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October 9, 2020

The Hon. Mike Lee
United States Senate
361A Russell Senate Office Building
Washington, D.C. 20510

Re: S. 1765 and S. 4288 (per Senator Tester); subcommittee hearing of Sept. 16, 2020

Dear Senator Lee:

We watched the hearing before the Subcommittee on Public Lands, Forests, and Mining on Senator Tester's proposed Blackfoot Clearwater Stewardship Act, S. 1765, over which you presided on September 16, 2020. We noted your questioning an aspect of the bill that, according to the Montana Snowmobile Association, would prejudice snowmobilers.¹

We would like to inform you that this legislation, as well as Senator Tester's proposed Badger-Two Medicine Protection Act, S. 4288, also would set a dramatic precedent against human-powered mountain biking. We believe that they would be the first two pieces of federal legislation in U.S. history to expressly ban mountain biking on public lands. (S. 1765, § 201(c)(3); S. 4288, § 5(f)(2) [prohibiting "mechanized vehicles"].) Senator Tester's press release on the Badger-Two Medicine

¹ <https://www.energy.senate.gov/hearings/2020/9/subcommittee-on-public-lands-forests-and-mining-legislative-hearing> (forward to 1:51:00).

bill states he is “banning the use of motorized vehicles and mountain bikes,”² and we assume that he has the same intent in the Blackfoot Clearwater bill.

Not even the Wilderness Act of 1964 explicitly bans mountain biking, and, as you know, we maintain that it doesn’t in practice either. Because Wilderness legislation has become so controversial and difficult to pass, we believe these two bills are attempts to do an end run around that obstacle by creating Wilderness-type prohibitions on human-powered travel in non-Wilderness legislation, with its hoped-for lower levels of public awareness and opposition.

If Senator Tester’s legislation passes, not even a better Forest Service interpretation of the Wilderness Act—its outdated blanket bicycle ban in all Wilderness areas dates to 1977—would allow mountain biking in the Blackfoot Clearwater and Badger-Two Medicine areas, because S. 1765 and S. 4288 would override all other federal legislation, permanently eliminating mountain biking.

Senator Tester’s July 22, 2020, press release on the Badger-Two Medicine bill states that the Blackfeet back the legislation in furtherance of “our effort to protect these sacred lands.” However, we question whether the Blackfeet realize the consequences of the bill’s oblique reference to banning “mechanized vehicles”—not a term that would cause most people to think of ordinary bicycles—since the tribe operates a mountain biking touring company on the land in question. The tribe’s adventure touring website states, “Blackfeet Tours offers family-friendly 8-hour guided mountain bike rides to the sacred Badger Two Medicine area in the heart of the Rocky Mountain Front located near the southern border of Glacier National Park. We will ride bikes to the Two Medicine River where we will break for lunch and you will learn how to set up a tipi and learn about the tribal customs, histories, and stories while experiencing a land resplendent of wildlife, wildflowers, and spectacular scenery.”³

The combination of obscure language in the legislation and the tribe’s current mountain biking enterprise makes us wonder whether tribal elders are fully aware of the impact that the legislation would have on a desired revenue source for the tribe. We have made multiple efforts to contact the Blackfeet, but, perhaps because of pandemic-caused shutdowns, the tribe has not replied.

We think that the real backers of the mountain bike ban are less likely the tribe itself, but instead other entities that are enthusing about the legislation in Senator Tester’s press release, namely The Wilderness Society, The Montana Wilderness Association, the Glacier-Two Medicine Alliance, the National Parks Conservation Association, the Montana Wildlife Federation, and the Montana chapter of Backcountry Hunters and Anglers. Most of these organizations detest the idea of any human-powered uses on Wilderness-type public lands other than walking—the Wilderness purists because they have a messianic vision that no human must travel on Wilderness trails except

² https://www.testersenate.gov/?p=press_release&id=7597 (July 22, 2020).

³ <https://blackfeettours.com/tours/>.

on foot, the hunters out of a crass self-interest in keeping Wilderness-type lands to themselves as much as possible. Since the Blackfeet currently seek to earn revenue from mountain biking, the legislation seems to put the Wilderness purists and hunters' interests before those of the tribe.

Federal laws that ban mountain biking in perpetuity via an oblique "mechanized vehicles" prohibition whose impact the affected tribe may not be aware of are a bad idea. We request that the Public Lands Subcommittee not report favorably on these two bills and that you oppose them.

Sincerely yours,

Ted Stroll
STC board president

cc: The Hon. Steve Daines
The Hon. Jon Tester
Subcommittee on Public Lands etc.
Int'l Mountain Bicycling Ass'n
Mr. Christopher French, USDA Forest Service