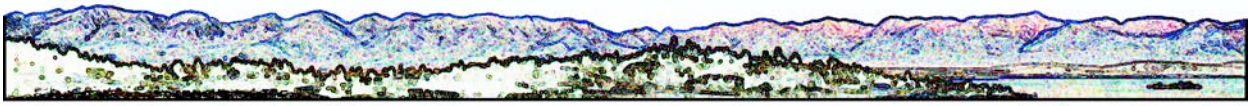
Swan View Coalition *Nature and Human Nature on the Same Path*



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April 20, 2017

Sent as a PDF via email to:

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Re: Inadequate Regulation of Mountain Biking and Use of "Stored" Roads in the NCDE

Dear Folks;

This letter is written to document and express to you how the regulation of mountain biking and the human use of "stored" roads on public lands in the NCDE is inadequate for the conservation and recovery of threatened grizzly bear - particularly as exemplified on the Flathead National Forest. This letter is submitted on behalf of Swan View Coalition, Friends of the Wild Swan, WildEarth Guardians, and Brian Peck.

We ask that this letter and its attachments be included in the public record as comments on the draft revised Flathead Forest Plan (Plan), the draft NCDE Grizzly Bear Conservation Strategy (GBCS), FWS's development of habitat-based recovery criteria for the NCDE, the Hungry Lion Project on HH-GVRD, and the Taylor Hellroaring Project on TLRD.

Executive Summary

While Flathead Forest Plan Amendment 19 is not perfect, it nonetheless attempted to comport with the best available science by assessing and limiting the impacts of non-motorized use by excluding high levels of human use of roads and trails (20 or greater parties per week) from grizzly bear Security Core. A19 also requires that roads not included in calculations of Total Motorized Route Density (TMRD) must "no longer function as a road or trail" and that treatment of the road must "preclude motorized or non-motorized use." (A19 Appendix D).

The proposed Plan, draft GBCS and recent practice on the Flathead, however, all allow high levels of human use of roads and trails without necessarily disqualifying bear habitat as Security Core and allow "stored" system roads to be omitted from TMRD even though they are not treated nor intended to preclude non-motorized use. As we testified at FWS's July 7, 2016 workshop on habitat-based recovery criteria, this leaves the door open for unlimited miles of road to exist on Forests like the Flathead and for unlimited levels of human uses like mountain biking to occur on those roads, as well as on an unlimited trail system.

In short, the Flathead and its A19 found that high-use non-motorized trails displace grizzly bears and that roads need to be reclaimed and re-vegetated to "deter travel by foot or ATV" in order to be consistent with data derived from the South Fork Grizzly Bear Study Project. Now the agencies have turned their back on the best available science and their own findings, allowing for unlimited levels of mountain biking and other non-motorized human uses of roads and trails in bear habitat. In this letter, we will discuss several projects on the Flathead that illustrate these points and detail how unlawful mountain bike trails, rather than being decommissioned, are being proposed for adoption by the Flathead as legitimate system trails, often without regard for the safety of humans or wildlife.

Lack of Enforcement Against Unauthorized Trails

The human use of unauthorized trails, especially by mountain bikes, increases the risk of negative human-wildlife encounters and complicates efforts to educate mountain bikers at system trailheads. In March 2017, an interagency Board of Review (BOR) issued its report on the death of off-duty Flathead National Forest law enforcement officer Brad Treat when he slammed into a grizzly bear while travelling at a high rate of speed on his mountain bike (BOR Report attached). The BOR Report notes that the trails Treat was riding "are not maintained by the US Forest Service but instead are maintained by trail users [and] are on old logging roads accessed from Highway 2."

The BOR report, however, also notes:

> Private land entry to the trail was how Mr. Treat and his companion entered the trail system on the day of the incident. This highlights the complexities of educating the public about bears and bear safety in areas of user maintained trails on public land, and focuses attention on how to better communicate the dangers of bear conflicts while mountain biking in grizzly habitat.

As noted in our Executive Summary, above, A19 requires that old logging roads cannot just be abandoned but must be treated to no longer function as a road or trail. The BOR report also finds that Treat "actively maintained this trail by clearing it of debris on a regular basis so he could use it for biking and jogging." Given that 36 CFR 261.10 prohibits "Constructing, placing or maintaining any kind of road, trail, structure . . . or other improvement on National Forest System lands or facilities without a special use authorization," it begs the question of why Treat was apparently contributing to the

maintenance of an unauthorized road or trail. We'll return to this matter near Desert Mountain after discussing prior problems elsewhere on the Flathead NF.

The Flathead NF allowed a user-cleared snowmobile path through the densely forested Krause Basin to persist in spite of 5 snowmobilers subsequently being killed in a snow avalanche on the trail in 1993. The user-created trail was not closed until Swan View Coalition collected evidence of the continued unauthorized trail maintenance and secured a court ordered closure in 1999 using the evidence and the above referenced CFR.

Flathead NF law enforcement officer Jody Freund in 2009 confiscated tools stashed by persons constructing unauthorized mountain bike trails on Crane Mountain and filed an Incident Report and a Violations Report following a confession by the lead perpetrator. It was not until 2011, however, following inquiries by Swan View Coalition into the matter, that a $300 fine for violating the above referenced CFR was finally issued. In spite of pleas by Swan View Coalition, the unlawful trails remain as "non-system" trails open to public use. Moreover, the proposed revised Flathead Forest Plan includes in several alternatives a Focused Recreation Area for mountain bikes in that area on the Ferndale side of Crane Mountain.

On the other side of Crane Mountain, the same perpetrator was working as a volunteer to the Forest Service maintaining trails in the Beardance area. But it turns out he and others were constructing unauthorized jumps, ramps and other "challenge" features for mountain bikes on these trails also shared by hikers and equestrians. Only after Swan View Coalition documented the problem with photos and got Ranger Rich Kehr out on the ground to see the problem were the majority of these unauthorized "improvements" removed under his authority in 2012 and 2013.

Meanwhile, back on Desert Mountain near where officer Treat died, the Flathead NF recorded in its Coram Experimental Forest 2003 meeting notes "Mountain bikers are cutting out old historic trails (old lookout half way down, Trough Trail 44, and others) . . . Mountain biking is not authorized or encouraged . . . Fred [Perl] recommends monitoring the mountain bike use."

When the Flathead NF proposed adopting a number of these user-created and user-maintained trails into its system as a part of its Hungry Lion Project, we filed a FOIA request for photos of the trails and all law enforcement records of efforts to enforce the CFR prohibitions against unauthorized maintenance. The Forest Service was unable to provide a single document indicating it had either authorized the trail work or that its law enforcement had done anything about it as unauthorized work (12/28/16 FOIA response attached).

The photos we were provided via FOIA were largely of huge banked mountain bike turns made of dirt piled up against log cribbing (for an example photo, see http://www.swanview.org/articles/whats-new/help_stop_deaths_by_mountain_bike_today/237), exactly contrary to the 2015 recommendations of MDFWP to the Flathead that trail "surfaces should not be banked, allowing bikers to take corners at high speeds. This could put bikers in close contact with unsuspecting wildlife or other users." (MDFWP's 5/13/15 letter attached).

Documents released under FOIA also indicate a local mountain bike club says it will help maintain the unauthorized trails in the Hungry Lion area if they are adopted into the system. This same club has advocated for the adoption of unauthorized bike trails on DNRC's lands on Spencer Mountain and to retain access to unauthorized bike trails built on privately owned Stoltze Lumber Company land near Whitefish that is now under a conservation easement that appropriately limits bikes to roads. (See for example http://www.dailyinterlake.com/archive/article-0a40507e-9894-11e5-b567-bb14280eb526.html).

The BOR also issued in March 2017 its Recommendations for safer mountain bike behavior and safer mountain bike trails (attached). It recommends that bikers be vigilant, slow down, carry bear spray, make noise, not ride alone, never ride at night or at dusk or dawn, don't think "it won't happen to me," and to "remember the bears live there and you are just a visitor."

For land managers, the BOR recommends "before new trails are opened to mountain biking in bear habitat, particularly grizzly habitat, there should be careful evaluation of the safety and reasonableness of enhancing mountain bike access." The BOR Recommendations build on those issued previously for hiking, finding that "mountain biking is in many ways more likely to result in injury or death from bear attacks," and provide an appendix with seven examples of bike-bear incidents.

Swan View Coalition issued a report in the matter on March 15 (attached). It adopts a format used in snow avalanche safety, wherein incidents of death or injury are reported alongside current advisories. SVC's report goes one step further than the BOR report, recommending a concerted public education program for recreating in wildlife habitat similar to workshops offered for safe travel in avalanche terrain.

The upshot here is that public education on the dangers of mountain biking in wildlife habitat lags even further behind than the Forest Service's will to enforce existing prohibitions against the unauthorized building and maintenance of bike trails. Instead, the Flathead NF has shown a disturbing pattern of letting unauthorized activities go unchallenged and later rewarding those activities through project level and Forest-level planning proposals to adopt the unlawful trails. And now, as the pressure on public lands for recreation is increasing in both volume and risk-level, agencies are instead relaxing existing standards like A19 that should limit this use.

Human Use of "Stored" Forest Service Roads as Trails

The Taylor Hellroaring Project near Whitefish is one of several projects on the Flathead NF illustrating the trend of rebuilding formerly decommissioned roads for logging then "storing" them as "system" roads while allowing their use as trails but not including them in calculations of TMRD. (https://www.fs.usda.gov/project/?project=50518). The Hungry Lion Project also proposes this (https://www.fs.usda.gov/project/?project=50134) and the Trail Creek Fire Salvage Project (https://www.fs.usda.gov/project/?project=48619) is already implementing this in spite of our formal Objections.

The result is that the Flathead NF is increasing the size of its road network in a manner that places no limit on the size of the system and that allows human use of once-decommission and other "stored" roads in violation of A19's clear requirement that they no longer function as either a road or a trail, motorized or non-motorized, in order to be dismissed from calculations of TMRD. How this practice violates A19 and companion IGBC requirements is thoroughly discussed in our attached TMRD paper, which we ask that you read from start to finish.

In this regard, we also attach the Flathead's 4/28/93 Draft Implementation Note #12. This Note lays out the need to include in road density calculations and on maps all roads "except those sufficiently revegetated with shrubs and/or trees to deter travel by foot or ATV" in order to be consistent with the South Fork Grizzly Bear Study Project, which remains some of the best available science for A19 and Flathead NF management. Draft Note #12 was reviewed by Rick Mace and Tim Manley, among others, but was never finalized because it was instead incorporated into A19 as described in our attached TMRD paper.

In short, the Flathead NF is failing to adequately assess and limit the effects of non-motorized human uses of roads and trails by essentially pretending there aren't any negative effects and pretending such use doesn't exist by omitting such roads and trails from calculations of TMRD. This even though TMRD is supposed to include all roads that have not been thoroughly decommissioned and that continue to function as either a road or a trail in any way, according to A19.

As a result, the Flathead NF is treating collaboration as though it is a public shopping spree, proposing in Taylor Hellroaring to add an additional 40 miles of trail to an area already devoid of any Security Core, riddled with roads and trails and the Whitefish Mountain Resort special use permit area. Emphasis will be placed on looping trails, which garner higher levels of use and greater impacts to wildlife. Nearly 5 miles of abandoned or decommissioned roads will be rebuilt for logging, then "stored" as new system roads with some intended to serve as trail routes. Other abandoned old roads and trails will be cleared and pressed back into service as trails. All this, even though scoping documents indicate "there is also unauthorized/illegal motorized use within the project area" and recreational activity on "historic road templates" - uses that should have been made physically impossible by a faithful implementation of A19 in this MS-1 and MS-2 habitat.

The Taylor Hellroaring proposal would also identify a possible rental cabin location along the Whitefish Divide to "have an opportunity to partner with local groups to develop a recreational trail infrastructure (e.g. hut-to-hut system) where compatible with other resources." In other words, the proposal is to build another 40 miles of trails to better connect Whitefish and its trail system to the backcountry of the Flathead NF and to then extend those impacts further into the backcountry via a hut-to-hut system that would presumably reside in or pass through grizzly bear Security Core. This entire proposal is a non-starter in light of current Forest Plan standards and the Project's stated need to "maintain and improve terrestrial wildlife species habitat and security." Yet it is presented as a collaborative proposal that the "Forest Service supports."

With each successive proposal, the Flathead displays poorer judgment, a rush to abandon A19 and other Forest Plan standards, and a rush to forge new partnerships with timber and recreation interests that do not have the best interests of grizzly bear, other wildlife and fish at the top of their priorities.

Summary and Recommendations

Land and wildlife management agencies cannot continue to accept or ignore the existence of informal, user-maintained, non-system roads and trails on public lands. These non-system roads and trails are unlawful, pure and simple, and agencies like the Forest Service have issued a string of initiatives and requirements over the past decades to rectify the problem. Among those initiatives were Flathead Forest Plan A19 and similar requirements on other Forests designed to limit roads and trails in grizzly bear habitat.

It is apparent that the Flathead NF is increasing human access into bear habitat for logging, recreation and other purposes, largely as though A19 has been removed from its Forest Plan even though it has not. To make matters worse, the draft NCDE GBCS and proposed revised Flathead Forest Plan would indeed do away with A19 and similar programs on other NCDE Forests and would no longer buffer non-motorized high-use roads and trails out of grizzly bear Security Core.

In short, the path is being cleared for an unlimited number of roads and trails to allow human access into bear habitat for logging, recreation, etc.. The levels of habitat security in place in 2011 will no longer exist, as promised in the draft NCDE GBCS, as the Flathead and other Forests return previously decommissioned roads not allowed to serve as either roads or trails to the road system where they will instead be stored and allowed to continue providing human access to bear habitat.

In the face of a burgeoning human population and its recreational pressures, we urge you all to reverse the course you are currently on. Rather than abandon A19 and similar programs, we urge you to instead improve upon their ability and requirements to include non-motorized roads and trails into calculations of both Open Motorized Route Density and TMRD (yes, better descriptive terms would help also), while buffering them out of Security Core.

The levels of non-motorized use thought comparable in impact to motorized use (20 or greater parties per week) is being exceeded on increasing numbers of both front-country and backcountry roads/trails and you are simply turning your backs on the collision that is already occurring between recreation and wildlife. No amount of public information about how to mountain bike more safely in bear habitat, as recommended in the attached BOR Recommendations, is going to conserve grizzly bears if you simultaneously allow virtually unlimited miles of road and trail to exist for human use.

We appreciate your attention to this matter and again ask that it be considered public comment and included in the public record as detailed at the outset of this letter.

Sincerely,

Keith J. Hammer
Chair - Swan View Coalition

Also on behalf of:

Arlene Montgomery, Friends of the Wild Swan, arlene@wildswan.org
Marla Fox, WildEarth Guardians, mfox@wildearthguardians.org
Brian Peck, Independent Wildlife Consultant, glcrbear@centurytel.net

Encl: 3/3/17 Board of Review Report into the death of Mr. Brad Treat
12/28/16 Forest Service response to Swan View's Hungry Lion FOIA request
5/13/15 letter from MDFWP on the "Proposed Action - Revised Forest Plan"
3/3/17 Board of Review Recommendations related to mountain bike safety
3/15/17 Swan View Coalition report on the death of Brad Treat and advisories
6/4/15 TMRD paper by Keith Hammer with addendum dated 2/7/16
4/28/93 Draft Flathead LRMP Implementation Note #12

Cc: Tim Manley, tmanley@mt.gov
Make Madel, MMadel@mt.gov
Chris Servheen, grizz@umontana.edu

Board of Review Report

The death of Mr. Brad Treat due to a grizzly bear attack June 29, 2016 on the Flathead National Forest

March 3, 2017

Board of Review Members[1]:

Chris Servheen[2], Adjunct Research Associate Professor, Department of Ecosystem and Conservation Science, W.A. Franke College of Forestry and Conservation, University of Montana, Missoula, MT 59812
Tim Manley, Grizzly Bear Specialist, Montana Department of Fish, Wildlife and Parks, 490 N. Meridian Road, Kalispell, Montana 59901
Deb Mucklow Starling, District Ranger, Spotted Bear RD, Flathead National Forest, 10 Hungry Horse Drive, Hungry Horse, MT 59919
Amy Jacobs, Forest Wildlife Biologist, Flathead National Forest, 650 Wolfpack Way, Kalispell, MT 59901
John Waller, Supervisory Wildlife Biologist, Glacier National Park, P.O. Box 128, West Glacier, MT 59936

Summary

Mr. Brad Treat was riding a mountain bike with a companion on a trail on the Flathead National Forest in Flathead County, Montana on the afternoon of June 29, 2016. Neither rider carried bear spray or a firearm. Between 13:30 and 14:00 hours, Mr. Treat collided with a grizzly bear with his bike at a high rate of speed on the trail after rounding a blind curve in the trail. The impact of the collision apparently hurled Mr. Treat into and over the handlebars and perhaps into and/or over the bear. Mr. Treat was ahead of his companion and was riding very fast and went out of sight around a curve in the trail. His companion then heard the sound of the collision between Mr. Treat and the bear. The companion also heard the bear vocalize at the time of the collision. The companion came around the curve on his bike and observed Mr. Treat on the ground in the trail with the bear standing over him. The companion then turned around and went back up the trail to obtain help. He was not carrying a cell phone. When he heard cars on the highway (Highway 2), he started toward the highway through the forest while carrying his bike. When he reached the highway, he flagged down a vehicle and asked them to take him to a phone to call for help. The first call about the incident came into 911 at 1452 hours. The first responder on the scene was Glacier National Park Ranger Brad Blickhan at 1603 hours who confirmed that Mr. Treat was deceased.

