In the United States District Court for the District of Wyoming

UNITED STATES OF AMERICA, **Plaintiff,** **vs.** **MICHELINO P. SUNSERI,** **Defendant,**	**Case No. 24-PO-00893-SAH-1**

FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court having considered and evaluated the evidence and legal arguments presented finds the following: Defendant Michelino P. Sunseri is **GUILTY** of Shortcutting a Trail as charged in the Violation Notice, occurring on or about September 2, 2024, within the boundaries of Grand Teton National Park in the District of Wyoming.

I. FINDINGS OF FACT

This matter was tried to the Court on May 20 and 21, 2025, with the United States represented by Ariel C. Calmes and the Defendant Michelino P. Sunseri ("Defendant" or "Sunseri") represented by Edward S. Bushnell and Alexander G. Rienzi. The United States presented the testimony of Kelly Halpin; Kyler Carpenter, National Park Service Special Agent ("SA Carpenter"); Dr. Jennifer Newton, National Park Service Social Scientist ("Dr. Newton"); and Michelle Altizer, National Park Service Ranger ("Ranger Altizer"). The Defendant presented the testimony of Bryce Thatcher, Patrick Parsel, Galen Woelk, Sam Schwartz, and Chris Bellino, National Park Service Ranger ("Ranger Bellino"). The Court finds the following facts:

The trial was in person with both parties physically present in the courtroom. Witnesses Ms. Halpin, Dr. Newton, Ranger Altizer, Patrick Parsel, Mr. Schwartz, and Ranger Bellino testified in person; while witnesses SA Carpenter, Mr. Thatcher, and Mr. Woelk all testified via video. The Court admitted into evidence the Government's Exhibits 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and Defendant's Exhibit 11.

Ms. Halpin was called first by the United States and testified that she had not discussed her testimony with anyone prior to trial, nor threatened by anyone about testifying and had not been offered anything in exchange for her testimony. Ms. Halpin is a lifelong resident of the Jackson/Wilson area in Wyoming. She is a professional mountain runner, a free-lance illustrator, and an ambassador for the Bridger-Teton National Forest. Ms. Halpin met the Defendant through the running community in Jackson a couple of years ago. She has corresponded with the Defendant via the internet regarding trail conditions and other running related topics. They communicated primarily through Instagram messenger and the Strava App. Strava is a program used to record trail running activities and times. She was aware the Defendant had a public Strava account.

Ms. Halpin knew beforehand that on September 2, 2024, the Defendant intended to attempt to set a new "Fastest Known Time" (FKT) for running the trail to the top of the Grand Teton and back. Ms. Halpin is also familiar with the trail used by the Defendant in the time trial at question. The trail begins at the Lupine Meadows Trailhead and uses the Garnet Canyon Trail. She has used the trail approximately 100 times and has summitted the Grand Teton Peak twenty times herself. During her lifetime, the switchback known as

the Old Climber's Trail ("OCT") has always been closed by the National Park Service. She knew that the OCT was used by climbers and mountaineers in the past to go up and down the Grand Teton Peak and is still sometimes used today even though she has not seen anyone use it.

A couple of days after the Defendant's run, Ms. Halpin was on the trail and saw the signs posted at both ends of the OCT. The sign at the bottom of the OCT is shown in Government's Exhibits 18, 19 and 20. There is a small sign on a post that says, "CLOSED FOR REGROWTH." The sign at the top of the trail is shown in Government's Exhibits 21, 22, and 23. That sign says, "SHORT CUTTING CAUSES EROSION." These signs have been present as long as Ms. Halpin can remember. Taking the OCT shortcut is about four-tenths of a mile shorter than the designated trail. Ms. Halpin testified that at some point, more than a decade ago, she had seen logs and things across the upper section of the trail to prevent people from using it. When previously using that section of trail, she did not realize it was illegal but knew the Park did not want people on it.

Prior to the Defendant's attempt at the FKT record on September 2, 2024, Ms. Halpin discussed the Defendant's upcoming run with him over Instagram, documented in Government's Exhibit 1. The two talked about cutting the switchback on the trail by using OCT shortcut. Ms. Halpin discouraged the Defendant from cutting the switchback saying it was not appropriate when there is an established trail and pointed out that the Park does not want people to cut there. The Defendant stated, "I definitely thought about **cutting the switchbacks** . . . ." Gov't Ex. 1. (emphasis added).

Ms. Halpin was present when the Defendant finished his run on September 2, 2024. Upon seeing her, the Defendant said, "Kelly, I'm sorry I cut the switchbacks." She testified that she understood that to mean that Mr. Sunseri had taken the OCT on the way down. In the following days, Ms. Halpin had other conversations about the run with the Defendant, one of which occurred via Instagram on September 9, 2024. *See* Gov't Ex. 2. In that conversation, the Defendant told Ms. Halpin that the National Park Service ("NPS") was possibly going to press charges against him for cutting the switchback and indicated he should have listened to her previous advice. *Id*.

