

Environmental Quality Council
State Capitol, Room 171
P.O. Box 201704
Helena, MT 59620-1704

Dec. 27, 2019

Chairman and members of the Council,

Closures aren't management

Montanans have lost access to Wilderness Study Areas, and I'm upset.

I feel that when addressing problems with Montana's Forest Service managed Wilderness Study Areas, it's best to always return to the original legislation, the congressional record, and guidance documents, from Congress and the Forest Service. After establishing a basic understanding of the law and regulations for these areas, one will hopefully possess a solid context for interpretation of lawsuit rulings.

The creation and passage of the Montana Wilderness Study Act of 1977 was a partisan process. Democrats pushed for it and Republicans pushed back. This dynamic is still in play today. The Act wouldn't have passed without a Democratic majority but also wouldn't have passed without concessions from Democrats as well. The key seems to be in the House guidance document that accompanied the bill. Several aspects concerned Montana Republicans. One was that timber resources and forest management would suffer in the WSAs. This is true to a small extent, but most of the WSAs don't have roads or profitable (easily accessible) timber, except near some boundaries. The next was that existing recreational access could continue. The House guidance document made clear that off road vehicles could continue to be used. Finally Republicans were concerned about the Wilderness Study Areas existing into perpetuity. With repeated reassurance by the Democrats that all of the WSAs would be converted or released within 7 years they hurriedly passed the Montana Wilderness Study Act late in the Fall session of 1977. Release language was never inserted into the text, and thus 42 years later we still have the WSAs. Now access is being curtailed by the Forest Service under the misleading guise that proper, legal WSA management requires excessive restriction.

I'm concerned about several things:

One. Continued and increasing recreational access closures to human powered bicycles and motorized activities. The cumulative toll of incremental closures continues to rise. Nothing is ever reopened, or reopened for very long.

Two. Animosity and conflict in communities. The situation isn't healthy. All over western Montana arguments persist. Conflicts occur on trails, in meeting rooms, media and all places between. Children are now raised in caustic settings, learning to hate, or learning to be victims.

Three. Forest Service inconsistency, favoritism and ineptitude. WSA management varies widely. Some WSAs are wide open to bicycle and motorized access. Some are mostly closed. A few are completely closed to bicycles and motorized. The Forest Service has failed to manage the areas to maintain their eligibility for inclusion into the National Wilderness Preservation System, not by allowing bicycle and motorized uses, but by failing to regulate the volume of all uses. Volume of uses isn't even attempted to be managed. This management ineptitude has led to some lawsuits.

Four. Rigged collaboratives. Without fail, the parties in charge have predetermined collaborative efforts. This disingenuous manipulation has wasted the time and money of all participants. The losers ultimately feel cheated when they are denied a voice or belittled. The winners also lose because they have created a false product lacking true substance. They then must embark on slick, shiny promotional campaigns to drum up support for future legislation. The promotional campaigns feed directly back into concern number two above.

Five. Congressional intent has been subverted, lost over time, lost in every conversation. WSA narratives have shifted and often lack legal basis. Congress, congressional intent, even agency regulation is all being ignored in order to stave off additional lawsuits. The public loses more access every time. Several times Judge Molloy has explained this intent, yet the Forest Service and collaborative efforts usually ignore his analysis. Time and again he has left the door open for implementation of managed access, but his careful legal conclusions are lost as well.

Six. The tug of war, there isn't an end in sight. These WSAs are now Montana's dirty laundry. Other than a congressional power play by Democrats or Republicans, there isn't a clean or clear resolution. Congress' failure to act in a timely manner has left us with an almost impossible mess to clean up. Judge Malloy quoted in 2001, "Thus, for the Forest Service, a relatively short-term management task has burgeoned into a seemingly perpetual dilemma. Non-motorized users complain of "creeping motorization"; motorized users fear "creeping designation."

Further explanation of my six concerns:

Continued and increasing recreational access closures to human powered bicycles and motorized activities.

