



June 5, 2020

U.S. Department of the Interior  
Director (630), Bureau of Land Management  
Mail Stop 2134 LM  
1849 C St., N.W., Washington, D.C. 20240  
Attention: RIN 1004-AE72

**RE: Public Comments on Proposed Rule for e-Bike Use on BLM-Administered Lands**

Secretary Bernhardt:

Back Country Horsemen of America (BCHA) appreciates the opportunity to comment on the Proposed Rule to change how electrically motorized bicycles (e-Bikes) are managed on BLM-administered lands. BCHA recognizes that motorized transportation and recreation represent valid and important forms of recreational activities on our nation's system of public lands. We value the multiple uses that comprise public enjoyment of, and provide transport throughout, BLM public lands. However, as described in the following comments, BCHA supports the view that motorized recreational uses should occur only on routes, in areas or on waters that have been officially designated for motorized use. Specifically, **BCHA opposes any effort, including the Proposed Rule, that would attempt to superimpose motorized forms of travel and recreation on non-motorized trails used by hikers, equestrians and others.**

**About BCHA**

Founded in 1973, BCHA is a national 501(c)(3) non-profit service organization. Our mission is to **perpetuate the common sense use and enjoyment of horses in America's back country and Wilderness** and to **ensure that public lands remain open to recreational stock use.** A large part of our mission includes assisting the various government agencies and non-profit organizations in the maintenance and management of public trails and horse camps.

BCHA maintains a five-year Memorandum of Understanding (MOU) with the Washington Office of the BLM (signed November 2015). The purpose of the MOU is "to expand opportunities for hiker and equestrian recreation on lands managed by the BLM." Specifically, we agreed to "seek to identify, promote, and expand a system of trails for hiker and equestrian use in furtherance of BLM's National Recreation Strategy." Section D of the MOU speaks to "the value of promoting public-private partnerships that encourage responsible use of public land by hikers, equestrian users, and other recreationists." **We believe that the Proposed Rule to increase recreational opportunities through the use of e-Bikes on BLM public lands is not supported under the agency's current National Recreation Strategy and, as such, serves to undermine both the spirit and intent under which the BLM entered into its MOU with BCHA.**

## Recreational Conflict and Public Safety

In its “Discussion of the Proposed Rule,” the BLM requested information from the public on the “potential social and physical impacts of e-bike use on public lands.” 85 Fed. Reg. at 20230, April 10, 2020. Yet **the Proposed Rule is absent any recognition of, or request for, information from the public on the potential recreational conflicts and safety hazards associated with the proposed imposition of electric bikes on non-motorized trails.** This section of our public comment letter addresses the adverse and potentially significant social impacts of the Proposed Rule, including impacts related to recreational conflict and public safety.

## Proposed Rule Fails to Address Recreational Conflict

The BLM’s current Management Handbook for Travel and Transportation (H-8243-1, Rel. No. 8-82) defines user, or recreational, conflict as “perceptions, often expressed as concerns, fears and unease, and involve a variety of issues ranging from safety to resource impacts” (p. 64). The social science literature is replete with studies addressing recreational conflict and defines it primarily in terms of “goal interference” between one form of recreational activity versus another. For example, feelings of conflict have been documented to occur among trail users when acts of great speed, reckless behavior, or environmental damage are witnessed (presumably caused by others). As described below with reference to the BLM’s Proposed Rule, recreational conflict of this nature can lead to reduced opportunity and displacement of recreationists from places they would normally frequent.<sup>1,2</sup>

**The Proposed Rule appears to violate several of the basic principles set forth as representing the BLM’s broad goals to be accomplished via Trails and Travel Management (TTM, p. 52), which are to:**

1. Provide and improve sustainable access for public needs and experiences;
2. Protect natural and cultural resources and settings;
3. Promote the safety of public land users; and
4. Minimize conflicts among the various users of public lands.

