

DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT
for the
Maah Daah Hey II Trail Extension

USDA Forest Service, Northern Region
Dakota Prairie Grasslands
Medora Ranger District
Billings and Slope Counties, North Dakota

July 26, 2007

Responsible Official

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Decision Notice and Finding of No Significant Impact for the Maah Daah Hey II Trail Extension

SUMMARY OF DECISION

After careful consideration of public comments and the potential impacts of the alternatives analyzed in the Maah Daah Hey II Trail Extension Environmental Assessment (EA) dated June, 2007, I have selected Alternative J Modified because it does the best job of addressing the issues, meets the Purpose and Need, and fulfills Grasslands Plan direction.

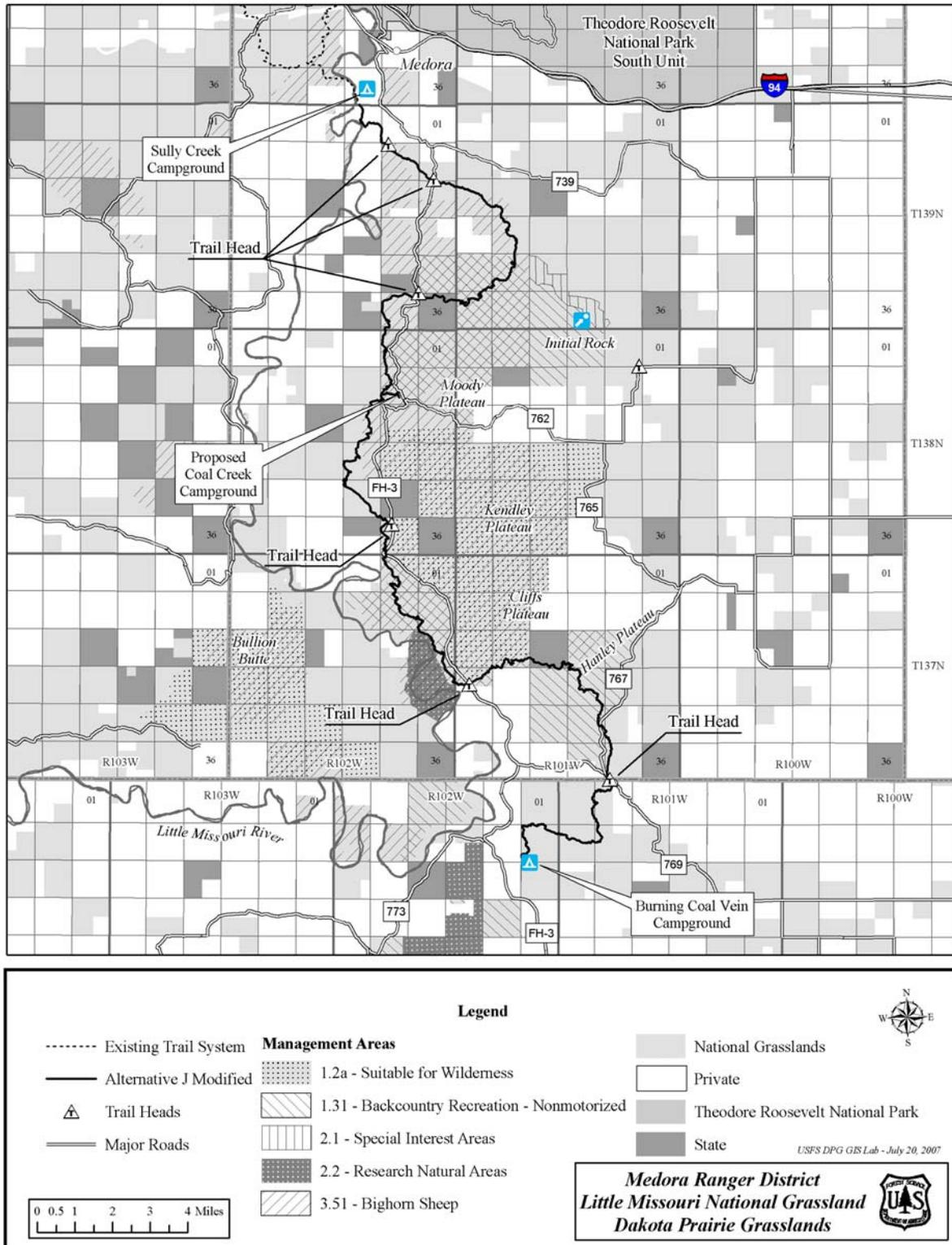
The proposed trail would extend from Sully Creek State Park to Burning Coal Vein Campground. The first 1.5 miles of the proposed trail would be located on private property owned by the Theodore Roosevelt Medora Foundation. The remainder of the trail would be constructed on the National Forest System (NFS) lands of the Medora Ranger District. The trail would start in Billings County and terminate in Slope County (see Figure 1).

The proposed Coal Creek campground location is 10 air miles south of Medora, ND, near the intersection of Forest Highway 3 and Road 762 (see Figure 1).

Summary of actions included within my decision:

- Modify Alternative J by dropping the portion of the trail located in MA 1.2a “Suitable for Wilderness”.
- Inclusion of the actions identified on pages 2-11 and 12 of the EA with exception that there will be six trailheads rather than five.
- Adopting the Design Criteria located on pages 2-17 and 18 of the EA.
- Utilize the trail crew to help monitor and treat noxious weeds\invasives located along the trail.
- Construction of the Coal Creek Campground.
- Construction of six trailheads.
- Construction of the trail in three phases, starting in 2008.
- Obtain a trail ROW from the Medora Foundation for that portion of the trail located on private property. If we are unable to secure the ROW prior to completing the final phase of trail construction, the trail will start on National Forest System lands at the trailhead located in Sec 11, T1139N, R102W.
- Part of the decision involved with Alternative J Modified involves moving the MA 1.2a boundary in Sections 17 and 19, T137N, R101W. This action would involve approximately 190 acres and can only be authorized by the Grasslands Supervisor. He has decided to modify the boundary and in concert with myself has committed to replacing the acreage that was changed from MA 1.2a to MA 1.31.

Figure 1. Selected Alternative J Modified



PROJECT DEVELOPMENT

Project commenced April 13, 2001 with meeting between the USFS and North Dakota Game and Fish Department (NDGF). A follow-up meeting between both parties occurred in April, 2002.

USFS engaged stakeholders September 25, 2002 with in-the-field discussion of this project. In attendance: NDGF, the Wilderness Society, Badlands Conservation Alliance, and ND affiliate of the International Mountain Biking Association (IMBA).

Based on preliminary stakeholder meeting, USFS decided to engage an expanded circle of interests. On September 30, 2002, the Forest Service contacted entities including state agencies, county officials, national and local special interest groups, resource-oriented clubs, grazing associations, the petroleum industry, landowners, and others for general feedback on the project.

An official scoping document went out March 14, 2003. The scoping letter was used by the Forest Service to receive feedback and suggestions about the proposal from the public. These comments were used to help identify significant issues to be carried through the analysis. A Project Initiation Letter was signed by the Ranger on January 15, 2004, establishing an official ID Team.

Between January and March 2004, the ID Team focused on content analysis of scoping comments, developing project purpose and need, and identifying alternatives. Analysis of public comments from scoping conducted in 2003 resulted in a list of public/agency concerns: user conflicts, economic benefits or lack thereof, increased likelihood of wildfires, increased search and rescue costs, effects on bighorn sheep, spread of noxious weeds, and conflicts with Management Area 1.2a designation. Noxious weeds and bighorn sheep were identified as key issues.

In February, potential conflicts with MA 1.2a prescription replaced noxious weeds as a key issue. The District Ranger decided that weed issues could be mitigated (a change from “significant” to “other” issue), and the issue of MA 1.2a was upgraded to a “significant” issue, following continued interest expressed by Sierra Club and Badlands Conservation Alliance.

The issue of impacts to bighorn sheep has been the most controversial issue and the one that has generated the greatest number of modifications to the trail location. The ID Team engaged in regular dialog with the NDGF to establish design criteria that would help protect bighorn sheep habitat. In addition, the DPG Plan addresses protection of bighorn sheep habitat in both grassland wide and management area standards and guidelines:

- *Standard*: Resolve conflicts in favor of maintaining bighorn sheep habitat.
- *Guideline*: Prohibit construction of new travel routes across bighorn sheep habitat. (Ch 3, Pgs 23-24).

- *Standard:* Protect bighorn sheep lambing areas from activities and land use disturbances if adverse impacts to the survival or reproduction success of bighorn sheep or abandonment of the lambing area are likely (Ch 1, p. 14, #12).

Trail location in MA 1.2a is an issue for some individuals/groups because of a perceived conflict with mountain bike use and possible wilderness designation. The District Ranger would allow mountain bike use only from Sully Creek campground to Coal Creek campground. This route avoids MA 1.2a and mitigates the concern about bike use and wilderness designation. For additional discussion on this issue, please see Chapter 2 –Alternatives.

Analysis of public comments from scoping resulted in the development of nine alternatives. Using a list of desired trail characteristics as a sorting tool, this number was reduced to four alternatives which were carried through the remainder of the analysis process.

On August 31, 2006 the EA for this proposal was released for a 30 day public comment period. After analyzing the comments received on the EA, the responsible official decided that he would like to add another alternative to the analysis. The new alternative (Alternative J) modifies the Proposed Action Alternative H by adding a bypass trail, which would allow mountain bikes to traverse the entire length of the MDH II without affecting Management Area 1.2a “Suitable for Wilderness”. On April 9, 2007 updated information was provided by the NDGF relative to bighorn sheep use of Cliff’s Plateau. Based on the information Alternative H was modified to relocate a portion of the trail below the rim of Cliff’s Plateau.