Ms. Halpin stated the signs posted on the OCT meant to her that the NPS did not want people to use that trail. She testified that the OCT is much narrower than the main trail and does not resemble the main trail, partly because the OCT shortcut is "pretty steep" and would be too steep to maintain as a trail for the public. She based her testimony on her prior experience as a trail crew worker. She stated she had no difficulty seeing or reading the signs and that it is well known in the community that one should not take the OCT.

The Government's next witness was Special Agent Kyler Carpenter. He is an NPS special agent and has been part of the digital evidence forensic team for three years with nineteen years in law enforcement. SA Carpenter is certified and has at least 100 hours of training in digital evidence. He testified as a digital evidence expert without objection, and discussed the process of obtaining, identifying and authenticating the Strava and Instagram accounts that appeared to belong to the Defendant. SA Carpenter testified to the contents of Government's Exhibit 6, which was admitted without objection, and said that it was obtained through a search warrant to Instagram.

SA Carpenter testified that this information was from an Instagram account with the username: michelino_sunseri. The email and phone number on the account matched the email and phone number the Defendant used to communicate with the NPS during the case. And the Defendant's driver's license photo matched the photo of the owner of the Instagram account. The account also had a URL link to a Strava account which too appeared to belong to the Defendant.

Under those facts, the Court finds that the Instagram account is the Defendant's account. Government's Exhibit 7 depicts direct messages taken from the Instagram account between the Defendant and an individual by the name of Anton Krupicka, a previous record holder of the route. The Defendant's messages are the green messages. Government's Exhibit 8 also shows messages from the Instagram account between the Defendant and the NPS. Again, the Defendant's messages are in green. Government's Exhibit 9 also contains Instagram messages between the Defendant and Jen Day Denton; the Defendant's messages in green again. These exhibits were all admitted without objection.

SA Carpenter then testified regarding the content of Government's Exhibit 10, the Strava account which was admitted into evidence without objection. The information about this account was also acquired via a search warrant. The account-holder's email and date of birth matched the Mr. Sunseri's, and it had some of the same media contents as the Instagram account. The name on the account, "Michelino Sunseri," and the photo matched that of the Defendant. As such, the Court finds this Strava account is the Defendant's.

In Government's Exhibit 10, a photograph of a watch appears to be a Garmin watch. The Strava account showed information regarding other connected apps, including an app

called Garmin Connect, matching the watch. The information under the Garmin app appears to match the time and activity that occurred on September 2, 2024. Government's Exhibit 11 is an activity display from the Strava account, and the first page contains a map which is derived from the GPS data from the Garmin watch/app.

The Court makes the following findings based on the Government's exhibited admitted through SA Carpenter:

Exhibit 6 shows the Defendant's statement that he has made forty-three summits of the Grand Teton Peak in four years with 200-plus hours of reconnaissance. He was very familiar with the minute details of this route. In Exhibit 7, the Court notes the following excerpts from the conversation between Defendant and Krupicka on September 3, 2024:

> Krupicka: Not trying to stir the pot here at all, just genuinely curious—what was your thought process on running the official trail up but taking the **shortcut** down? Personally, I much prefer **the cut** in both directions. . . . Also, pretty sure Andy did not short cut either direction and while I'd love for the standard to be to take the cut . . . until somebody takes **the shortcuts** . . .
>
> Defendant: Regarding the route- I went up with Andy a few weeks back and picked his brain on so many different things regarding the route and the FKT. As legend has it, he stuck to **the normal trail** on the way up and the way down. I asked him what he thought if I were to **cut the switchbacks** in either direction, and he said he truly didn't care. His decision to stick to the route was one based off his past as a Jenny Lake climbing ranger. A position I totally respect. He gave me permission to get up and down the mountain however I see fit, and wasn't too concerned about **the switchbacks**. . .
>
> I personally chose to NOT go through **the cut** on the up because it wasn't as busy in the morning, plus I didn't want to breakup the flow of **the switchbacks** all the way up to Garnet. I felt like hiking that early would ruin my zen, as I feel that runnable section is my biggest weakness in this route. The way down, there were SO many people coming up that I didn't want to increase the chances of a trip/fall by dodging hikers. Plus- I think it is a little bit faster, at least on the down. I struggled with the thought of it knowing

> how close I was going to be to his record and made that last second decision to 100% secure the FKT by taking that. . . .
>
> I'm positive this will come up in discussion surrounding this FKT and am happy to stand by my decision . . .
>
> 44 laps is a bit egregious, but I didn't think I would ever have the fitness to keep up with Andy or Kilian so I had to know EVERY single rock and every single footstep I would take from start to finish.

Gov't Ex. 7 (emphasis added).

Exhibit 9 shows the Defendant messaging with another user identified as Jen Jay Denton between September 6 and September 15, 2024. The two discuss the route taken by the Defendant. Ms. Denton stated that "I think you used the same one **cut** that I did right?" And the Defendant responded, "Yeah we did the same route. I just used it on the down though . . . ." Gov't Ex. 9 (emphasis added).