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[1] This report relies heavily on the input of Brian Sommers, a criminal investigator and Wildlife Human Attack Response Team (WHART) leader for Montana Fish, Wildlife, and Parks, who was the lead investigator on this incident.

[2] Chair of the Board of Review.

Format of this report

This report is an interagency Board of Review report addressing a grizzly-human incident resulting in a human fatality. It is completed as per the protocol in cases of a human fatality due to a grizzly bear that is on p. 59 of the Interagency Grizzly Bear Guidelines. This report summarizes the incident, the investigation of the incident, resolution or response to the incident, and presents information gathered as part of the Board of Review effort. The Board of Review is made up of state and federal agency staff and was chaired by a retired U.S. Fish and Wildlife Service grizzly bear biologist who has chaired 7 previous Boards of Review. Members were nominated by their agencies to participate on the Board of Review.

Situation

The trail where the incident took place is near West Glacier, Montana and is called the “Outer Loop”, part of a trail system called “Green Gates Trails”. Elevation in the area varies between 3400 to 3600 feet. This is one of many trails in this area (Figure 1). These trails are on National Forest System lands of the Flathead National Forest in an area intermixed with private lands. The trails are on old logging roads accessed from Highway 2. Motorized access is precluded by green-colored gates, thus the name. These trails are not maintained by the US Forest Service but instead are maintained by trail users. There are private lands interspersed in the area with homes and some businesses, including a

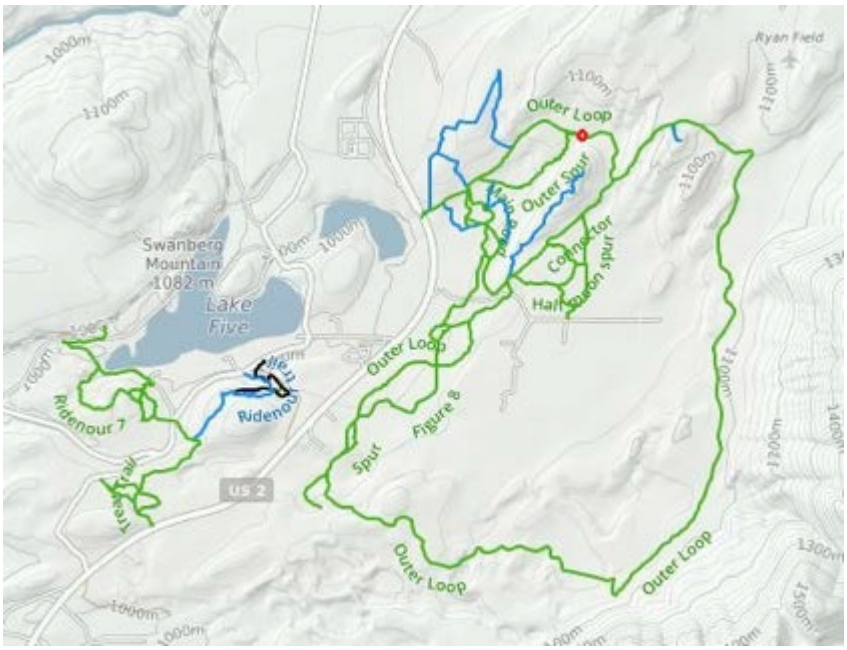


Figure 1. Map of the "Green Gate Trails". Red dot is site of the incident. Green trails are main bike trails while blue trails are side trails. Distance from Highway 2 green gate to incident site is approximately 0.88 mile.

KOA campground. Trail users are hikers, joggers, mountain bikers, and horse riders. There are some commercial horse trail rides that occur on these trails. There are no user counts available for these trails but it is likely that the trail

where the attack occurred gets daily use by people. Mr. Treat's wife said she and Mr. Treat jogged this trail every morning and that they had jogged it the morning of the attack. Mr. Treat and his companion accessed the trail from Mr. Treat's home, which is in this area.

Figure 2. Vegetation along the trail approaching the site of the incident showing limited sight distance. Direction of photo is direction of travel. The person on the trail is at the collision/fatality site and is about 37 feet from the camera. At a speed of 20-25 mph, a bike rider would travel 29-36 feet every second or approximately the distance from the camera to the person the trail.

Vegetation along these trails is in various stages of regeneration following past timber harvest. Sight-distance is limited along the trail in many areas and at the site of the collision (Figures 2 and 3). Understory vegetation is composed of various shrub species including buffaloberry (*Shepherdia canadensis*), which was fruiting at the time. At the site of the collision and fatality, sight-distance is limited due to a curve to the right in the trail and vegetation along the trail (Figures 2 and 3). The area is close enough to Highway 2 that traffic noise can be heard through the forest from areas along the trail.

Figure 3. The location on the trail where Mr. Treat collided with the bear. Direction of travel was toward the camera to the collision site indicated by the area in shadow on the trail. The dappled shading on the trail at the site of the collision could have somewhat obscured the bear, contributing to the collision.

Background on the incident

Mr. Treat lived close to the area and had access to the trail system from his home. He regularly rode his mountain bike on the trails in this area, particularly on the trail where the incident occurred. He would ride this trail 4-6 times per week. He also jogged on this trail almost every day during the morning with his wife and their dog. Mr. Treat was very competitive according to his wife and he was always trying to travel the route faster than his previous time. According to this wife, he actively maintained this trail by clearing it of debris on a regular basis so he could use it for biking and jogging. Mr. Treat and his wife had

previously observed both black bears and grizzly bears on this trail while jogging and mountain biking. Mr. Treat's riding companion was not an experienced mountain biker and in fact, this ride was the first time he rode a mountain bike on a trail.

Details on the incident

Mr. Treat and his companion left Mr. Treat's home to ride this trail in the early afternoon of June 29, 2016. At approximately 1330–1400 hours, Mr. Treat was in the lead going downhill and was "going really fast" according to his companion and was continuing to pull ahead. His companion estimated that Mr. Treat was 20-25 yards (60-75 feet) ahead of him when he disappeared around a curve in the trail to the right. Immediately after Mr. Treat disappeared, his companion heard the sound of Mr. Treat and his bike colliding with the bear and the bear vocalizing and making a sound "like it was hurt". He described what he heard as a "thud' and an "argh". As his companion rode around the curve and stopped his bike, he saw the bear standing over Mr. Treat who was laying in the trail. The bear was broadside to the companion and on the left side of the trail. His companion described the bear as "very big, brownish-black in color, lighter than black". He described the hair on the back of the bear as "bristled up". His companion did not remember if the bear had a dished face or a hump or not, but he did describe it as "big". His companion waited what he described as "probably within 30 seconds[3]" trying to figure out what to do. His companion said the bear was "intent and focused on Mr. Treat" and did not seem to see or turn toward the companion at all. It appears that his companion was within 37 feet of the bear and Mr. Treat when he stopped his bike at the curve in the trail (Figure 4).

His companion waited for a "short time[3]" and then decided to turn around and head back up the trail the way he had come to seek help. Neither rider carried bear spray or firearms or a cell phone. His companion said he was worried about the response of the bear should he try and "push" the bear off of Mr. Treat since he had nothing with which to defend himself. His companion turned around and headed back up the trail an undetermined distance until he heard the sound of vehicles on Highway 2. At that point, he began bushwhacking toward the highway carrying his bike. The closest distance to Highway 2 from where his companion went back up the trail is approximately 1 mile through thick forest. When his companion reached the highway, he flagged down a vehicle and was driven to a phone to call for help. The call for help was received by 911 at 1452 hours.

[3] Time estimate by Mr. Treat's riding companion. The actual time period is unknown as his companion was in a state of shock and recollections of time are often hazy while under stress. The actual time could have been much shorter (or longer) than 30 seconds.

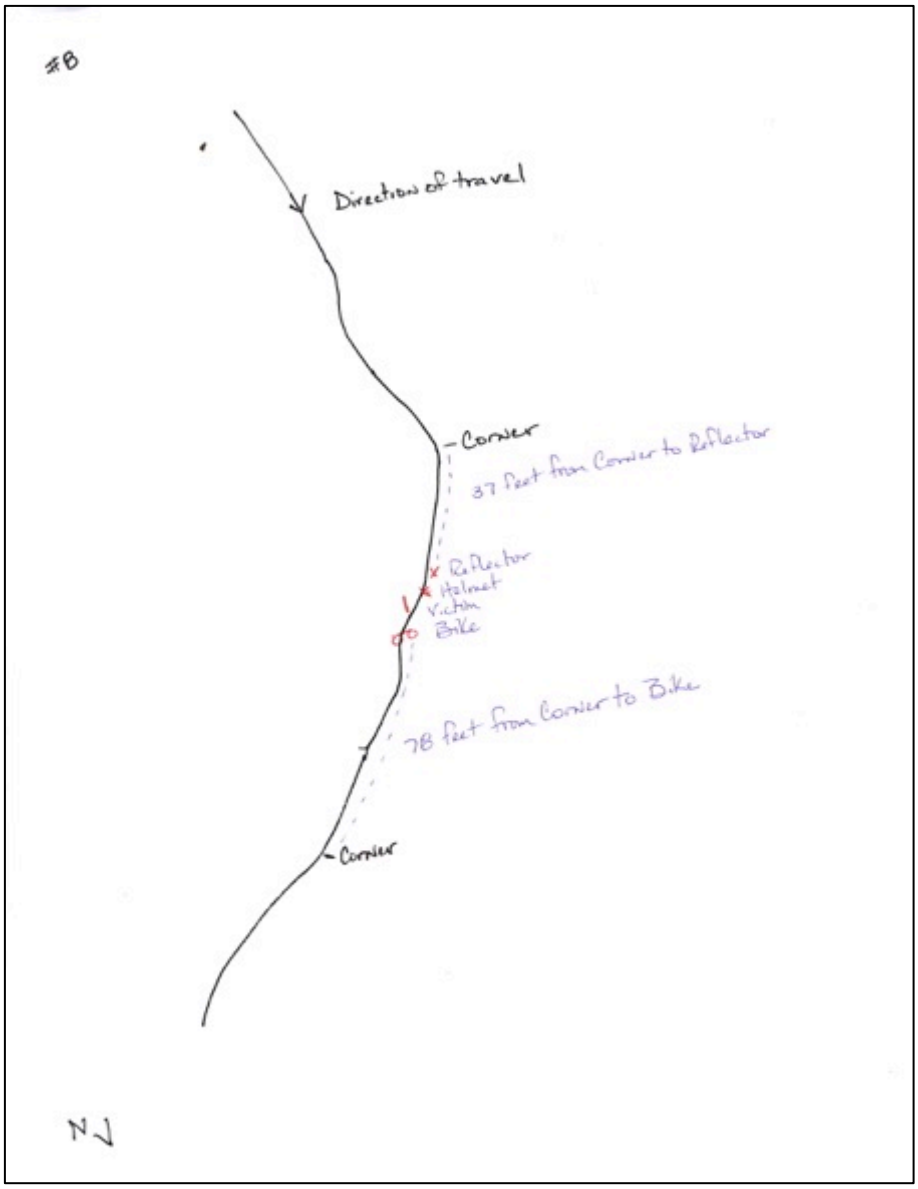


Figure 4. Map of the incident site showing distance from the curve (corner) in the trail to the location of the collision. Direction of travel was from the top of the map. Mr. Treat's companion had to be at least to the curve to be able to see the bear and Mr. Treat and therefore was within 37 feet of the bear that was standing over Mr. Treat. Map by Brian Sommers, MT FWP.

Investigation of the incident

Initial investigators on the scene found Mr. Treat and his bike in the trail at the site of the collision. His bike helmet was beside his body and it was in pieces after being bitten by the bear. Details of the scene as described by investigator Brian Sommers:

> *"The victim was traveling at a fairly high rate of speed when he collided with the bear on a corner in the trail that had limited visibility. The victim was wearing biking shoes that clip to the pedals on the bike. Upon impact*

> *with the bear the victim and the bike flipped over the bear with the victim landing on his hands and then back with the bike landing down trail from the victim in the direction he was traveling. With the landing on the trail, the victim was in very close proximity to the bear."*

The impact of the collision that hurled the victim and his bike over the bear indicates the speed of the collision. The bike shoes victim was wearing (that clipped into the pedals of the bike) pulled bike over the victim and over the bear with the force of the impact, so that the bike landed farther down the trail. The front reflector was knocked off the bike at the initial site of the collision and was found in the trail on the other side of the victim from the bike. Both the victim and the bike were found on the trail indicating that there was no evasive action taken to steer to either side of the trail to avoid the bear in the trail. There were no skid marks in the trail indicating there was no hard braking before the collision. The lack of evasive steering and lack of skidding are further evidence of the surprise and high speed of the collision. The bear apparently had no time to move to avoid the collision. At a speed of 20-25 miles per hour, there were only 1-2 seconds between rounding the curve, the victim seeing the bear in the trail, and impacting the bear (see Figure 2).

The force of the collision with the bear apparently propelled Mr. Treat's torso into the handlebars as evidenced by a straight line bruise across the inside of the lower front part of his ribs. This impact with the handlebars or the impact with the bear also knocked the front reflector off the bike (Figure 5). The force of the

Figure 5. Handlebars of Mr. Treat's bike showing missing front reflector. The reflector was found in the trail at the site of the collision with the bear.

collision that hurled Mr. Treat over the bear caused him to break both of his wrists and his left scapula when he hit the ground as he tried to break his fall with his hands.

No part of Mr. Treat's body was consumed by the bear and the bear did not cache his body by covering it with dirt and debris, as is common for bears that are storing a food source and plan to return to it. There was no bear attractant at the collision site such as an animal carcass. The bear was not present when first responders arrived at the incident site at 1600 hours, an estimated 2 hours after the incident. Neither the bear involved in the incident nor any other bear visited the incident site for at least 48 hours as confirmed by remote cameras placed at the site.

Evidence of bear activity in the area and bear trapping operations

After the initial onsite investigation, the WHART decision was made not to set any traps to capture the bear because it appeared that the bear was acting defensively. Just after dark on the day of the attack, a Sheriff's Deputy posting closure signs reported being "charged by a bear near the green gate". In response to that report, MT FWP set two culvert traps and remote cameras that night in the area of the green gate. On the morning of June 30th (the day after the incident), Tim Manley (MT FWP) made a helicopter flight with Two Bear Air Rescue to look for bears in the incident area using a Forward Looking Infrared (FLIR) camera. No bears were located. On the afternoon of June 30th, the decision was made by Tim Manley (MT FWP) to move one culvert trap to the site of the incident and the other culvert trap to the east near where the ALERT helicopter crew had reported observing a bear in an open meadow shortly after the incident (Figures 6 and 7). After further discussions with the Sheriff's deputy who reported a charging bear, it was determined that the report of a charging bear by the green gate did not occur. After Brian Sommers returned from the autopsy of Mr. Treat and after examining the bike and evidence collected from the scene, he determined that Mr. Treat had collided with the bear while riding his mountain bike. Based on this information and the fact that no bears were captured or photographed on the remote cameras, MT FWP decided that all bear traps should be removed from the area on July 1 after being set for 2.5 days.