Because the public had not had a chance to review and comment on Alternative J and changes to Alternative H (Proposed Action), a new EA was released for 30 comment on June 6, 2007.

PURPOSE AND NEED

The Forest Service is currently studying the possibility of extending the Maah Daah Hey Trail from Sully Creek State Park to Burning Coal Vein Campground. “We are studying a potential extension to the trail because we want to offer quality and diverse recreational experiences to the public,” Medora District Ranger Ron Jablonski said. “The Little Missouri National Grassland is so unique, and an extension of a nationally recognized, popular trail will encourage more people to further explore this rugged and beautiful country.”

Compared to more “traditional” (forested) National Forest settings, the badlands and rolling prairie of western North Dakota provide a niche for nature-based dispersed recreation without equal. The Little Missouri National Grassland (LMNG) is the largest parcel of public land in North Dakota. The next closest tracts of National Forest System lands offering developed recreation and trails opportunities are located 350 miles west (Custer National Forest), 250 miles south (Black Hills National Forest), and 300 miles east (Sheyenne Ranger District, Dakota Prairie Grasslands). The LMNG offers a unique setting for the proposed project that could not be accommodated on private land.

The Dakota Prairie Grasslands (DPG) is in the process of developing its recreation and trails program. The 2003 DPG Recreation and Trails Plan identified the desire to expand the DPG’s nonmotorized trail system. The existing 96-mile MDH is a designated National Recreation Trail

which traverses the Little Missouri National Grasslands connecting the northern and southern units of the Theodore Roosevelt National Park. It has made several “best trail” lists in magazines, on websites, various recreational clubs’ lists and has received international acclaim. The MDH offers recreationists a first-hand chance to experience the natural wonder of the Badlands of North Dakota.

The existing MDH and proposed MDH II trails are envisioned as primary collector trails, from which possible future interpretive opportunities, outfitted adventures, loop trails, or other interests could be developed. The Maah Daah Hey II was identified as a desired project in the DPG Recreation and Trails Plan for the following reasons:

- The unique recreation niche it would provide compared to traditional (forested) National Forest System settings.
- The opportunity to interpret natural and historic resources unique to the badlands and rolling prairie of the northern plains.
- Visitor demand for more trail opportunities, evidenced by trails being created by trail enthusiasts on the Medora District.

The proposed project fulfills DPG Land and Resource Management Plan (2001) goals to provide diverse, high quality outdoor recreation opportunities where compatible with resource objectives. The plan’s Record of Decision (2002) projects increased trail mileage. The proposed project also fulfills direction outlined in the Forest Service Manuals (FSM 2330 and 2353). National Forests and Grasslands are to maximize opportunities for visitors to experience nature and engage in outdoor recreation. Recreation trails help fulfill this direction.

The analysis team evaluated what would be necessary to accommodate trail and recreation site users while attempting to provide a nonmotorized experience for trail users, a semi-primitive experience for campers, and convenient access for trail users along the trail.

The success of the existing MDH, since its construction over seven years ago, has been remarkable. In that short time, it has been designated a National Recreation Trail. Collection of visitor use data began in 2002, and continues to show growing demand by the public for the types of recreation (i.e. horseback riding, mountain bike use, hiking/backpacking, etc.) associated with the trail. Use of the trail and an increase in recreational visits provide new opportunities within the local economy. An organized trail system is a desirable amenity that can contribute to the economic vitality of surrounding communities. Revenue generated from trail-related recreation and sports activities provide substantial income and employment opportunities (American Hiking Society, 2002). A central theme for the DPG Land and Resource Management Plan (DPG Plan) is to contribute to economic diversity of local economies by using grassland resources in sustainable ways (USDA Forest Service 2002). The proposed project embodies that theme.

PROPOSED ACTION

The Forest Service proposes to construct an extension of the existing MDH National Recreation Trail. The proposal includes the construction of 45 miles of trail through the badlands geographic area, one campground, five trailheads, short access trails (less than 100 yards) connecting the trail heads with the proposed MDH II, a half mile of trail connecting the Coal Creek campground to the MDH trail, intervisible wooden trail markers, self-closing gates in fence crossings, bridges and low-water crossings, part of the trail open to mountain bikes (to the new campground), and a half mile (approximately) of access road connecting the campground to Forest Highway (FH) # 3.

The trail extension would start at the Sully Creek State Park, travel in a generally southern direction and terminate at the Burning Coal Vein campground. The trail would be nonmotorized for its entire length. A detailed description of the Proposed Action (Alternative H) is located in Chapter 2.

PUBLIC INVOLVEMENT

Informal public involvement started with a request from some Slope County residents to consider a possible southern extension of the existing Maah Daah Hey (MDH) Trail.

An initial meeting between the Forest Service (FS) and the North Dakota Game and Fish (NDGF) was held on April 13, 2001 to discuss a proposed southern extension of the MDH.

On September 25, 2002, the FS engaged stakeholders with an in-the-field discussion of the potential trail extension. The NDGF, the Wilderness Society, Badlands Conservation Alliance, and the North Dakota affiliate of the International Mountain Biking Association (IMBA) attended.

Following the preliminary stakeholder meetings, the FS engaged a larger cross-section of potentially interested parties and individuals. In September of 2002, a questionnaire was sent to additional interested individuals, groups, clubs, organizations, adjacent landowners, local grazing associations, the petroleum industry, and state and local governments. The questionnaire described the Forest Service vision of an extension of the MDH trail south of U.S. Interstate Highway 94 (I-94) from the Sully Creek State Park to Burning Coal Vein Campground. Recipients of the questionnaire were asked to comment on the idea and identify possible concerns. Thirty-two comments were received and evaluated. Responses from the questionnaire are contained in the Project Record.

Additional meetings were held with various people, organizations, and agency representatives to engage further discussion and identify concerns. Meetings with Theodore Roosevelt National Park, North Dakota Game and Fish (NDGF), Exxon Corporation, and individual respondents led to fine-tuning of the proposal. Individuals who commented on the proposal were mailed an updated letter explaining the project issues. After this process was completed, the District Ranger developed a formal proposed action, which was released for public scoping.

On March 14, 2003, a scoping letter was sent out to 81 individuals, organizations, county and state agencies, county commissioners, and businesses. Notice of public scoping was published in

the Dickinson Press on March 27, 2003. Scoping closed on April 18th, 2003. On June 28th, 2004, a news release was prepared by the Medora Ranger District and sent to area newspapers. The article provided an update on the analysis process to date. Information from the news release was also aired on the Bismarck, North Dakota affiliate NBC six o'clock news on June 28th, 2004

The proposed project was published in the Dakota Prairie Grasslands' National Environmental Policy Act (NEPA) Quarterly Schedule of Proposed Actions in the First and Second Quarters, January-June 2003 issue.

The Medora Ranger District received 35 responses on the proposed project. The comments were analyzed for issues and potential alternatives identified. The comments and analysis are contained in the Project Record.

On August 31, 2006 the EA was released for a 30 day public comment period. A total of 1,148 comments were received. After analyzing the comments received on the EA, the District Ranger decided that he would like to add another alternative, Alternative J, to the analysis. On April 9, 2007 the NDGF provided updated information on bighorn sheep use on Cliffs Plateau resulting in a modification of Alternative H.

On June 6, 2007 a second EA containing the new Alternative J and a modified Alternative H (Proposed Action) was released for 30 day comment. A total of 144 comments were received on the second EA. Comments were analyzed and responses to those comments are contained in Appendix A.

Determining Issues

An issue is generally a concern the public or the Forest Service may have about a proposal. The Forest Service uses a public involvement process to determine issues the public may have about a proposal and an interdisciplinary team process to determine which issues need to be addressed in the environmental analysis.

Key Issues

Key issues represent concerns from the public or the Forest Service that warrant developing an alternative method of accomplishing the purpose and need other than the proposed action. Each alternative is analyzed to determine how well it addresses the key issue and how well it achieves the purpose and need for this project, and the alternatives are then compared.

Key Issues of the Project

- The Proposed Action may have an adverse effect on bighorn sheep habitat.
- The Proposed Action may have a set of effects that would preclude the Kendley Plateau Inventoried Roadless Area (IRA) from consideration for wilderness designation.
- Provide a quality recreational experience.

Other Issues

These represent concerns that may be reduced or eliminated through project design. "Design Criteria" for each alternative explain what specific actions would address these "other" issues.

The following “other issues” were identified:

- Public safety associated with possible trespass onto oil and gas well sites, which may produce hydrogen sulfide (H₂S), a poisonous gas.
- Wildfire resulting from careless hikers and campers.
- The spread or introduction of noxious weeds.

Issues Dropped From Analysis

After a review of all the issues, the District Ranger dropped the following from further analysis in this document. Reasoning for dropping the issues is also identified.

