

Swan View Coalition *Nature and Human Nature on the Same Path*



3165 Foothill Road, Kalispell, MT 59901

swanview.org & swanrange.org

ph/fax 406-755-1379

June 13, 2019

To: comments-northern-flathead-tally-lake@fs.fed.us and comments-northern-flathead-swan-lake@fs.fed.us

Re: June 12 Request for Public Comment on Four Special Use Permits (SUP)

The Board of Review (BOR) reports on the death of Brad Treat when he slammed into a grizzly bear while mountain biking at high speed must be regarded as the best available science and expert advice for reducing surprise encounters between people and bears:

Don't Run - jogging in bear country increases the odds of surprise encounters at close distances and surprised bears are more likely to be aggressive. [1]

Slow Down [when mountain biking]- Encounters with bears are much more likely to occur when riding at high speed. Surprised bears are more likely to be defensive and to cause injury to bike riders. [2]

- Do not issue the Whitefish Trails and Foys to Blacktail ultra-marathon SUPs. To do so amounts to a Forest Service endorsement of the commercial promotion of irresponsible behavior in bear habitat and runs contrary to the BOR recommendations that the Forest Service is party to. The public education intended by the BOR will essentially be nullified by the commercialization and expansiveness of the irresponsible behavior endorsed in such SUPs! (See our attached letter of 6/11/19 for more details).

- Issue the Whitefish Shuttle and Guiding SUP only if the business is willing and required to abide by and distribute the BOR recommendations to its passengers and clients. These materials should be developed by the Forest Service and approved by the BOR, insuring that permittees are positive ambassadors for human-bear safety.

- We see no red flags for the more modest Journey to Wellness Program SUP, provided the permitted activities are indeed hikes and not trail running. This SUP offers another opportunity for the permittee to abide by and distribute the BOR recommendations.

While we appreciate this opportunity, one week for public comment is too short for most people and agencies to become informed and submit comments.

Sincerely,

A handwritten signature in black ink that reads "Keith". The letters are cursive and somewhat stylized, with a long horizontal stroke for the 'h'.

Keith J. Hammer - Chair

(see attached letter for endnotes/sources)

Swan View Coalition & Independent Wildlife Consultant Brian Peck

June 11, 2019

Chris Dowling - Ranger
Swan Lake Ranger District
200 Ranger Station Road
Bigfork, MT 59911
chris.dowling@usda.gov

Bill Mulholland - Ranger
Tally Lake Ranger District
650 Wolfpack Way
Kalispell, MT 59901
bill.mulholland@usda.gov

Re: Comments on Foys to Blacktail and Whitefish Legacy Partners Ultra-Marathon Special Use Permits (submitted as pdf to the email addresses above)

Dear Rangers Dowling and Mulholland;

We're glad you both have promised to open up public scoping on the above ultra-marathon Special Use Permits. Below are our initial thoughts that we ask be included in the scoping record, which we may supplement once we see your scoping announcement(s).

Swan View Coalition and Independent Wildlife Consultant Brian Peck oppose Forest Service issuance of Special Use Permits for fast-paced recreation, such as ultra-marathons and mountain bike races, in the habitats of bears and mountain lions. Issuing such Permits constitutes an agency endorsement and commercialized promotion of high-risk recreation the agency otherwise recommends against!

Multiple agencies, including the Flathead National Forest, recommend people not run in bear habitat: "Don't Run - jogging in bear country increases the odds of surprise encounters at close distances and surprised bears are more likely to be aggressive." [1]

Following the 2016 death of Flathead National Forest employee Brad Treat, when he slammed into a grizzly bear while mountain biking at high speed, these same agencies extended these precautions to include mountain biking: "Slow Down - Encounters with bears are much more likely to occur when riding at high speed. Surprised bears are more likely to be defensive and to cause injury to bike riders." [2]

Issuing Special Use Permits for the commercialization and expansion of these risky activities effectively nullifies interagency efforts to educate the public to instead recreate responsibly. Special Use Permits are specifically intended to permit larger group events (more than 75 total participants, spectators and support crews). They are also intended to allow the promoters to charge entrance fees and commercialize the events. [3] No amount of agency public education can match the commercialization of irresponsible behavior!

This will inevitably result in harm to both people and wildlife, with the "offending" wildlife often killed for having defended itself or its young. Such was the case when a

woman was tackled by a black bear while running an ultra-marathon in New Mexico in 2016. The woman was not killed but authorities later killed the black bear. This prompted Montana grizzly bear expert Tim Manley to state:

There are more and more foot and bike races in mountainous areas and this is something I have been worried about happening in NW Montana . . . it appears the female black bear was acting in defense of her cubs. They ended up killing her according to policy. In my view, they should run these races in places where people live ... not where bears and lions live. [4]

Dr. Chris Servheen, as Grizzly Bear Recovery Coordinator for U.S. Fish and Wildlife Service, told the Hungry Horse News in 2010:

It's contrary to what we tell everyone [don't run in bear habitat] . . . It's likely to lead to injury to the runner and the bear . . . It's human arrogance about human behavior in natural systems. [4]

Servheen and others, including two Flathead National Forest representatives, concluded from the Brad Treat incident and others:

Bears involved in surprise encounters have no record of repeated attacks on humans, nor is there any information that they are more dangerous because of their involvement in such an incident. This highlights the complications arising when setting traps for bears involved in such surprise encounters . . . Release, relocation, or removal of captured bears under such conditions will be complex issues with the public and will involve significant and difficult public relations efforts with minimal benefits to human safety or improved bear management from such captures. [1]

In other words, even if there is a public expectation that bears involved in surprise encounters will be trapped, the agencies should not do so. The emphasis must instead be on minimizing the likelihood of surprise encounters.