One of the reports of bear activity in the area came from Swan River Outfitters, a horse concession that used the trails in the incident area (Figure 6). They reported that a bear had charged a group of their riders on the afternoon of the same day as the incident. The bear was described as a black-colored grizzly with white on its face. The description of the attack noted that at 1430 hours they were riding back toward their corrals when they observed a black-colored grizzly bear with white on its face about 40 yards ahead of them. The bear charged to within about 6 feet and then veered off to the left and went a short distance off the trail and made noises and snapped its teeth. The bear then left the area and headed in the direction where they believed the incident with Mr. Treat had occurred. The leader of this horse ride said he estimated that this charge happened about 800 yards or so from where the incident involving Mr. Treat occurred and he was sure it was a grizzly bear.

Figure 6. Locations of closest bear sightings on June 29 to the incident location. ALERT observation is from the medical helicopter that was responding to the incident and was after the incident. This bear was brown in color and the observers first thought it was a deer. Location of charge at horse riders was at approximately 1430 hours.

Figure 7. Locations of trap sites in the incident area. No bears were captured during the approximately 48 hours the traps were set and no bears were photographed by remote cameras set at each trap location.

The crew of the Kalispell Medical ALERT helicopter saw a bear a few hours after the incident in an open area of the forest approximately half a mile from the site

when they were flying in to assist with the incident (Figure 6). They initially thought it was a deer because it was light brown but upon closer examination saw that it was a light brown bear. They thought it was a grizzly but could not be sure.

There was another report on the same day at 2020 hours made by an individual who works for the BNSF railroad. He stated that he was in the West Glacier area approximately one mile from the incident site when he saw a yearling (1.5 years old) grizzly bear cross the BNSF rail tracks and run up the hillside. He remarked that he wondered why this young bear was not accompanied by its mother, which would be normal for a bear of this age.

There was another report on the following day (June 30) when a woman said that she saw a "big black colored bear" at 1100 hours near her driveway. This sighting was approximately 1.5 miles from the incident location and on the other side of Highway 2.

There was a possible bear sighting close to the green gate reported by sheriff's deputies, but upon further discussion with the observers, this was unlikely to be a bear.

There was a large grizzly track seen on the afternoon of the incident in mud in the trail by Tim Manley (MT FWP) on his way into the incident site. This track was in the trail approximately ¼ mile from the incident site, between the green gate and the incident location. This track appeared fresh and the bear was headed in the direction of the incident site. This may have been the bear involved in the incident.

The general area around the incident site is extensively used by grizzly and black bears throughout spring, summer, and fall. Within a 3-mile radius of the incident site, DNA samples from 6 different male and 3 different female grizzly bears were collected as part of a USGS research studies conducted 1998-2011. In addition, between 1999-2016, 5 radio-collared male and 5 radio-collared female grizzly bears were located within this 3-mile radius.

Identification of bears at the site

Twelve hair and swab samples were obtained from the bicycle helmet and the victim. These were sent to Wildlife Genetics International for DNA identification of bear species and the bear. All successfully genotyped samples assigned to the same male grizzly bear. This male bear had been previously captured in Glacier National Park in 2006. This bear was also detected 5 times since 2009 in DNA samples collected in research studies in the general area of the incident near West Glacier, Montana. There was no DNA evidence from any other bears in the samples collected at the incident site.

The adult male grizzly bear confirmed at the site had no history of conflicts with humans and was only captured once in May 2006 in Camas Creek in Glacier National Park as part of a research project. At the time of his May 13, 2006 capture, the bear was estimated to weigh 370 pounds and was estimated to be 8 to 10-years old. The bear was not collared, no tooth was taken for aging, and he was released uninjured at the site of capture. If the age estimate made in 2006 is approximately correct, this bear was 18-20 years old at the time of the incident in 2016.

Summary

On June 29, 2016 at between 1330 and 1400 hours, Mr. Brad Treat, while riding his mountain bike with a companion, collided at high speed with a grizzly bear on a trail on the Flathead National Forest approximately 1 mile south of West Glacier, Montana. Mr. Treat was killed by the grizzly bear at the site of the collision, presumably immediately after it occurred. The grizzly bear was likely highly agitated after the collision and that agitation motivated the attack. The collision occurred at a blind curve in the trail with the bike and rider traveling at high speed. The layout of the site indicates that Mr. Treat and the bear saw each other for no more than 1-2 seconds before the collision.

The bear involved was an 18-20 year old male grizzly bear with no history of human-bear conflicts or aggression towards humans. The identity of the bear was determined by the presence of its DNA on hair samples collected from the victim and his bike helmet. The DNA of this bear was detected 5 times since 2009 at rub tree sample sites in Glacier National Park. This bear had also been captured once as part of a research project in 2006 in Glacier National Park. This bear was never captured as a nuisance bear and had no record of conflicts with people.

The bear did not consume any part of Mr. Treat. The bear left the site soon after the incident and did not return for at least 48 hours as documented by camera traps placed at the site. Culvert traps and camera traps were placed at the incident location and at 3 other sites within a mile of the incident. No bears were detected at any of these locations during the more than 48 hours they were in place.

Neither Mr. Treat nor his riding companion carried bear spray or firearms. Mr. Treat's companion was understandably uncomfortable trying to "push" the bear off Mr. Treat after the collision given that he had no bear spray or firearm.

Conclusions about the incident and response to the incident

The incident appears to be a surprise encounter with a grizzly bear due to the high speed and the lack of noise of bike travel combined with a blind curve on a trail. Mr. Treat's companion stated that Mr. Treat was going "very fast" and pulling ahead of him just before the collision. A bike rider going 20-25 miles per hour covers 29-36 feet every second. The blind curve in the trail combined with

the visual cover along the trail allowed Mr. Treat to see the bear less than 37 feet from the point of the collision. That assumes he was looking forward at the time rather than down at the trail. At his high rate of speed, he would have likely covered the distance between him and the bear in 1-2 seconds. The high speed of the collision is further supported by the fact that Mr. Treat did not try to ride off to the side of the trail to avoid the bear, there were no bike skid marks in the trail, and the fact that the bear did not jump off the trail to avoid the oncoming bike. The collision, subsequent attack, and death of Mr. Treat all occurred in the trail at the point of impact.

Natural aggression of grizzly bears toward humans most commonly occurs in 3 specific instances: 1) surprise encounters when humans and bears surprise each other at close range due to inadvertently getting too close, often along trails; 2) defense of a food source such as inadvertently getting close to the bear in possession of a carcass; or 3) defense of young when a human inadvertently gets close to a bear cub(s) or between a mother bear and her cubs. In these instances, the aggression of the bear is a natural defensive response. In most cases of such natural aggression, the bear does what it can to neutralize the human threat and then flees the area. Human injuries can be minor to fatal from such attacks. The incident in this case has all the characteristics of a surprise encounter on a trail with the reaction of the bear enhanced due to the physical collision of the bear with the bike and person. Mr. Treat's companion describes hearing the sound of the collision and hearing the bear make a sound "like it was hurt". The agitation and response of the bear after such a collision likely resulted in the severe injuries to Mr. Treat and his death. The fact that this incident was the result of a surprise encounter and that trapping for the bear was not necessary was discussed and agreed to the evening of the incident by WHART Team Leader Brian Sommers and MT FWP grizzly bear specialist Tim Manley.

Bears involved in such surprise encounters are not captured or removed in most cases, even when the result of the encounter is serious injury or death to a human. 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, particularly in high density bear habitat where the likelihood of capture of non-involved bears is high. Careful consideration should be given about why trapping should take place and what will happen to any bears captured before any traps are ever set in such cases. 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 resulting from such captures.

Normal agency response to such human fatalities from grizzly bears is an area closure around the incident site for 1-2 weeks and then reopening the area for

public use, usually with enhanced signage to alert the public to proper safety precautions in grizzly habitat. In this case, the Forest Service did close the area around the incident to public entry for public safety on June 30 and reopened on July 8 (Appendix A).

There were no bear safety signs posted before the incident at the green gate entry point from Highway 2. The trails in the area are not maintained or managed for recreation by the US Forest Service. In addition, there are multiple entry points to these trails from other locations and from adjacent private lands. Private land entry to the trail was how Mr. Treat and his companion entered the trail system on the day of the incident. This highlights the complexities of educating the public about bears and bear safety in areas of user maintained trails on public land, and focuses attention on how to better communicate the dangers of bear conflicts while mountain biking in grizzly habitat.

To avoid encounters with grizzly bears, management agencies make 5 basic and fundamental suggestions about how to behave in bear habitat. These safety suggestions are targeted toward hikers[4]:

1) **Be Vigilant** – Being vigilant for bears and bear sign (tracks, scat, feeding sites) can reduce the chances of stumbling onto a bear at a close distance, thereby reducing the risk of bear attack. Be especially vigilant if hiking off-trail. Bears may be more likely to respond aggressively in off-trail areas where they don't expect to encounter people. However, bears frequently use maintained trails and encounters may occur anywhere. Agencies encourage hikers to remain vigilant while hiking in all bear country.
2) **Carry Bear Spray** – Bear spray has proven to be effective at stopping aggressive bear behavior during surprise encounters when the person involved has time to deploy it. The public should be made aware of this fact and encouraged to carry bear spray and to be familiar with how to rapidly deploy it.
3) **Make Noise** – Making noise while hiking is an effective method of forewarning bears of your presence, thereby reducing the chances of surprise encounters and related attacks.
4) **Don't Run** – Running during an encounter can trigger a chase response in a bear. In addition, jogging in bear country increases the odds of surprise encounters at close distances and surprised bears are more likely to be aggressive.
5) **Do not Hike Alone** – Hiking in group sizes of 3 or more people or traveling by horseback is known to reduce the risks of bear attack. Larger groups are more intimidating to bears and more likely to have at least one member making noise or being vigilant, thereby reducing the risk of bear attack. Horses are more likely to smell, hear, or see a bear before a person does, reducing the likelihood of surprise encounters. Horses are also more

[4] These recommendations are made in various forms by all state and federal agencies to people in grizzly habitat.

intimidating to bears and if needed, unlike humans, are capable of outrunning and outmaneuvering bears.

Of these 5 recommendations, all apply in one degree or another to mountain biking in grizzly habitat. Mountain biking is a recreational activity that involves increased risk and danger of surprise encounters with bears because: 1) it is relatively quiet; 2) the high speed of bike travel compared to hiking; and 3) the necessity of the bike rider to focus his/her vision down on the trail close to the bike to avoid obstacles instead of looking ahead for bears, especially on single-track trails. With the increase in mountain biking, surprise encounters with bears resulting in human injuries and possibly deaths are likely to increase. **In a separate report, this Board of Review makes recommendations about how to improve safety for mountain bikers in grizzly habitat**.

APPENDIX

Appendix A – US Forest Service area closure order and closure termination order

APPENDIX A

FLATHEAD NATIONAL FOREST
650 Wolfpack Way
Kalispell, MT 59901
Forest Supervisor's Order

AREA CLOSURE ORDER – BEAR CLOSURE AREA

PROHIBITIONS

Pursuant to Title 36 Code of Federal Regulation 261.50 (a) and (b), the following restriction is in effect on the **Hungry Horse – Glacier View Ranger District** on the Flathead National Forest, Flathead County, Montana as depicted on the attached map as **Exhibit A,** and hereby incorporated into the order. This temporary restriction is in addition to those enumerated in Subpart A, Part 261, Title 36, Code of Federal Regulations, and becomes effective when signed and will remain in effect until rescinded.

1. **36 CFR 216.53(e) – Special Closures - Going into or being upon any area which is closed for the protection of:**

   Public health or safety. [Title 36 CFR 216.53(e)]

Description of Restricted National Forest Access

For the purpose of this order, it is prohibited to be on any National Forest System Trail, National Forest System Road, or within the boundaries of the closure area defined as Forest Service managed lands within Flathead County, State of Montana Sections 1, 2, 11, PB 37, PB 38, 14, 15, 16, 21, 22, 23, PB39, T31N, R19W; Sections 36, T32N, R19W; Section 30, 31, 32, T32N, R18W; and Section PB43, PB42, 7, T31N, R18W.

- National Forest System lands east of US Highway 2, starting from the northern boundary of NFS road 11067 to NFS Road 10325 and stretching east to the Great Bear Wilderness boundary, south to the Coram Experimental Forest boundary.
- The following FSR roads will be closed, including all roadways and trails departing from them:
  - FSR 11065A, known locally as "Pack Trail";
  - FSR 2863, known locally as "Hog Haven";
  - FSR 2805 known locally as "Belton Point Road";
  - FSR 11011 known locally as "Halfmoon Lake Road";
  - FSR 632 known locally as "Belton Ski Course";
  - FSR 10325 known locally as "Ryan Road";
- The unofficial trail way that extends from 590A is closed past the Coram Experimental Forest Boundary.

TERMINATION ORDER

NATIONAL FOREST SYSTEM LANDS
FLATHEAD NATIONAL FOREST
REGION ONE

The following Closure Order on the Hungry Horse Ranger District is hereby rescinded.

Order # D06-132-S-16 on Half Moon Flats area near West Glacier, Flathead County, Montana.

Done at Kalispell, MT on this 8th day of July, 2016.

CHIP WEBER
Forest Supervisor
Flathead National Forest

Exemptions:

Pursuant to Title 36 CFR 261.50(e), the following are exempt from this restriction:

1. Persons with a permit issued by a forest officer specifically authorizing the otherwise prohibited act or omission.

1. Any Federal, State, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty.

2. Owners or lessees of land in area.

Done at Kalispell, Montana this 30TH day of June 2016

By: Jane D Darnell

JANE DARNELL
Deputy Regional Forester

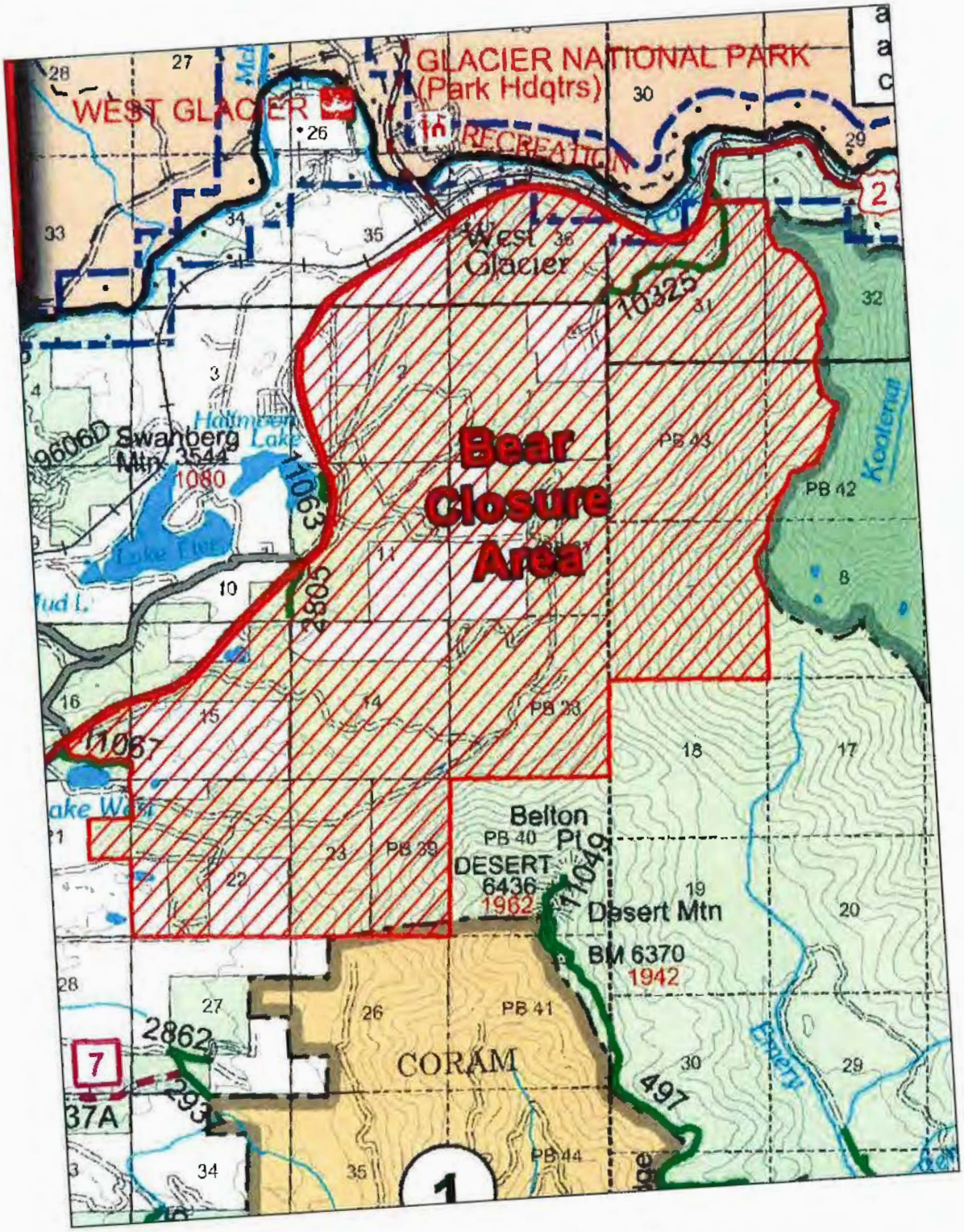
Penalty:

Violation of these prohibitions is punishable by a fine of not more than $5,000 for an individual or $10,000 for an organization, or imprisonment for not more than 6 months, or both (16 USC 551 and 18 USC 3559 and 3571).