- *Motorized use of the trail:* Some respondents requested that motorized vehicles be allowed to use the proposed trail. The proposal is to extend the existing MDH Trail, which is nonmotorized. Therefore, this request is outside the scope of the Proposed Action.
- *How will Forest Service prevent trail users from straying off of the trail?* There is no policy that precludes hikers, horse enthusiasts, or campers from exploring off trail. The Dakota Prairie Grasslands is open to dispersed recreation use.
- Recreation livestock may deplete water sources located along the trail; they may also spread disease and scatter range livestock. Similar concerns were raised when the original MDH Trail was constructed. To date, there have been no reported cases of range water shortages, cattle disease, or harassment of range livestock associated with hikers, campers, or horse enthusiasts. There is no indication that a southern extension of the MDH would adversely affect the above concerns.
- The FS will not be able to enforce mountain biking restrictions on the proposed trail and this may have an adverse effect on possible future designation of MA 1.2a as wilderness. If the Proposed Action (Alternative H) is selected, the Forest Service would prohibit mountain bike use south of the Coal Creek campground and would be responsible for enforcement of the prohibition. There would probably be violations of the prohibition and the FS cannot guarantee that every infraction would be addressed. However, this is not a condition for Congressional approval of future wilderness designation.
- *Possible increase in litter.* The district has a generally observed “pack it in; pack it out” policy, which is posted at trailheads and campgrounds. Some littering on the MDH Trail has occurred; however, it has not been a significant source of concern. While it is likely that some littering would occur on an extension of the MDH Trail, there is no indication it would be a significant problem.
- *Increased cost of Search and Rescue (S&R)* – There was concern that development of the trail would tax existing S&R resources. S&R is the responsibility of the county sheriff offices. The Forest Service assists with any search and rescue activities on National Forest System lands. In addition to county resources, the state of North Dakota has set up a fund to help defray S&R costs. To date, that fund has not been utilized by either county associated with the existing MDH Trail. There have been three reports of lost hikers on the existing MDH Trail; all were located. The FS has participated in all those search and rescue efforts. There is no indication that the Proposed Action would have any significant adverse effect on S&R resources.
- *The trail extension will not be an economic benefit to area.* Hiking and outdoor recreation is a booming business. The leisure business today is a \$311 billion dollar business. Hiking, backpacking, camping, mountain bike, and horseback riding use show a steady upward trend. Outdoor recreation generates revenue for local communities associated with outdoor

recreation opportunities. Direct revenue is generated when recreationists buy gas, groceries, meals, lodging, recreation equipment, etc. in these communities. Tax revenue for both state and county governments is also generated. Indirect revenue generated by a nationally recognized trail, such the MDH, can also be substantial as both resident and nonresident recreational users purchase goods and services on their route to the recreation area.

A result of the MDH Trail has been the creation of new outfitting and guiding businesses, which provide horseback rides, mountain bike excursions, interpretive hikes, lodging, meals etc. for tourists. While there is currently no economic figures for generated revenue tied directly to the MDH Trail, information from the National Forest Visitor Use Monitoring (NVUM) Survey (Stynes and White, 2005) spending profile report indicates local residents spend between \$32.85 to \$116.14 per day, depending on the type of trip. Non-locals spend between \$51.6 and \$245.25. The weighted average is \$105.57 day. The 2003 National Forest Visitor Use Monitoring Results report for the Dakota Prairie Grasslands states that, in a typical year, visitors to the grasslands spent an average of \$1,666.70 on all outdoor activities including equipment, recreation trips, memberships and licenses.

Starting in 2004, trail counters were placed at several locations on the MDH Trail. The information retrieved from the counters during 2005 showed increasing trail usage. In 2004, counters indicated 3,017 individuals had used the trail. In 2005, that figure jumped to 5,117. In 2006 use continued to increase as 5,409 recreationists used the trail. This influx of recreational use associated with the existing MDH Trail has increased direct revenues to local communities and increased tax revenues for both state and county governments. If we apply the above spending information to the use information, it is apparent that the existing MDH trail generates thousands of dollars annually for the local and non-local economies. Constructing the MDH II Trail extension would provide additional revenue generating and economic diversification opportunities for local communities directly associated the trail.

- *The proposed trail may breach natural barriers that keep cattle confined to their allotments.* If this should occur, fencing and self-closing gates would be installed to maintain the effect of a natural barrier. As with the original Maah Daah Hey trail, the affected permittee(s) would be involved in determining the solution to the problem.
- *The Proposed Action may be in violation of the Dakota Prairie Grasslands Land and Resource Management Plan (DPG Plan), specifically MA 3.51 Bighorn Sheep Habitat and MA 3.51A Bighorn Sheep Habitat with Non-Federal Mineral Ownership.* The applicable standard and guidelines from these management areas are:

- ❖ **Standard:** “Resolve conflicts in favor of maintaining bighorn sheep habitat.” (DPG Plan, p. 3-23)

Through a collaborative effort involving NDGF bighorn sheep biologist and the Forest Service district biologist, key bighorn sheep habitat was identified and mapped. The Team used this information to evaluate existing alternatives and to create the Proposed Action (Alternative H) which was further refined through additional conversations with NDGF. All the action alternatives utilize avoidance and or mitigation to protect key sheep habitat. The District Ranger has determined that identifying and avoiding key bighorn sheep habitat fulfills DPG Plan direction to resolve conflicts in favor of bighorn

sheep. This is no longer correct for Cliffs Plateau area (see Ch. 3, pp. 3-22 thru 3-24).

- ❖ **Standard:** “Protect bighorn sheep lambing areas from activities and land use disturbances if adverse impacts to the survival or reproduction success of bighorn sheep or abandonment of the lambing area are likely” (DPG Plan, p.1-14).

Lambing areas were mapped in cooperation with the NDGF. All the action alternatives were designed to avoid all known lambing areas.

- ❖ **Guideline:** Prohibit construction of new travel routes across bighorn sheep habitat, however, honor valid existing rights such as oil and gas leases (DPG Plan, p. 3-24).

The DPG Plan Record of Decision defines guidelines as “advisable actions that should be followed to achieve goals and objectives. Guidelines allow for some local line officer discretion given different site-specific conditions and circumstances, but they are also fairly definite expressions of management direction.”

All four action alternatives have a portion of their length in bighorn sheep habitat. While the presence of a trail would exceed this guideline, the District Ranger believes bighorn sheep have been protected and recreational and economic opportunities afforded by an extension of the MDH Trail outweighs this guideline in this situation.

Alternatives Considered but Dropped From Analysis

The Team evaluated all nine alternatives and provided the District Ranger with recommendations for each alternative. He then determined which alternatives would be dropped from detailed analysis. His reasons are stated below:

- **Alternative A** was the original proposed action created by the Team. This alternative ranked high on most of the trail criteria. However, it would have been constructed in key lambing and summer areas within MA 3.51 Bighorn Sheep Habitat. To avoid impacts to bighorn sheep in these key areas, the Team recommended dropping this alternative.
- **Alternative C** was also created by the Forest Service. It would have totally bypassed MA 1.2a Suitable for Wilderness and MA 3.51 Bighorn Sheep Habitat and therefore would have met identified concerns about building a trail through these management areas. The Team recommended dropping this alternative because implementation would have required the following:
 - ❖ A portion of the trail would have been constructed through the Ponderosa Pines Research Natural Area (RNA). Under FSM 4063.3 Protection and Management Standards [for RNAs] the construction of roads, trails, fences, or signs in an established RNA is prohibited unless they contribute to the objectives or to the protection of the area. The proposed trail did not meet this criterion.
 - ❖ Crossing key bighorn habitat located outside MA 3.51 and 3.51A.

- ❖ Crossing the Little Missouri River twice. Low water crossings would have been planned for these crossings which would have limited trail use during high water in the spring of the year and at other times when intense summer thunderstorms can suddenly swell the river. There were also potential safety concerns related to recreationists being stranded or trying to ford the river during high water.

❖

- **Alternative D** was created based on concerns the NDGF expressed in their April 22, 2003 scoping response. The NDGF was concerned about lambing and escape cover on the north end of the trail and suggested the trail be moved into Sections 13 and 24, T139N, R102W and that the trail "... not impede the Moody/Kendley/Cliffs Plateau areas as would be done under Extension A". Alternative D was created to address these concerns.

The Team recommended this alternative be dropped because of the rather extensive amount of the trail that would parallel Forest Highway 3, which would result in a low quality recreational experience.

- **Alternative F** was developed by the Badlands Conservation Alliance and submitted to the Forest Service in their April 17, 2003 scoping response. This alternative is identical to Alternative D with the exception that a mountain bike route was added to the design. The loop would parallel FH 3 to the junction of NFSR # 769; it would then parallel NFSR #769 to the junction of roads #769 and #767 where it would turn south traveling cross-country to Burning Coal Vein campground.

The Team recommended this alternative be dropped for the same reasons as Alternative D. In addition, acquiring the necessary rights-of-way, for the mountain bike route along FH 3, was determined to be to excessively time consuming and costly. Obtaining permanent rights-of-way across all the private land is also unlikely.

- **Alternative I** was developed by the Wilderness Society and submitted in their April 2, 2003 scoping response. This route would utilize part of Alternative B down to Bear Creek in Section 35, T138N. From there, the proposal would parallel FH 3 south to the junction of FH3 and National Forest System Road (NFSR) #772. It would then run parallel to NFSR #772 into Burning Coal Vein Campground. The proposal also identified that the trail would be constructed within 100 yards of the roads. This proposal also included the possibility of creating a loop trail at the south end of the trail. The loop would consist of a portion of FH3, NFSR 769, 780 and the very southern part of Alternative B.

The Team recommended this alternative be dropped due to extensive road paralleling which provided for a poor quality recreational experience as defined by a diverse topography, vegetation, and ecology, with maximized scenery and solitude. There was also concern with safety issues that might arise with the trail located so close to the busy East River Road and the effect of considerable dust from the road's scoria surface.