The Defendant posted many photos and a detailed account of his run on his Strava account for the public. *See* Gov't Ex 10 and 11. Exhibit 10 details the Defendant's obsession with the route and how his numerous practice runs helped him become familiar with every nook and cranny and twist and turn. He documented many details of his run and his thought process throughout and his determination to beat the record at all costs. The Court specifically notes the following:

> "I yelled out. '1:52:20, we're **cutting the switchbacks**!'"
>
> "I hit the end of the boulder fields at 2:29:00. I have 24 minutes to get through the last 4 miles of hikers. This is when I knew I had a really tough decision to make – whether or not to cut the switchbacks." (emphasis and font color in original).
>
> "Running up the very last uphill of the route, I made the decision to **cut the last switchback** . . ."

Gov't Ex. 10 (emphasis added). Exhibit 11 contains the same narrative and shows a map of the Defendant's route on his run, indicating use of the OCT or, said differently, cutting the switchback. Gov't Ex. 11.

The next witness for the Government was Dr. Jennifer Newton, a social scientist with Grand Teton National Park ("GTNP") since 2016. Part of her job is to be familiar with the trail system in the park. She testified regarding Government's Exhibit 12 which is the Park map that visitors receive when entering the Park. The map is also in the GTNP newspaper, available at visitor's centers and on the Park's official website. *See* Gov't Ex. 13. It depicts the Parks' designated trail system, including the Lupine Meadows Trail. The trail map shows the switchbacks and does not have the OCT on it at all, much less as part of the designated trail. Dr. Newton was not familiar with the switchback being called or referred to as the Old Climber's Trail.

The Park provides information to visitors about hiking in the park. Government's Exhibit 13 is a page from the GTNP newspaper that states, "**Hikers should stay on trails. Short-cutting is prohibited** and damages fragile vegetation, promoting erosion." (emphasis in original). Government's Exhibit 14, taken from the GTNP official website, is information titled "Hiking." It provides information like, "[H]ike on established trails to prevent erosion." It also contains a map of the trail showing the switchbacks. The trail depicted here does not have the OCT.

Government's Exhibit 15 shows the GTNP official website with a link to the current Superintendent's Compendium and indicates this document contains "the special

designations, closures, public use limits, permit requirements and other restrictions imposed under the discretionary authority of the Superintendent." It also contains a link to the Code of Federal Regulations ("C.F.R."). Just below that is the heading "Things to Know," it states, "**Hikers should stay on trails**. Short-cutting is prohibited and damages fragile vegetation promoting erosion . . ." (emphasis in original).

Dr. Newton testified to her familiarity with the large sign located at the Lupine Meadows Trailhead that provides information to hikers before starting to hike. *See* Gov't Ex.16. Exhibit 17 shows a portion of the sign says, "Stay on established trails. Shortcutting switchbacks damages plants and causes erosion," found under the heading "Hiking, Camping & Stock Use." *See* Gov't Ex. 17.

The Government's last witness was NPS Ranger Michelle Altizer, who was in charge of the investigation. Ranger Altizer first worked in GTNP in the summers of 2017 and 2018 in a non-law enforcement capacity and has been employed as a full-time law enforcement ranger for two years; she has also been recreating in GTNP since 2017. Ranger Altizer testified about the pertinent portion of the GTNP's 2024 Superintendent's Compendium that was in effect at the time of the Defendant's run. *See* Gov't Ex. 24. Page 22 of the 2024 Superintendent's Compendium states:

> **§2.1(b) Restrictions for hiking or pedestrian use to designated trail or walkway systems**
>
> - Foot travel is restricted to designated trails and walkway systems when traveling through signed revegetation and restoration areas.
>
> - Short cutting a switchback along a trail is prohibited.

> *The Superintendent has determined revegetation and restoration efforts are an important function of the NPS. Revegetation and restoration returns an area to an acceptable native vegetation state after a certain even or sue caused unacceptable resource impacts. To successfully restore a park area to a native state takes significant planning and effort for NPS staff. The Superintendent has determined this restriction is necessary and the least restrictive mans to prevent further unacceptable resource impacts and provide an opportunity for successful revegetation and restoration attempts.*

Gov't Ex. 24 (emphasis in original). Ranger Altizer also testified regarding the signs posted at the top and bottom of the OCT at the time of the Defendant's run. *See* Gov't Exs.18-23. She stated that other than the signs at the top and bottom of the OCT, she was not aware of any signage or notice in the Park or by the Park specifically prohibiting use of, or closing the OCT.

Ranger Altizer testified that she was aware that the OCT was historically used by climbers, but in her time in GTNP, she has never seen anyone using that part of the trail. Currently, the OCT is similar to a single-track trail with hard-packed ground. In the general area, there are other "social trails", or user created trails that are not official Park established trails, like the Delta Lake Trail. The Park is not currently restricting use on the Delta Lake Trail.