Notification:

A copy of this order shall be posted as prescribed under 36 CFR 261.51.

EXHIBIT A


GLACIER NATIONAL PARK
(Park Hdqtrs)
WEST GLACIER
RECREATION
West Glacier
Bear Closure Area
Swanberg Mtn 3544
1080
Hattmeier Lake
Lake Ellen
Belton
DESERT
6436
1962
Desert Mtn
BM 6370
1942
CORAM
PB 38
PB 39
PB 40
PB 41
PB 42
PB 43
PB 44
Kootenai
Emery
10325
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497
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37A

USDA United States Department of Agriculture | Forest Service | Region One | Northern Region
26 Fort Missoula Road
Missoula, MT 59804

File Code: 6270
2017-FS-R1-00895
Date: December 28, 2016

Mr. Keith Hammer
Swan View Coalition
3165 Foothill Rd
Kalispell, MT 59901

Dear Mr. Hammer:

This letter is in response to a referral to this office of items 6 and 7 of your November 20, 2016, Freedom of Information Act (FOIA) request. These two items seek:

6) Documents regarding approval by the Forest Service to develop and/or maintain non-system routes, including but not limited to special use permits or volunteer agreements.

7) Documents regarding actions taken by the Forest Service to determine who was establishing and/or using non-system routes, who may have been in violation of regulations prohibiting such establishment, any efforts to prohibit such use, and any efforts to issue warnings and/or citations to anyone helping establish or use these routes.

Staffs on the Flathead National Forests, and the Region One Law Enforcement Investigations office have searched their files and found no records responsive to your request.

This concludes our response to your FOIA request.

The FOIA provides you the right to appeal this determination. Any appeal must be made in writing, within 90 days from the date of this letter to: Chief, US, Forest Service, FOIA Service Center: 1) by email to wo_foia@fs.fed.us; or 2) by regular mail to Mail Stop 1143, 1400 Independence Avenue, SW, Washington, DC 20250-1143; or 3) by Fed Ex or UPS to 201 14th Street, SW, Washington, DC 20250-1143; or 4) by fax at 202-260-3260. The term "FOIA APPEAL" should be placed in capital letters on the subject line of the email or on the front of the envelope. To facilitate the processing of your appeal, please include a copy of this letter.

You have the right to seek dispute resolution services from the Forest Service FOIA Public Liaison, Washington Office. You can reach them by phone at 202-205-1542, or by regular mail to Mail Stop 1143, 1400 Independence Avenue, SW, Washington, DC 20250-1143. You also have the right to seek dispute resolution services from the Office of Government Information Services at this web address https://ogis.archives.gov.

Sincerely,

FOR LEANNE M. MARTEN
Regional Forester

Printed on Recycled Paper

Montana Fish, Wildlife & Parks

Region One
490 N. Meridian Rd.
Kalispell, MT. 59901
Jim: 406-751-4566
Fax: 406-257-0349
REF: JW039-15
May 13, 2015

Flathead National Forest Supervisor's Office
Attn: Forest Plan Revision
650 Wolfpack Way
Kalispell, MT 59901

Montana Fish, Wildlife and Parks (FWP) commends the Flathead National Forest in its efforts to produce a new forest management plan titled "Proposed Action – Revised Forest Plan, Flathead National Forest" and dated March 2015 (Proposed Action). FWP appreciates the challenges the Flathead National Forest faces in managing Forest Service lands for a multitude of users with diverse interests. The Proposed Action identifies numerous key habitats for wildlife, particularly grizzly bears, wolverine, lynx and mountain goats, and proposes to set aside much of these habitats as either wilderness or back country management areas. The Proposed Action also addresses habitat protection for fisheries and recreational demands by the public. Although the proposed management plan is well done and addresses many wildlife, fisheries and recreational issues, FWP would like to offer comments to the Proposed Action for further consideration.

Table 16 in Chapter 2 (pg 53) indicates that mountain goats may be sensitive to human disturbance from December to mid-May in known winter concentrations. Winter is a critical time period for mountain goat survival, and human disturbance has been shown to alter goat behavior and incite negative physiological responses which may ultimately lead to reduced survivorship (Foster and Rahs 1983; Bleich et al. 1994; Côte 1996; Krausman et al. 1998; USDA Forest Service 2003). However, kidding is also a critical time period for mountain goat populations. Adult female mountain goats have heightened sensitivity to disturbances during kidding and post-kidding periods (Penner 1988). Compared to other ungulates, mountain goats have a low recruitment rate (Baily 1991, Festa-Bianchet et al. 1993), and reproductive success and survivorship of goat populations is closely tied to the health of mountain goat nursery groups. Therefore, we recommend that the period of sensitivity be extended to early July, to address potential impacts during the kidding period.

On page 81, the section on private concession helicopter use (non agency) plans only addresses potential impacts to grizzly bears, yet the impacts of helicopter activity on mountain goats have been well documented. Aircraft over flights can alter goat behavior and incite negative physiological responses which may ultimately lead to reduced survivorship (Foster and Rahs 1983; Bleich et al. 1994; Côte 1996; Krausman et al. 1998; USDA Forest Service 2003). There is no data to indicate that habituation of mountain goats will occur over time with cumulative exposure to helicopter activity (Frid 2003, Hurley 2004). Contrarily, repeated exposure to adverse stimuli, such as helicopter over-flights, may increase vigilance and flight-initiation distance and result in increased stress on mountain ungulates (Frid and Dill 2002). Therefore, it is recommended that non agency concession helicopter activity (skiing etc...) be no closer than

1500 m from any mountain goat locations (Hurley 2004). Furthermore, since females are highly sensitive to disturbance, the Northern Wild Sheep and Goat Council recommend that helicopter activities be prohibited in areas inhabited by nursery groups during spring and early summer (Hurley 2004).

Additionally, there is concern regarding over snow motorized travel on the Swan Mountain crest north and south of Jewel Basin. Currently and in the Proposed Action this area is considered suitable for over snow motorized travel. The Swan Mountain crest is considered potentially important habitat to wolverine, and in some areas, mountain goats. FWP encourages the Flathead National Forest to take into account possible impacts to wolverine and mountain goats to ensure over snow motorized travel has minimal influence on these populations.

On page 88, the Proposed Action recommends that existing non-conforming uses such as mechanical transport and motorized uses would be allowed to continue in areas recommended as wilderness, only if such uses maintain the protection of the social and ecological characteristics that provide the basis for wilderness designation. In the Proposed Action, current activities such mountain biking may be considered an acceptable use in newly designated wilderness areas. Fast paced recreational activities, such as mountain biking, may result in negative and dangerous wildlife encounters (Coltrane and Sinnott *In Press*, Herrero and Herrero 2000). FWP suggests that the Flathead National Forest evaluate existing roads or trails within proposed new wilderness areas and provide mitigation for systems that may result in dangerous wildlife encounters; e.g. inadequate site distances, steep grades with dense foliage or known wildlife concentrations.

In backcountry areas where non-motorized use is permitted and grizzly bears are known to occur, criteria for trail development should be implemented that reduces the potential for bear/human conflicts. Specifically, trails should be designed to facilitate maximum sight distances. Track surfaces should not be banked, allowing bikers to take corners at high speeds. This could put bikers in close contact with unsuspecting wildlife or other users. Trail construction in general should include features that reduce bike speeds. These basic guidelines will allow trail users to avoid close range encounters with grizzly bears and other wildlife.

On page 23, under Guidelines (RHCA), bullet 01, the plan proposes that default RHCA widths be followed per the definition provided in the glossary. Wetlands providing habitat for northern bog lemmings would fall in categories 3 and 4 as defined on page 157 of the glossary. FWP recommends maintaining a 300 foot buffer zone surrounding sphagnum or other fen moss mats or wetlands that could provide corridors for dispersal to adjacent patches of suitable habitat (Montana's State Wildlife Action Plan 2014). The State Wildlife Action Plan states "that conversion of forests to meadows by clear cutting, wildfire, or excessive thinning can increase populations of meadow voles and other species that compete with northern bog lemmings." It also states that other disturbances such as timber harvest and roads are directly related to decreased diversity of vascular plants, many of which are important to the diet of northern bog lemmings.

Table 25 in Chapter 3 on page 91 identifies Trail Creek as eligible for Scenic classification. We agree with your analysis, but would suggest adding wildlife as "Outstanding Remarkable Values". Harlequin ducks are considered a species of greatest conservation need and a species of greatest inventory need by Montana Fish, Wildlife and Parks (Montana's State Wildlife Action Plan 2014). Trail Creek is well known for its breeding harlequin ducks with breeding observations dating back over 20 years and is one of about 6-8 known breeding streams outside of Glacier National Park in western Montana. In 2014, Trail Creek was surveyed as part of a statewide systematic survey. One brood with 6 chicks was observed out of a total of 31 broods and 126 chicks statewide.

FWP provided biological survey & inventory information used in preparation of the Wildlife Conservation Society (WCS) comments relative to grizzly bears, mountain goats and other

sensitive species, and we believe WCS captured our concerns about the need for additional habitat protections in the North Fork of the Flathead, Middle Fork of the Flathead, South Fork of the Flathead, Hungry Horse and Swan Valley areas. In addition to the concerns outlined by WCS, the proposed inclusions of additional areas into wilderness designation will help ensure habitat security for elk and mule deer is maintained. These areas are particularly important to older age class mule deer and elk, which are extremely valuable to the hunting public of Montana.

From a recreation perspective, FWP appreciates the challenges faced by the Flathead National Forest with increasing demands for a wide array of recreational opportunities. In particular, we appreciate the need to plan for recreational demand within the urban/wildland interface. Under desired conditions for partnerships and coordination (p. 56) FWP suggests that you add a bullet encouraging federal, state, tribal, county, municipal and other recreation providers to coordinate efforts for providing and enhancing recreational opportunities near population centers. Additionally, FWP appreciates the challenge of balancing recreational values and managing user conflict. We suggest that language be added to the desired conditions for infrastructure (p. 66) focusing and increasing law enforcement and public safety patrols in areas with frequent user conflict or travel violations in order to reduce conflict and protect resources.

FWP manages and monitors many of the native fish species found throughout the Flathead and Kootenai National Forests. Management of these species may include stocking of fish, removal of undesirable fish species, and providing access for recreational angling. Monitoring efforts may include, but are not limited to, electrofishing surveys, redd counts, population estimates, and habitat surveys. Various local, state, and federal agencies rely on this monitoring data to ensure that native fish populations remain intact. Because of the remote nature of many of the sampling locations, FWP recommends that the Flathead National Forest not place any additional administrative restrictions that would result in a failure to collect sufficient data for long-term trend analyses or restrict fisheries management activities. In the past, FWP has coordinated with the USFS on activities that require special administrative permission. This has been a successful model and one we hope will continue into the future.

One of the objectives for the Swan Valley Geographic Area describes the construction of an additional public access site on Swan Lake. FWP also supports the Flathead National Forest on this proposal, as public access to this large water body is limited.

FWP looks forward to continuing positive dialog with the Flathead National Forest regarding future management activities and will work with the USFS on individual projects on a case-by-case basis to maintain and improve wildlife habitats.

Thank you for your consideration.

Sincerely,

Jim Williams
Regional Supervisor

Literature Cited

Bailey, J.A. 1991. Reproductive success in female mountain goats. Can. Journ. Zool. 69:2956-2961.

Bleich, V. C., R. T. Bowyer, A. M. Pauli, M. C. Nicholson, and R. W. Anthes. 1994. Mountain sheep Ovis canadensis and helicopter surveys: ramifications for the conservation of large mammals. Biological Conservation 70:1-7.

Côtê, S.D. 1996. Mountain goat responses to helicopter disturbance. Wildlife Society Bulletin 24: 681-685.

J.A. Coltrane and R.J. Sinnott. In Press. Brown bear and human recreational use of trails in Anchorage, Alaska. Wildlife Human Interactions.

Festa-Bianchet, M., M. Urquhart, and K.G. Smith, 1994. Mountain goat recruitment: kid production and survival to breeding age. Can. Journ. Zool.72:22-27.

Foster, B.R., and E. Rahs, Y. 1983. Mountain goat response to hydroelectric exploration in northwestern British Columbia. Environmental Management 7: 189-197.

Frid, A. 2003. Dall's sheep responses to overflights by helicopter and fixed-wing aircraft. Biol. Cons. 110:387-399.

Herrero, J, and S. Herrero. 2000. Management options for the Moraine Lake Highline Trail: grizzly bears and cyclists. Report prepared for Parks Canada, Banff National Park.

Hurley, K. 2004. Northern Wild Sheep and Goat Council position statement on helicopter-supported recreation and mountain goats, July 2004. Biennial Symposium of the Northern Wild Sheep and Goat Council 14:131–136.

Krausman, P. R., M. C. Wallace, C. L. Hayes, and D. W. DeYoung. 1998. Effects of jet aircraft on mountain sheep. Journal of Wildlife Management 62:1246-1254.

Penner, D.F. 1988. Behavioral response and habituation of mountain goats in relation to petroleum exploration at Pinto Creek, Alberta. Proc. Bienn. Symp. North. Wild Sheep and Goat Counc. 6:141-158.

USDA Forest Service. 2003. Evaluating mountain goat response to helicopter overflights in Alaska. A USFS Region 10 Administrative Study. *Unpublished report.*

Montana's State Wildlife Action Plan (Draft). 2014. Montana Fish, Wildlife & Parks, 1420 East Sixth Avenue, Helena, MT 59620. 438 pp.

Board of Review Recommendations

Recommendations related to mountain bike safety in bear habitat based on the fatality of Mr. Brad Treat on June 29, 2016.

March 3, 2017

Board of Review Members[1]:

Chris Servheen[2], Adjunct Research Associate Professor, Department of Ecosystem and Conservation Science, W.A. Franke College of Forestry and Conservation, University of Montana, Missoula, MT 59812
Tim Manley, Grizzly Bear Specialist, Montana Department of Fish, Wildlife and Parks, 490 N. Meridian Road, Kalispell, Montana 59901
Deb Mucklow Starling, District Ranger, Spotted Bear RD, Flathead National Forest, 10 Hungry Horse Drive, Hungry Horse MT 59919
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The unfortunate death of Mr. Brad Treat from a grizzly bear attack that was precipitated by a high-speed mountain bike collision between Mr. Treat and a bear necessitates increased attention to the dangers associated with mountain biking in black bear and grizzly bear habitat. There is a long record of human-bear conflicts associated with mountain biking in bear habitat[3] including the serious injuries and deaths suffered by bike riders. Both grizzly bears and black bears have been involved in these conflicts with mountain bikers. Previous authors have noted the risk associated with mountain bikes in bear habitat:

> "*Safety issues related to grizzly bear attacks on trail users in Banff National Park prompted Herrero and Herrero (2000) to study the Morraine Lake Highline Trail. Park staff noted that hikers were far more numerous than mountain bikers on the trail, but that the number of encounters between bikers and bears was disproportionately high. For example, three of the four human-grizzly bear encounters that occurred along the trail during 1997-98 involved mountain bikers. Previous research had shown that grizzly bears are more likely to attack when they first become aware of a human presence at distances of less than 50 meters. Herrero and Herrero (2000) concluded that mountain bikers travel faster, more quietly, and with closer attention to the tread than hikers, all attributes that limit place on a fast section of trail that went through high-quality bear habitat*

[1] These recommendations rely heavily on the input of Brian Sommers, a criminal investigator and Wildlife Human Attack Response Team (WHART) leader for Montana Fish, Wildlife, and Parks, who was the lead investigator on the this incident.

[2] Chair of the Board of Review.