Closures continue to occur. Custer-Gallatin National Forest is undergoing a new Forest Plan. Within the Hyalite Porcupine Buffalo Horn WSA the most profound changes will take place. Since 2010 access has been curtailed by application of an Interim Travel Order. Almost every new management alternative being considered will enshrine the hastily conceived 2010 Interim Travel Order as the new access regulation by placing Recommended Wilderness over much of the WSA. Within Recommended Wilderness, treasured trails including iconic trail #96 will be permanently closed to bicycle and motorized activity. Bicycle and motorized impacts in the WSA lack analysis, so closures are unwarranted. Collaboratives intentionally refused to analyze those impacts or propose solutions allowing uses to continue. In opposition to court judgments and even the Court Remand of 2011, reducing volume of use hasn't been attempted, only application of closures. People are primarily concerned about being able to use trail #96 by bicycle and motorcycle. Bicycles have never affected this trail, never been studied, so lets work this out!

Closures continue to occur. Helena-Lewis and Clark National Forest is also undergoing a new Forest Plan. Two WSAs, Middle Fork Judith and Great Snowies are proposed in most Forest Plan alternatives to be closed to bicycles and motorized uses by the application of Recommended Wilderness. Only one alternative would allow existing uses to continue. We'll see if it is chosen. Currently these areas are 100% open to bicycles. The activity is modest, not effecting wilderness character or potential. For more than 35 years this access has been important.

Closures continue to occur. 10 Lakes WSA used to be open to bicycles and snowmobiles. Bicycle access is tentatively to be reduced to a couple short trails on the periphery of the area. None of the trails treasured by cyclists have been considered for continued access. This deeply flawed process and decision is currently on hold.

Closures continue to occur. Blue Joint and Sapphire WSAs have been completely closed to bicycling and motorized access. A judge ruled that the Forest service is entirely within it's rights to do this, and he is correct, but does his decision serve us fairly or meet Congressional intent? The judge found the Forest Service had one error in its plan, so it was understood that bicycling could resume. For one month cyclists went to work clearing trails of deadfall. The trails hadn't been used for two years, and the cyclists made several miles of progress. But the judge issued a statement saying this opening was a misunderstanding and the trails were immediately closed. The public resource is languishing while this tug of war wears on. Folks are frustrated.

Many of us have been "locked out" of our favorite places. We can't share our previous experiences with the next generation, and that's not right. Closures have Montanans on edge. We've been losing access for 20 years, and for how many more years. To what end game?

Animosity and conflict in communities

Everyone who has had concerns about access or wildlife or virtually any aspect within the boundaries of these WSAs has likely had their expectations shattered or put on hold. I must admit that if these areas had been converted to Wilderness, or released from consideration, in the 1980s, we wouldn't be debating or fighting over the areas now, 30 years later. But the situation has evolved over time. In 2019 recreation has become much more important than in 1977. Due to a more active population, the WSAs have become cherished destinations.

As the Forest Service has grappled with Forest and Travel Planning, people are now aware that their favorite places are in danger, either from increased recreational pressure, or the opposite, closures attributed to defacto wilderness management. Forest Service makes brave attempts at holding public meetings. These meetings often have only one side represented, elderly retired conservation zealots, so the agency almost always sees only one viewpoint of the folks that are concerned.

Collaborative efforts to resolve WSA differences are typically held in secret, and usually managed by conservation groups. I know of only one exception, for 10 Lakes WSA, where conservation groups walked out because they couldn't control the dialog and didn't want to hear or understand opposing viewpoints. Virtually every community near WSAs has hosted meetings where the friction in the air was so thick it became stifling. I've heard threats of lawsuits leveled at people proposing middle of the road solutions. The WSA dilemma breeds conflict, a growing issue. Each of the WSA's has been litigated at least twice, a terrible burden on all of us. Lawsuit outcomes are misinterpreted by the Forest Service, an agency that seemingly only know how to close off the land.

I've personally attended over 100 WSA related meetings in the last 20 years, how much longer must this go on?

Forest Service inconsistency, favoritism and ineptitude.

The Forest Service has struggled with understanding how to comply with the 1977 WSA Act. What activities to allow or not allow, and where to allow those activities has become a primary question for Forest Supervisors and planners. How to comply with court rulings has been a question as well. The courts have left the door wide open for management, but the Forest Service has always chosen non-management solutions. Basically the WSA's have been left wide open for unmanaged access for hiking, with some seasonal stock restrictions for equestrians. Other activities are those deemed "non-conforming", such as motorcycles, bicycles, and snowmobiles. The non-conforming activities have, for the most part, been eliminated or curtailed. Congress never intended for these

areas to be closed. None of the activities are actually managed by a permit system. A permit system would insure that qualities noted by the courts, solitude and volume of use, would be upheld.