On cross-examination, the defense questioned Ranger Altizer about her decision to write the Defendant a citation. She stated that because the Defendant's actions were high profile due to his social media posts, the potential to deter future violations of this exact type was very high and an important consideration. In addition, visitor usage is high in this area, so again, the potential for deterrence was strong.

On re-direct Ranger Altizer stated that switchbacks in trails are important to provide an appropriate trail at a proper gradient for hiking. She stated that the OCT would not be an appropriate trail to maintain in this area because it is too steep to be safe for the general public. Prohibiting shortcuts becomes even more important in high traffic areas to prevent damage to vegetation and prevent erosion. Ranger Altizer did not cite the Defendant because he posted about cutting the switchback, she cited him because he cut the switchback, and she testified to the importance of demonstrating that the prohibition on shortcutting would be enforced. The decision to write the citation was hers, no one directed her to write the citation.

After re-direct, the United States rested its case, and the Defendant did not make a motion for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29. Instead, the Defendant commenced his case-in-chief.

Bryce Thatcher testified first for the Defendant. Mr. Thatcher grew up around Driggs, Idaho and spent a lot of time in the mountains learning to run the trails. He testified that he spent a lot of time in GTNP and noted the OCT was a standard trail that was often used by mountain runners usually during their descent. He remembers a sign that said, "shortcutting causes erosion" in those "early days." Mr. Thatcher did not explain the time frame that he was referencing.

The Defendant's next witness was Patrick Parsel. Mr. Parsel has extensive experience in trail management throughout his career as documented in his CV. Def.'s Ex. 11. This included experience in revegetation and rehabilitation of trail areas. He was designated as an expert in trail management, maintenance and restoration. Mr. Parsel

testified to his experience with 36 C.F.R. § 2.1(b). Generally speaking, in national parks and forests, people are allowed to go anywhere unless specifically restricted. The federal agency cannot just issue restrictions, they must follow certain steps. These steps include that the Superintendent must add something to the compendium to provide reasoning for the restricted use. Mr. Parsel testified that usually there is signage to notify the general public that could be at the trailhead or trail junctions, and that signage should ideally echo the language of the rule.

Mr. Parsel visited the trail in question the day prior to the trial, specifically the OCT. He stated the trailhead signage in Government's Exhibits 16 and 17 did not say anything about "trail closures." In his interpretation, an established trail can be either a designated trail or a user-created trail. He stated that on his visit to the OCT, he saw the same signs as in Government's Exhibits 18, 19, 21, 22 and 23. He stated that if he had overseen the closing of this "trail" he would have wanted more regulatory signage saying something is unlawful. On cross examination, Mr. Parsel stated there is no requirement in the C.F.R. that the language of the rule be used when noticing the public of the rule; nor does the C.F.R. require where signs must be placed. A park visitor has the responsibility to know the park rules in any national park.

During questioning by the Court, Mr. Parsel stated that the language of the Compendium refers to all switchbacks, but that this particular switchback is different as the "closure" represented a significant change in usage. Mr. Parsel testified that the rule against cutting switchbacks codified the principle of not cutting switchbacks on any trail which is generally accepted in the hiking community as a cultural norm of hiking.

The Defendant's next witness was Galen Woelk. Mr. Woelk lived in the Jackson area from 1991 to 1995 and moved back in 1998 until 2004, during which time he took approximately 140 to 160 climbing trips in Grand Teton National Park and 50 to 60 skiing trips in the winters. He is very familiar with the OCT and testified he has probably used it 150 times. It used to be the only trail going up Garnet Canyon. Similar signage existed on the trail then as is there today. Mr. Woelk thought the signage was to direct the regular tourists up the main trail, not the trail runners.

Sam Schwartz testified next on behalf of the Defendant. Mr. Schwartz has lived in Jackson most of his twenty-nine years and has participated in a lot of mountaineering, trail running and skiing in GTNP. As part of these activities, he has used the OCT as recently as 2018 and has seen others using the trail. He is aware there is signage on the OCT but does not know specifically what it says. He did not know the trail was closed and would not have used the trail if he had known.

Lastly, the Defendant called NPS Ranger Chris Bellino. Ranger Bellino has worked in GTNP as a law enforcement officer since 2014 and is currently a District Ranger supervising six permanent law enforcement rangers (including Ranger Altizer) and thirteen seasonal law enforcement rangers. Ranger Bellino is familiar with the trail in question but has never heard it called the Old Climber's Trail. In his ten-plus years in the park, the OCT has always been referred to as a shortcut, not a trail. In Ranger Bellino's understanding, this shortcut was eliminated as part of the official trail when the new designated trail was built, although he did not know when that was.

