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ATTN: Objections
Medicine Bow-Routt National Forest
2468 Jackson St.
Laramie, WY 82070-6235

Via electronic portal: <https://www.fs.usda.gov/project/mbr/?project=50917>

September 24, 2023

Dear Forest Service,

Pursuant to 36 CFR 218, the following is an objection from Rocky Smith et al on the proposed Mad Rabbit Trails Project. It was issued for objection via notice in the Steamboat Pilot dated August 11, 2023. The responsible official for the project is Hahns Peak/Bears Ears District Ranger (Medicine Bow-Routt National Forest) Michael J. Woodbridge.

Rocky Smith shall be the lead objector.

Objectors understand and respect the difficult position the Forest Service finds itself in - how to address the burgeoning demand for recreation on national forest lands close to Steamboat Springs and the U.S. 40 corridor while still protecting the resources on the lands thereon. However, the proposed Mad Rabbit Project would have too much of an adverse impact, especially on wildlife. It would violate both the Colorado Roadless Rule and the Routt National Forest Plan. It must not be approved in its current form.

Sincerely,

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ARGUMENTS IN SUPPORT OF OBJECTION

I. ELK CALVING AREAS WOULD NOT BE PROTECTED

Objectors raised this issue in their comments on the draft EA, dated November 18, 2022, beginning at p. 3 therein. We incorporate the arguments there by reference.

The effect of proposed trails on elk, especially production (calving) areas, has been a major concern with the Mad Rabbit Project from the inception of the project. As the Biological Evaluation (BE) states, parts or all of several trails would be in elk calving areas:

Many of the proposed trails are entirely located within an elk production area or bisect a portion of an elk production area (segments 14, 19, 20-22, 23-25, 27, 30)...

BE at 41; see also BE Appendix 4. In fact, most of the new trails would be in important elk habitat:

...most of the new trail development (48 miles) will be occurring in portions of elk production areas or summer concentration areas.

Id. at 42.

To reduce the impacts on elk, some of the area would be closed during calving season:

The Ferndale area is proposed for a mandatory closure during elk calving from May 15-June 30 which includes trails 23-25 and 27.

BE, *ibid.* Design element 44 in the FEA states in part that there will be a closure “on the route 14 area and in the Ferndale area on segments 23, 25, and 27 based on current information”. FEA at 104. Closing route 14 during the calving season is the only change made based on the draft EA comments. See Response to Comments at 180.

That still leaves trails 19, 20-22, and 30 open to human use during calving season. Notably, the Colorado Division of Parks and Wildlife (CPW) requested that the seasonal closure area include these trails and surrounding area. CPW comments (November 23, 2022) at 7.

But even the inadequate proposed closure would not be in force in years when there is still snow on the ground during calving season:

If winter conditions exist (12” or more average snowpack depth) in the closure area the closure may not start until winter conditions no longer exist to maintain existing winter recreation access in higher snow years.

FEA at 104, Design Element 44. In other words, in years when the snowpack lasted into calving season, there would be no closure while the snow lasted, and thus no protection for elk while

calving was occurring. In the Rabbit Ears Pass area, snow usually lasts well into June, i. e., well into the calving season. In at least early June in most years, snow is likely one foot or more deep. Elk would still come to the area for calving, but human use could drive them away.

The BE summarizes research showing the large flight distances elk undertake in response to human use. For bicycle use, that distance is 1500 meters, nearly a mile. BE at 41-42.

Also, construction could occur during calving season:

In the remaining elk production areas, and not under a mandatory closure, construction projects can be implemented during this period.

BE at 41.

The result of implementing the proposed action would be adverse impacts to elk:

the high route density proposed (>1 mi./mi.²) in elk production areas will have long-term, indirect effects to elk.

In addition, the long-term, negative direct and indirect effect is the use of the trails in elk production during calving season. Proposed trails are located within a mapped elk production area but no closure is recommended at this time (Segments 14, 19, 20-22 and 30, Appendix 4). From a recreation management standpoint, a closure at Ferndale is manageable with discreet closure points with gates in treed areas. Whereas a closure on Rabbit Ears Pass is more challenging due to the wide-open meadows and wetlands.