[3] See Appendix A.

with abundant berries. To reduce such incidents, they recommended reaction time for bears and bikers, and increases the likelihood of sub-fifty meter encounters. In addition, most of the bear-cyclist encounters took education, seasonal closures of trails to bikes and/or hikers, construction of alternate trails, and regulations requiring a minimum group size for bikers." From: Herrero, J., and S. Herrero (2000) Management Options for the Moraine Lake Highline Trail: Grizzly Bears and Cyclists. Unpublished Report for Parks Canada.

The Board of Review (BOR) on the death of Mr. Lance Crosby from a bear attack in 2015 while **hiking** in Yellowstone National Park made the following recommendations to again restate agency advice on how to reduce the risk of bear attack while **hiking** in bear habitat:

1) **Be Vigilant** – Being vigilant for bears and bear sign (tracks, scat, feeding sites) can reduce the chances of stumbling onto a bear at a close distance, thereby reducing the risk of bear attack. Be especially vigilant if hiking off-trail. Bears may be more likely to respond aggressively in off-trail areas where they don't expect to encounter people. However, bears frequently use maintained trails and encounters may occur anywhere. The BOR encourages hikers to remain vigilant while hiking in all bear country.
2) **Carry Bear Spray** – Bear spray has proven to be effective at stopping aggressive bear behavior during surprise encounters when the person involved has time to deploy it. The public should be made aware of this fact and encouraged to carry bear spray and to be familiar with how to rapidly deploy it.
3) **Make Noise** – Making noise while hiking is an effective method of forewarning bears of your presence, thereby reducing the chances of surprise encounters and related attacks.
4) **Don't Run** – Running during an encounter can trigger a chase response in a bear. In addition, jogging in bear country increases the odds of surprise encounters at close distances and surprised bears are more likely to be aggressive.
5) **Do not Hike Alone** – Hiking in group sizes of 3 or more people or traveling by horseback is known to reduce the risks of bear attack. Larger groups are more intimidating to bears and more likely to have at least one member making noise or being vigilant, thereby reducing the risk of bear attack. Horses are more likely to smell, hear, or see a bear before a person does, reducing the likelihood of surprise encounters. Horses are also more intimidating to bears and if needed, unlike humans, are capable of outrunning and outmaneuvering bears.

This Board of Review recognizes that there is a need for enhanced messaging aimed at **mountain bikers** in bear habitat. Current safety messaging at trailheads and in the media is usually aimed at hikers. However mountain biking is in many ways more likely to result in injury and or death from bear attacks to people who participate in this activity. In addition, there are increasing numbers

of mountain bikers using bear habitat and pressure to increase mountain bike access to areas where black bear and grizzly bear encounters are very likely.

In an effort to enhance messaging about ways to increase safety for mountain bikers, this Board of Review makes the following recommendations:

A. We recommend that mountain bike-specific signs be placed at maintained system trailheads on public lands in bear habitat. These signs should carry the specific messages below aimed directly at mountain bikers, and would provide information in addition to that deemed necessary for other kinds of trail users. Since it is not possible to post and maintain mountain bike-specific signs on every trail that might be used by mountain bikers, we also recommend the development of brochures and posters with these same messages about mountain biking in bear habitat. These brochures and posters should be distributed to all bike shops, sporting good stores that sell bikes, and bike rental shops, and should also be used in outreach presentations to recreational groups and clubs. This information should also be available on websites targeted to mountain biking groups.

B. Suggested messages for signs and educational materials aimed at mountain bikers:
    1. **Be Vigilant** – Be alert for bears and bear sign (tracks, scat, feeding sites) where you ride. Do not ride in areas where you see fresh bear sign like scats and tracks. Avoid riding in areas where there are rich bear foods like huckleberries in late summer when bears are very likely to be present. Bears frequently use maintained trails and encounters may occur anywhere at any time of the day. The BOR encourages mountain bikers to remain vigilant while biking anywhere in bear country.
    2. **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. High-speed encounters can cause enhanced aggression in bears and may cause bears to chase you and possibly knock you off your bike. Riding at high speed can be especially dangerous where there is little sight distance ahead or to the sides of the trail where you can surprise a bear at close range. Areas with curves in the trail or thick vegetation require slow speeds and making noise as you ride to alert bears to your presence.
    3. **Carry Bear Spray** – Bear spray is effective at stopping aggressive bear behavior during surprise encounters when the person involved has time to deploy it. Carry bear spray on your person, not in your pack, and in a place you can reach it in a few seconds. Should you encounter a bear, bear spray is an essential deterrent to enhance your safety. Also, should there be an incident with a

bear, riding partners can aid injured riders by deterring bears with spray and this may save their life.

4. **Make Noise** – Mountain biking is a quiet and fast activity that may cause you to get much too close to a bear before either you or the bear knows it, resulting in a surprise encounter and a defensive attack by a surprised bear. Surprised bears are more likely to be agitated, dangerous, and aggressive. Making noise while riding is an effective method of forewarning bears of your presence, thereby reducing the chances of surprise encounters and related attacks. You can make noise by riding with bells, other noisemakers, and/or shouting when in or approaching areas of thick cover or at blind corners in the trail. If you can't make noise and you are in bear habitat with limited sight distance along the trail, slow down and be alert.
5. **Do Not Ride Alone** – Single riders are much more likely to surprise a bear and be injured or killed if there is an attack. Riding in groups of 3 or more people can reduce the risks of bear attack. Larger groups are more likely to make more noise and are intimidating to bears should a bear be encountered. Also, if there is an incident with a surprised bear and there is injury to a rider, the other riders can help by deterring the bear with bear spray, going for help, and offering first aid to the victim until help arrives.
6. **Never Ride at Night or at Dusk or Dawn** – Riding at night or during early morning or before dark will greatly increase your risk of encountering and surprising a bear. Bears tend to be more active at these times. Your ability to be vigilant and aware of your surroundings is greatly reduced when you cannot see bear sign or bears in low light or in darkness.
7. **Don't think: "It won't happen to me"**. That kind of attitude is what can get you into serious trouble whether you are mountain biking or doing any other potentially dangerous activity. Be prepared and be safe. That way you can enjoy your activity and you and the bears will be safe.
8. **Remember the bears live there and you are just a visitor**. Taking these precautions will help keep you safer and reduce the stress and disturbance to bears that live in these places where you choose to occasionally recreate.

In an effort to reduce trail conflicts between mountain bikers and bears, this Board of Review makes the following trail recommendations[4]:

A. Before new trails are opened to mountain biking in bear habitat, particularly grizzly habitat, there should be careful evaluation of the

[4] These considerations for new trail placement and access restrictions on existing trails to reduce impacts to wildlife are supported by the International Mountain Bicycling Association (IMBA) (see Marion, J. and J. Wimpey. 2007. Environmental impacts of mountain biking: science review and best practices; *in Managing Mountain Biking: IMBA's Guide to Providing Great Riding*, available at http://www.imba.com/).

safety and reasonableness of enhancing mountain bike access in these areas where bear density is high. These evaluations should include:

1. Evaluation of the sight distance along trails due to vegetation density (i.e. does the trail traverse riparian zones with limited sight distance and high ambient noise levels from running water in streams), or dense vegetation due to early successional stage vegetation, or extremely curved trail segments (tortuosity) where surprise encounters are likely.
2. Evaluation of the productivity of bear foods along trail routes (i.e. does the trail traverse productive huckleberry fields or avalanche chutes?).
3. Evaluation of the application of seasonal closures of trails for mountain bikes during key seasons and the management capacity of agencies to maintain and manage such seasonal closures should the trail be opened for mountain bike use.

Appendix A

Some examples of mountain biker incidents with bears:

http://www.cbc.ca/news/canada/calgary/aggressive-bear-killed-calgary-cyclist-near-b-c-resort-1.670727

http://www.cbc.ca/news/canada/edmonton/wildlife-conflict-specialist-describes-jasper-grizzly-attack-1.2654545 and http://www.thejasperlocal.com/exclusive-biker-describes-grizzly-attack.html

http://news.nationalpost.com/news/canada/bear-spray-helped-cyclist-get-to-safety-in-the-second-bear-attack-in-southern-alberta-in-two-days

http://www.deseretnews.com/article/595089542/Bicyclist-escapes-grizzly-attack-without-scratch.html

http://www.theglobeandmail.com/news/national/cyclist-attacked-by-black-bear-near-banff/article20411501/

Copy and paste into your browser:

https://www.adn.com/alaska-news/article/bear-attacks-bicyclist-anchorage-trail/2010/06/15/

https://www.adn.com/alaska-news/article/cyclists-cool-thinking-saved-bear-attack-victim/2008/07/01/

Learnable Lessons from the June 29, 2016, Death of Bradley Treat By Grizzly Bear While Mountain Biking

A Synopsis of Montana Department of Fish, Wildlife and Parks' Case Report #140-062916-04 and Summary of Advisories

Prepared by Keith Hammer for Swan View Coalition
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March 15, 2017

Background

Local and national media covered the June 29, 2016, death of Bradley Treat while "riding his mountain bike at high speed" and colliding with a grizzly bear on the Flathead National Forest near West Glacier, Montana. [1] Mr. Treat was a law enforcement officer on the Flathead National Forest, a former backcountry ranger in Glacier National Park and a much beloved member of the community whose local memorial service drew some 2,500 people. [2]

Swan View Coalition is interested in learning from the death of Mr. Treat and reporting on its circumstances so others may take measures to avoid a similar fate. Comparing the circumstances of death or injury to existing advisories is a common practice in the field of snow avalanche safety, among others, and can be equally instructive for human-wildlife encounters. [3]

Montana Department of Fish, Wildlife and Park's (FWP) Wildlife Human Attack Response Team conducted an investigation into the death of Mr. Treat. Swan View Coalition requested a copy of FWP's report in the matter in August, 2016. In December, 2016, FWP provided those records from its investigation that it deemed public. The following is a synopsis of the events and circumstances documented in FWP's Case Report #140-062916-04. [4]

WARNING: While this synopsis omits the most graphic descriptions of Mr. Treat's injuries, it includes enough detail to accurately portray the circumstances described in the whole of the Case Report.

We offer our sincere condolences to the family and friends of Mr. Treat and the others whose deaths or injuries give rise to the reports and advisories referenced in this report. May we honor their lives by learning from their circumstances.

Synopsis of the Collision and Fatality

On the afternoon of June 29, 2016, Mr. Treat took his wife's cousin for his first-ever mountain bike ride. They rode in the Halfmoon Green Gate area on the Flathead National Forest east of Highway 2 and south of West Glacier. "Treat was in front of the cousin and they were travelling on a downhill portion of the trail. The cousin was a short unknown distance, 20 to 25 yards, behind Treat who was continuing to pull away from him. Treat was really going fast and was continuing to pull further in front of the cousin as time went by. Treat went around a right-hand bend in the trail and disappeared from sight. The cousin heard him yell, Oh God Bear, then there was the sound of a collision; and then he heard the bear vocalize and make a sound like it was hurt, right after the sound of the collision. Kind of a thud then an argh sound."

"As the cousin came around the corner he observed the bear on top of Treat . . . up and around Treat's head. The cousin heard Treat yell his name twice . . . The bear was intent and focused on Treat and never saw or turned towards him. The cousin then had to decide if he was going to head towards the incident or head out and get help. He was worried about what would happen if he tried to push the bear off Treat. Would it work or what would the bear do to him since he had nothing to defend himself. The cousin turned his mountain bike around and headed back up the trail [then] started bushwhacking towards the highway [where] he flagged down a vehicle and they took him to a phone so he could call for help." [5]

Based on the investigator's interview with Mr. Treat's wife: "The victim was an avid hardcore mountain biker. He and his wife ran the trail every morning with their dog and then he would bike the trail 4-6 times a week. It was always a competition with him to see if he could travel the route faster than his previous time. He knew the trail well and was constantly cleaning debris from the trail. They have observed both black and grizzly bears on the trail while running and biking." [6]

FWP investigator Brian Sommers "believes that the victim was traveling at a fairly high rate of speed when he collided with the bear on a corner in the trail that had limited visibility. The victim was wearing biking shoes that clip to the pedals on the bike. Upon impact with the bear the victim probably broke his left thumb and slammed forward into the handle bar of the bike. This caused straight line horizontal bruising on the inside of the victim's ribs and it also caused the reflector to pop off of the bike, the victim and the bike flipped over the bear with the victim landing on his hands (breaking both wrists) and then back with the bike landing down trail from him in the direction he was traveling. The impact of the victim's left shoulder blade with the ground caused the right shoulder blade to shatter . . . With the landing on the trail the victim was in very close proximity to the bear that had been hit by the bike. In a sense, the bear interpreted the collision as though he had been attacked by the bike and responded to the pain elicited from the impact with the bike and in turn proceeded to aggressively attack the head and neck area of the victim, since that was the closest part of the victim's body to the bear." [7]

"There were numerous marks on [Mr. Treat's] body that resembled claw marks and there were mouthing bites or test bites to see if the victim was still a threat. These wounds were light bite marks that caused abrasions on the skin showing canine and

incisor marks . . . The [Montana Crime Lab] Medical Examiner determined that Treat died as a result of head trauma, due to bear attack." [8]

The Case Report makes no mention of bear spray being present. None is listed among the Attachment #1 Copy of Items Seized at the Scene, from Evidence and Autopsy. The cousin is described as having "nothing to defend himself" as he witnessed the bear on top of Mr. Treat and considered his options. [5]

The Bear Involved

As part of the FWP's Wildlife Human Attack Response Team on the scene "[Brian] Sommers and [Tim] Manley discussed the attack and if any and what actions should be taken regarding the bear. Sommers told Manley that in his opinion this was a straight up surprise/defense attack and that the bear is more than likely gone from the area and trapping is not really an option, Manley agreed . . . The decision was later made to trap based upon more information that came in [regarding bears seen in the area]. The traps were set for 2 ½ days and then pulled from the area with no luck in the trapping effort." [9]

Bear hair and other evidence collected at the scene was run through DNA analysis and the bear was confirmed to be a male grizzly bear previously identified during research studies in 2006, 2009 and 2011. FWP knows of no previous conflicts between this bear and humans. [10]

Then-Existing Agency and Interagency Advice
To Avoid Surprise Encounters With Bears on Trails

Public land and wildlife management agencies have long posted and published advice on how to recreate safely in the habitats of black bear and grizzly bear, both of which have mauled and killed people. The upshot of this advice is to carry bear spray and to travel slowly enough to avoid surprise encounters, hopefully allowing enough time for bears to flee or to use the bear spray should an encounter occur.