**Nowhere does the Proposed Rule attempt to reconcile its inherent discrepancy with existing agency policy such as this.** Consequently, we focus on the BLM’s TTM goals 3 and 4 in the following discussion. On the topic of minimizing user conflict, the BLM TTM Manual (p. 63) lists first, among eight topics the need to address the: “Difference in speed of travel between different trail user groups.” This is consistent with published scientific literature regarding trail conflict, including literature reviews published by the federal government that clearly state that “Speed is a major source of conflict between trail users.”<sup>3</sup>

Hikers and equestrians travel along natural surface trails at speeds that average 3 miles per hour (mph) or less. Of the three classes of e-Bikes addressed in the proposed Rule, both Class 1 and Class 2 e-Bikes provide motor-assisted speeds up to 20 mph, while Class 3 e-Bikes provide the rider with a motor assist up to 28 mph. Capable riders can exceed the maximum motor-assisted speed. **The Proposed Rule fails**

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<sup>1</sup> Moore, R.L. 1994. Conflicts on multiple-use trails: Synthesis of the literature and state of the practice. Fed. Hwy. Admin. Rep. No. FHWA-PD-94-031.

<sup>2</sup> Stokowski, P.A. and C.B. LaPointe. 2000. Environmental and social effects of ATVs and ORVs: An annotated bibliography and research assessment. School of Natural Resources, University of Vermont, Burlington, VT.

<sup>3</sup> Federal Highway Administration (FHWA) and the National Recreational Trails Advisory Committee, 1994. Conflicts on Multi-Use Trails: Synthesis of the Literature and State of the Practice.

[https://safety.fhwa.dot.gov/ped\\_bike/docs/conflicts.pdf](https://safety.fhwa.dot.gov/ped_bike/docs/conflicts.pdf)

to recognize the significant discrepancy in the range of potential speeds by trail users and the resultant safety hazards that are certain to accrue should e-Bike use be authorized on non-motorized trails. The following picture and caption is taken from an advertisement that promotes the sale of e-Bikes.



By prompting local BLM managers to “generally allow” e-Bike use where traditional mountain bike use is allowed, Secretarial Order 3376 has effectively (i.e., programmatically) introduced a new and not well-understood user group among BLM-managed trails throughout the Western U.S. **The Proposed Rule does not acknowledge the potential negative consequences to other trail users, including its significant potential for user conflict and inevitable safety hazards. As such, the BLM finds itself in uncharted territory and must address, via programmatic analyses under**

**the National Environmental Policy Act, these issues before issuing a Final Rule.**

### [Proposed Rule Fails to Address Displacement of Non-Motorized Uses](#)

**The Proposed Rule clearly ignores decades of practice and the principle of managing trails for the primary intended uses, or purposes, for which they were designated.** By compelling BLM field offices to “generally allow” any or multiple classes of e-Bike use on existing natural surface trails, **the Proposed Rule runs counter to decades of applied recreation management theory that recognizes the need to maintain the desired experiences of non-motorized and relatively slow-moving trail users.** The Rule stands in sharp contrast to agency practice that new uses, including new types of travel, should first be programmatically evaluated for their impact on, and compatibility with, approved uses and activities on federal public lands and adjacent non-public lands.

Equestrians and hikers, and particularly those hiking with children, often will choose to avoid trails where there is a potential for encounters with fast-moving bicycles. When selecting among trails available in a given area, a key criterion shared by equestrians is safety concerns and the sometimes unpredictable response of their horses or mules in the event of a surprise on-trail encounter. The ability of e-Bikes to travel at relatively high speeds, combined with their often silent approach, elevate the potential for such dangerous encounters. Thus, **the Proposed Rule and its prompt to local BLM managers to authorize the use of e-Bikes on non-motorized trails would result in many trails being viewed by hikers and equestrians as either less desirable, less compatible for shared use, or outright unsafe for shared use.** Should the BLM adopt the Proposed Rule, it likely would represent the diminishment or even the loss of traditional trail uses. This loss could be realized on the non-motorized trails in question and within a wider area in cases where public land visitors would not have ready access to trails (or a system of trails) on which there would be options to escape the potential of user conflict and safety hazards.

**The Proposed Rule acts to impose a new and largely untested use (e-Bike use) among non-motorized trail uses without first conducting an analyses of its general compatibility.** There exists a wealth of peer-reviewed scientific literature on topics regarding the motivations of outdoor recreationists, their desired experiences, and methods to avoid and minimize user conflict. Yet the Proposed Rule, with its

directive to “generally allow” e-Bike use on non-motorized trails, bypasses any evaluation of the prevailing science about public attitudes regarding incompatible recreational uses. Consequently, the Proposed Rule and its intent to compel widespread authorization of e-Bike use on non-motorized trails would, in many locations, lead to the phenomena of “technological displacement” whereby recreational users with new and more advanced forms of travel degrade the experience of, and displace, traditional trail users such as hikers and equestrians.