BE at 42. If an area can't be closed during elk calving season, trails should not be built through it because calving is a critical time for elk.

The proposed trails would be approved in an area where elk use is declining:

GMU 14 is experiencing declines in elk recruitment with a lower three-year average calf: cow ratio.... Trail use during calving season, a sensitive and critical period for elk, may lower calf: cow trends further at a localized level. It is unclear how many elk calve in this area; however, cow elk will begin to avoid this area up to one mile from the recreation disturbance (Wisdom et al. 2018). Elk will stabilize their movements and avoid this disturbance over the long-term. In managing for multiple use, it's important to provide for secure elk calving areas so elk are available for hunting

BE at 42.

Elk might be forced out of the area during calving season. They may have no other place to go to drop their calves. As the BE notes

The high trail density (>1 mi/sq. mi) proposed on Rabbit Ears Pass will create a high avoidance area for elk. In turn this will create habitat compression by pushing elk further into the backcountry.

Id. at 43.

See also Desjardin et al, 2022. This paper, applying disturbance distances from studies done by the Forest Service, found most of the project area to be within the flight distance of elk reacting to recreation. See id. at Figure 13, p. 20.

In sum, the Forest Service proposes to approve new trails in elk production areas, some of which would be open during the entire calving season, and all of which might be open for part of the calving season during years with late snow retention, all in an area with declining elk populations. This is not acceptable.

II. HABITAT EFFECTIVENESS WOULD BE REDUCED AND IS NOT PROPERLY ANALYZED

With the increased open trail density, the effectiveness of habitat for deer and elk would decrease within the project area. As discussed above, trail use causes animals to stay a variable distance away from open trails, based on the type of use. Again see BE at 41-42.

Forest Plan wildlife standard 10 states:

In forested ecosystems, maintain habitat effectiveness for deer and elk at 50 percent or greater, as measured at the Geographic Area scale.

Plan at 13.

The project area is in the Middle Yampa Geographic Area. See Forest Plan at 3-57. The habitat effectiveness here is said to be 80 percent (EA at 40) and would not change with implementation of the project. But that is only because “[t]rails are not part of the calculation for habitat effectiveness”. EA at 40. This is true even though “the distance response by elk to trail-based recreation [is] to responses to open roads”. BE at 43.

For Management area (MA) 5.11, the Forest Plan requires habitat effectiveness to be 60 percent or greater. Plan at 2-41. It is currently 58 percent. BE at 15. It will not improve, as 4.51 miles of new trail are proposed for this MA. Recreation Law, Regulation, and Policy (RLRP) at 8.

The proposed trails in the project area should be treated as roads, as the animals are affected by use of these trails, just like they are with use of the roads. Though the flight distances the animals may vary, the animals are adversely affected by human use of both roads and trails, diminishing, or even eliminating, their ability to use habitat. Therefore, the EA needs to analyze the impacts of use of the proposed trails on habitat effectiveness.

This would especially be the case if electric bikes are allowed. They are motor vehicles, and they may be worse for wildlife because they generally make less noise than other motor vehicles, so the bikes may startle wildlife even more than jeeps, ATVs, etc. do. We see nothing in the project documents that specifically prohibits e-bikes.

See Planning Trails with Wildlife in Mind at p. 27, which recommends avoiding placing trails in production areas or “implement seasonal timing restrictions for all trail users”.

It is true that the proposed decommissioning of user-created trails would have a positive effect on elk. BE at 42, 44. However, that would not compensate for the many miles of trails that would be constructed and opened to increased human use (see BE at 43). The net result would be a considerable adverse impact to elk habitat effectiveness and security, especially in calving areas.

See our comments of November 18, 2022 for additional detail on the above arguments on both effects on elk calving and habitat effectiveness. Almost everything there is still applicable, as very little changed from the draft EA to the final EA, other than including trail 14 in the area closed during calving season when there is less than one foot of snow.

