

Judge halts biathlon course

EVE BYRON - Independent Record - 07/30/09 | Posted: Thursday, July 30, 2009 12:00 am |

A federal court judge put a halt Wednesday to construction of a biathlon course near MacDonald Pass west of Helena.

In issuing his summary judgment ruling, U.S. District Court Judge Donald Molloy said that an investigation of the impacts of the Montana Army National Guard's proposed biathlon course is inadequate, and that construction of the facility cannot go forward until the Helena National Forest takes a deeper look at the proposal.

Molloy wrote that it appears the Helena National Forest did not put together a full-blown Environmental Impact Statement for the biathlon project near the Continental Divide because the Guard balked at the cost of the document. Instead, the Helena Forest, which manages the public lands on which the biathlon course was to be created, put together a less in-depth Environmental Analysis.

Molloy said that analysis wasn't enough to consider the possible impacts on elk, lynx and wildlife habitat connectivity as well as on the overall possible cumulative impacts.

Molloy also said that notes from a meeting between the U.S. Forest Service and National Guard showed that the Forest Service believed the impacts from the project would be significant and would require an EIS.

"The (Finding of No Significant Impact) appears to be a post hoc justification for a decision that was made, not on the basis of the relevant analytical factors ... but on the basis of the National Guard's reluctance to fund an EIS," Molloy wrote. "Therefore, the matter must be remanded to the agency to conduct an EIS."

Helena National Forest Supervisor Kevin Riordan said he disagrees with Molloy's assessment of what took place, as well as the depth of the investigation into the impact, but will abide by the judge's decision.

"Nothing was predetermined," Riordan said. "Funding never comes into making the decision to do an EA or an EIS; we do the appropriate analysis for what we need to do."

He noted that his office employs about 70 or 80 people, and that there's always a range of opinions as to what degree of analysis is necessary. Some people might have thought the EIS was needed, but Riordan said those making the final decision didn't agree.

Riordan said he's not sure if the project will move forward, and Major Tim Crowe with the National Guard said he's also unclear as to the biathlon course's future.

"We haven't been able to review the entire document, so at this point it's too early to say what we're going to do," Crowe said. "But we're eager to review it."

Gayle Joslin with the Helena Hunter & Anglers organization said she was thrilled with Molloy's decision. Her group filed the lawsuit opposing the project along with the Alliance for the Wild Rockies, American Wildlands and the Native Ecosystems Council.

"We are elated with the ruling because he (Molloy) took the time to really go through the details that we provided in the suit," Joslin said. "We've been up there often ... and this area is so incredibly fragile. I was up there walking trails that were going to be expanded to 25 feet wide, graded and graveled. There's water everywhere; it's boggy by nature and they couldn't have met wetland requirements."

She added that the project area is key Canada lynx habitat, and in 2000, the secretive cats were listed as "threatened" under the Endangered Species Act. Molloy noted that the Forest Service's own analysis showed the project "may detract from future linkage habitat potential" and that allowing the potential degradation of the lynx travel corridor violates the National Forest Management Act.

Mike Garrity, executive director of the Alliance for the Wild Rockies, called Molloy's ruling a "pretty resounding victory."

"We always thought it was obvious they weren't following the law, and we wish they would start listening to our comments. That would have saved everybody a lot of time and money," Garrity said. "They have a lot of things to fix, and I don't think they can do that and still have a biathlon course there."

In a biathlon, cross-country skiers race around a course, while occasionally stopping and shooting .22-caliber rifles at targets. The Guard trains biathletes to compete in the Olympics.

The biathlon course was first proposed in 2003, when the Guard announced it wanted to create 12 miles of trails, part of which connect with an existing cross-country ski system, on 31 acres on the northeast side of MacDonald Pass. The facility would have five buildings totaling 6,500 square feet, and a parking lot, and be used for nine months, from June through February.

But Riordan pared down the proposal in his June 2008 decision to issue a 25-year lease on the site to the National Guard. Riordan approved only 10 miles of new trails, 4,700 square feet of buildings, and only four months of use, which includes one event in July, plus numerous competitions and training in December, January and February.

Some members of the public supported building the course, noting that the Guard had agreed to allow the public to use the facility and also to groom the existing trails.

But others were concerned about the cost of the estimated \$1.5 million facility, along with whether it would be expanded in the future, whether the snowfall would be adequate and whether it would adversely impact the Canada lynx, moose, elk, bears and other critters that move

through the area. The Lewis and Clark County Commission passed a resolution to protect the Continental Divide area, and of 250 public comments received, they were running about 2-to-1 against the course, with many people voicing concerns about shooting guns near what is a quiet, family-oriented recreation area.

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