The Interagency Grizzly Bear Committee [IGBC] recommends every person in the outing party carry bear spray. The IGBC recommends "the use of bear spray as an effective tool when used in conjunction with proper bear avoidance safety techniques. Bear spray is not a substitute for following proper bear avoidance safety techniques." [11] An IGBC brochure notes that bear spray may also successfully deter black bear, moose and mountain lions during encounters where the wildlife is assertive. [12]

Another IGBC brochure warns mountain bikers to be "especially cautious when traveling fast downhill on a trail with blind curves. Slow down and make noise before rounding such bends." As with hiking, the IGBC also recommends bikers travel in groups due to safety in numbers. [13]

Montana Department of Fish, Wildlife and Parks also recommends people carry bear spray for defense against both bears and mountain lions, travel is groups of three or

more, not travel at night, and minimize travel during dawn and dusk. [14] MDFWP recommended to the Flathead National Forest in 2015 that trail "surfaces should not be banked, allowing bikers to take corners at high speeds. This could put bikers in close contact with unsuspecting wildlife or other users. Trail construction in general should include features that reduce bike speeds. These basic guidelines will allow trail users to avoid close range encounters with grizzly bears and other wildlife." [15]

A study of bear and human recreational use of trails in the Municipality of Anchorage, Alaska notes the proportion of trail runners and bikers is increasing among people mauled while recreating and that "confrontations between bears and humans are on the rise as the number of people in bear habitat increases" overall. The study's recommendations include avoiding important bear habitat when trails are being built or relocated and restricting human access either seasonally or completely. The study concludes: "Our data also suggest that many people do not heed, or fail to remember, bear-safety advice from experts." [16]

The IGBC reminds the public that while "this area has excellent opportunities for mountain biking, it is also Grizzly Country. If you choose to mountain bike and camp in this area, you need to learn about grizzly bears and how to avoid having a confrontation with one. Remember, mountain biking is limited to established roadways in national parks and not allowed in wilderness areas in national forests." [13]

Glacier National Park advises people to hike in groups because there "have not been any reported attacks on groups of four or more in Glacier." GNP warns against trail running: "While taking a jog or a run may be good exercise, joggers and runners run the risk of surprising a bear on the trail. Trail running is highly discouraged." [17]

Trail marathons have resulted in surprise encounters with bears and can result in injury to the runner and death to the bear, as occurred in New Mexico in June, 2016. [18] The news of this encounter caused a bear management specialist in Montana to make the following public Facebook post: "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. I just don't think it is a good idea to run down trails in areas with bears or mountain lions around . . . especially the races that occur overnight like they had a few years ago along the Swan Divide. In this article, 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." [19]

The advice summarized above is only a small sampling of what is available on-line and at government agency offices. Searching on-line also reveals that such advice is not based on isolated incidents of human-wildlife conflicts but, unfortunately, increasing numbers of such surprise encounters that include the outright striking of wildlife by runners and bikers. [20]

Subsequent Advice to Avoid Surprise Encounters With Bears on Trails

Soon after Mr. Treat's death, mountain bike advocate and writer Aaron Teasdale wrote a meaningful summary of wildlife encounters with trail runners and bikers. He notes the importance of everyone carrying bear spray so they can help fend off a bear should it overpower another person in their group, but emphasizes the personal responsibility of lessening the likelihood of such encounters in the first place. Teasdale concludes:

> While all recreationists must exercise caution, mountain bikers and trail runners are particularly at risk. Biologist Stephen Herrero, in his now-classic 1985 book Bear Attacks: Their Causes and Avoidance, was one of the first to call attention to the dangers of cycling and trail running in bear country when he wrote, "These activities, which are characterized by speed, not cautious attention to the possibility of encountering a bear, increase chances of sudden encounters and related injuries." . . .
>
> Those of us that love adventure shoulder a responsibility when we enter wild places. We know there are dangers, and we wouldn't have it any other way. But for ourselves, our families, and the bears, cougars, and wolves that live there, it's time to start being more sensitive and aware in the backcountry. Take off your headphones. Pay attention to the world around you. Learn about wildlife behavior and habitat so you can make smarter, safer decisions. [21]

On March 3, 2017, an interagency Board of Review [BOR] issued a report on the death of Mr. Treat. [22] The BOR issued separately recommendations for safer mountain biking in bear habitat. [23] The report includes portions of FWP's Case Report, estimates Mr. Treat's speed and lack of time to avoid striking the bear, questions whether attempts to capture bears should be made following such surprise encounters, and concludes with a statement about how user maintained trails confound attempts at public education and safety:

> There were no bear safety signs posted before the incident at the green gate entry point from Highway 2. The trails in the area are not maintained or managed for recreation by the US Forest Service. In addition, there are multiple entry points to these trails from other locations and from adjacent private lands. Private land entry was how Mr. Treat and his companion entered the trail system on the day of the incident. This highlights the complexities of educating the public about bears and bear safety in areas of user maintained trails on public land, and focuses attention on how to better communicate the dangers of bear conflicts while mountain biking in grizzly bear habitat. [22]

The BOR recommendations find the unfortunate death of Mr. Treat and "a long record of human-bear conflicts associated with mountain biking in bear habitat including serious injuries and deaths" as necessitating "increased attention to the dangers associated with mountain biking in black bear and grizzly bear habitat." The BOR recommendations include an appendix providing seven examples of such injuries and deaths. [23]

The Treat BOR recommendations expand upon advice developed for hikers by a BOR on a hiker killed in Yellowstone National Park in 2015:

> This Board of Review recognizes that there is a need for enhanced messaging aimed at **mountain bikers** in bear habitat. Current safety messaging at trailheads and in the media is usually aimed at hikers. However mountain biking is in many ways more likely to result in injury and or death from bear attacks to people who participate in this activity. In addition, there are increasing numbers of mountain bikers using bear habitat and pressure to increase mountain bike access to areas where black bear and grizzly bear encounters are very likely. . .
>
> We recommend that mountain bike specific signs be placed at maintained system trailheads on public lands in bear habitat . . . Since it is not possible to post and maintain mountain bike-specific signs on every trail that might be used by mountain bikers, we also recommend the development of brochures and posters with these same messages about mountain biking in bear habitat . . . Suggested messages for signs and educational materials aimed at mountain bikers [include] 1. Be Vigilant . . . 2. Slow Down . . . 3. Carry Bear Spray . . . 4. Make Noise . . . 5. Do Not Ride Alone . . . 6. Never Ride at Night or at Dusk or Dawn . . . 7. Don't think: "It won't happen to me" . . . 8. Remember the bears live there and you are just a visitor . . . [23, emphasis in original]

Recommendations are also made regarding trail management in "an effort to reduce trail conflicts between mountain bikers and bears:"

> Before new trails are opened to mountain biking in bear habitat, particularly grizzly habitat, there should be careful evaluation of the safety and reasonableness of enhancing mountain bike access in these areas where bear density is high [including evaluation] of the sight distance along trails . . . the productivity of bear foods along trail routes [and] the application of seasonal closures of trails for mountain bikes during key seasons and the management capacity of agencies to manage such seasonal closures should the trail be opened for mountain bike use. [23]

Further Recommendations by Swan View Coalition

While twelve Montana counties contribute habitat supporting an estimated 1,000 grizzly bears in the Northern Continental Divide Ecosystem [24], those counties are also home to 377,000 people [25] - many of whom recreate on nearby public lands alongside record-setting numbers of people coming from around the world to visit National Parks like Glacier [26] and National Forests like the Flathead [27]. The above summary of advisories indicates that public education on how to recreate safely in wildlife habitat is not keeping pace with either the increasing number of people recreating on public lands or the increasing number of people employing faster modes of travel that increase the likelihood of negative encounters with wildlife.

We urge the IGBC, its member agencies and tribes, and the private sector to double up on efforts to educate the public about safe and respectful travel in wildlife habitat.

Precedents exist in the issuance of bear safety videos [17], backcountry food storage orders [28], snow avalanche trainings and advisories [3], and other information cited in this report [11 - 17 and 21-23], among others. The recent BOR report and recommendations stemming from the death of Mr. Treat [22-23] is a laudable step in the right direction.

Lacking, however, is a system by which timely reports of negative human-wildlife encounters are made public alongside current advisories and offers of public education. Such a system does exist in the discipline of snow avalanche safety; avalanche condition advisories and notices of safety workshops are posted routinely and reports of incidents involving injury or death are usually posted publicly within a week or two. [3]

We urge that such a system be developed for safe recreation in wildlife habitat. By focusing education on adjusting human behavior to be more compatible with that of wildlife, wildlife will be more secure and people will know how to be safer and more mindful of their surroundings when outdoors.

End Notes

1. http://flatheadbeacon.com/2016/07/02/search-bear-killed-man-near-glacier-park-winds/

2. http://flatheadbeacon.com/2016/07/07/brad-treat-memorial-service/

3. For examples of avalanche training and advisories, see http://www.flatheadavalanche.org. For an example of an avalanche report following a fatality see http://www.flatheadavalanche.org/sites/default/files/20170105avalancheincidentreport.pdf. For an example of gratitude for publicly reported avalanche incident information see http://www.flatheadavalanche.org/avalanche-observation/sat-02042017-1630/avalanche-observation-lost-johnny-swan-range

For examples of bear encounters, see generally the book "Bear attacks: Their causes and avoidance" by Stephen Herrero; The Lyons Press, Guildford, Connecticut.

4. Brad Treat Grizzly Bear Case Report #140-062916-04. Montana Dept. of Fish, Wildlife and Parks. December 21, 2016.

5. FWP Case Report Attachment 2, Copy of the Cousin's Interview. Personal communication with FWP Investigator Brian Sommers confirmed neither person was carrying bear spray.

6. FWP Case Report pages 12-13.

7. FWP Case Report page 13.

8. FWP Case Report page 8.

9. FWP Case Report page 6.

10. FWP Case Report Attachments 5 and 6, FWP 8/11/16 press release "Update on the bear attack near West Glacier - Evidence shows that the bear was a male grizzly," and http://flatheadbeacon.com/2016/08/11/fwp-confirms-bear-killed-west-glacier/

11. http://igbconline.org/bear-spray

12. http://igbconline.org/wp-content/uploads/2016/03/092013_BearSpray_pc_final-1.pdf

13. http://www.swanview.org/reports/IGBC_Mtn_Biking_Brochure.pdf

14. http://fwp.mt.gov/recreation/safety/wildlife/

15. May 13, 2015 letter from MDFWP's Jim Williams to Flathead National Forest Supervisor's Office.

16. J.A. Coltrane and R.J. Sinnott. 2015. Brown bear and human recreational use of trails in Anchorage, Alaska. Human-Wildlife Interactions 9(1):132-147, Spring 2015.

17. https://www.nps.gov/glac/planyourvisit/bears.htm

18. http://www.pennlive.com/nation-world/2016/06/black_bear_mauls_new_mexico_ma.html

19. http://www.swanview.org/reports/06_Manley_on_Trail_Runs_160625.pdf

20. See, for example, the striking of a black bear by a speeding mountain biker at https://www.singletracks.com/blog/mtb-videos/watch-mountain-biker-runs-into-bear/ and a runner striking a black bear at dusk while wearing iPod headphones and carrying no bear spray - circumstances she fortunately was able to recommend others avoid: http://www.swanview.org/newsroom/Runner_Bear_RunIn_100923_Bfk_Eagle.pdf

21. http://www.nationalgeographic.com/adventure/activities/trail-running/bear-attack-survival/

22. https://drive.google.com/file/d/0B6ZFZLDXIGzrRWpGai0wMDdoVUU/view

23. https://drive.google.com/file/d/0B6ZFZLDXIGzrVERWc0ozaWxDS2M/view

24. Draft Environmental Impact Statement Volume 3: Forest plan amendments to incorporate direction from the Northern Continental Divide Ecosystem Draft Grizzly Bear Conservation Strategy. USDA Forest Service. May 2016.

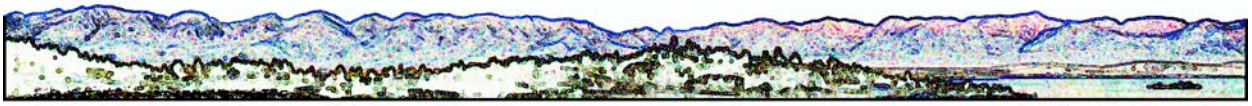
25. http://www.montana-demographics.com/counties_by_population

26. http://flatheadbeacon.com/2015/12/04/glacier-park-breaks-visitation-record-again

27. Draft Environmental Impact Statement Volume 2: Revised Forest Plan, Flathead National Forest. USDA Forest Service. May 2016.

28. https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3833756.pdf

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



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Only Decommissioned Roads Removed from the Forest Development Road System May be Omitted from Calculations of Total Motorized Route Density On the Flathead National Forest

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Updated by Including Addendum
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Executive Summary

This paper is written in response to attempts by the Flathead National Forest and the Draft NCDE Grizzly Bear Conservation Strategy to omit from calculations of Total Motorized Route Density (TMRD) roads that may be impassable to motorized vehicles but have not been adequately decommissioned and removed from the Forest Development Road System (System).

The administrative record and the plain language of Flathead Forest Plan Amendment 19 (A19) show that a road must be reclaimed/obliterated/decommissioned (hereafter "Reclaimed") and removed from the System before it is no longer considered a road that must be included in calculations of TMRD.

TMRD standards require road reclamation and removal of the road from the System, while Security Core standards do not. Road reclamation is A19's preferred method of increasing Grizzly Bear Security Core because it simultaneously protects water quality and fish through required culvert removals and other hydrologic stabilization work. Reclamation of roads is not absolutely required in Security Core and roads restricted by berms, boulders or dense vegetation may suffice, provided "a monitoring plan to detect any erosion or culvert blockage problems" is implemented.

The A19 administrative record does not support the notion that a road can remain in the System as a road and yet not be counted as a road in calculations of TMRD. As long as the road remains in the System, even if placed in Intermittent Stored Service (ISS) or any other "storage" or "impassable" category, it is considered a road and must be included in the calculation of total road miles and TMRD.

Current and past attempts to exclude System roads from calculations of TMRD appear to arise from interpretations like those guided by the ill-fated and short-lived Implementation Note #13 in 1999 - which ran counter to the A19 administrative record.

Rather, implementation must be guided by the plain language of Amendment 19, as clarified by its Appendix D definitions and the administrative record discussed below.

Amended EA for Amendment 19

The essential question of whether open and restricted roads need to be reclaimed and removed from the System in order to meet TMRD and other A19 standards was resolved, according to the Flathead National Forest, in the Amended A19 Environmental Assessment and its Appendix D. This Appendix was also issued as Appendix D to A19 and as Flathead Forest Plan Unbound Appendix TT. In the Amended EA's Response to Public Comments, the Flathead responds:

> Total motorized access density objectives must be met after including open and restricted motorized roads and trails, except for those that have been reclaimed . . . In response to comments that the definitions of restricted and reclaimed roads and core areas did not adequately express our intent, additional text . . . has been included as Appendix D [and] would be incorporated into the Forest Plan as Unbound Appendix TT.

(Forest Plan Amendment 19 Amended Environmental Assessment. February 1995. Page 107.) The Amended EA continues in its Response to Public Comments:

> Comment(s): The preferred alternative should make clear that meeting the Total Motorized Access Density (TMAD) objective will require reclaiming open and restricted roads.
>
> Response: Chapter III of the EA describes the miles of road reclamation and road restrictions estimated to result from implementation of each alternative. In addition, Appendix D has been added to the EA. This Appendix defines in detail "reclaimed road" and "restricted road."

(Forest Plan Amendment 19 Amended Environmental Assessment. February 1995. Page 133.) Indeed Chapter III of the Amended EA, in describing the chosen Alternative 3C, concludes:

> To meet the standards and short-term objectives in MS-1 and MS-2 areas, approximately 350 miles of open roads and 125 miles of currently restricted roads would need to be reclaimed in the short term (5 years). To meet long term (10 years) standards and objectives, another 175 miles of already-restricted roads would need to be reclaimed.

(Forest Plan Amendment 19 Amended Environmental Assessment. February 1995. Page 95.)

Also, apparently in response to public comments including ours, the Amended A19 EA reworked Figures 22 and 23 to reflect the reclamation of Chapter III's estimated 475 miles of road and their removal from the road System to meet the 5-year A19 standards. Figure 23 shows no category for "stored" or "impassable" System roads that would not

be counted in calculating TMRD. Reclaimed roads are accounted for in the reduction of total road miles in the System.

In other words, if it remains a System road, it gets counted as a road. That this common sense understanding predated A19 is confirmed by Figure 22's notation of 420 miles of roads that were in 1990 "obliterated and removed from the forest inventory."

Amendment 19 and Interagency Grizzly Bear Committee Definitions

The A19 process and the Interagency Grizzly Bear Committee (IGBC) process on which it is based include the same three classifications of roads: Open, Restricted, and Reclaimed. Neither includes a category for "stored" or "impassable" roads that remain on the System yet would not be counted as roads in calculations of TMRD.

In part the definitions of Restricted and Reclaimed roads are as follows, first from A19:

> RESTRICTED ROAD . . .
>
> A road on which motorized vehicle use is restricted during the entire non-denning period. The road requires physical obstruction and motorized vehicle use in the non-denning period is legally restricted by order . . .
>
> Outside of security core areas, motorized administrative use is acceptable at low intensity levels . . .
>
> All restricted roads will be included in calculating total motorized access route density . . .
>
> RECLAIMED ROAD . . .
>
> A reclaimed road has been treated in such a manner so as to no longer function as a road or trail and has a legal closure order until reclamation is effective. This can be accomplished through one or a combination of treatments including: recontouring to original slope, placement of natural debris, or revegetation with shrubs or trees . . .
>
> Administrative use of reclaimed roads may not occur . . .
>
> The entire road will receive treatment such that maintenance or entries to maintain "road drainage" is not needed. This will require removal of culverts or other water passage structures that are aligned with stream channels. In most cases this will also require that road related sediment sources be repaired and the road reworked to eliminate ditch water flow without the aid of cross drain culverts . . .
>
> Reclaimed roads that fully satisfy the definition of a reclaimed road will not be included in calculations of open road density, total motorized access density, or

> security core area. Roads that have been treated, but that do not yet fully satisfy the definition of a reclaimed road will be included in calculations for total motorized access route density . . .
>
> The acceptable lag time for the treatment to become effective and the expected persistence of people to continue to use a road should dictate the amount and type of initial, and perhaps follow-up, treatment required . . .

(Flathead Forest Plan Appendix TT; a.k.a. Appendix D to Amendment 19.)