III. LYNX HABITAT WOULD NOT BE PROTECTED

In our 2022 comments on the draft EA, objectors expressed concerns about possible effects on lynx at pp. 7-8. The Forest Service responded to these concerns as follows:

The EA, Biological Evaluation and Biological Assessment discloses the impacts to Canada lynx from the proposed action.

Response To Comments at 198. This does not address the issues we raised.

Much of the area with proposed trail construction is in lynx habitat. See BA at 10, Figure 4.

While lynx can tolerate humans to a point, they may avoid high-human use areas. BA at 16. Lynx also have been shown to avoid motorized use areas more so than other human use areas. Squires et al, 2019. As discussed in section I above, bicycle use is similar to motorized use in terms of effects on wildlife. With the additional bike use in the area, the effects on lynx may occur or increase.

It is true as stated at BA 15 that lynx are often active at night. However, frequent human use, especially bike use, could force them out of their daytime resting areas. Also, nights are short during the summer when much of the use of the proposed new trails would occur. Thus lynx are likely to be active during at least part of the day during the snow-free season when bike use will occur. Note the following from the Colorado Division of Parks and Wildlife’s Route Density and Lynx Primer:

as non-motorized activity increases to moderate or moderately high levels of intensity (i.e., Leadville and Vail Pass Winter Recreation Area), lynx respond by

becoming more nocturnal and slowing their movement rate during the day (e.g., presumably remaining stationary and hiding out). Some individuals may also shift their space use away from parts of their home range experiencing the heaviest use. Lynx strongly avoid the highest levels of human recreation (i.e., developed ski areas).

CPW et al, 2021, Appendix B. ¹

There are supposedly some features to reduce or minimize impacts to lynx:

Design criteria are in place to minimize the acres of lynx habitat affected by the proposed trails.

Design criteria are in place to avoid quality lynx habitat and areas of dense horizontal cover as much as possible.

BA at 15, 16. However, we find no design elements in EA Appendix A for addressing possible impacts to lynx.² Also,

Trails will be located at the edge of high-quality lynx habitat (greater than thirty-five percent dense horizontal cover), to the extent feasible (Forest Plan Southern Rockies Lynx Amendment Objectives HU 02 and 03, guidelines HU G3 and G7).

BA at 6, BE at 5.

If this is applied, it would still allow trails in high quality lynx habitat if it was inconvenient to located them elsewhere. No trails should be located in the highest quality habitat.

It is not clear if the Forest Service even knows where the highest quality habitat is. There is no discussion of this in the BA. The maps of the three lynx analysis units in the project area do not show locations of high-quality lynx habitat. See BA at 8-10, Figures 2-4.

IV. THE PROPOSED ACTION WOULD VIOLATE THE COLORADO ROADLESS RULE AND THE FOREST PLAN

Objectors addressed these issues on pp. 2-3 (section II) and pp. 8-10 (section IV) of our 2022 comments on the draft EA.

¹ Available directly at: https://docs.google.com/document/d/e/2PACX-1vTYeTNFzX31R9SDzfly_4quZf6q_zMIVu1EGWPPKLpM2nTKJdfzUfqvPHn-lQBya4yeW4ho-k-gZun/pub
Last visited September 15, 2023.

² Page 4 of the Draft Decision Notice states: "...project-specific design elements will be implemented as part of the proposed action to minimize adverse effects. Refer to the environmental assessment for more details." Thus we assume the design elements in Appendix A of the EA are the ones selected for the project.

The proposed project would mostly occur in the Long Park Colorado Roadless Area (CRA). See Proposed Action Map. The project includes a high concentration of trails in the Ferndale area and along U. S. 40, mostly within the CRA. Ibid. As we discussed on p. 9 of our 2022 comments, this concentration of use amounts to a bike park, a development which is very inappropriate for CRAs. Numerous roadless area characteristics (from the Colorado Roadless Rule (CRR) at 36 CFR 294.41) would be adversely affected:

- High quality or undisturbed soil, water, and air;
- Natural-appearing landscapes with high scenic quality.

With a high concentration of trails and associated human use, the landscape would no longer be undisturbed or natural appearing.