Alternatives Considered in Detail

Alternative G – No Action Alternative

The No Action Alternative is required by the National Environmental Policy Act (NEPA) and National Forest Management Act (NFMA). Under this alternative, the status quo would be maintained. There would be no construction of the MDH II extension, Coal Creek Campground, trailheads, or access roads. This alternative provides a benchmark for comparing the action alternatives against the existing conditions.

Alternative B

Concern about possible impacts to bighorn sheep was a central theme around which Alternative B was created. Under this alternative, the trail would be located west of FH3 (East River Road) avoiding Moody and Kendley Plateaus and below Cliffs Plateau to mitigate possible effects on bighorn sheep in these areas. Alternative B was one of the original alternatives scoped with the public. It was created by the FS based on information gathered through informal shareholder meetings and conversations and questionnaire input. Under Alternative B mountain bikes would have access to the entire length of the trail.

The actions items under Alternative B are identical to those that would occur under Alternative H with two exceptions. Under Alternative B, one less foot bridge and one less trailhead would be constructed. This alternative would likely be constructed in a phase approach similar to Alternative H.

Alternative E

This alternative was submitted by the Sierra Club, Badlands Conservation Alliance, and IMBA as a potential trail route. Under this alternative, the trail sweeps east from Medora out into the rolling prairie, then southeast through the Davis Creek area, then south, terminating at the Burning Coal Vein Campground.

This route was presented as an alternative to their concerns about trail construction and mountain bike use in MA 1.2a (Kendley Plateau IRA) precluding wilderness designation and potential impacts on bighorn sheep. It addresses their preference to have a trail located outside MA 1.2a “Suitable for Wilderness” and MA 3.51 “Bighorn Sheep Habitat.” Under this alternative, mountain bikers would be able to access the entire length of the trail.

Action items (e.g., trail width, signing, etc.) implemented by Alternative E would be identical to that of Alternative H. There would be four trailheads and no new campground would be built. This alternative would likely be constructed in a phase approach similar in timing to that of Alternative H.

Alternative H – Proposed Action

This alternative was designed to address the key issues related to continuing concerns about bighorn sheep and concerns about mountain bike use in the Kendley IRA.

The FS wildlife biologist worked closely with the NDGF bighorn sheep biologist to identify and map key areas such as lambing areas. This information, in combination with telemetry

and historical use data, was utilized to create Alternative H, which is a combination of Alternatives A, B, D, and E.

On April 9, 2007 the NDGF provided updated information on bighorn sheep use on Cliffs Plateau which the Forest Service used to modify of Alternative H. Based on this information a portion of the trail on Cliff's Plateau, in Sections 6 and 7, T137N, R101W., was relocated from the rim down along the face of the plateau.

Alternative H allows mountain bike access from Sully Creek to the proposed Coal Creek campground. From Coal Creek to the Burning Coal Vein campground, the trail would be open to foot and horse traffic only. This addresses concerns about the use of mountain bikes in the Kendley Plateau IRA and potential adverse ramifications related to potential wilderness designation.

If the proposed action is selected, trail construction activities would occur in three phases over the next three years. Each phase would construct about a third of the trail. Trail construction would start at the Burning Coal Vein Campground in 2007 and proceed north. The Coal Creek Campground access trail and road would be the last facility to be constructed in the year 2009.

This proposal includes the following actions:

- The width of the trail tread will vary from 12 to 36 inches, depending on the type of terrain being crossed and if switchbacks need to be excavated. Average trail width is 18 inches.
- The trail tread will generally be native surfacing, except in clay areas and highly erodible soils where it will have an aggregate surface. The short (i.e., less than 100 yards) access trails from the trailheads to the main trail may also be surfaced with aggregate. In areas with side slopes of less than 25 percent, the trail will be a mowed, three-foot-wide path.
- The grade of the trails will range from 0-10 percent, with short pitches of up to 15 percent.
- Water bars, culverts, and low water crossings will be placed as needed. There will be eight intermediate stream crossings, three low water crossings, and five small foot/horse bridges.
- Switchbacks will be constructed as needed.
- Where the trail breeches a natural boundary, fencing will be constructed and self-closing gates installed.
- Self-closing gates will be constructed at all fence crossings. The gates are spring-loaded and constructed of metal tubing and wire which can be opened from horseback or on foot.
- Reassurance markers will be placed intervisibly along trail for navigation. The markers are 4x6 inch treated wooden posts branded with a turtle image, which is the symbol for the MDH.
- Miscellaneous signs as necessary to mark geographic features, directions at trail junctions, road crossings, and property boundaries.
- The trail will be located on National Forest System lands and away from roads, oil wells, and other facilities and infrastructure when practical.
- The Forest Service will acquire rights-of-way for those sections of the trail crossing state or private land.

The proposed Coal Creek campground would be approximately five acres in size and would have the following amenities:

- 10 to 15 camping spurs with picnic tables and fire rings. Approximately half the campsites would be designed for horse users.

- Potable water source.
- Universally accessible vault toilet.
- Information kiosks.
- Campfire rings and picnic tables.
- Shade shelters if needed.
- Hitching stalls or rails, highlines.
- Buck and pole and smooth-wire fencing around the campground
- Cattle guard at the entrance.
- Self-closing gate for trail access.
- An engineered, surfaced, half mile loop road within the campground.
- A quarter to half mile spur trail to access the MDH 2 extension.

The five proposed trailheads would have the following features:

- Information kiosks.
- Parking to accommodate three to five vehicles, including RVs and horse trailers.
- Hitching rails or highlines for trail stock.
- Cattleguards, if necessary.

Access Road.

- The quarter mile access road connecting the campground to FH3 would be an engineered road with a design speed of 15 mph. The road would have a 12-foot running surface, with ditches, culverts, and gravel-aggregate surface material.

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Alternative J

Alternative J is identical to Alternative H with the following exceptions:

- A trail would be constructed which would bypass MA 1.2a . The bypass trail would fork off the main trail in the NW1/4NW1/4 of Section 35, T138N, R102W, which is approximately a mile north of Bear Creek. The trail would continue south southeast until reaching Section 19, T137N, R101W where it turns northeast rejoining the main trail in the SE1/4SE1/4 of Section 17, T137N, R101W. Total length of the bypass trail would be approximately 10 miles. The total length of the trail under Alternative J would be approximately 55 miles.
- A minor management area boundary modification would be needed to accommodate the last couple of miles of the trail. The current MA 1.2a boundary would be moved north and reestablished 50 feet north of the new bypass trail. This small buffer is needed in case minor maintenance needs should arise in the future. The area, approximately 180 acres, that was formerly MA1.2A would become MA 1.31 Nonmotorized Backcountry Recreation. If this alternative is selected, the acreage of MA1.2a lost to this adjustment would be replaced elsewhere on the Medora Ranger District.
- The Grasslands Plan identifies that the Grasslands Supervisor may adjust boundaries up to a quarter of a mile to facilitate management (Grasslands Plan, p. 1-3).
- The bypass trail would be constructed to the same specifications as the mainline trail however, it would require two additional foot bridges, one in an unnamed draw in NW1/4 Section 11, T137N, R102W and one in NW1/4 Section 19, T137N, R101W over Tom's wash. An additional trailhead would also be constructed in Section 19, T137N, R101W.
- The bypass trail would be open to all nonmotorized trail users.

- A four strand barbed wire fence would be constructed along portions of the bluff above the Little Missouri River Research Natural Area (RNA). Monitoring of the RNA would be conducted to ensure that any recreational impacts to the RNA are within acceptable limits.

Design Criteria

The following design criteria are common to all four action alternatives.

Public Safety: There is a concern with possible exposure to hydrogen sulfide (H₂S) gas from producing oil and gas wells.

- H₂S is not normally a concern for oil wells located south of I-94. All existing wells within a quarter mile of the proposed trail route are located in the Medora or Fryberg oil and gas fields. According to the Bureau of Land Management (BLM), these fields are not big gas producers, and if all the gas in the Fryberg field were to escape at one time, in one place, the danger zone would be a 92-foot radius from the wellhead. Under most circumstances, the danger zone would be limited to the well pad. If recreationists avoid well pads, the safety concern is minimal. The proposed trail has been located to maximize the distance between the trail and existing oil and gas well pads, and the pads are posted with warning signs if H₂S is present.
- All new Little Missouri National Grassland published recreation brochures would include hydrogen sulfide (H₂S) safety guidelines. Additionally, H₂S safety guidelines will be outlined on the Dakota Prairie Grasslands website: <http://www.fs.fed.us/r1/dakotaprairie>.
- Bulletin boards would be installed at the campgrounds and trailheads. These “information centers” would feature posted articles, tips, regulations, and other points of interest. Information items include prevention of wildfires, minimum impact camping, H₂S safety guidelines, avoiding livestock disturbance, preventing vandalism, courtesy to adjacent landowners, and Pack It In/Pack It Out garbage removal policy.

Invasives and Noxious Weeds

- The use of weed-free hay on National Forest System lands is an established policy on the DPG. Feeding this hay should be encouraged two to three days prior to arrival or use of the trail.
- Horse manure at campgrounds should be collected and stored in specific locations where it can be monitored and treated for weed species.
- Construct bridges over narrow deep channels such as Toms Wash and Merrifield Creek to prevent the establishment of raw slopes open to erosion and hence noxious weed establishment.
- Utilize strategies in the USDA Forest Service National Strategy and Implementation Plan for Invasive Species Management (2004), and the Guide to Noxious Weed Prevention Practices (2001), to control invasive species. Treatments and monitoring, following the guidance provided in the DPG Noxious Weed FEIS and ROD (2007), would be initiated prior to trail construction to lessen the potential for this activity to disperse propagules along the freshly disturbed route. Monitoring and treatment should then be conducted on an annual basis to ensure a high degree of control and maximize treatment effectiveness. More site-specific control measures are described in *Biological Evaluation and Impact Assessment for Botanical Resources in Regards to the Proposed Maah Daah Hey II Trail*, on file in the Project Record.