Issuing Special Use Permits for activities that knowingly increase the risk to humans and bears sends a message that such risks are acceptable and endorsed by the Forest Service. It runs contrary to agency advice that people not run and bike fast on trails in bear habitat.

The public is free to run or bike fast on trails in bear habitat, however ill-advised it may be. The public does not have a right to expect the Forest Service to issue a Special Use Permit so the permit-holder can gather larger groups to participate in such risky behavior on public lands and in order to charge entrance fees so it can make money in the process. The result is a money making campaign to promote irresponsible recreation on public lands that is contrary to interagency advice intended to instead promote the welfare of the public and its wildlife.

The public does not need the endorsement of the Forest Service via a Special Use Permit in order to engage in irresponsible group behavior, provided no entrance fees are charged and the total group size is no larger than 75 (including participants, spectators

and support crews). [3] It is clear that Foys to Blacktail wants a Special Use Permit for this year's ultra-marathon so it can charge entrance fees to help promote its trail interests and so it can raise its number of run participants from 50 to 100. [5] It is clear that Whitefish Legacy Partners already secured a Special Use Permit (with no public review process) so it can promote its trail interests, charge entrance fees, and have up to 200 participants in its ultra-marathon from Whitefish to the top of Big Mountain. [6 - 10]

Special Use Permits are a luxury to better enable the irresponsible and commercial promotion of trail running and mountain biking on public lands. They are not a necessity for such ill-advised behavior. The Forest Service should not grant such Permits because they come at the expense of interagency programs to educate the public to instead behave responsibly in the habitats of bears and mountain lions.

We urge you in the near term to rescind the Special Use Permit granted to Whitefish Legacy Partners [10] and to not grant the Permit sought by Foys to Blacktail Trails. We urge you in the bigger picture to establish a policy on the Flathead National Forest that does not allow for Permits to be issued to foot and bike races on trails in the habitats of bears and mountain lions. Such permits are a harmful and unnecessary luxury.

The Forest Service has erred in concluding from its internal scoping that no extraordinary circumstances exist relative to species listed under the ESA and other public resources. The sources we cite in this letter are indication enough that there are extraordinary risks to humans and wildlife when recreation is conducted at a fast pace - and there are plenty more indications in the sources and circumstances those sources cite in turn. Use of a Categorical Exclusion is inappropriate here and, at a minimum, an Environmental Assessment must be prepared.

The Forest Service has also erred in not conducting full public scoping on the Foys to Blacktail and Whitefish Legacy Partner's ultra-marathons prior to apparent promises of and actual issuance of the Permit, respectively. Public scoping is required to help the agency determine the scope of the project and issues related to it. It is not a trivial speed bump to be given lip service after the agency has already determined its course of action. So please pay attention, we argue here that extraordinary circumstances do exist.

Firstly, there is the actual likely harm to people and wildlife that will result from issuance of these and future Permits for foot and bike races on Forest Service trails, given the Forest Service's propensity to hand them out to its trail building partners. The Forest Service has already demonstrated its willingness to hand out these Permits to commercialize the promotion of risky recreational behaviors the agency itself recommends against. The Flathead has also demonstrated it will do this with no public review unless it is firstly forced to conduct the public scoping required by law. [7, 9]

Secondly, and an equally important extraordinary circumstance, is the fact that the agency appears wholly blind to, or in denial of, the damage such Permits will do to interagency efforts to educate the public to behave responsibly in the habitat of bears and mountain lions. The agency can't be telling the public to "do as I say and not as I do" when it comes to the proven high risks of running and biking fast on trails in these sensitive wildlife habitats.

We urge you to deny these requests for ultra-marathon Permits and instead double down on your efforts recommending that people not run and bike fast on trails in the habitats of bears and mountain lions. People may want to take these risks on their own accord, but they should not be allowed to do it with the Forest Service endorsement and commercialized promotion that come along with a Special Use Permit.

Sincerely,

Keith

Keith Hammer - Chair
Swan View Coalition
3165 Foothill Road
Kalispell, MT 59901
406-755-1379
keith@swanview.org



cc: Forest Supervisor Chip Weber via chip.weber@usda.gov

Sources
(Links with cited content as of June 11, 2019)

1. http://igbconline.org/wp-content/uploads/2016/03/160629_BOR_Report_Treat_NCDE.pdf
2. http://igbconline.org/wp-content/uploads/2016/03/160629_BOR_Recomm_Treat_NCDE.pdf
3. 36 CFR 251.51 - <https://www.law.cornell.edu/cfr/text/36/part-251/subpart-B>
4. http://www.swanview.org/reports/Servheen_and_Manley_Quotes.pdf
5. <https://www.ftbtraces.com/marathon>
6. <https://flatheadbeacon.com/2019/04/18/whitefish-legacy-partners-adds-ultramarathon-race-roster/>
7. https://whitefishpilot.com/local_news/20190604/forest_takes_comments_on_race_permit_after_objection
8. <https://www.whitefishlegacy.org/event/whitefish-trail-run/>
9. http://www.swanview.org/reports/SVC_to_Mulholland_190506.pdf
10. http://www.swanview.org/reports/WLP_Ultra-Marathon_SUP_190408.pdf