Based on the foregoing, the Court finds these facts from the trial to be essentially undisputed: On September 2, 2024, the Defendant attempted to set a "Fastest Known Time" running up and down the Grand Teton Peak. He began and ended his run at the Lupine Meadows Trailhead using the Garnet Canyon Trail. The trail winds its way up with a series of four switchbacks. The OCT is an old trail going up from the third switchback, cutting off the last switchback of the designated trail. There are signs on both ends shortcut that read, "CLOSED FOR REGROWTH" at the bottom of the OCT, and "SHORT CUTTING CAUSES EROSION" at the top. On the Defendant's way up the mountain, he did not use the OCT, however on his down-route he chose to take the OCT. It is this use of the OCT that is the basis for the charge in this case.

II. CONCLUSIONS OF LAW

The Defendant was charged with a violation of 36 C.F.R. § 2.1(b) that reads:

> **§ 2.1 Preservation of natural, cultural and archeological resources**
>
> (b) The superintendent may restrict hiking or pedestrian use to a designated trail or walkway system pursuant to §§ 1.5 and 1.7. Leaving a trail or walkway to shortcut between portions of the same trail or walkway, or to shortcut to an adjacent trail or walkway in violation of designated restrictions in prohibited.

36 C.F.R. § 2.1(b). The additional sections referenced read:

> **§ 1.5 Closures and public use limits.**
>
> (a) Consistent with applicable legislation and Federal administrative policies, and based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of

> facilities, or the avoidance of conflict among visitor use activities, the superintendent may:
>
> (1) Establish for all or a portion of a park area, impose public use limits, or close all or a portion of a park area to all public use or to a specific use or activity.
>
> (2) Designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity
>
> (b) …
>
> (c) Except in emergency situations, prior to implementing . . . a restriction, condition, public use limit or closure, the superintendent shall prepare a written determination justifying the action. That determination shall set forth the reason(s) the restriction, condition, public use limit or closure authorized by paragraph (a) has been established, and an explanation of why less restrictive measures will not suffice. . . . This determination shall be available to the public upon request.

36 C.F.R. § 1.5. Then, under § 1.7, in pertinent part:

> **§1.7 Public notice**
>
> (a) Whenever the authority of 1.5(a) is invoked to restrict or control a public use or activity, . . to designate all or a portion of a park areas as open or closed, . . . the public shall be notified by one or more of the following methods:
>
> (1) Signs posted at conspicuous locations, such as normal points of entry and reasonable intervals along the boundary of the affected park locale.
>
> (2) Maps available in the office of the superintendent and other places convenient to the public.
>
> (3) Publication in a newspaper of general circulation in the affected area.
>
> (4) Other appropriate methods, such as the removal of closure signs, use of electronic media, park brochures, maps and handouts.

> (b) In addition to the above-described notification procedures, the superintendent shall compile in writing all the designations, closures, permit requirements and other restrictions imposed under discretionary authority. This compilation shall be updated annually and made available to the public upon request.

36 C.F.R. § 1.7.

The testimony at trial established that the GTNP Superintendent, under § 2.1(b), imposed a restriction on shortcutting as set forth in the 2024 GTNP Superintendent's Compendium signed by Superintendent Palmer Jenkins. This Compendium was in effect at the time of the incident. The pertinent section of the compendium reads:

> **§2.1(b) Restriction for hiking or pedestrian use to designated trail or walkway systems**
>
> - Foot travel is restricted to designated trails and walkway systems when traveling through signed revegetation and restoration areas
> - Short cutting a switchback along a trail is prohibited
>
> *The Superintendent has determined revegetation and restoration efforts are an important function of the NPS. Revegetation and restoration returns an area to an acceptable native vegetation state after a certain event or use caused unacceptable resource impacts. To successfully restore a park area to a native vegetation state takes significant planning and effort for NPS staff. The Superintendent has determined this restriction is necessary and the least restrictive means to prevent further unacceptable resource impacts and provide an opportunity for successful revegetation and restoration attempts.*

Gov't Ex. 24.

To convict the Defendant, the Government must prove beyond a reasonable doubt the following elements of the violation:

1. On or about September 2, 2024,

2. In Grand Teton National Park in the District of Wyoming,

3. The Defendant, Michelino Sunseri,

4. Left a designated trail to short cut a switchback on the same trail pursuant to the superintendent's restriction;

5. The restriction must be consistent with applicable legislation and Federal administrative policies;

6. The restriction must be based on a written determination that the restriction is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources;

7. The written determination must be available to the public on request; and

8. The public has to be notified by one or more of the methods outlined in § 1.7(a) and contained in a compilation of such designations which is updated annually and made available to the public upon request.

Many of the elements were undisputed as the Government proved the following beyond a reasonable doubt: that the Defendant's acts in question occurred on September 2, 2024, within the boundaries of Grand Teton National Park; that the Defendant was on the Garnet Canyon Trail; that he ascended the Grand Teton Peak staying on the designated Garnet Canyon Trail and on the way down utilized the Old Climber's Trail; and that the OCT shortcut links one switchback to another on the Garnet Canyon Trail. The dispute lies within the meaning of 36 C.F.R. § 2.1(b) and whether the restriction in the 2024 Superintendent's Compendium was enacted according to the other applicable rules.

