and Habitat

Literature Cited
(includes a sampling of studies that should be incorporated into the EA)

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