**The economic consequences of the displacement of traditional trail users, should the Proposed Rule be enacted, must be addressed in the Final Rule.** In the United States, the horse industry alone contributes \$122 billion a year to the U.S. economy annually.<sup>4</sup> The vast majority of the nation’s 7.2 million horses (85 percent) are used for recreational purposes, most notably trail riding. Additionally, the industry employs 1.5 million Americans and one-third of all U.S. households includes a member that is a horse enthusiast. The equine industry and its recreational counterparts are universally opposed to e-Bike use on non-motorized trails and are speaking out in unison against any changes that would open such trails to higher-speed, machine powered transport.

### Proposed Rule Fails to Address Trail User Safety Hazards

**The Proposed Rule fails to address the potential for obvious and potentially ubiquitous safety hazards that would be associated with e-Bike use on non-motorized trails.** As described in the previous section, the rapid speeds at which e-Bikes are capable of traveling on shared-use trails, combined with their often silent approach, would create significant safety hazards for public land visitors either on foot or on horseback. The safety hazard would be compounded on trails that are either steep, narrow or winding and where sight lines by users traveling in either direction are inadequate.

At present, there exist conflict and safety issues on BLM public lands associated with fast-moving mountain bike use and the presence of traditional trail users like hikers and equestrians. The additional speed enabled by the imposition of e-Bikes on non-motorized trails would compound these safety concerns. The issue has risen to a level of concern in some locations to have compelled the consideration of:

- Trails on which mountain bikes are designated as the primary intended use, or
- Directional (one-way) trails, particularly downhill, as a means to minimize surprise encounters between mountain bikers and hikers and equestrians.

An e-Bike, which is capable of rapid acceleration and speeds in excess of a standard mountain bike,<sup>5</sup> would represent a further danger to other trail users, particularly along relatively flat or uphill terrain where higher than normal speeds could be attained via the motorized assist. **Another factor that makes this potential hazard even greater to all trail users is the fact that bicycle helmets commonly in use today are not designed to sustain collisions at speeds much greater than 14 miles per hour.**<sup>6</sup> This fact alone renders the Proposed Rule untenable, if not outright irresponsible.

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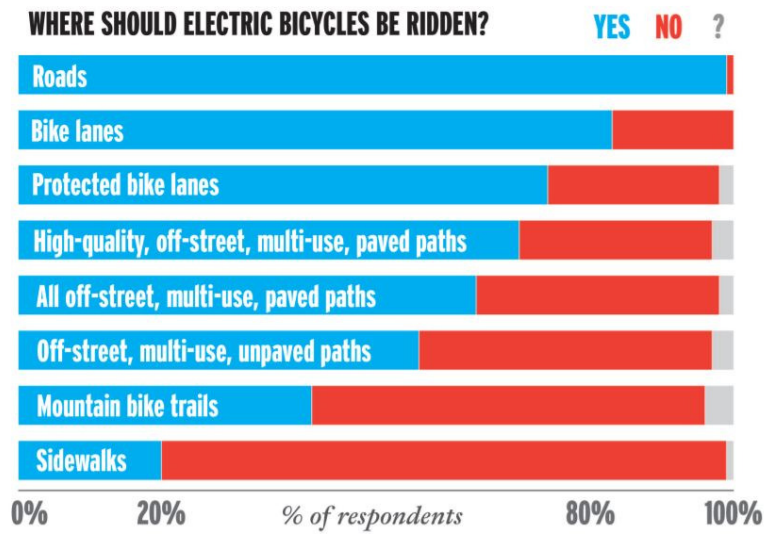
<sup>4</sup> Economic Impact of the U.S. Horse Industry. American Horse Council Foundation, 2018.