- Diversity of plant and animal communities;
- Habitat for threatened, endangered, proposed, candidate, and sensitive species, and for those species dependent on large, undisturbed areas of land.

As discussed in section I-III above, the proposed project would fragment and reduce the effectiveness of wildlife habitat.

- Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation.

As discussed below, the number of people users would encounter exceeds what is allowed for the semi-primitive recreation opportunity spectrum (ROS) class.

- Reference landscapes.

With all the proposed trails, especially in the Ferndale/U, S, 40 area, a good part of the Long Park CRA could no longer serve as a reference area for comparison with developed areas because it would become a developed area.

The CRR requires that all projects “must be designed to conserve the roadless area characteristics listed in § 294.41”. 294.40. That section of the CRR notes that applying the Rule’s exceptions for “tree cutting, sale or removal”; “road construction and reconstruction”; and “linear construction zones” may have effects on some roadless area characteristics”. However, the CRR does not authorize trail development to the point where it would violate the Forest Plan by encouraging use that would take the area out of the semi-primitive non-motorized ROS class.³ (See more below.) Stated another way, it is highly unlikely that the CRR was ever intended to authorize the quasi-industrial scale of development proposed in the Mad Rabbit project.

The high concentration of trails in the Ferndale/U. S. 40 corridor means a high level of use, which would likely violate the Forest Plan guideline for semi-primitive recreation use. Even in areas with high capacity in the semi-primitive non-motorized ROS class, no more than 11 people

³ Note, e. g., that logging in CRAs must be consistent with the Forest Plan. 294.42(c). It is hard to imagine that the CRR could authorize any activity or project that was not consistent with the applicable forest plan.

per trail mile and 80 people per 1000 acres are allowed. See Plan Dispersed Recreation Guideline 1, Table 1-6, at 1-17.

When use exceeds the stated levels, managers are directed to “address the impacts or effects to the recreation setting” by “regulat[ing] use”, “restrict[ing] the number of users”, or “clos[ing] the site”. Plan at 1-17. Also, The Forest Service’s ROS User’s Guide (USDA Forest Service, 1982) has the following social setting criterion for semi-primitive non-motorized areas: “usually 6-15 parties encountered per day on trails”. The encounters would likely be much higher than this on many days during the season of use on Mad Rabbit trails. This high use level would likely extend into some areas away from the Ferndale area, given that the latter would be a trailhead for access to most of the trails proposed in Mad Rabbit.

The Forest Service proposes to approve a project that would not meet the cited guideline. That would violate the Forest Plan and is unacceptable.

SUGGESTED REMEDIES

The Draft Decision Notice must not be approved. The following items need to be implemented:

--redesign the project so that no trails go through elk calving areas, or for any that must be so located, make sure they can all be closed and will be closed during the calving season, to all human use, regardless of snow cover.

--consider trails open to bike use the same as motorized use in the calculation of habitat effectiveness and recalculate the habitat effectiveness values. Redesign the project as needed to maintain habitat effectiveness.

--survey as needed to determine the location of the highest quality lynx habitat and ensure that trails do not go through this habitat nor fragment patches of good habitat by making travel between them difficult for lynx.

--comply with the Colorado Roadless Rule and the Forest Plan by maintaining use levels no higher than those allowed under the guidelines for the semi-primitive non-motorized recreation ROS class.

--eliminate the high concentration of trails in the Ferndale/U. S. 40 corridor area.

REFERENCES

CPW et al, 2021. Colorado’s Guide to Planning Trails With Wildlife In Mind. June 2021.

Desjardin, Larry, Alison Gallensky, and T.J. Thrasher, 2022. Recreational Disturbance Modeling of Elk Habitat in Medicine Bow-Routt National Forests.

Squires, John R., Lucretia E. Olsen, Elizabeth K. Roberts, Jacob S. Ivan, and Mark Hebblewhite, 2019. Winter recreation and Canada lynx: reducing conflict through niche partitioning. *Ecosphere* 10(10), October, 2019, Article e02876.

USDA Forest Service, 1982. ROS User's Guide