



April 16, 2012

Jonathan Jarvis
Director, National Park Service
Department of Interior
1849 C Street NW
Washington, DC 20240

RE: Mountain biking in Big Bend National Park

Dear Mr. Jarvis,

In December of 2010, Big Bend National Park issued an Environmental Assessment ("EA") for a "multi-use" trail in the Park's backcountry, near Panther Junction Visitor Center. The EA acknowledged all of the following:

1. It would be the first backcountry trail to allow mountain biking in a National Park, and it was the result of a Memorandum of Understanding between the Park Service ("NPS") and the International Mountain Biking Association ("IMBA") designed to explore new opportunities for mountain biking in National Parks.
2. Current regulations do not allow this type of trail, and a new rule would have to be passed and implemented before the trail could be open to bikers.
3. The area in question is part of Citizen's Proposed Wilderness, and it has been the subject of national conversations for inclusion in wilderness legislation.
4. During internal scoping with Park Service employees, every employee who shared their input on the project opposed it.
5. The vast majority of substantive comments received from the public opposed or had serious concerns with the project.

On April 10th of this year, IMBA posted an announcement on their website that trail construction had begun. At that point no member of the public was aware of any supplemental documents

from NPS. Upon discussions with both Big Bend management and the NPS Regional office, we were told that a Finding of No Significant Impact (“FONSI”) had been signed in February of 2012, and that due to an “oversight” it was not published for the public. It appeared on the NPS website the following day, along with the Park’s response to comments. Despite multiple requests that the public be allowed time to review the FONSI before trail construction begins, NPS has refused. We were also told that while it is true that the Code of Federal Regulations has not yet been amended to allow the project, construction could begin because for now, it is simply a hiking trail, which is allowed under current regulations. This is asserted despite the fact that the EA and unpublished FONSI were specifically written for a project that includes backcountry mountain biking.

We are extremely concerned both about the legality of these actions, and the strong appearance of impropriety and conflicts of interest on the part of NPS. After reading the FONSI, the response to comments, and NPS NEPA regulations, we believe NPS is not in compliance with its own rules.

For an unprecedented action, NPS is generally required to do an Environmental Impact Statement, and is at least required to have a 30 day comment period on a FONSI (See NPS NEPA Manual 6.3 (G)). We believe it is a farce to claim that this is not unprecedented simply because it is not open to mountain biking *yet*. The EA and FONSI were precisely about the potential impacts of a trail that would be open to mountain biking.

Moreover, NPS acknowledged that a single-track, high speed bike trail would be an unprecedented use of National Park lands (see Comment #13), and to that end, NPS is pursuing a CFR amendment to allow bikes. Further, IMBA was the only organization invited to participate in pre-scoping, they were intimately involved in the development of the EA, and they are volunteering to build the trail. We highly doubt they would do this without some guarantee that bikes would be allowed.

NPS’s response to comments was clearly inadequate. Among many examples are comment #43, in which a commenter asked why NPS did not heed the unanimous opposition and concern from Big Bend NPS employees. The NPS response was that although it is true that there was unanimous opposition from NPS employees, the Park believed it was time to “move in a new direction”. Comment #6 asked why NPS wasn’t making more of an effort to avoid archeological sites, and NPS’s response was that because there are thousands of archeological sites in the Park, it would be impossible to build a mountain biking trail without going over them. Many other legitimate concerns are breezed over in a similar manner.

Amazingly, even after acknowledging that the area may be suitable for wilderness designation of the area, the many concerns of the public and Park employees, and the precedent-setting nature of this action, the FONSI actually refers to the chosen alternative as the “Environmentally Preferred Alternative,” allowing NPS to avoid additional scrutiny, and adding to our puzzlement and skepticism.

Additional evidence of conflicts of interest between the mountain biking community and NPS in addition to the formation process of the EA and the unreasonable response by NPS to public

comments (involved IMBA members co-own a mountain biking store right outside Big Bend with a former Big Bend Superintendent <http://www.desertsportstx.com/about-desert-sports/>), lead us to believe that NPS made a pre-decisional determination of its desired outcome.

We believe it is completely inappropriate for NPS to construct this trail at this time without any further review, and to have begun clearing the area before the FONSI was available for review by the public. This action would set a horrible precedent in the National Park system, and would make the public feel that their input is not valued or considered in the NEPA process, and that special interest groups can influence the policies placed on public lands. At the very least a 30 day comment period on the FONSI is essential, and an Environmental Impact Statement should probably be prepared. We believe NPS should voluntarily cease this action until the issue is resolved.

Thank you for your prompt attention to this matter.

Very Sincerely,

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