Section 2.1(b), does not, itself, create a violation of law. Rather it provides a method for a park superintendent to implement a restriction on shortcutting between trails to protect

natural resources if it is determined to be necessary. Until the restriction is implemented in the compendium, the action is not prohibited. In Defendant's Motion for Judgment of Acquittal, he attached the full compendia for GTNP for the years 2020 to 2025. (*See* ECF Nos. 68-1, 68-2, 68-3, 68-4, 68-5 and 68-6.) A review of these compendia shows that the superintendent of GTNP did not implement this restriction until 2022. (ECF. 69-4.) This implementation is necessary because, as previously stated, visitors are free to explore the national parks and are not required to stay only on designated trails unless specifically prohibited by the superintendent in a compendium. Since the GTNP Superintendent implemented a public use restriction on designated trails in the 2024 Compendium this action invokes the requirements under 36 C.F.R. §§ 1.5 and 1.7. The Government must prove this compliance beyond a reasonable doubt.

A. <u>The Superintendent Complied with 36 C.F.R. § 1.5</u>.

Defendant argues that if sections 1.5 and 1.7 were not complied with the closure was unlawful and therefore unenforceable. He first argues that § 1.5 was not complied with because the restriction was not "consistent with applicable legislation and Federal administrative policies" as required under the regulation. The Defendant offered little to no support for this argument.

The purpose of the NPS is to "conserve the scenery, natural and historic objects, and wild life . . . and to provide for the enjoyment of the scenery, natural and historic objects and wild life." 54 U.S.C. § 100101(a). The Secretary of the Interior promotes and regulates these policies through the Director of the NPS and may enact rules for the use and management of the parks. *Id.* § 10071(a). This information aligns with the requirement

that, along with the restriction, the superintendent must have a written determination. The purpose of the determination is to demonstrate that the restriction is consistent with applicable legislation and Federal administrative policies.

The 2024 Compendium did contain a written determination that stated the reason for the restriction was for "revegetation and restoration efforts" which "returns an area to an acceptable native vegetation state," and notes this is an important function of the NPS. Further, the determination prescribes that this restriction is "necessary and the least restrictive means to prevent further unacceptable resource impacts." Gov't Ex. 24.

Moreover, the Government's witnesses testified that the OCT was not a maintained trail and was too steep for an average visitor to safely use. And in areas of high usage, the Park attempts to restrict travel to the trail to avoid damage to the natural resources in the area that may be caused by people going off trail. The Garnet Canyon Trail is a high usage trail. Additionally, the Government produced evidence at trial that the compendium is available to the public online as a link through the official GTNP website. Gov't Ex. 15.

Based on those facts, the Court finds the restriction consistent with applicable legislation and the federal administrative policies of protecting the natural resources to allow for revegetation and restoration of GTNP and to provide for visitor safety. Therefore, the written determination complies with 36 C.F.R. § 1.5.

B. <u>The Superintendent Complied with 36 C.F.R. § 1.7</u>.

Along with the requirements under § 1.5, the Government must also prove beyond a reasonable doubt that the NPS notified the public of the restriction. The restriction is titled, "Restriction for hiking or pedestrian use to designated trail or walkway systems."

Gov't Ex. 24. It further reads that "foot travel is restricted to designated trails and walkway systems when traveling through signed revegetation and restoration areas . . . Short cutting a switchback along a trail is prohibited." With that, the issue is whether NPS complied with the "Public Notice" provision under § 1.7.

Along with the fact that the Compendium is accessible through an online link, the Court admitted numerous Government's exhibits at trial that showed notice well beyond the Compendium. For example, Government's Exhibit 12 is the official map of GTNP provided to visitors when entering the Park. The map shows the Lupine Meadow Trailhead and the Garnet Canyon Trail marked by a dashed line. The map shows the switchbacks and does not show the OCT as part of the designated Garnet Canyon Trail.

Government's Exhibit 13 is the 2024 GTNP official newspaper. It is handed to visitors at the entrance station. Page twelve is titled, "Go for a Hike" and states in bold, "**Hikers should stay on trails. Short-cutting is prohibited** and damages fragile vegetation, promoting erosion." Gov't Ex. 13 (emphasis added). The map in Exhibit 12 is also on the last page of GTNP official newspaper.

Government's Exhibit 14 is taken from the NPS's official web site for GTNP. It has a section titled, "Hiking" and page two shows the hiking trails in the Park. Garnet Canyon Trail is shown with the switchbacks and does not include the OCT shortcut. On page three, a subsection entitled, "Things to Know" has a list of bullet points that includes, "Hike on established trails to prevent erosion."