Blatant favoritism is happening in the Hyalite Porcupine Buffalo Horn WSA. Management decisions have allowed hikers to proliferate to such a degree that the Custer Gallatin Forest Plan will likely have to cede the entire Hyalite drainage portion of the WSA to multiple use. By plowing the road in winter and enlarging trailheads thousands of people swarm to a small concentrated area on the WSA boundary. They then hike, ski and climb in the WSA all winter. The WSA doesn't even have a rest period. Yet motorcycles are now restricted to about 20% of the WSA trails and snowmobiles to even less area than the motorcycles. Mountain bikes, while reduced to about 25% of the WSA trails, have been lumped in with motorcycles due to the 2010 Interim Travel Order. At the center of the restrictions is trail #96, an iconic, much loved route. Access could have been resolved by implementing a simple permit system, but instead the access is resolved by restrictions applied only toward non-conforming groups in order to satisfy prevailing plaintiffs. Avoiding lawsuits, not common sense, congressional intent, or court opinions is the motivator! Favoritism.

Even worse, Bitterroot National Forest has entirely closed Blue Joint and Sapphire WSAs to non-conforming uses. This level of management restriction has no excuse, period. The areas have suffered through fires, and charred tree trunks continue to fall, effectively blocking most trails. Bicyclists used to clear the deadfall timber but are now entirely banned. This isn't management; it's neglect of a public resource and torment for those concerned. This incompetence may continue for many years, trails that are public resources become buried, unusable. Citizens are disenfranchised from places they love by Forest Service decisions. Inconsistency.

Region One has a guidance document that supervisors only selectively follow. Created in 2008, FSM 2320, chapter 2350, if followed, could be coordinated with court rulings and congressional intent to effectively manage diverse recreation on all of the WSAs, keeping the Wilderness potential intact but allowing access for all activities. But the Forest Service hasn't engaged in this next level of management even though conditions now warrant stepping up to the task. This lack of adequate action has been an inexcusable breach of the public's trust. The Forest Service continues to fail to follow its own regulations! Ineptitude.

Inconsistency, favoritism, ineptitude. Montanans deserve better.

Rigged collaboratives

Collaboratives seem like the logical answer to these problems. But in practice we've found that the issues are polarized, forward progress depends on having

an effective neutral facilitator and participants that not only calmly discuss their concerns, but are willing to compromise on solutions as well.

Too often collaboratives are saddled with facilitators who take sides. Then participants feel slighted, cheated, and become defensive. No one is happy with solutions. Facilitators who choose sides often block conversation on certain topics. A common tactic is failing to manage time, giving some people inordinate freedom to drone on and then excusing others concerns because time has run out. The next meeting usually moves on to new topics, so some people are never heard. This was common in the Gallatin Community Collaborative.

Other collaboratives are conducted by invitation only, yielding predictable results. Speaking of the Gallatin Forest Partnership, meetings were held in secret, and discussion about some areas were deemed “non-starters”. The GFP collaborative was effective and a final plan was agreed to by all. But many groups were left out, so those groups concerns are still valid and need to be entertained by future bill sponsors. The Gallatin Forest Partnership is on its surface a nice appearing product, but because it was a product of a hand-selected group it only takes a small amount of digging to understand how half-baked it really is. Maybe it could prevail. In another 40 years congress might pass one more Wilderness bill, and this might be the GFP, then by golly we would have only 6 WSAs remaining!

In the Bitterroot, home of Wilderness Watch, the concerned groups are so polarized a collaborative isn't possible. The Bitterroot WSAs are a blight on the valley communities.

Congressional intent has been subverted

The 1977 Montana Wilderness Study Act was passed in order to manage certain areas to maintain their 1977 wilderness character until congress either made them into Wilderness Areas or released them. Congressional intent was clear in a House of Representatives guidance document and also in congressional testimony. The areas were to be resolved in a time frame of seven years, off road vehicles were to be allowed, but not allowed to proliferate to a point where the resource could be damaged, thus losing it's wilderness character and potential for inclusion. With these assurances the bill passed.