Wildfire:

There is always a possibility of wildfire either natural or person-caused. To date, there have been no fires caused by recreationists using the MDH trail. There is no way to guarantee that a fire will not occur from trail users as is the case with any use of the National Grasslands. However, the following actions will be taken to minimize the chance of a person-caused fire.

- District personnel perform fire patrols when fire restrictions are issued and/or conditions warrant.
- The use of fire may be prohibited or the trail may be temporarily closed to recreationist if climatic conditions create extreme fire conditions.
- Fire restrictions would be posted at all campgrounds and trailheads.

Trail Maintenance

- After construction is completed, trail maintenance on that portion of the trail located in the Kendley IRA (MA 1.2a) will be conducted by non-motorized means. Motorized means may be considered for trail maintenance if the trail is damaged and poses a significant public safety risk, which cannot be addressed in a timely manner by nonmotorized means.

Decision

As the Responsible Official for this project, I have decided to select Alternative J with one modification. I have decided to drop the portion of Alternative J that passes through MA1.2a “Suitable for Wilderness”. This will create a one trail alternative verses the split trail proposed under Alternative J.

The following actions are also included in my decision:

- Modify Alternative J by dropping the portion of the trail located in MA 1.2a “Suitable for Wilderness”.
- Inclusion of the actions identified on pages 2-11 and 12 of the EA with exception that there will be six trailheads rather than five.
- Adopting the Design Criteria located on pages 2-17 and 18 of the EA.
- Utilize the trail crew to help monitor and treat noxious weeds\invasives located along the trail.
- Construction of the Coal Creek Campground.
- Construction of six trailheads.
- Construction of the trail in three phases, starting in 2008.
- Obtain a trail ROW from the Medora Foundation for that portion of the trail located on private property. If we are unable to secure the ROW prior to completing the final phase of trail construction, the trail will start on National Forest System lands at the trailhead located in Sec 11, T1139N, R102W.
- Part of the decision involved with Alternative J Modified involves moving the MA 1.2a boundary in Sections 17 and 19, T137N, R101W. This action would involve approximately 190 acres and can only be authorized by the Grasslands Supervisor. He has decided to modify the boundary and in concert with myself has committed to replacing the acreage that was changed from MA 1.2a to MA 1.31.

Rational for the Decision

The criteria I used for making a decision on this project were:

- How well the management actions analyzed in the EA addressed the Purpose and Need of the project.
- Consideration of the issues that were raised during the scoping process and comment period on the EA.
- How well the alternative met the Grasslands Plan goals and objectives, management area direction and the standards and guidelines for the project area.

Meeting the Purpose and Need

The purpose and need for this project is located on page 1-6 and 7 of the EA. Using the purpose and need as a decision criterion was not particularly helpful for this project because all of the alternatives, except Alternative G (No Action), meet the purpose and need. There are some subtle differences, which from my point of view they were fairly subjective and did not significantly assist me in my decision.

Consideration of the Issues

The driving force of this analysis focuses around two main issues associated with the proposal. Early on it became evident that allowing mountain bikes in MA 1.2a “Suitable for Wilderness” was perceived as a potential threat to possible future wilderness designation of the Kendley Plateau IRA. The second issue which arose was a concern about possible effects to bighorn sheep. These two topics garnered a tremendous amount of public comment particularly in the first EA which I see as an affirmation of the NEPA process.

Based on comments from the first EA it was decided that an additional alternative and a modification of an existing alternative were in order. This resulted in the creation of Alternative J and a modification of Alternative H which is the Proposed Action alternative. The decision also resulted in the creation of a second EA which was released to the public for review and comment on June 6, 2007.

Once again the public responded with thoughtful comment generally focused around Alternatives H and J. As with the first EA, comment generally was related to the two key issues previously identified. Public comment was overwhelmingly (97 percent) in favor of Alternative J but with a proviso. For a variety of reasons the public suggested that Alternative J be modified to exclude that portion of the alternative that ran roughly southeast through MA1.2a from Section 35, T138N, R102W to Section 17, T137N, R101W.

After reviewing public comment, the EA, and the Grasslands Plan I decided to adopt Alternative J Modified because it would resolve the two primary concerns related to this proposal. First it bypasses MA 1.2a. This route would also avoid the Cliffs Plateau area where potential impact to bighorn sheep habitat is of concern. Another reason I decided on Alternative J Modified was due to the general lack of public support for the MA 1.2a portion of the trail.

Part of the decision involved with Alternative J Modified involves moving the MA 1.2a boundary. This action would involve approximately 190 acres and can only be authorized by the

Grasslands Supervisor. He has decided to modify the boundary and in concert with myself has committed to replacing the acreage that was changed from MA 1.2a to MA 1.31.

Part of Alternative J is located above the Little Missouri Research Natural Area (RNA). There was some concern expressed that this could result in unacceptable impacts to the RNA. I agree that potential exists and that is why I decided to construct a fence to prevent trail users from impacting sensitive areas and to implement use monitoring to ensure overuse doesn't occur.

Several commenters felt that more attention should have been paid to noxious/invasive plants. I share the concern about these plants but I feel that existing strategies identified in the agency documents identified in the design criteria are sufficient to address treatment. I believe the key lies in monitoring and responding to monitoring data. Our trail crew annually traverses our trails and they will be used to assist in the survey and treatment of noxious weeds/invasives located along the trail. Also trail condition surveys are completed on a scheduled basis.

Several respondents requested a second modification to Alternative J. They asked that the trail on Hanley Plateau be moved to the west and south for bighorn sheep protection and future wilderness designation. At this juncture I don't believe a move of the trail is warranted. The FS has no documentation of bighorn sheep using Hanley Plateau. The FS biologist also indicated that Hanley Plateau is poor to moderate bighorn sheep habitat at best. The NDGF has not provided any information of bighorn sheep use in the area nor have they expressed any concern about this area in terms of impacts to bighorn sheep. Also, under the Grasslands Plan, Hanley Plateau is about equally allocated to MA 1.31 "Nonmotorized Backcountry Recreation" and MA3.65 "Rangelands with Diverse Natural Appearing Landscapes" rather than MA 3.51 "Bighorn Sheep Habitat". There is less than a section of MA 3.51 "Bighorn Sheep Habitat", located on the plateau, however, the trail doesn't traverse through it.

Under existing MA direction, Hanley Plateau is not designated as suitable for wilderness i.e., MA 1.2a, rather it is allocated to MA 1.31 "Nonmotorized Backcountry Recreation" and MA 3.65 "Rangelands With Diverse Natural-Appearing Landscapes. To change the trail route based on a projection of possible future wilderness in an area that is not recognized, under the Grasslands Plan, as an area suitable for possible wilderness designation is beyond the scope of this project. If at some point in the future Hanley Plateau should be considered for wilderness, the presence of a trail would not invalidate possible wilderness designation.

My reasoning for not selecting one of the other alternatives carried through the EA is identified below.

Alternative B

Alternative B was similar to Alternative H, the Proposed Action, with one exception. Under Alternative B the trail did not cross over Cliffs Plateau, rather it was located in an area between the base of the plateau and the East River Road (FH3).

The primary concerns with this trail are associated with MA 1.2a "Suitable for Wilderness" and potential effects to bighorn sheep in the vicinity of Cliffs Plateau.

In terms of this alternative's effect on MA1.2a and potential future designation of wilderness there is minimal effect. Chapter 3 of the EA identifies the potential effects to wilderness characteristics and reveals that there would be some minor impacts but nothing that precludes the area, i.e. the Kendley Inventoried Roadless Area, from possible future designation as wilderness. However, under this alternative, mountain bikes would not be prohibited in MA 1.2a. While mountain bikes in MA 1.2a do not preclude an area from wilderness designation it would establish a use which may hinder future wilderness designation. This is one of the primary reasons I did not elect this alternative.

The remaining issue pertains to potential effects to bighorn sheep in the vicinity of Cliffs Plateau. Alternative B would be located well below Cliffs Plateau and outside the summering bighorn ram key area associated with the plateau. There are differing opinions as to whether or not this portion of the trail would have an adverse effect on the sheep in the Cliffs Plateau area so I decided to resolve in favor of the sheep and drop Alternative B from further consideration.

I also considered dropping and combining different parts of alternatives in an attempt to find the best possible decision. I considered modifying Alternative J by dropping the portion of the alternative that traveled over Cliffs Plateau and replacing it with that portion of Alternative B that bypasses the plateau, however, for the same reason stated under Alternative B, I decided not to pursue that option.

Alternative E

Alternative E travels to the east and then south terminating at the Burning Coal Vein Campground. This alternative visited both badlands and rolling prairie geographic landforms providing for the highest diversity of visited landscapes. This alternative avoids almost all bighorn sheep habitat and doesn't traverse any of MA 1.2a.

My concern with this trail proposal revolved around two separate issues. First the trail would traverse the length of the Custer Trail/Davis Creek Special Interest Area (SIA). The Grasslands Plan requires that site specific plans for managing the area be completed before promoting public visits to a SIA or making significant changes to its land management (Grasslands Plan, p3-8). At this time there is no written site specific plan for the SIA and none is contemplated in the foreseeable future. To withhold a decision for this project for an unknown length of time is not an option I want to pursue.