<sup>5</sup> Hall, et. al, 2019, Pedal-Assist Mountain Bikes: A Pilot Study Comparison of the Exercise Response, Perceptions, and Beliefs of Experienced Mountain Bikers (*JMIR Form Res* 2019;3(3):e13643). DOI:[10.2196/13643](https://doi.org/10.2196/13643)

<sup>6</sup> Bicycle Helmet Safety Institute, 2019. What are the limits of bike helmet protection?  
<https://helmets.org/limits.htm>

The Proposed Rule, and its objective to facilitate the addition of fast-moving e-Bikes onto non-motorized trails shared by hikers and equestrians, would pose a serious safety hazard to traditional trails users—to a degree that has not before been either contemplated or authorized by the BLM, as far as we know. The fact that Proposed Rule was not developed in consultant or collaboration with national hiking and equestrian organizations is all the more troubling. The organizations whose memberships comprise the largest segment of hikers and equestrians nationwide, American Hiking Society and the Back Country Horsemen of America, oppose the intent of the Proposed Rule that would in effect allow electric motorized bicycles on non-motorized trails.<sup>7</sup> Their opposition is predicated primarily on the basis of the inevitable social conflicts, safety hazards, and impact on user experience that would occur by generally allowing e-Bike use on non-motorized trails.

If the above argument somehow is not convincing, consider the fact that a national survey conducted by the League of American Bicyclists<sup>8</sup> reported that nearly 60 percent of bicyclists surveyed nationwide believe that electric bicycles should not be ridden on mountain bike trails (see following table).



<sup>8</sup> ELECTRIC BICYCLES: PUBLIC PERCEPTIONS & POLICY // LEAGUE OF AMERICAN BICYCLISTS

Yet for reasons unexplained, the Proposed Rule includes the following and incongruous statement:

The BLM reviewed the requirements of the proposed rule and determined that **it would not adversely affect in a material way** the economy, a sector of the economy, productivity, competition, jobs, the environment, **public health or safety**, or State, local, or tribal governments or communities. 85 Fed. Reg., Procedural Matters, at 20232 (emphasis added).

<sup>7</sup> Both entities intend to submit organizational comments to the BLM that further elaborate their respective position on the Proposed Rule.

<sup>8</sup> League of American Bicyclists, 2015. Electric Bicycles: Public Perceptions & Policy. Results and Analysis of a National Survey of American Bicyclists. [https://www.bikeleague.org/sites/default/files/E\\_bikes\\_mini\\_report.pdf](https://www.bikeleague.org/sites/default/files/E_bikes_mini_report.pdf)

**We question the rationale behind the quoted statement.** Given the absence of a public safety analysis, the BLM appears to be signaling that any such risk is acceptable, even when that risk clearly would be borne primarily by traditional trail users (i.e., people on foot or horseback). Notably, that risk would not be borne primarily by e-Bike users who would benefit from the proposed Rule by being provided access to long-standing non-motorized trails. **If the BLM chooses to retain in its Final Rule the above statement regarding Procedural Matters, it must first address in detail how the BLM determined that its top-down edict to field offices to “generally allow” e-Bike use on non-motorized trails shared by hikers, equestrians and mountain bikers would not adversely affect public safety.**

### Proposed Rule Lacks a Risk and Needs Assessment

**The proposed Rule lacks a risk and needs assessment.** We argue here that the risk, in terms of potential hazards to public safety, far outweighs any current or future “need” for e-Bikes to share *en masse* the existing network of multi-use, non-motorized trails on BLM public lands. The BLM’s Proposed Rule makes the claim that:

Under current land use plans and travel management plans, the use of off-road vehicles (and, therefore, e-bikes) is currently allowed on the majority of roads and trails on BLM-administered public lands. 85 Fed. Reg., at 20230.

**That fact alone should prompt the BLM to reconsider any “need” for the current rulemaking proposal.** Moreover, there exist several recent reports pointing out the fact that little public demand exists for e-Bike access to natural surface trails on U.S. public lands and, more specifically, BLM-managed non-motorized trails. For example, a 2019 study published in the International Journal of Urban Sustainable Development,<sup>9</sup> makes the following claim about e-Bikes that are used primarily on roads and paved trails for the purpose of commuting, personal use, exercise or general mobility and exploration:

Although ebikes have become increasingly common in the U.S., they have failed to gain significant market penetration despite their great promise.

