

Date submitted (Mountain Standard Time): 6/5/2019 9:55:17 AM

First name: Layn

Last name: Presson

Organization:

Title:

Official Representative/Member Indicator:

Address1: 445 east Kelly ave

Address2:

City: Jackson

State:

Province/Region: Wyoming

Zip/Postal Code: 83002

Country: United States

Email: ransrolling@yahoo.com

Phone: 3078280472

Comments:

This is a letter that I wrote to my Congress representatives a week ago and it seems fitting to send to you folks.

Several years ago I wrote to you regarding Bill H.R.1349, which would have allowed Federal Land Managers the opportunity to allow or disallow bicycles in their territory on Wilderness lands. The current approach is to ban them in all Wilderness areas. H.R. 1349 was sponsored by representative McClintock of the 4th district of California. Liz Cheney, one of the sole Republicans opposed to the bill, blocked H.R. 1349 from leaving the Committee, and you were never allowed the opportunity to vote on it. Your support at the time was greatly appreciated, and it gave me a sense of pride that an occasional Jackson Hole resident like yourself would be an ally for Wyoming citizens.

Liz Cheney, a newly elected member of Congress, blindsided me with her opposition. Numerous attempts to contact her office after the vote, were met with deflection and stonewalling. The only rationale she gave was to Mike Koshmurl of the Jackson Hole News and Guide saying,

"While I believe we need to do all we can to provide access to our public lands," the first-term congresswoman said, "our wilderness areas are special, and those who enjoy these pristine lands, including our guides and outfitters, should not have to worry about mountain bikes and other vehicles on our wilderness land and trails." There is a growing attitude among commercial outfitters here in Western Wyoming that Wilderness areas and the land surrounding Wilderness areas, belong to the commercial outfitter operation. Prior to Cheney validating the outfitter's possessive relationship with public lands, I would hear the occasional story of an outfitter harassing a public land user. Since Cheney's public announcement that outfitter's needs come before public access, the instances of hate from commercial outfitters has grown substantially. In 2015 I was the victim of harassment from a commercial outfitter driving a pack train of mules. While holding a rifle, the outfitter told me I did not belong in an area where he intended to take his clients. This attack did not break my passion for exploring public lands, but my riding partner will not visit that area again as a result. Cheney's assertion that the needs of the commercial enterprise comes before public recreation is an assault on the intent of the Wilderness Act of 1964. It is my hope that with proper exposure to historical information, the Congressional representation of Wyoming can improve the application of the Wilderness Act in regards to the original intent of Congress.

The idea that commercial enterprise should take precedence over public recreation is a strong affront to the intent of the Wilderness Act, and the wording of the Act was such as to defend against these types of commercial land grabs:

#### PROHIBITION OF CERTAIN USES

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

Although an argument can be made that commercial outfitters should be banned from Wilderness areas, Cheney's argument that commercial enterprise should take precedence over public access does not hold water. The very definition of Wilderness is to allow for the removal on confines to recreation:

#### DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

Statements made at the time of the Wilderness Act and in years following reinforce the idea that independent public access is supposed to take a prominent stance of importance. In April 28, 1964 the Wilderness Preservation System hearings in the House of Representatives contained a dialogue of Rep. Compton White (ID) and USDA attorney Reynolds Florance regarding accessing private land surrounded by Wilderness.

Mr. Florance. We tell them they must come in by the same means as the general public may come across the nationally owned lands.

Mr. White. We establish then we have horses and buggies all over wilderness areas.

Mr. Florance. Horses and buggies are not prohibited.

Mr. White. Just by the terrain and trails that exist.

Mr. Florance. Horses are used in many of the wilderness areas.

Mr. White. I am talking about the mechanical contraption with wheels that goes behind the horse. The buggy. Or the spring wagon. This is considered-and this is not a mechanical device?

Mr. Florance. No; it is not a motorized vehicle.

The basis for establishing a strong bias for favoring public access was established in 1964. In 1965 both the Wilderness Society and Sierra Club challenged Congress's commitment to public access. In comments for the Wilderness Society, its executive director wrote:

"The definition of mechanical transport...should specifically include contrivances powered by living power sources (such as wagons drawn by horses, bicycles, and wheeled cargo carriers) as well as contrivances propelled by nonliving power sources. "

Their requests for public access restriction was flatly denied by the legislative application of the Wilderness Act.