Now, according to the IGBC:

> Reclaimed/Obliterated Road -- a route which is managed with the long term intent for no motorized use, and has been treated in such a manner so as to no longer function as a road. An effective means to accomplish this is through one or a combination of several means including: recontouring to original slope, placement of logging, or forest debris, planting of shrubs or trees, etc. . .
>
> Total Motorized Route Density calculations will include open roads, restricted roads, roads not meeting all restricted or obliterated criteria, and all motorized trails.

(Interagency Grizzly Bear Committee Task Force Report: Grizzly Bear/Motorized Access Management; Interagency Grizzly Bear Committee; July 29, 1998; emphasis added.)

Protocol Papers for Amendment 19 and the IGBC Task Force Report

Protocol Papers prepared for both A19 and the IGBC Task Force over the years consistently document the use of only the initial three classifications of roads: Open, Restricted, and Reclaimed. None include a category for roads to remain in the System yet not be counted in calculations of TMRD:

> . . . each road was classified as open, restricted, or reclaimed.

(Kathy Ake and Nancy Warren. 9/1/94 updated 2/17/95.) In 2001, the Protocol Paper provides a bit more specific definition of road, as follows, but repeats the three allowed classifications of roads:

> Definitions are based upon the IGBC Motorized Access Management report with verbal clarification from individual committee members (see Amendment 19 project file) . . .
>
> ROAD . . . All created or evolved routes that are >500 feet long (minimum inventory standard for the Forest Service INFRA data base), which are or were reasonably and prudently drivable with a conventional passenger car or pickup. Within the three classes below . . . OPEN ROAD . . . RESTRICTED ROAD . . . RECLAIMED/OBLITERATED ROAD.

(Protocol paper. Kathy Ake; 11/20/01; emphasis added).

Even the 2013 draft Protocol Paper Kathy Ake prepared as Appendix 5 to the Draft NCDE Grizzly Bear Conservation Strategy starts off on the right foot by clarifying that:

> Sometimes referred to as a reclaimed or obliterated road, a historical road has been treated in such a manner so as to no longer function as a road or trail, and the road is no longer considered part of the agency's road system.

When the 2013 Protocol Paper begins discussing the Draft Grizzly Bear Conservation Strategy, however, it introduces a new and fourth classification of roads as "Closed Yearlong Impassable" (hereafter "Impassable"):

> Similar to historical roads, roads that are naturally revegetated, have the entrance obliterated for >0.1 miles, or have the bridge or large >4ft culvert removed are also not included in the analyses, i.e. they do not count in OMRD or TMRD, nor are they buffered in the Secure Core analysis. These roads are impassable by any vehicle (passenger car, truck, 4WD vehicle, ATV, motorcycle, etcetera). These roads are still on the system. Revegetated roads defined as so grown-in that they are no longer drivable. The vegetation is such that it is easier to walk on the side-hill as opposed to down the center of the road bed.

(Protocol Paper for Motorized Access Analyses Application Rule. Draft NCDE Grizzly Bear Conservation Strategy Appendix 5. Kathy Ake. February 2013.)

This new, fourth classification of roads is introduced to the public for the first time in the 2013 draft Grizzly Bear Conservation Strategy while simultaneously stating it "Has been incorporated this way since IGBC motorized access or Flathead NF's A19 started." This interpretation is not supported by the administrative record.

In an 8/18/94 letter to the A19 Interdisciplinary Team Leader, Flathead Forest Wildlife Biologist Nancy Warren documented her clarification on this very issue with members of the IGBC Motorized Access Task Force:

> Is it correct to classify all bermed, barricaded, tank-trapped, or overgrown (to just a path) roads as restricted roads, even though they may not be "reasonably and prudently driveable with a conventional passenger or pickup", even though use by all-terrain vehicles may not be restricted?
>
> Tom Puchlerz [IGBC Task Force Chair] indicated that the intent was to classify as "restricted" roads that could easily be re-opened by removing a barricade or tank trap. If the road was so overgrown or rough that reconstruction would be needed [and] if there were no access, then it would be <u>classified as reclaimed/ obliterated</u>. Tom Wittinger and Chris Servheen agreed with this interpretation.

(Nancy Warren to Jim Morrison; letter dated 8/18/94; emphasis added).

The IGBC Task Force did not suggest a new, fourth classification of road. Nancy Warren instead reports that, if the road is so overgrown and rough as to require reconstruction to become passable again, it should be classified as Reclaimed. The Flathead's A19, however, requires among other things that all stream-bearing culverts be removed from that road and that it be removed from the System in order to be fully Reclaimed.

Moreover, as detailed above and summarized below, the A19 administrative record does not support use of a fourth classification of Impassable road. In response to public comment, the Amended A19 EA estimates the miles of open road that will need to be closed to motor vehicles and the miles of open and already restricted roads that will need to be reclaimed to meet A19 standards. Nowhere does it mention that roads can be simply rendered "impassable" and retained as part of the System while not being counted in calculations of TMRD.

Nor do any of the Protocol Papers prior to 2013 highlight that "impassable" roads can simply be omitted from calculations of TMRD. Nor does either the 1994 or 1998 IGBC Task Force Report say or allow this. Indeed, they make it clear that a road must meet all of the criteria for a Reclaimed road to not be counted in calculations of TMRD. Simply put, under A19, an Impassable road that remains on the road System is a Restricted road and must be counted in calculations of TMRD until it has all of its stream-bearing culverts and bridges removed, fully meets all other Reclaimed road criteria, and is removed from the System.

Road Treatments Required by the Amendment 19 Fisheries Biological Evaluation

A19 reluctantly allows stream-bearing culverts and bridges to remain behind berms, concrete and boulder barriers on Restricted roads in Security Core, provided "a monitoring plan to detect any erosion or culvert blockage problems" is implemented. However, A19 expressly requires that all those stream crossing structures be removed from Reclaimed roads that will no longer be included in calculations of TMRD. This is due in large part to the Fisheries Biological Evaluation for A19:

> Implementation of the preferred alternative would result in the following: . . .
>
> Direction for reclaiming/obliterating roads including removal of culverts which greatly reduces the risk of future sedimentation problems resulting from culvert failure on reclaimed roads.
>
> Direction for restricted roads in core habitat areas to implement road drainage treatments similar to reclaimed roads, or to develop and implement a monitoring plan to detect any erosion or culvert blockage problems . . .
>
> The determination [of effects on fish] assumes incorporation of the proposed definitions and minimum treatment requirements for reclaimed and restricted roads.

(Biological Evaluation for Bull Trout, Cutthroat Trout, and Shorthead Sculpin: Potential Effects from Implementing Amendment 19, Alternative 3 to the Forest Plan. Donald E. Hair. 2/4/95.)

The Fisheries Biological Evaluation, like all the other A19 and IGBC documents, contends with the effects of Open roads, Restricted roads, and Reclaimed roads. It does not mention a fourth classification of Impassable roads, let alone say that they are considered separate from Restricted roads. Nor does it say Impassable roads can be excluded from calculations of TMRD while leaving stream-bearing culverts to blow out behind an obliterated entrance, the first already blown-out or otherwise removed >4ft culvert, or in a roadbed grown thick with vegetation but still harboring stream-bearing culverts.

Indeed, this fourth classification of Impassable roads appears to have all the trappings of an under-the-radar, end-run around the clear language and requirements of A19. We don't doubt the Flathead has done this. We simply disagree that this is allowed by A19 - for all the reasons provided above.

Implementation Note #13

On May 6, 1999 the Flathead issued Implementation Note #13 under the guise of clarifying A19's Appendix D definitions. It in fact contradicted them, in part by allowing stream-bearing culverts to remain in Reclaimed roads in violation of the conditions of the Fisheries Biological Assessment and the plain language of A19.

Swan View Coalition and Friends of the Wild Swan on September 23, 1999 filed a 60-day notice of intent to file suit under the Endangered Species Act and the Forest Supervisor rescinded Implementation Note #13 on November 19, 1999. Flathead Forest spokesman Allen Rowley was quoted in the November 24, 1999 Missoulian: "We talked it over with our attorneys and we decided they (conservation groups) were right."

So here we are in 2014 with the Flathead claiming it can simply render or find a road impassable, keep it on its road System, not remove all stream-bearing culverts, and yet not count it in calculations of TMRD either. (Personal communication with Kathy Ake 10/15/14 and Kathy Ake's Appendix 5 to the draft Grizzly Bear Conservation Strategy.) Indeed, connected Roads #10753 and #10754 in the Flathead's Canyon Creek drainage have seven washed out culverts, have never been adequately repaired or reclaimed, and yet are not included in the Flathead's calculation of TMRD. (Terms and Conditions Monitoring Report: Bull Trout Biological Opinions for Post-fire Salvage Operations, Flathead National Forest, 2007-2009; Craig Kendall; October 28, 2009; Appendix A Summary of Road and Culvert Surveys - checked against "Impassable" road data files provided by Kathy Ake 1/27/15). A19 certainly did not intend for the Flathead to allow culverts to blow out and to then take credit for the reduction in TMRD as though the blown-out roads had been properly reclaimed!

Leaving culverts to potentially blow out in roads not counted in TMRD would have been allowed by Implementation Note #13. It appears the Flathead formally rescinded Note #13, then went ahead and implemented portions of its intent anyway - in clear

violation of the plain language of A19 and in spite of assurances by the Forest Supervisor that the plain language of Flathead Forest Plan Appendix TT/A19 Appendix D would be implemented:

> . . . I have reviewed the language of LRMP Implementation Note #13 and the existing Forest Plan Appendix TT and have determined to rescind Implementation Note #13 to avoid any confusion or misunderstanding with the implementation of Appendix TT . . . The definitions and direction contained in Appendix TT will be used by the Flathead National Forest unless and until the Forest Plan is subsequently amended or revised and any consultation obligations are satisfied with the U.S. Fish and Wildlife Service.

(Letter of Supervisor Cathy Barbouletos to attorney Dan Rohlf. 11/19/99.)

No such amendments or revisions have taken place and Appendix TT/D remains the law of A19. A19's requirements to protect fish are not at odds with its requirements to protect grizzly bear. A19's requirements to remove stream-bearing culverts from Reclaimed roads and to regularly inspect and clean culverts on Restricted roads are indeed common sense measures required by Fish and Wildlife Service in numerous biological opinions regarding bull trout. Rather than graciously comply with the multiple-species requirements of A19, it appears the Flathead has instead employed a shrouded classification of Impassable road to reportedly benefit bears while ducking corresponding requirements to protect water quality, bull trout and other aquatic life.

The Flathead's Road Decommissioning Spreadsheet

The Flathead's Road Decommissioning Spreadsheet lists "Road Decommissioning Projects" since A19 was first issued in 1995. It tracks five categories of Reclaimed roads:

Category 1 - System roads reclaimed and moved to Historic but still monitor for A19

Category 2 - System roads reclaimed and moved to Historic = revegetated - no monitoring

Category 3 - Roads reclaimed and left as System roads, still monitor for A19

Category 4 - Moved to Historic, naturally revegetated, no contract work needed, no monitoring

The fifth category is "Only Has Decision," meaning reclamation plans have yet to be implemented on those miles of road.

This spreadsheet shows clearly that the goal is to remove Reclaimed Roads from the System as the reclamation treatments become effective. Interestingly, all roads from Category 3 were shifted to other categories in 1999, the same year as the short-lived Implementation Note #13, and it has remained at zero road miles ever since.

A19 allows only three classifications of roads. Open and Restricted roads must be included in calculations of TMRD and only Reclaimed roads are excused from those calculations. Like all the other documents in the A19 administrative record, the spreadsheet does not contain a classification or category for Impassable roads excused from calculations of TMRD while remaining on the System.

According to A19 and Appendix TT/D, the only roads excused from calculations of TMRD should be included in this spreadsheet of Reclaimed roads. But they aren't all included because a shrouded classification of Impassable roads exists, though contrary to A19. (Personal communication with Kathy Ake 10/15/14; Kathy Ake's Appendix 5 to the draft Grizzly Bear Conservation Strategy; and "Impassable" road data files provided by Kathy Ake 1/27/15.)

Conclusion

At every turn, A19 NEPA documents and the Flathead National Forest have pointed to Forest Plan Appendix TT/A19 Appendix D as the guiding light and requirements of A19. Appendix TT/D provides for only three classifications of roads: Open, Restricted, and Reclaimed. It provides no classification for Impassable roads. Under A19, if a road is rendered impassable by either an act of nature or by human intervention, it remains an Open or Restricted road until it meets all criteria for a Reclaimed road and is removed from the road System.

This interpretation describes the publicly observable practice of implementing A19. This interpretation has been the Forest Service's direct response to public comments raising these very questions since 1995. This interpretation is consistent with the Forest Service itself asking these very questions of the IGBC Motorized Access Task Force. This is also the only interpretation of Appendix TT/D supported by the A19 administrative record.

The public discovery of the Flathead's shrouded category of Impassable roads that need not be included in calculations of TMRD came about only due to its disclosure in Appendix 5 of the 2013 Draft NCDE Grizzly Bear Conservation Strategy. Even then, its disclosure is largely obscured by footnotes attempting to detail the differences in motorized access management between the Flathead and the four other Forests in the NCDE - partly because the other Forests apparently do not require all stream-bearing culverts and bridges to be removed from Reclaimed roads.

Simply put, and for the reasons provided above, the Flathead must consider its Impassable roads to be Restricted or Open roads, include them in calculations of TMRD, and set about either repairing or reclaiming these roads to adequately protect water quality, fisheries and wildlife. It violates A19 and a wide variety of conservation laws for the Flathead to retain what at this juncture appears to be a "junk pile" of unattended old roads. It adds insult to injury to suggest that these roads are environmentally benign by implying they have been managed according to A19's standards for protecting water quality, fish and wildlife.

Addendum Added February 7, 2016

"Storing" Roads is Not the Functional Equivalent of "Decommissioning"

The preceding portions of this paper remain unchanged. The preceding explains why "impassable" roads can't be omitted from Total Motorized Route Density (TMRD) under Forest Plan Amendment 19 (A19). This addendum explains why neither "impassable" nor "stored" roads are the functional equivalent of decommissioned roads. The Flathead is proposing to reconstruct previously decommissioned "non-system" road templates for logging, then place them back into the road "system" under "Intermittent Stored Service" (ISS) - as though ISS is the functional equivalent of "decommissioning."

ISS is not the functional equivalent of decommissioning. Nor did the A19 Amended EA assess the effects of road reclamation/decommissioning as though roads removed from the road system would periodically be rebuilt, requiring culverts to be reinstalled and vegetation to be removed from the roadbed each time they are brought back into service under ISS.

The Flathead's Trail Creek Fire Salvage Project proposal, for example, proposes to "construct approximately seven miles of new system roads on existing templates to access proposed harvest units and then place these seven miles, plus approximately an additional mile of road, into storage and classify the roads as intermittent stored service (ISS) roads following salvage harvest operations . . . to facilitate harvest activities and long-term resource management." (Trail Creek Fire Salvage Project proposal released for public review by Spotted Bear District Ranger Debbie Mucklow via cover letter dated 1/26/16).

These roads would largely be rebuilt on "historic" road templates decommissioned and removed from the road system as recently as 2000 and 2004. (Personal communication with Matt Shaffer, FNF, and FNF's 3/23/15 Road Decommissioning Projects spreadsheet). "Upon completion of the project, the first portion of the road would be recontoured to the original hillslope . . . Beyond the first portion of the road (200 - 600 feet) the roadway would be treated to discourage use including sporadic placement of natural debris where available and seeding or planting to encourage re-vegetation." (Trail Creek Fire Salvage Project proposal released for public review by Spotted Bear District Ranger Debbie Mucklow via cover letter dated 1/26/16).

While the Trail Creek proposal says that the new road design would "favor rolling dips over culvert installation," it does not say culverts will not be installed where necessary and it does not say that they would be removed post-project if they are installed. The proposal does make it clear that the road template would be brushed out and the road surface bladed to allow for log hauling.

The proposal does acknowledge it would need site-specific amendments to A19 to allow for summertime heavy equipment work on these road templates, which is not allowed in Security Core during the non-denning period for grizzly bears. The proposal

would then simply have the public and other agencies believe that post-project ISS is the functional equivalent of decommissioning and complies with A19.