It was pointed out that Initial Rock has been renovated, therefore the trail should be permitted. Initial Rock is a national historic place which is on the National Register of Historic Places. The site was in need of immediate repair to preserve the site so action was initiated, however, NEPA was completed prior to any activity being undertaken at the site.

The second point of concern revolves around crossing a mile of private land which would be necessary under this alternative. When contacted, the affected land owners made it clear that they weren't interested and if they were, the things that they might consider are beyond the FS's legal constraints. It was suggested that the trail be routed onto road 767, which is a county road, or in

the right-of-way of the road. For safety reasons the FS does not route trails onto developed roads. County roads crossing private property have a 66 foot right-of-way. The road and ditches generally consume this width which means the trail would be located on the side slope of the road prism or the bottom of the ditch immediately adjacent to the road. Again I believe this creates an unacceptable safety situation. Finally, road dusting would adversely affect the recreational experience and may present additional safety issues.

Other points brought up about this Alternative involve the concept of “Challenge” and the presence of oil and gas and other developments. I don’t believe the rolling prairie section of Alternative E offers the same degree of “Challenge” as defined on pages 3-7, 8 of the EA, as the other alternatives do. I realize this is somewhat in the “eye of the beholder” but that is my position. In regards to oil and gas and other development that is visible from the rolling prairie portion of the trail it’s fair to say that all the alternatives encounter this situation particularly in their northern portions. So to me it becomes a question of how often do we expose the public to development? This alternative has more exposure to development than the other action alternatives. I believe this adversely affects the quality of the recreational experience we’d like to offer.

Alternative G

Alternative G addresses the two major issues associated with this proposal, however, it doesn’t meet the Purpose and Need for the project nor comply with Grasslands Plan recreation goals.

Alternative H

Alternative H is the proposed action; however, I decided not to select this alternative for several reasons. First, it traverses over the top of Cliffs Plateau. While this makes for an excellent recreation experience, it may adversely affect a bighorn ram group that uses the plateau. We did attempt to modify Alternative H by moving the trail off of the rim down onto the face of the Cliffs Plateau in an effort to avoid possible interaction with the ram group that uses the area. However, our analysis indicated that escape cover requirements wouldn’t be met so I decided not to select the alternative. Later I learned that there is also a potential ewe introduction site on the southwestern end of the plateau which the trail would traverse through. The combination of potential impacts to rams and a possible ewe introduction site may have an adverse affect on meeting sheep population goals for the southern meta population of bighorn sheep. This was further reason to drop this alternative from consideration.

Consistency with the Grasslands Plan

Alternatives J and H, as proposed, are not consistent with bighorn sheep direction in the area of Cliffs Plateau, this also includes the identified modification of Alternative H on Cliffs Plateau. However, my decision to modify Alternative J to drop the portion of trail located in MA 1.2a resolves that concern and brings the Alternative into compliance with the Grasslands Plan.

Alternative E is not consistent with the Plan in the Davis Creek drainage because a site specific plan for the Custer Trail/Davis Creek Special Interest Area (SIA) doesn’t currently exist.

Alternative G is inconsistent with Grasslands Plan recreation goals. There is disagreement on whether or not the trail below Cliffs Plateau under Alternative B is inconsistent with the Grasslands Plan direction for bighorn sheep, however, as previously identified I chose to resolve this in favor of the sheep.

FINDING OF NO SIGNIFICANT IMPACT

I have reviewed the direct, indirect, and cumulative effects of the proposed activities documented in the EA for this project. I have also reviewed the project record for this analysis and the effects of the proposed action and alternatives as disclosed in Chapter 3 of the EA. Implementing regulations for NEPA (40 CFR 1508.27) provide criteria for determining the significant effects. Significant, as used in NEPA, requires consideration of both context and intensity.

Context

The setting of this project is in a localized area with implications only for the immediate area. The cumulative effects area was based on the resource discussion in the EA. Chapter 3 of the EA discusses this project in terms of key issues and displays the associated environmental consequences.

Intensity

1. Impacts that may be both beneficial and adverse: Both beneficial and adverse effects have been taken into consideration when making this determination of significance. The action does not rely on beneficial effects to balance potentially significant adverse environmental effects. Impacts associated with the project are discussed in Chapter 3 of the EA.

2. The degree to which the proposed action affects public health or safety: Proposed activities would not significantly affect public health and safety. The trail, campground facilities, and access road would be designed and constructed according to professional standards.

3. Unique characteristics of the geographic area, such as proximity to historic or cultural resources, parklands, prime farms, wetlands, wild and scenic rivers, or ecologically critical areas: This project would construct a trail through a portion of the badlands geographic area located on the Medora Ranger District. This area is unique in itself, however, the project will not adversely effect this geographic area. It will provide an opportunity for the public to further enjoy this type of geographic area. There are no parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas associated with this project.

4. The degree to which the possible effects on the quality of the human environment are likely to be highly controversial: The effects, as identified in Chapter 3 of the EA, of the selected alternative on the various resources are not considered to be highly controversial by district or supervisor's office specialists.

5. The degree to which the possible effects on the human environment are uncertain or involve unique or unknown risks: Scoping did not identify highly uncertain, unique or unknown risks. The possible effects on the human environment are not highly uncertain nor do they involve unique or uncertain risks. There is nothing unique to this proposal that poses a significant risk to the human environment.

6. The degree to which the action may establish a precedent for future actions with significant effects or presents a decision in principle about future consideration: This project is not setting a precedent for future actions with significant effects. Alternative J Modified represents a site-specific project that does not set precedence for future actions or present a decision in principle about future considerations. Any proposed future project must be evaluated on its own merits and effects.

7. Whether the action is related to other actions with individual insignificant but cumulative significant impacts: Chapter 3 of the EA discloses the existing condition incorporating past and current actions. Direct, indirect, and cumulative effects of alternative implementation, in combination with the Affected Environment, are also disclosed in Chapter 3 of the EA. Based on the information presented in the EA, there is no indication that this proposal will result in a cumulatively significant impact to the environment.

8. The degree to which the proposed actions may adversely affect districts, sites, highway structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources: The Forest Service Archeologist determination for this project is “No Historic Properties Affected”. In a letter dated December 12, 2005 the State Historical Society of North Dakota concurred with the determination. The Forest Service Archaeologist completed a supplemental report (April, 2007) for Alternative J. His determination was “No Properties Affected”.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973: There are no known Threatened or Endangered (T&E) animal or plant species on the Little Missouri National Grassland nor is there any known critical habitat. This project would have no effect on T&E species.

10. Whether the proposed action threatens a violation of Federal, State, or local law or requirements proposed for the protection of the environment: This action meets Federal, State, and local laws and requirements imposed for the protection of the environment, and meets disclosure requirements of the National Environmental Policy Act.

Based upon the review of the test for significance and the environmental analysis conducted, I have determined that the actions analyzed for the Maah Daah Hey II Trail Extension Project are not a major federal action and that their implementation will not significantly affect the quality of the human environment. Accordingly, I have determined that an Environmental Impact Statement need not be prepared for this project.

FINDINGS REQUIRED BY LAWS, REGULATIONS, AND POLICY

National Forest Management Act (NFMA)

Resource Protection - The following 12 statements address resource protection requirements of NFMA (36 CFR 219.27 (a): Resource Protection –

1. Alternative J Modified conserves soil and water resources and does not allow significant or permanent impairment of the land's productivity.
2. Within the scope of the project and consistent with the other resource values involved, the proposed activities will minimize risks from serious or long-lasting hazards from flood, wind, wildfire, erosion, and other natural physical forces.
3. This proposal does not increase nor encourage serious, long lasting hazards and damage from pest organisms.
4. The trail would cross seven intermittent streams. The construction of footbridges or low water crossings will mitigate any resource concerns related to crossing these streams. The trail would not affect any shorelines, lakes, or wetlands.
5. This project does not significantly affect the diversity of plant or animal communities in the project area.
6. Alternative J Modified will maintain sufficient habitat for viable populations of existing native vertebrate species.
7. The EA, specifically Chapter 3, assesses potential physical, biological, aesthetic, cultural, and engineering impacts of Alternative J Modified and it's consistency with multiple uses planned for the area.
8. There are no Threatened or Endangered (T&E) animal or plant species on the Little Missouri National Grassland nor is there any known critical habitat. Thus there will be no adverse modification of critical habitat, for this project, for T&E.
9. There are no significant transportation or utility right-of-way corridors needed to accommodate the project. Shortly after leaving Sully State Park the trail enters private property, owned by Theodore Roosevelt Medora Foundation, for approximately two miles. A right-of-way will be required to cross the private property.
10. The short road accessing the Coal Creek Campground and the road within the campground will be professionally designed by certified engineers to appropriate standards for public safety, transportation costs, and to minimize affects on the land.
11. Disturbed areas associated with road construction will be revegetated with native seed mixtures specified by the Forest Service.
12. This project is consistent with all applicable Federal, State, and local air quality standards.

COMPLIANCE WITH THE GRASSLANDS PLAN AND OTHER REGULATORY DIRECTION

Grasslands Plan

Alternative J Modified meets Grasslands Plan direction for recreation goals and objectives. It is consistent with and Management Area (MA) direction for MA 3.51 “Bighorn Sheep Habitat” and MA 1.2a “Suitable for Wilderness” as discussed in the Decision Rational above.