However, decades of time have gone by. The areas are now deemed “protected” by this temporary designation, and the designation itself has become sacrosanct. These areas are now also protected by growing legions of non-government organizations. The organizations whip up their supporters through cries of panic and file lawsuits against the National Forest's management decisions and will continue to pull at our Montana congressional delegation until their limbs fall off. While the Forest Service has court cases and a guiding document that would allow legal and fair management of the WSAs, most of the NGOs won't stand for

managing the areas to meet congressional intent. This continuing onslaught by NGOs is why the areas are poorly managed and why equitable solutions now seem impossible to attain. The Wilderness Study Areas have taken on a new persona that Congress never fully envisioned, that of defacto wilderness masquerading as religious icon, informally protected by NGOs and lawsuits. In this battleground Congressional intent has effectively been swept aside.

The tug of war, there isn't an end in sight

We now have a more intractable situation than back in 1977 when some in Congress brought up concerns about creating perpetual defacto wilderness. From what I can tell, nobody has a fix for the WSA mess. To even resolve one of the areas an Act of Congress is required. Because of the polarization and passions involved, most politicians are afraid to act in any fashion. This is tough sledding. But right now Montana state lawmakers have an opportunity to weigh in. Voicing an opinion would be a start, a necessary step off the fence they are straddling.

Conclusion

These WSA lands are treasured, loved. They belong to all of us, every citizen. Montana communities deserve to be healthy, happy and secure in the knowledge that these areas will remain natural and wild yet shared by as many as possible.

We need to see equitable resolutions for the WSAs. Several tools haven't yet been employed. A big one is proposing Federal Alternative designations, such as Recreation Areas or Conservation Areas. Non-Wilderness corridors are often employed to provide recreation access. The National Wilderness Preservation System has thousands of miles of non-wilderness corridors for certain trails, roads, mines, utility easements. Yet these solutions, especially the corridors, haven't been discussed in Montana because facilitators block the topic or participants get so emotional that discussion is curtailed. Companion designations could be an answer, and the Gallatin Forest Partnership, to its credit, includes companion designations together with Wilderness in its proposal. Let's talk about every possible solution; let's use every viable tool in the toolbox. Relying on Wilderness alone, as the only preservation solution has been the historical stumbling block.

As the WSAs age closer to 50 years, they need to be assigned a sunset date. For some areas it may be best to release them from the WSA cloud and trust Forest Service management. After all every one of the Montana WSAs are protected as Inventoried Roadless, and are subject to management restrictions required by that label. So right now these areas are perpetually protected and by law are going to remain naturally wild! Let's come to our senses and realize that releasing some of them could be the smart option, because Inventoried Roadless designation has a robustly defended legal history. To use a clichéd phrase, the

assignment of Inventoried Roadless to the land is “more than adequate” to protect the land’s wild character, it’s supreme purpose and value.

I think Montana lawmakers can take a clear, clean, unclouded look at this mess and know what direction to choose. I hope to be able to bicycle once again on favorite trails with good friends and family. I hope that Montana lawmakers can help us all gain access once again.

Thank you for your concern,

Greg Beardslee
Secretary, Montana Mountain Bike Alliance
221 N. Church Ave.
Bozeman, MT 59715

June 6, 2019

Custer Gallatin Forest Planners,

My passion

I grew up in nature. I had a childhood that included watching the Lone Ranger and Sky King, but I grew up in nature. Our subdivision near Seattle was surrounded by woods, filled with all sorts of creatures. We moved to California and I explored creekbeds, reservoirs, ocean beaches, redwoods and grassy hills covered with scattered oaks. I rode my bike all over the city, exploring my limits. I joined the Boy Scouts. Then we moved to the Eastern Sierra, and I was in heaven. Skiing, hiking and swimming in ice-cold alpine lakes became my life.



I later married and moved to Bozeman with my wife, to have a home and raise a family. After 25 years of hard work my body was stressed, damaged. A co-worker needed me for a year to try mountain biking. The sport had been therapeutic for him, recovering from a brain injury. Eventually I gave in and we explored Hyalite, the Bridgers, Porcupine and Buffalo Horn. Over several years we traveled close to 50 different trails. While I was still physically compromised I found I was also becoming quite fit. Mountain biking was saving me. The alpine landscapes were bringing back the sights and smells of my time growing up in the Sierras.