As described on pages 3 and 4 of this paper, A19 requires that a reclaimed/ decommissioned road be "treated in such a manner so as to no longer function as a road or trail" and the IGBC further emphasizes "the long term intent for no motorized use." To the contrary, ISS designation has the long-term intent of intermittent motorized use of the road and retains it in the road system. This is not the functional equivalent of a decommissioned road that is removed from the system precisely because the long term intent is to eliminate motorize use and render the road environmentally benign in the watershed. This is clearly evident in Amended EA's assessment of the effects of A19 road decommissioning, particularly on pages 65-67:

> Road reclamation can decrease rates of surface erosion by up to 95 percent . . . With road reclamation, culverts will be removed at stream crossings . . . The potential increase in sediment due to culvert removals and other ground disturbance will be balanced by an immediate decrease in peak flows and subsequent stream channel erosion due to dispersing runoff concentrated by the roads . . . Soil compaction on the reclaimed roads will gradually decrease as the roads revegetate with woody shrubs and conifer. After 50 - 100 years, these areas will have increased infiltration and productivity rates similar to undisturbed sites. Water quality and fisheries will improve from the road reclamation activities . . . culvert removal will reduce the risk of culvert failures . . . [and the A19 EA alternative proposing the fewest open roads and the greatest amount of Security Core] would improve watershed conditions more than all other alternatives.

What the A19 Amended EA did not do was assess decommissioned roads as if they were to be ISS roads intermittently used for logging access. While A19 requires that Security Core remain in place and effective for at least 10 years, it did not contemplate nor assess the effects of roads being decommissioned, rebuilt, then decommissioned again on a repeating basis of every 10 years or so, or simply at the whim of the Forest Service. Such a repetitive process clearly has significant negative impacts to vegetation, soils and water quality not contemplated nor assessed in A19. In Trail Creek and other projects, the Flathead is ignoring and shortchanging the benefits to soils, water quality and fish that were fully integrated into A19 grizzly bear security standards.

ISS and Road "Storage"

The Flathead's Travel Analysis Process, as documented in the June 2014 Beaver Creek Analysis and elsewhere, defines ISS as "Closed to traffic. The road is in a condition that THERE IS LITTLE RESOURCE RISK IF maintenance IS NOT PERFORMED (self-maintaining). (FSH 5409.17-94-2)." (Emphasis in original). FSH 5409.17-94-2 in turn defines "Road Storage [as] The process/action of closing a road to vehicle traffic and placing it in a condition that requires minimum maintenance to protect the facility for future use."

This is little more than Maintenance Level 1 "storage," which is defined in the Flathead's 2014 Forest-Wide Travel Analysis Report as follows:

> These roads have been placed in storage between intermittent uses. The period of storage must exceed 1 year. Basic custodial maintenance is performed to prevent damage to adjacent resources and to perpetuate the road for future resource management needs. Emphasis is normally given to maintaining drainage facilities and runoff patterns. Planned road deterioration may occur at this level.

A19 road decommissioning requires that "drainage facilities" like stream-aligned culverts be removed, not maintained. A19 decommissioning also requires that "runoff patterns" be "reworked to eliminate ditch water flow without the aid of cross drain culverts," not to maintain runoff patters through culverts. (A19, Appendix D). Hence, again, ISS and other "stored" roads are not the functional equivalent of an A19 decommissioned road. Properly decommissioned roads, unlike those repeatedly reused, should pose no risk to a watershed, require no maintenance, and are allowed to re-vegetate. That re-vegetation not only deters human use of the old travel-way, it also over time de-compacts any road surface that was not mechanically de-compacted at the time of decommissioning.

The Problems with "Storage" and "Impassable" Exemplified

So, what could possibly go wrong in the Flathead's pursuit of replacing road decommissioning with road "storage" and/or classifying roads "impassable?" In addition to misrepresentations made to the public and other agencies like Fish and Wildlife Service (FWS), plenty. Take Raghorn Road #10802 in the Coal Creek watershed as an example:

According to the Flathead's 3/23/15 Road Decommissioning Projects spreadsheet, the Flathead decided to reclaim Road #10802 on 9/25/92 as a part of the North Coal Salvage Timber Sale. The Biological Assessment for this timber sale was supplemented on 4/15/94 and FWS concurred with its findings on 5/5/94, citing the same grizzly bear research and findings soon to be incorporated into A19 in 1995.

Given the importance of Coal Creek to bull trout and westslope cutthroat trout, the Flathead revisited the pre-A19 decisions for Road #10802 and two others in the watershed. The subsequent 7/27/10 decision by District Ranger Jimmy DeHerrera for these roads decided to remove all 15 culverts from the three roads, 13 of them on Road #10802, including all cross-drain culverts:

> These actions are being proposed to protect important bull trout spawning areas. If these culverts fail during a storm event, unnecessary sediment would be transported downstream jeopardizing spawning and rearing habitat for fish and impacting water quality. A TMDL [Total Maximum Daily Load plan for an "impaired water body"] was also completed for Coal Creek in 2005 and road waterproofing was identified to alleviate sediment conditions in Coal Creek."

On 6/21/2010, FWS concurred with the decision to remove all the culverts. Coal Creek was soon after designated Bull Trout Critical Habitat, adding additional Endangered Species Act prohibitions to damaging threatened bull trout habitat. In 2012, however, the Flathead considered the road "waterproofed" after removing only 3 culverts less than half way up the 3.69-mile-long Road #10802, leaving other culverts in place! (Waterproofing Rd. 10802 map and notes by Pat VanEimeran and John Littlefield, November 2012).

Several of the remaining culverts beyond those removed are stream-aligned and at least two of them were flowing water when I inspected them on 8/20/15! VanEimeran and Littlefield's November 2012 notes cited above also document water flowing across and under the road at these locations!

The Flathead's INFRA database and KML (Google Earth Keyhole Markup Language) road files provide by Kathy Ake in 2015 nonetheless classify the entire road as a Maintenance Level 1 "system" road that is "impassable" and hence not included in A19 calculations of TMRD. This even though the road is not impassable according to the "impassable" criteria Ake listed in the Draft Grizzly Bear Conservation Strategy (see page 5 of this paper): 1) the first portion is not naturally re-vegetated to the degree it hinders motorized or foot travel - in fact the brush was cut back, apparently to provide passage for the culvert-removal machinery in 2012, 2) the entrance to the road has not been obliterated, and 3) the three culverts removed were 36" diameter culverts that don't meet the minimum 4' culvert removal criteria to qualify as an impassable barrier.

When compared to Ake's Conservation Strategy criteria, Road #10802 is not an "impassable" road but a bermed road. Under A19 this bermed road can be and is largely located in Security Core habitat. Though decommissioning the road is preferred under A19, a berm closure of restricted road in Security Core is allowed - **provided** the Forest develops and implements "a monitoring plan to detect any erosion or culvert blockage problems" on each such road. (Biological Evaluation for Bull Trout, Cutthroat Trout, and Shorthead Sculpin: Potential Effects from Implementing Amendment 19, Alternative 3 to the Forest Plan. Donald E. Hair. 2/4/95.)

Hair's culvert monitoring requirement, above, is also repeated in A19's Appendix D definition of a restricted road. In spite of this, the Flathead has not developed a single culvert-monitoring plan for any of the many score of bermed roads in Security Core, let alone for Raghorn Road #10802! (Chip Weber's 9/22/15 response to Swan View Coaltion's 8/7/15 FOIA request).

Whether a bermed road or an "impassable" road, as made clear in this paper, Road #10802 must nonetheless be included in calculations of TMRD. And this brings us back to the plain language interpretation of A19: a road must have all stream-aligned culverts removed, all cross-drain culverts removed or rendered non-essential and harmless, and be removed from the road "system" before it is no longer a road counted in TMRD. Moreover, Road #10802 should have all of its culverts removed because the Flathead promised the public and FWS that it would do so in National Environmental Policy Act and ESA consultation documents!

Raghorn Road #10802 is but one example of what goes wrong when the Flathead fails to follow the plain language of its own Forest Plan and road decommissioning decisions. Instead of a decommissioned road that no longer functions as a road or trail, Road #10802 can be easily walked or ridden on a mountain bike or driven for at least the first mile by violating the berm closure in/on a motorized vehicle. Bears and other wildlife are left with easier human access into their habitat than promised and bull trout are left with culverts that remain ticking time bombs instead of having been removed as promised. FWS has concluded:

> Culverts left in place behind gated and bermed roads . . . pose a risk to bull trout . . . Whatever the design life, any crossing structure would have a 100% chance of failure over its installation life if it is not removed after the road is abandoned.

(FWS's Montana Field Office, Biological Opinion on the Effects of the Moose Post-Fire Project on Bull Trout, 11/14/2002).

Conclusion

The public is left with little reason to trust the Flathead as it repeatedly attempts to end run A19's fiscally responsible program to restore grizzly bear habitat security in a way that provides the same benefits to other wildlife and fish. If the Flathead wants to change A19, it needs to issue a major Forest Plan amendment with full public disclosure and involvement. It cannot lawfully or ethically change A19 by simply claiming that "impassable" and ISS "system" roads are not really roads, are equivalent to decommissioned roads removed from the "system," and need not be included in TMRD.

United States Department of Agriculture
Forest Service
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Flathead National Forest
1935 Third Avenue East
Kalispell, MT 59901

FAX TRANSMITTAL SHEET

TO: Anne Vandehey
USFWS

DATE: 1/5/94

FROM: Nancy Warren

TOTAL NUMBER OF PAGES INCLUDING THIS COVER SHEETS: 5

RECIPIENT'S FAX NO: (406) 449-5339

REMARKS: Don't know if this will help you. This document (or earlier draft) was reviewed by RMace and T Manley and by R. Hazlewood. Final approval/action was not taken, however. Tim went over core area info w/me in person.

FLATHEAD NATIONAL FOREST FAX NUMBER: 406-758-5363

SENDER: Nancy Warren

TELEPHONE NO: 755-5401

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M.19 FNF Am. 19

DRAFT

April 28, 1993
LRMP Implementation Note #12

SUBJECT: CALCULATION OF ROAD DENSITIES AND INTERPRETATION OF EFFECTS ON GRIZZLY BEARS

ISSUE: How should the preliminary results of the South Fork Flathead River Grizzly Bear Project be applied to project planning? Specifically, how should road densities be calculated for effects analysis, what is the relationship to existing Forest Plan standards, and what interpretations or conclusions should be drawn from this analysis?

FOREST DIRECTION:

To demonstrate compliance with Forest Plan standards, continue to follow the interim direction contained in Implementation Note #8.

To analyze effects of road construction and management, use a moving window GIS procedure to create maps of "precise" road density. This will allow for comparison with preliminary results from the South Fork Grizzly Bear Project (SFGBP). Before extrapolating the findings from the SFGBP to another area, evaluate the area to ensure that it is similar in terms of grizzly bear habitat and foraging strategies, bear population structure, and human use levels and patterns.

A moving window procedure assigns a value describing the road density within the surrounding one-square mile window to the center pixel. The SFGBP analysis used a 30-meter pixel size, but the 50-meter pixel size available on our GIS is acceptable. To create maps comparable to those being used for the SFGBP, use the following definitions:

> Road: all roads except those sufficiently revegetated with shrubs and/or trees to deter travel by foot or ATV. Roads that are closed seasonally are included.
>
> Open road: road open to public use permanently or seasonally, during the March 15 to November 15 period.

Descriptions of existing conditions and the effects of alternatives should portray open and total road density classes, in the context of the relative value or importance of the habitat being affected. Habitat components, seasonal habitat value, available space, or bear preference value are examples of factors or measures of relative importance.

The results of the moving window analysis can be used to infer bear response to road management. On a Bear Management Area basis, the maps may be useful for describing the availability of habitat to bears. Preliminary results of the SFGBP indicate that bears use areas with >1 mi/mi^2 precise open road density and areas with >2 mi/mi^2 precise total road density significantly less than expected based on availability. In addition, at the scale of a Bear Management Unit or Subunit, the GIS maps may be useful in identifying secure habitat (contiguous habitat located farther than 1/2-mile from roads and trails) that is important for adult females.

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calculating "precise" road densities, as contrasted with "average" road densities, to analyze grizzly bear response to roads should be used as a tool to describe the existing conditions and expected effects, in the context of the relative importance or value of the habitats being affected.

A significant portion of the SFGBP core area exceeded the 1 mi/mi^2 of open road class (26%) and the 2 mi/mi^2 of total road class (22%). The area continues to support a productive population of grizzly bears at a relatively high density. It is not known what the desired or threshold levels of various road density classes should be, in order to maintain effective habitat within the home range of a grizzly bear.

The relationship between open and total road densities, seasonal elevational movements by grizzly bears, elevational distribution of seasonal habitats, and expected use by grizzly bears has not been fully analyzed. Analysis of effects, therefore, must clearly define the seasonal use expected by bears, and the relationship of important bear habitats to the distribution and density of roads. Preliminary results from the SFGBP indicate that >1 mi/mi^2 open road density and >2 mi/mi^2 total road density result in statistically significant declines in expected use of habitat by grizzly bears. However, the overall effect of exceeding these levels in a specific area must be evaluated in the context of the relative value or importance of the underlying habitat.

Protection of existing secure habitat is of high priority. Analysis of the effects of human use of trails is not yet complete. Preliminary analysis indicates that the response of grizzly bears to trails is very similar to that described for roads. Analysis of road and trail construction/reconstruction and management proposals should include consideration of effects on secure habitat and possible reductions in habitat capability to support adult females. Within Management Situation 1, it is of high priority to ensure that adult females, the reproductive segment of the population, continue to have high-quality secure habitat available within their home ranges.

For the SFGBP, all roads except those sufficiently revegetated with shrubs and/or trees to deter travel by foot or ATV were included in the total road density calculation. Currently available road inventories may not include spur roads. In analyzing effects, the completeness of the inventory data used to create a "precise" total road density map may need to be considered.

Barriers placed at closure sites to deter human use are probably not sufficient to eliminate road effects, although they will improve the effectiveness of the closure. Because many of our road closures occurred recently and the use of closed roads have continued to change, there is insufficient information available as yet from the SFGBP to assess changes in grizzly bear response to road closures. It seems likely that grizzly bears (particularly females) will respond slowly in "recolonizing" habitat from which they have been displaced, and that the avoidance behavior will be easily reinforced by occasional use of closed roads. Analysis of effects should include consideration of the expected frequency of timber management entries and the expected duration of closures to human access.

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References:

Mace, R., T.Manley, and S.Riley. 1992. Grizzly bear response to forest road densities and timber management in a multiple use environment: research update. Unpubl. Report, Montana Dept. of Fish, Wildlife and Parks. 17 pp.

Manley, T.L. and R.D. Mace. 1992. Grizzly bear habitat use and disturbance studies: South Fork of the Flathead River. Progress Report for 1991. Unpubl. Report, Montana Dept. of Fish, Wildlife and Parks. 41 pp.

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"Draggoo, Michele -FS" <mdraggoo@fs.fed.us>

September 1, 2016 5:13 PM

To: Keith Hammer <keith@swanview.org>

FW: FOIA Response

5 Attachments, 446 KB

Hi Keith,

I have looked for the missing pages from the 4/28/93 Draft LRMP Implementation Note #12 you provided…and I cannot find them.

Michele

Michele Draggoo
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Caring for the land and serving people

From: Keith Hammer [mailto:keith@swanview.org]
Sent: Wednesday, August 31, 2016 1:04 PM
To: Draggoo, Michele -FS <mdraggoo@fs.fed.us>
Subject: Re: FOIA Response

Michele;

Thanks for your response to our August 2 FOIA request. I did indeed look at the Implementation Notes you had provided previously, but that Note 12 is different subject matter than the draft Note 12 we referenced in our request. Hence our question of whether the draft Note 12 was ever finalized or not - and the answer is looking like "no, it wasn't" as indicated by Nancy Warren's fax cover sheet in the attached pdf of an incomplete version of draft Note 12.

In taking a second look at the draft Implementation Note 12, I note that the copy we received quite a while ago contains two copies of page 3 and no copy of page 2.

Please consider this a FOIA request for a full copy of draft Implementation Note 12, preferably as a pdf if possible.

I've attached a pdf of the incomplete version received previously so you can see the problem and also some filing notes that may make it easier for you to locate this.

A fee waiver is requested for the same reasons given in our August 2 request.

Your continued assistance in this matter is greatly appreciated,

Keith

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Draft Note 12.pdf (433 KB)

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http://www.youtube.com/user/swanviewcoalition

"Nature and human nature on the same path."

On Aug 30, 2016, at 5:22 PM, "Draggoo, Michele -FS" <mdraggoo@fs.fed.us> wrote:

<image001.png>

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