Historic Preservation Act

The proposed project is consistent with the National Historic Preservation Act of 1966, as amended in 1999. The Forest Service Archaeologist determination for this proposed project is “No Historic Properties Affected”. In a letter dated December 12, 2005 the State Historical Society of North Dakota concurred with the determination. The Forest Service Archaeologist completed a supplemental report (April, 2007) for Alternative J. His determination was “No Properties Affected”.

Endangered Species Act

The proposed action is consistent with the Endangered Species Act of 1973. There are no T&E wildlife or plant species on the Little Missouri National Grassland nor is there any known critical habitat. Therefore there will be no effect to any T&E species.

Clean Water Act

The proposal is consistent with the Clean Water Act of 1972, as amended in 1977 and 1987. Direction provided in Forest Service Handbook 2509.22 will be used to implement applicable portions of the Clean Water Act for this proposal.

Clean Air Act

This proposal is consistent with the Clean Air Act, which is administered by the State of North Dakota.

Migratory Bird Treaty

On January 10, 2001, President Clinton signed an Executive Order outlining responsibilities of federal agencies to protect migratory birds. Upon review of the information regarding neotropical migratory birds, the Forest Service Wildlife Biologist determined that no significant loss of migratory bird habitat is expected from implementation of this project.

Environmental Justice

Executive Order 12898, issued in 1994, ordered federal agencies to identify and address the issue of environmental justice (i.e. adverse human health and environmental effects of agency programs that disproportionately impact minority and low income populations). This project would have no adverse impact on minorities, American Indians or low-income populations. The Environmental Justice analysis is contained in the Project Record.

DOCUMENT AND PROJECT RECORD AVAILABILITY

The Maah Daah Hey II Trail Extension Project EA is available on the world wide web at <http://www.fs.fed.us/r1/dakotaprairie/>. The EA is available for review during regular business hours, 8:00 a.m. until 4:30 p.m. MST, Monday through Friday, at the Medora Ranger District, 99 23rd Ave. W., Suite B, Dickinson, ND 58601. The supporting Project Record, which includes the internal scoping, public involvement, specialist reports, and road management plan, is available for review at the Medora Ranger District office.

APPEAL PROVISIONS AND IMPLEMENTATION

This decision is subject to appeal pursuant to 36 CFR 215.

A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in The Bismarck Tribune, Bismarck, North Dakota. Office hours for hand-delivered appeals are 8:00 a.m. to 4:30 p.m. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the *exclusive* means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source.

Paper appeals must be submitted to:

USDA Forest Service, Northern Region
ATTN: Appeal Deciding Officer
P.O. Box 7669
Missoula, MT 59807

Or hand deliver to:

USDA Forest Service, Northern Region
ATTN: Appeal Deciding Officer
200 East Broadway
Missoula, MT 59802

Faxed appeals should be sent to 406-329-3411.

Electronic appeals must be submitted to: **appeals-northern-regional-office@fs.fed.us**

In electronic appeals, the subject line should contain the name of the project being appealed. An automated response will confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF).

It is the appellant's responsibility to provide sufficient project- or activity-specific evidence and rationale, focusing on the decision, to show why my decision should be reversed. The appeal must be filed with the Appeal Deciding Officer in writing. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14, and include the following information:

- The appellant's name and address, with a telephone number, if available;
- A signature, or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);

- When multiple names are listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request;
- The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- The regulation under which the appeal is being filed, when there is an option to appeal under either 36 CFR 215 or 36 CFR 251, subpart C;
- Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
- Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- Why the appellant believes the Responsible Official's decision failed to consider comments; and
- How the appellant believes the decision specifically violates law, regulation, or policy.

An appeal may be filed on the Maah Daah Hey II Trail Extension by those individuals or non-Federal organizations who have provided comment or otherwise expressed interest in the proposed action by the close of the 30-day comment period. Comments or expressions of interest received from an authorized representative(s) of an organization are considered those of the organization only; individual members of that organization do not meet appeal eligibility solely on the basis of membership in an organization; a member must submit comments as an individual in order to meet appeal eligibility. Federal agencies may not appeal.

If an appeal is received on this project there may be informal resolution meetings and/or conference calls between the Responsible Official and the appellant. These discussions would take place within 15 days after the closing date for filing an appeal. All such meetings are open to the public. If you are interested in attending any informal resolution discussions, please contact the Responsible Official or monitor the following website for postings about current appeals in the Northern Region of the Forest Service:
http://www.fs.fed.us/r1/projects/appeal_index.shtml.

If no appeal is received, implementation of the project may occur on, but not before, five business days following the close of the appeal filing period. If an appeal is received, implementation may occur on, but not before, the 15th business day following the date of appeal disposition.

For further information on this decision, contact Darren G. Olsen, Acting District Ranger, or Jeff Adams, Project Leader, at 701-227-7800.

/s/ Darren G. Olsen

July 26, 2007

Darren G. Olsen
 Acting District Ranger
 Medora Ranger District
 Dakota Prairie Grasslands

Date

APPENDIX A

RESPONSE TO COMMENTS

- *Approximately 97% of respondents commented that they favored Alternative J or that it was an acceptable compromise if it were modified to a one trail alternative through the elimination of the trail portion that passes through MA 1.2a "Suitable For Wilderness"*

This was ultimately my final decision, please see the Decision Section of the Decision Notice (DN) for my reasoning in selection of this modified alternative.

- *Most respondents expressing a desire for a modified Alternative J stated that one corridor that accepts all users is the most efficient and equitable use of tax-payer money for trail construction, maintenance and monitoring.*

I agree that constructing a single trail is more cost efficient than two. As to whether one trail is the most equitable use of the tax- payer money, that is a value judgment that some respondents would disagree with.

- *The creation of two corridors would significantly increase impacts to wildlife and natural resources.*

The Environmental Assessment (EA) analysis doesn't indicate a significant increase in impacts to wildlife in general. Bighorn sheep would be impacted in the Cliffs Plateau area, however, a combination of alternatives may be a means to mitigate that concern.

- *Several commenters were unsure why there is a need to separate users for approximately 10 miles where the main corridor travels through the Kendley Plateau IRA. Specifically, they saw no Forest Service directive that bans bicycles from IRAs or Suitable for Wilderness areas.*

It is correct that there is no Forest Service (FS) directive that bans bicycles from Inventoried Roadless Areas or in MA 1.2a Suitable for Wilderness. However, there is some public concern that by establishing a mountain bike use trail in MA 1.2a, a use may be established that would make it more difficult for the area to be considered for future Wilderness designation.

- *Strongly urge FS to compensate for loss of any MA 1.2a "Suitable for Wilderness" under Alternative J.*

The EA, on p.2-14, identifies that lost acreage of MA 1.2a would be replaced on the Medora Ranger District.

- *Several respondents commented that they thought, under Alternative J, where the trail crosses Hanley Plateau, that it should be moved as far westward and southward as possible. They felt*

that this needed to be done to protect the natural integrity of the special bighorn sheep habitat and use areas, plus the highly-valued wild lands that should eventually be designated as Wilderness by Congress.

At this juncture, I don't believe a move of the trail is indicated. The FS has no documentation of bighorn sheep using Hanley Plateau. The FS biologist also indicated that Hanley Plateau is poor to moderate bighorn sheep habitat. Also the North Dakota Game and Fish (NDGF) has not provided any information of use of the area by bighorn sheep nor have they expressed any concern about this area in terms of impacts to bighorn sheep.

Under existing MA direction, Hanley Plateau is not designated as "Suitable for Wilderness", i.e. MA1.2a, rather it is allocated to MA 1.31 "Nonmotorized Backcountry Recreation", MA 3.65 "Rangelands With Diverse Natural-Appearing Landscapes" and there is less than a section of MA 3.51 "Bighorn Sheep Habitat". To change the trail route based on a projection of possible future wilderness in an area that is currently not recognized as such under the Grasslands Plan is beyond the scope of this project. If at some point in the future Hanley Plateau should be considered for wilderness the presence of a trail would not invalidate possible wilderness designation.

- *There is concern that the Little Missouri Research Natural Area (RNA) may be adversely impacted by MDHII trail users and that use should be monitored to ensure that the RNA is not adversely affected.*

The FS is also concerned about the protection of the RNA. This is recognized on page 2-14 of the EA which identifies preventative action to be initiated and that monitoring be initiated.

- *Several respondents stated that the Dakota Prairie Grasslands Land and Resource Management Plan should not be amended to allow the trail to traverse Cliffs Plateau.*

My decision to modify Alternative J to a one trail alternative negates the need for a site specific amendment to the Grasslands Plan.

- *Statement that the MDH should be extended north to McKenzie, ND and that the MDHII should be extended from the Burning Coal Vein campground to Amidon, ND.*

Thank you for your comment, however, this is beyond the scope of this analysis. A separate NEPA analysis will be needed to consider such a proposal.

- *A specific plan to mitigate the increased threat of adverse impacts from invasive species must be part of the final decision for this project.*

I agree that noxious weeds are of concern and decided to deal with the noxious weed concern through design criteria located on page 2-17 of the EA.

- *Concern that if the split trail alternative is selected that there will be unenforceable illegal use of the Wilderness section of Alternative B ,H, and J.*

The FS acknowledges on page 2-3 of the EA that some off-trail prohibited use may occur. However, illegal use doesn't establish a precedent which could be used to adversely affect possible future wilderness designation. Currently non motorized use is allowed across the Dakota Prairie Grasslands. There is no wilderness on the Medora District. MA 1.2a "Suitable for Wilderness" allows uses and activities if they do not preclude wilderness designation.