When combined with the current abundance of natural surface roads and trails available for motorized and e-Bike use (as noted above), there exists sufficient evidence to underscore the fact that the origins of current rulemaking proposal have not come in response to a high and unmet user demand for e-Bike use on BLM-administered trails. Rather, what is clear is that the rulemaking proposal came in response to lobbying efforts on behalf of e-Bike and related manufacturers in an effort to expand e-Bike sales should the Department of Interior change its existing regulations and declassify e-Bikes as a motorized trail use. Yet the cost to public safety clearly is too great. **Consequently, the Final Rule must include a thorough risk and needs assessment, specific to e-Bike use on BLM lands, particularly in light of the significant and potentially adverse risk to public safety that would accrue as a result of its implementation.**

### The BLM Has a Moral Obligation to Preclude Potential Safety Hazards

The potential safety hazards to hikers and equestrians that would accompany implementation of the Proposed Rule comes with a high potential for liability on behalf of the federal government. This liability would flow from the inevitable significant injuries or fatalities to other trail users that would result from its implementation. Granted, the Federal Tort Claims Act generally shields employees and officers of the

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<sup>9</sup> Meyer, Adam. 2019, Motivations and barriers to electric bike use in the U.S.: Views from online forum participants. International Journal of Urban Sustainable Development. DOI: [10.1080/19463138.2019.1672696](https://doi.org/10.1080/19463138.2019.1672696)



federal government from legal claims by members of the general public, An alternative argument, however, is that **the current rulemaking proposal requires consideration of the agency’s “moral liability,” or moral obligation, with respect to hazards its implementation would thrust upon hikers and equestrians should BLM field offices authorize e-Bike use on non-motorized trails.**

## Conclusions

BCHA does not dispute the important fact that e-Bikes have the potential to introduce people to the wonder and excitement of exploring their BLM public lands and, in particular, create opportunities for people who would not otherwise have the physical ability to strike out on their own without the motor assist provided by e-Bikes. We understand that e-Bikes have their place on public lands and we embrace their potential benefits to the recreating public. Our chief argument remains, however, that e-Bikes must be treated as a motorized trail use and should not be authorized for use on non-motorized trails. The relatively low speed that currently characterizes uphill travel by mountain bikes would become a thing of the past if e-Bikes were introduced to non-motorized trails. Even riders of Class 1 e-Bikes have the potential to approach 20 miles per hour when traveling uphill, irrespective of most grades that might be traversed.

The concept of multi-use trails where hikers, equestrians and mountain bikers share a common path would likely be a casualty of the current rulemaking. The BLM has a responsibility to ensure that this does not occur and could accomplish this by abandoning the current rulemaking proposal.



### **Fly up hills and tough terrain**

*Note: The picture and caption above are taken from an advertisement that promotes the sale of e-Bikes.*

Sincerely,

A handwritten signature in blue ink that reads "Darrell Wallace". The signature is written in a cursive, flowing style.

Darrell Wallace  
Chairman

Post script:



## FASTER IN THE ROUGH

This bike is blazing fast over the roughest trails. We gave the axle path that reduces rear wheel "hang-up" on big rocks and momentum, control, and speed.

The picture and caption above are taken from an advertisement that promotes the sale of a motorized electric bicycle. In this instance, the manufacturer clearly targets a young and adrenalin-seeking demographic through the use of statements such as:

- The e-Bike is “blazing fast over the toughest trails,”
- Its design “(makes) it easy to maintain speed in dicey conditions,”
- Its motor “amplifies your pedaling input by a mind blowing 410%,”
- “At peak assist, it’s like having four of you powering the pedals...,” and
- “This is the bike that lets you summit the longest, nastiest climbs with energy to spare so that you can bomb down the longest, nastiest descents.”

The e-Bike depicted has “the most powerful motor on the market” at 250W nominal and a 700 watt-hour battery. As such, it falls well within the parameters of a Class 1 e-Bike as defined within the BLM’s Proposed Rule. It would therefore represent fair game for any local BLM field manager to authorize the pictured e-Bike for use on existing non-motorized trails, should the Proposed Rule remain as-is or if it is not abandoned outright.

The picture above appears to underscore a break-the-rules mentality by depicting this “blazing fast” e-Bike rider as either uninterested or incapable of traveling within the trail tread (thereby failing any test of the minimum impact ethos). Any message encouraging “share the trail” with other users or to yield or exercise caution when approaching hikers or equestrians is absent.

While perhaps all fine and good for use and enjoyment on a closed-course e-Bike park, an encounter with a thrill-seeking rider on such a machine is the last thing an equestrian wants to encounter while trying to enjoy any non-motorized trail on BLM public lands.