But I heard of a small group of intrepid bike explorers who always traveled a little higher and farther than we did. I searched them out and was invited to join them. I discovered they were homebodies, they didn't care to travel far for adventure. When not working, they lived on our landscape right here in Gallatin and Park counties. This was home and it was good.

Self sufficient, they traveled the mountains in the worst weather, carrying all supplies, and compressing grand adventures into single day experiences, preferring to not camp out. They love the land and its creatures. Riding with them on another 50 new trails, I acquired those same values. They were old practiced hands at navigating the challenges of the Gallatin Crest Trail. I joined them for quite a number of journeys along the top of the range.



This group is still out there, but they have now been banned from the trails and experiences they loved the most. I hurt, but they hurt worse. I submit the statement, believing it to be true, that they understood the Crest area better than anyone in Montana. How could they not? At least 4 of them have traveled the Crest more than 30 times. One person has traveled the Crest more than 80 times over a 25-year period. These outings were just the through trips, not the shorter ones, such as going over Eaglehead to Ramshorn Lake, looping through Rock Creek, or navigating Lewis Creek. This devotion carries a lot of opportunity to make observations, but the most profound observation is that they have not been removed from the Crest for ecological reasons, but for political ones. I have to agree. I think its wrong.

For the past 10 years I've waited for the Forest Service to justify the trail closures to bicycles. Justification hasn't happened. It appears that mountain biking has been lumped in with the large groups of motorcycle riders that used to travel the Crest, and maybe the Forest Service thinks that is just fine, just what we deserve. We apparently deserve to be banned without justification, by people who don't get it, don't understand. This makes me both mad and sad. I don't know how to retrieve what's been taken away.

An Iconic Experience

"Of all the trails in the Hyalite Porcupine Buffalo Horn wilderness Study Area, the Gallatin Crest Trail #96 stands apart. Traversing the trail takes commitment, planning, self-sufficiency, and a lot of grit. Its rewards are infinite vistas and reliable solitude. A world apart, no other trail in the HPBHWSA is equal. There is no substitute. Across Montana there is no substitute".



"Bicyclists used to revere the Crest Trail. Since the early 1980s it gained legendary status among adventurous cyclists. We would ride many miles of increasingly difficult trails during the early summer, building strength and endurance to ready ourselves for a ride along the Crest (aka Devils Backbone). This through route, from Hyalite to Windy Pass, was a big deal. Setting up a return shuttle at Portal Creek was required. Each rider had to check and double check every scrap of food, spare parts, tubes and tools. Bring two lunches. Bring foul weather clothing. Be prepared for the worst. Our normal riding packs would strain to contain their expanded loads. Sleep the night before, usually the first

weekend of August, was hit or miss. Rise at 3:30 and jamb down a breakfast. Then head to the gathering spot, usually someone's front yard, where gear and bikes were checked once again by flashlight, and the last gulps of coffee were downed. Usually we crammed into one vehicle, because one vehicle was all we had parked for a return shuttle. (Most Crest rides had less than 6 riders) We would slowly drive to Grotto Falls Trailhead for an "Alpine Start."

Riding the Crest wasn't a hasty endeavor but more of a practiced pace, an enjoyable progression. Sure we often wound up huddled under sparse tree branches while ducking from a hailstorm, we would bonk and we would also eat all of our food. But traveling along that trail was a visual delight, we felt so lucky and privileged to be doing it. The trail is an elevated path, literally above the distinctly different and separate ecosystems to the east and west below it. We strove for a pace slow enough to take in the surroundings. We would often stop to stroll over to the edge of an escarpment. Sometimes herds of elk could be spotted in the basins below. For 17 miles one travels the heights of the Gallatin Range between 9 and 10 thousand feet in elevation. Wildlife at those higher elevations is almost exclusively ravens, marmots, bighorn sheep, and mountain goats. For Montana's bicyclists, this trail has been a unique gift. It's incredibly special. Usually we would reach Windy Pass by 6 or 7 p.m., lingering as long as possible, then head down the trail to our shuttle vehicle. For most people this outing would represent the zenith of their summer. We were satisfied for another year, and smug in the knowledge that we were very low impact, that the trail was bicycle friendly and was/is the lowest impact route through the Range. We had pictures and memories to share until the next year; life in Montana was grand. Sadly without any attempt to manage or understand, this experience has been removed in order to quell special interest conservation groups quest for wilderness through litigation." (Montana Mountain Bike Alliance comment)