- *Concern was expressed that stream crossings need to be minimized and that, in particular, low water crossings should be monitored and maintained.*

I agree with the need to minimize trail structures where possible. The proposed structures were identified to minimize impacts to resources. The regional standard for inspection of trail structures is once every four years, however, existing structures on the MDH are inspected annually as would be the case for any new structures constructed on the MDH II.

- *"North Dakota Parks and Recreation Department (NDPRD) believes the analysis of potential impacts to bighorn sheep has been addressed. The analysis of this potential impact has been exhaustive in this and the first EA. With the extent of attention, relocating routes and considering any and all potential impacts, this issue must be resolved at this point and the trail Alternatives H and J should proceed as described in the current EA".*

Thank you for your comment.

- *"Annual monitoring of campgrounds, trail heads, and the trail for noxious weeds and invasive species will need to occur, however, based on recreation trails on NDPRD lands, the Department does not share the "high potential" to assist the spread of invasive species especially considering the types of impacts used to make the comparison".*

Thank you for your comment

- *"Fence-Little Missouri River Research Natural Area: Why construct a fence on perceived intrusions". "...it isn't known if people will venture into it [the RNA] so why build the fence until the problem arises."*

It's true that we don't know if we'll have a problem with impacts to the RNA, however, given the value of the RNA, I would rather implement a proactive measure then discover that I need to build a fence after the damage has occurred.

- *"While I understand that the proposed trail route is being rerouted on the edge of Cliffs Plateau this rerouting will do little to minimize the impact to the Bighorn sheep".*

The EA on pages 3-42 and 43 identifies that the relocation of trail on the rim of Cliffs Plateau would not be effective in maintaining escape cover.

- *"I have issue with the route of Alternative J which would be used for Mountain Bikes. There are several sandy areas as well as some steep slopes that will have to be traversed that will*

lead to erosion issues. The main area I can name right away is going down through Cedar Canyon section 2-137-102.”

We have encountered many areas of sand and clay pan on trails on the Dakota Prairie Grasslands (DPG). We address the possible problems by locating our trails at less than 10% grades through these areas. Then we surface any sandy and clay areas with road gravel to prevent or eliminate the erosion problems. We have over 55 miles of surfaced trails out of the 187 miles of system trails on the DPG. The use of surfacing on sandy trail sections has eliminated erosion concerns in sandy areas.

- *“In addition, the potential for people to stray off of the trail in this area and into the Little Missouri River RNA is high. Years ago we had lots of trouble with people leaving trash in the RNA and the only way that was fixed was to fence off a gate”.*

I share concern for the protection of the RNA and addressed it on page 2-14 of the EA though construction of fencing and the need to monitor use of the RNA.

- *“Alternative J calls for a Trail Access area on section 19-137-101. By reviewing the maps and knowing the area I can only assume where that access point will be located. But if it is just off the east side of the East River Road on the South side of the section you are asking for an accident as it is very difficult to see over the hill when coming from the north”.*

All roads, parking lots, trailheads, and approaches are located and designed by professional engineers that consider and construct facilities that meet all public safety requirements as directed by FSH 7709.56. The approach in question will have adequate sight distance and safe stopping distances to assure it is safe for the public use.

- *“I am appalled that just to accommodate this recreation trail the Forest Service is willing to shift its suitable for wilderness boundaries.*

The Grasslands Plan on page 3-1 states that “Boundaries can be adjusted up to ¼ mile (with Grasslands Supervisor approval) to facilitate management. Page 2-14 of the EA identifies that the affected 180 acres of MA 1.2a would be replaced elsewhere on the district.

- *“If these trails get the 5,000 annual users as the Forest Service suggests Maah Daah Hey Trail I gets the seclusion of these areas will be destroyed for ever. If you are truly interested in maintaining these areas you will not implement alternatives J and H”.*

The existing MDH traverses remote, rugged country and to date there is no indication that the remote, undisturbed character of those areas has been compromised. This is probably because most trail users stick to the trail and don’t venture cross country. The same type of use is expected for the MDH II.

- *“In our view it would be highly preferable if the activities were developed in accordance with the guidance provided by the Grasslands Plan”*

The proposed project is consistent with the Grasslands Plan as identified in the Purpose and Need, page 1-6 of the EA; Relationship to the DPG, p. 1-8; Issues Dropped From Analysis, page 2-5; and in the Compliance w/ the DPG Plan and Other Regulatory Direction page 3-43.

- *“Forest Service directives identify the Grasslands Supervisor as the line officer that makes the decision regarding new trail construction”.*

The commenter cites to the Forest Service Manual (FSM) 2350. FSM 2353.04g states in part that Forest (ed. note: or Grasslands) Supervisors have the responsibility to develop, operate, and maintain National Forest System trails.

However, the actual delegation of authorities is found under FSM 1230. FSM 1236.51 states in part a District Ranger is the line officer authorized by the Forest (ed. note: or Grasslands) Supervisor to execute all resource management and general administration activities on a Ranger District.

General delegations of responsibility and authority for the execution of resource management and general administration on Land Utilization Projects and National Grasslands are similar to those for Ranger Districts.

Signing the decision on this project is well within the District Ranger’s general authority.

- *Kendley-Bullion Butte mineral exchange: “The basic intent of this mineral exchange was to secure the roadless area in the Kendley Plateau – Bullion area so that they could be protected from development and provide quality wildlife habitat”. “We expect the District to honor the fundamental purpose of this exchange [Bullion Butte Mineral Exchange]”.*

The Forest Service saw the need and benefit in exchanging the mineral rights on Kendley Plateau and so initiated the proposal to exchange mineral rights to create the area we now have. The fundamental purpose of this exchange also included the continuation of “Multiple Use” including outdoor recreation, range, timber, watershed, and fish and wildlife purposes according to the Committee On Energy and Natural Resources Report accompanying Senate Bill S. 7501 which created the exchange. The report also states that “The exchange will also result in protection of the Little Missouri River viewshed, creating more attractive hiking, fishing and hunting opportunities”.

- *“To circumscribe the adverse effect recreational activities could have on bighorn sheep, MA 3.5 contains multiple provisions including a Standard to “Resolve conflicts in favor of maintaining bighorn sheep habitat; a Guideline to “restrict travel to protect sheep concentrations during lambing, breeding, and winter use; and a Guideline to “Prohibit the construction of new travel routes across bighorn sheep habitat”.*

These provisions of the Grasslands Plan are addressed on page 2-5 of the EA.

- *Concern that there were some errors in the first EA completed for the MDHII.*

To the extent that there were errors in the first EA they have been corrected in the second EA for this project.

- *“Thus it is clear the Recreation Strategy attempts to reach beyond the scope of the Grasslands Plan. We have a problem with a plan such as this being used as a mechanism to circumvent the provisions within the Grasslands Plan; a critical and legitimate part of the regulatory framework for the Dakota Prairie Grasslands”.*

It is correct that the Recreation Strategy is not a regulatory document such as a Forest Service Manual directive. It is, however, a document defining the strategy for developing recreation on the Grasslands in compliance with the Grasslands Plan. It does not circumvent the Plan rather it further defines how the Grasslands unit plans to fulfill recreation direction contained in the Plan. Where the Strategy identifies the need for recreation facilities, trails etc., the NEPA process will be initiated for that activity, such as has been done for is project.

- *“The current EA uses a modified version of Alternative H and suggests it was developed based on information provided by North Dakota Game and Fish Department. The modified H alignment in the EA is not supported by the Department. In fact, we strongly and vociferously oppose it.”*

On April 9, 2007 the FS met with the NDGF bighorn sheep biologist to discuss the NDGF concern about sheep use on Cliffs Plateau. This was shortly before the second EA was to be released for comment. At the meeting the Department presented recently generated home range information related to bighorn ram use of Cliffs Plateau. During the meeting it was identified that the western end of the plateau was of concern and that the trail needed to be moved off the rim of the plateau. The FS went to the field shortly after this meeting to look for alternative routes and located a possible alternative route that was a modification of Alternative H. Analysis of the alternative route by the FS indicated that the modified location would not meet escape cover needs for the rams, page 3-42, 43.

- *While most comments requested that a modified Alternative J be the selected alternative others have requested that Alternative E, H, J, or G be the selected alternative. There has also been some comment to reconsider Alternatives I and F.*

Before I made my final decision I reviewed the five alternatives carried through detailed analysis in the EA. In regards to Alternatives I and F, I had previously reviewed and decided not to carry these alternatives forward for reasons stated in the EA under the Alternatives Considered But Dropped From Analysis section of the EA starting on page 2-18.

- *“In reviewing the latest proposed alternatives: the route of the hiking bike trails proposed in Alternatives A, B, D, F,H, and J do not address the concerns mentioned in our April 30 letter. Those concerns focused on locating the trail close to important bighorn sheep habitat along the western edge of Cliffs Plateau, and up into Toms Wash, and, the potential for volunteer trails degrading the roadless values of one of the remaining areas in the badlands that hold potential for wilderness status”.*

Alternatives A, D, and F were dropped from detailed analysis for reasons identified in the Alternatives Considered But Dropped From Analysis section of the EA starting on page 2-18.

I agree that volunteer trails can have an adverse affect on an area, however, this has not arisen as a concern on the existing MDH and it is not expected to be a significant problem on the MDHII extension.

- *“The I route would follow the precedent already set in the Maah Daah Hey trail construction in the north badlands near mile marker 50 and other sections where the trail follows the existing road right-of-way. Additionally, this route would limit the need and expense of additional archaeological clearance”.*

Alternative I was dropped from the analysis for reasons identified in the Alternatives Considered But Dropped From Analysis section of the EA starting on page 2-18. All federal projects must receive archeological clearance.