Exhibit 16 is more information from the Park's official website. This website page is entitled, "Laws & Policies" and has a subsection titled, "Things to Know." Under that is

a bullet point stating, "**Hikers should stay on trails**. Short-cutting is prohibited and damages fragile vegetation promoting erosion." (emphasis in original). Exhibits 16 and 17 show the signage at the Lupine Meadows Trailhead which has a section titled "Hiking, Camping & Stock Use" that says, "Stay on established trails. Shortcutting switchbacks damages plants and causes erosion." Exhibit 19 is a photograph of the sign at the bottom of the OCT which says, "CLOSED FOR REGROWTH," and Exhibit 23 is the sign at the top of the OCT that says, "SHORT CUTTING CAUSES EROSION." Now turning to the Defendant's arguments.

1. Defendant's Vagueness Argument.

The Defendant takes issue with this information for a variety of reasons. The Defendant argues that the OCT was an "established" trail and therefore some of the methods of notification cause confusion and prevent a visitor from knowing what conduct is prohibited and therefore, the restriction is void for vagueness as applied to the Defendant and does not satisfy the notice requirement for Due Process purposes. The Court finds that the laws of statutory construction would apply to the restriction in the Superintendent's Compendium.

When interpreting statutes, the Court must start with its plain language. *Schmidt v. International Playthings, LLC*, 536 F.Supp.3d 856, 912 (D.N.M. 2021). The Court's "primary task is to determine congressional intent, using traditional tools of statutory interpretation." *Potts v. Ctr. for Excellence in Higher Educ., Inc.*, 908 F.3d 610, 613 (10th Cir. 2018) (simplified). To do this, courts "read the words of the statute in their context and with a view to their place in the overall statutory scheme." *Dolan v. Fed. Emergency Mgmt.*

Agency, 760 F.Supp.3d 1200, 1228 (D.N.M. 2024))citing *Been v. O.K. Indus., Inc.*, 495 F.3d 1217, 1227 (10th Cir. 2007)); *see also Hamer v. City of Trinidad*, 924 F.3d 1093, 1103 (10th Cir. 2019) ("[T]he meaning of statutory language, plain or not, depends on context." (citations omitted)). If "the statutory scheme is coherent and consistent, there generally is no need for a court to inquire beyond the plain language of the statute." *United States v. Ron Pair Enters., Inc*., 489 U.S. 235, 240–41 (1989).

On the other hand, an ambiguous statute is one that is reasonably "susceptible to more than one interpretation," *Wright v. Fed. Bureau of Prisons*, 451 F.3d 1231, 1235 (10th Cir. 2006), or is "capable of being understood by reasonably well-informed persons in two or more different senses," *United States v. Quarrell*, 310 F.3d 664, 669 (10th Cir. 2002). *Calvery Albuquerque Inc. v. Rubio*, 136 F.4th 1217, 1229 (10th Cir. 2025). If the statutory language "is ambiguous, we must turn to other sources to find its meaning." *S. Utah Wilderness All. v. Off. of Surface Mining Reclamation & Enf't*, 620 F.3d 1227, 1237-38 (10th Cir. 2010).

A "court may seek guidance from Congress's intent, a task aided by reviewing the legislative history," and "resolve ambiguities by looking at the purpose behind the statute." *Quarrell*, 310 F.3d at 669. Courts also "look to traditional canons of statutory construction to inform our interpretation." *Ramah Navajo Chapter v. Salazar*, 644 F.3d 1054, 1062 (10th Cir. 2011). It is presumed that Congress enacted sensible legislation that avoids unjust, impractical, or absurd outcomes. *United States v. Kirby*, 74 U.S. (7 Wall.) 482, 486–87 (1868); *Resol. Tr. Corp. v. Westgate Partners, Ltd*., 937 F.2d 526, 529–30 (10th Cir. 1991).

Here, the Court begins by looking to the words of the restriction itself. First the title specifies that the restriction is pursuant to section 2.1(b) which applies to **designated** trails or walkways. (emphasis added). The Compendium also refers to **designated** trails and that shortcutting between switchbacks along a designated trail is prohibited. Merriam-Webster Dictionary defines "designate," "switchback," and "shortcut" in the following manner: "designate" means to indicate and set apart for a specific purpose; "switchback" is defined as a zigzag course especially for ascent or descent; and a "shortcut" is defined as a route more direct than the one ordinarily taken, circumvent. *Designate*, *Switchback*, and *Shortcut*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary (last visited Aug. 8, 2025). With those definitions and looking at the plain meaning of the words, this demonstrates that the restriction clearly prohibits shortcutting switchbacks on designated trails or walkways. The Court finds beyond a reasonable doubt that the Garnet Canyon Trail is a designated trail based on the testimony and exhibits admitted at trial. The Court finds no evidence supporting that the OCT was a designated trail.

The Defendant, however, argues that the OCT was an established trail and thus some of the notice provided by the NPS, such as on the GTNP website and on the Lupine Trailhead sign, was confusing and erroneous because of the references to "established" trails. *See* Gov't Exs. 14 and 17. The word "established" means as "made firm or stable, to bring into existence." *Established*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary (last visited Aug. 8, 2025) But one cannot take the use of established on the notices in a vacuum.