The authority of Congress to allow for public access was under constant attack from these types of anti-access groups as well as the USFS itself. In 1977 Frank Church, co-sponsor for the Wilderness Act, wrote an article titled Wilderness: A Balanced Use Framework, which detailed the disdain Church had for the USFS's application of the Wilderness Act. Here are two noteworthy excerpts:

"It was not the intent of Congress that wilderness be administered in so pure a fashion as to needlessly restrict its customary public use and enjoyment. Quite the contrary, Congress fully intended that wilderness should be managed to allow its use by a wide spectrum of Americans."

"If Congress had intended that wilderness be administered in so stringent a manner, we would never have written the law as we did."

Six years after Church sounded the alarm on administrative extremism, the Recreation Director for the USFS, David W. Scott, unilaterally banned bicycles from Wilderness areas. The only rationale for this heavy handed restriction is a quote from Jim Dolan (recreation specialist for the agency's regional office in Missoula) in the Spokesman Review Aug. 25, 1983. Jim states:

"Mechanical devices are difficult to define so we arbitrarily drew the line right around bicycles"

There is little known of what Frank Church thought about this attack on public access as he was ill and died soon after, but it is easy to extrapolate based on his previous disdain of the USFS revising the Wilderness Act to better suit their restrictive attitude toward public access.

The current Recreation Director, Joe L. Meade, has taken a page out of David's playbook and unilaterally banned battery assisted bicycles from lands that are exclusive to non-motorized uses. In 2003 the Consumer Protection Safety Commission, with Congress's approval, chose to treat low speed battery assisted bicycles in the same manner as bicycles. Since then, thousands of State and local legislatures have followed in those footsteps to allow battery assisted bicycles the same legal status as bicycles. All of the democratically elected members of government combined, do not equal the influence of the 2016 decision from Meade which bans battery assisted bicycles from the more heavily desired National trails that allow for bicycle use. Meade is not only contradicting the directive of Congress, but is violating constitutional law which allows the American public

to choose their preferred means of travel. In the 1890 court case, Swift V. Topeka, the Supreme Court of Kansas wrote,

"Each citizen has the absolute right to choose for himself the mode of conveyance he desires..."

This conclusion was the culmination of the Supreme Court of Kansas overturning an ordinance by a lower court that gave punishment to a cyclist, Swift, for riding his bicycle. This conclusion could also be applied to invalidate the USFS's restriction on bicycles in Wilderness areas, Wilderness Study Areas, etc, but it would be my preference that the USFS change their policy without the directive of a court (should there be a situation in the future where policy can only be changed through a Judicial directive, I reserve my right to exercise the Right To Travel in a court of law).

It would be my great honor in assisting the Wyoming delegates in Congress in reshaping the USFS policy and procedures to better reflect the will of the people as well as reflect the intent of the Congressmen who passed the Wilderness Act in 1964. The Recreation Director has too much authority to restrict the public's access to national lands, and the process that restricts public access is far too removed from public input.

Liz Cheney bikes article:

[https://www.jhnewsandguide.com/news/environmental/article\\_2639cb2f-7fed-5d7d-9e06-7056ca5a4496.html](https://www.jhnewsandguide.com/news/environmental/article_2639cb2f-7fed-5d7d-9e06-7056ca5a4496.html)

Frank Church article:

<https://m.facebook.com/SustainableTrailsCoalition/photos/a.741728455935955/1130687997039997/?type=3&source=54>

<https://m.facebook.com/SustainableTrailsCoalition/photos/a.741728455935955/911521538956645/?type=3&source=54>

Joe L. Meade letter:

[https://peopleforbikes.org/wp-content/uploads/2017/10/20160324ElectricBikesAndTrailManagement\\_final-Fed-2016-1.pdf](https://peopleforbikes.org/wp-content/uploads/2017/10/20160324ElectricBikesAndTrailManagement_final-Fed-2016-1.pdf)

Article discussing Swift V. Topeka:

<https://www.bikewalknc.org/2019/03/historical-basis-of-road-rights-for-pedestrians-and-bicyclists-2/>

Letter from David W. Scott:

<https://m.facebook.com/SustainableTrailsCoalition/photos/a.798818900226910/801519993290134/?type=3&source=54>

Wilderness hearings with Florance and White:

[https://m.facebook.com/SustainableTrailsCoalition/photos/a.741728455935955/1899767230132066/?type=3&source=54&ref=page\\_internal](https://m.facebook.com/SustainableTrailsCoalition/photos/a.741728455935955/1899767230132066/?type=3&source=54&ref=page_internal)

CPSC law:

<https://www.govinfo.gov/app/details/FR-2003-02-12/03-3423>