



WILDERNESS WATCH

Keeping Wilderness Wild

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January 19, 2024

District Ranger, Michael Muñoz
Chairperson of the BMWC Managers Group
Rocky Mountain Ranger District
1102 Main Avenue NW
Choteau, MT 59422

Sent Via email to michael.munoz@usda.gov and to SM.FS.R1FOIA@usda.gov

Dear Ranger Muñoz:

Wilderness Watch is providing these comments in response to the scoping letter, dated December 22, 2023 for existing outfitter permit reissuance in the Bob Marshall Wilderness Complex. Wilderness Watch is a national nonprofit wilderness conservation organization dedicated to the protection and proper stewardship of the National Wilderness Preservation System.

The scoping letter states, "Comments must be site specific and must be limited to the scope of the proposed action." However, the scoping letter provides no site-specific information at all for the public to view and the project webpage is devoid of any information except the scoping letter. The scoping letter does refer to some information which should have been made available on the project webpage including the Bob Marshall Wilderness Complex Character Narrative, the 2017 needs assessment and extent necessary documentation, and Campsite Management Plans for each outfitter camp. Other information that should be available regarding each permit or permitted camp includes annual inspections, performance evaluations, public complaints, and other information pertinent to use and occupancy of the national forest.

The Bob Marshall Wilderness Complex has a long and storied history of outfitting and guiding, and many of the 'Bob's' greatest champions came from the ranks of outfitters and guides. But the impacts from many outfitting and guiding operations are often glossed over or overlooked. Many of the trails are so heavily used by pack animals that they more resemble roads than foot or horse trails. Outfitter campsites are impacted far beyond what's acceptable at non-outfitter sites.

Structures like tent frames, corrals, hitching posts and the like bring the front country into the backcountry, which impacts the experience of other users. All of this is exacerbated by the extraordinarily large people and pack stock party sizes allowed in the Bob. These impacts are heaped upon impacts caused by other users, such that many of the standards implemented in the wilderness management plan have been and continue to exceed limits. Before committing to dozens of special use permits that will be in place for at least a decade, the full breadth of impacts from these commercial operations needs to be reviewed and addressed.

Recent news articles citing a former Spotted Bear District Ranger's concerns about permit compliance and reissuance in the Bob elevate our concerns. The forest supervisor who overrode the district ranger's permit actions is responsible for more than half of the BMWC and had a history of putting commercial recreation interests above his responsibility to the law or the land. Full disclosure relating to commercial outfitting and guiding, permit compliance and the like is clearly warranted.

The scoping letter indicates that this action could be approved with a Categorical Exclusion (CE). The letter also states, "Scoping comments and resource analyses will determine if there are extraordinary circumstances present that would warrant the need for an environmental assessment or environmental impact statement or whether actions could fall under the category listed above." As an initial matter, unless the "resource analyses" are merely paper exercises, we find it hard to imagine how the agency will complete the resource analyses between now and when the decision is supposed to be made, since the area will most likely be under snow and generally inaccessible to agency staff. With regard to an extraordinary circumstance that would trigger an EA or EIS, "Wilderness" is that extraordinary circumstance.

The scoping letter statement that "outfitter and guide services are acknowledged as integral to the wilderness character of the area" represents a fundamental misrepresentation and misunderstanding of the Wilderness Act and wilderness character. While the Wilderness Act doesn't define wilderness character, it is (and always has been) quite obvious that it refers to the character of the land and not to any particular use. As one court clearly described:

"The wilderness that the Act seeks to preserve is not defined by reference to any particular recreational opportunity or potential utility, but rather by reference to the land's status or condition as being 'Federal land retaining its primeval character and influence, without permanent improvements or human habitation [...]' § 1131(c)." *High Sierra Hikers Ass'n v. U.S. Forest Service*, 436 F.Supp.2d 1117, 1134 (E.D. Cal. 2006).

The point being that the Forest Service's responsibility is to preserve the wilderness character of the area, not to promote any particular use. Moreover, the agency's own policies, as expressed in its misnamed wilderness character monitoring protocol, identify aspects of commercial outfitting, such as structures at campsites and the diminishment of self-reliance, as negative impacts on wilderness character. Outfitting is a non-conforming commercial service allowed only to the degree it is necessary and proper. It is not integral to the wilderness character of the area.

Given our concerns described above, we request that the Forest Service make the following information available for public review on its website and to extend the comment period for 45 days after information is published on the website:

- Bob Marshall Wilderness Complex Character Narrative (mentioned in the scoping letter)
- 2017 needs assessment and extent necessary documentation (mentioned in the scoping letter)
- Campsite Management Plans for each outfitter camp (mentioned in the scoping letter)
- the location of each outfitter campsite (map or maps that are detailed)
- annual inspections, performance evaluations, or public complaints related to each campsite or operator
- any NEPA documents and related decisions dealing with outfitting service levels or allocation in the BMWC.

We request that you contact us promptly and let us know whether the Forest Service intends to make the above information available to the public and whether you will extend the comment period.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Proescholdt".

Kevin Proescholdt
Conservation Director