The Court looks to all of the circumstances to determine if notice is sufficient. To start, the rule and restriction themselves are not vague or ambiguous, the language is clear. Next, even though the two notices in Government's Exhibits 14 and 17 contain the word "established," the evidence that the OCT is not a designated trail is abundant. First, it is not contained on any of the Park published maps as a designated trail. Second, the additional signage in the area, when interpreted in conjunction with the restriction, make it clear that the area is closed. The sign at the bottom says closed for regrowth, *see* Gov't Ex. 19, and as established above, the restriction is clear that shortcutting in regrowth areas is prohibited, and a user must stay on the "designated" trail. At the top, the sign refers to shortcutting and erosion. Again, the restriction is clear that in these areas one must stay on the "designated" trail. While not particularly large, these signs are posted at conspicuous locations in relation to the OCT shortcut.

What is more is that the Defendant, in his social media posts, described his intimate familiarity with this route due to his at least forty practice runs. While the testimony was that he took the OCT on his descent and therefore possibly did not see the lower sign, it defies logic that during his forty-plus trips up the Garnet Canyon Trail that the Defendant failed to see the sign at the bottom as well. Additionally, the Defendant refers to this part of the run in discussions and social media posts as the "shortcut" or "the cut." Not once did the Defendant refer to the OCT shortcut as a trail or the trail; Defendant always referenced his descent down Grand Teton Peak as shortcutting the switchbacks.

In his closing argument, Defendant tried to brush this off as "poor semantics" on his part, but the Court finds otherwise. The Government proved beyond a reasonable doubt

that the Defendant knew using the OCT was, in fact, cutting a switchback. The pre-run debates and inquiries about using the OCT further show the Defendant's knowledge of the OCT as a shortcut even though those debates centered on ethics regarding use of the OCT and not the legality. Third, the OCT is different than the designated trail. The testimony at trial showed that the OCT shortcut is much narrower, steeper and not maintained; this is further evidence that the OCT is not a designated trail.

When taking all of the evidence as a whole, the Court finds that the Government proved beyond a reasonable doubt that GNTP and the NPS complied with all of the requirements of sections 1.5 and 1.7 and that the restriction and notice were not vague. Generally, particularized notice of unlawful conduct is not required, and ignorance of the law is not a defense to criminal prosecution. *United States v. Allen*, 983 F.3d 463, 468 (10th Cir. 2020) (citations omitted). The Government proved beyond a reasonable doubt that the Defendant knew using the OCT was shortcutting a switchback and that it was obvious that the Garnet Canyon Trail was a designated trail.

Therefore, the Defendant's action constituted a violation of the Compendium. It appears that the Defendant did not know that shortcutting was illegal; but had he consulted the C.F.R. and the Compendium, or simply looked at the GTNP website, the law would have been provided to him with clear information about what conduct was illegal.

2. Defendant's Delta Lake Trail Comparison Argument.

The Defendant also spent some time during trial and in closing arguments comparing the OCT to another trail in the park, the Delta Lake Trail. This trail is not a designated trail in the Park, but it is an established trail. The Court notes that all designated

trails are established trails, but not all established trails are designated trails. Use of the Delta Lake Trail is not restricted and has features distinguishing it from the OCT shortcut: the OCT is a shortcut between switchbacks of a designated trail, while the Delta Lake Trail is just a trail; it has nothing to do with switchbacks on a designated trail. Therefore, the comparison is unhelpful.

3. Defendant's Intent Argument.

Finally, the Defendant argued that he had no criminal intent. The regulation itself does not contain a *mens rea* element, and when a federal statute addresses a public welfare offense and contains no *mens rea* element, no *mens rea* element will be implied. *United States v. Usner*, 165 F.3d 755 (10th Cir. 1999) (interpreting similar Forest Service Regulation); *United States v. Apollo Energies, Inc.*, 611 F.3d 679 (10th Cir. 2010). This is distinguished from a specific intent crime which requires an intent to do something that the law forbids. *United States v. Christy*, 916 F.3d 814, 845 (10th Cir. 2019). General intent only requires an act that was done "voluntarily and intentionally, and not because of mistake or accident" as opposed to specific intent which requires an intent to conduct an unlawful act. *Id.* at 642 (quoting *United States v. Hall*, 805 F.2d 1410, 1420 (10th Cir. 1986)).

The Court finds that the Defendant did not have to have the specific intent to violate the law which means he must have the general intent of voluntarily accessing the OCT shortcut. Here, the Court finds beyond a reasonable doubt that the Defendant was acting voluntarily when he took the OCT shortcut.

III. CONCLUSION.

Based on the Court's findings of fact and conclusions of law, the Defendant is adjudged **GUILTY** of violating 36 C.F.R. § 2.1(b) for leaving the Garnet Canyon Trail to use the shortcut of the Old Climber's Trail in violation of the Superintendent's 2024 Compendium. The Court will set a sentencing hearing at a later date.

Dated this 2d day of September 2025.

Stephanie Hambrick

Honorable Stephanie A. Hambrick
United States Magistrate Judge