My Impression

I've continued to ride around the Gallatin/Park county area since the Crest closure in 2010. I've searched, and I feel secure in saying that there is nothing like the Gallatin Crest within 200 miles of Bozeman. There might be nothing like it anywhere in the Northern Rockies. Lionhead, as awesome as it is, is a distant second place, having only a brief couple of miles of trail above timberline. Being 100 miles from Bozeman is a disadvantage, as most Lionhead trips require overnight camping. In comparison, the Gallatin Crest is truly a backyard wonder, and as long as it stays wild, it should be shared.

The closure occurred, spoiling my ambitions to share the experience with my children. For this I harbor some bitterness, for they won't be able to experience the same feelings I did. Why must we wait for 10 years to find out why we were banned? While Forest Service employees continue to receive paychecks, the most invested, passionate public is denied due process. This is disturbing. I think it's just plain wrong to not manage recreation in this Wilderness Study Area, because if it were managed then Forest Service managers would gain knowledge of the law, of the landscape, and how people can respectfully and quietly enjoy the landscape during the brief summer months. I think Custer-Gallatin National Forest should renew its responsibilities to manage recreation on the Gallatin Crest Trail, a resource component subject to what Congress intended in 1977, and manage people, not ban them, according to the Forest's lawful obligations to the Wilderness Study Act.

Sincerely,
Greg Beardslee

Jan. 15, 2020

I think it's good to stand up for my rights, and the rights of my friends. I don't say this lightly.

I would like the Environmental Quality Council to recognize that Custer-Gallatin National Forest has restricted recreational access to the Hyalite Porcupine Buffalo Horn Wilderness Study Area to a level exceeding Forest Service regulation, Court requirements, and Congressional intent. I would also like the Environmental Quality Council to recognize the shortcomings of the Gallatin Forest Partnership, a collaborative that refused to address access issues to trail #96, the Gallatin Crest Trail, instead labeling discussion on that topic a "non-starter". This collaborative didn't include participation from bicyclists or motorized recreation participants who annually visited the Gallatin Crest Trail.

I'm angry because others and myself have been unnecessarily banned from riding bicycles on the amazing Gallatin Crest Trail. The trail has been closed for 10 years now, time I'll never get back. I'll likely never be able to share this wonderful experience with my children or my grandchildren.

I'm frustrated because the Custer-Gallatin Forest Plan proposes to enshrine a hastily conceived, restrictive WSA Interim Travel Plan through the Forest Plan Revision process. This lasting restriction will be accomplished by applying a Recommended Wilderness Designation over a large portion of the WSA. The Gallatin Forest Partnership Collaborative intends to make the Interim Travel Plan permanent through future legislation.

Custer-Gallatin National Forest's management of the Hyalite Porcupine Buffalo Horn Wilderness Study Area frustrates me. I've studied the 1977 Montana Wilderness Study Act and the accompanying Congressional intent for that Act. I've studied Region One's management regulation, FSM 2300-Chapter 2320, which allows a modest level of motorized and bicycle recreation to continue as long as the wilderness character, as it existed in 1977, remain intact. The Forest refuses to reconcile Judge Malloy's WSA rulings with Region One's regulation chapter 2320 and with Congress's intent. Judge Malloy was pretty clear in his words, that motorized and bicycle recreation could continue, but recreation must be managed in such a way that volume of use, solitude, and wilderness character remain as defined by the 1977 Act and it's guiding document. Congress intended for the Act to allow continued off road vehicle use and was also wary that the WSAs not become defacto wilderness areas lasting into perpetuity. Restoring recreation access is completely compatible, reconcilable, and achievable within present legal parameters.

Because the WSAs might not be resolved for many more decades, I think that management of the areas should be based on legal requirements. The collaborative efforts seem to be focusing on "pie in the sky" solutions, primarily aimed toward legislative finality for each area. In the meantime, while waiting on the collaboratives to agree and congress to act, let's look at what those legal parameters actually are.

I would like the Environmental Quality Council to make a land management recommendation for the Wilderness Study Areas that would aid in restoring recreational access while ensuring the land retain all of it's wild qualities.

Greg Beardslee