



Timberland Forestry Services, LLC

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7 July 2019

USDA Forest Service, Northern Region

Attn: Objection Reviewing Officer

26 Fort Missoula Road

Missoula, MT 59804 via email: appeals-northern-regional-office@fs.fed.us

USFS Reviewing Officer:

Please accept this letter as my formal objection to the Draft Record of Decision and FEIS for the Gold Butterfly Project, Bitterroot National Forest.

On July 15, 2018, in my then capacity as State Senator for the district that encompasses the southern part of this project, as well as the then Chairman of the Montana Legislative Water Policy Committee I submitted my comments to the Bitterroot Forest Supervisor, which also reflected my verbal discussion with District Ranger Tammie Sabol at the earlier "Open House" for this project. To reiterate my position, I stated in that comment letter:

It becomes absolutely imperative for the successful defense and implementation of the Forest's proposed alternative that the Purpose and Need statement requires expansion. I support the four points presented in the DEIS; however, an additional specific statement is necessary to reflect the Agency's obligation to provide water for downstream users. Vegetative management practices can indeed impact both volume and *timing of flow* of water off headwater landscapes. So, too, can massive wildfires. It is a fundamental legal fact that the Agency, as established in the Organic Act of 1897 and subsequently re-affirmed in the landmark 1978 SCOTUS decision in *US v New Mexico* that the delivery of water is one of the two fundamental purposes for the existence of the Agency. For roughly the last 3 decades, the Northern Rockies have seen a drier and hotter summer weather cycle. In fact, the Agency's own public information folks have recently begun to point to this shift explaining the severity and issues surrounding wildfire behavior and

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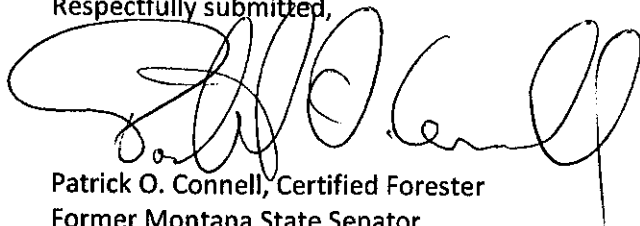
suppression. Consequently, I would assert that the Agency must recognize this weather issue concerning the risks its watersheds face from large wildfires. While it is certainly factual that vegetation depends on moisture to survive, forest headwater drainages require a green and healthy timber stand to insure season-long delivery of water rather than just a spring rush that holds little benefit to the forest, or to downstream *Senior Water Right* holders. Including the appropriate language in your Purpose and Need Statement will substantially enhance the justification for the Agency's proposed alternative. Finally, Montana faces critical issues going forward regarding ground and surface water, as the Governor's Climate Change Review Committee has suggested. These issues include both volume as well as *timing of flow*. Historically, Montanans fight for water, and if water is a recognized primary purpose of this project, Montana could stand in defense of it.

Failing to redefine your "Purpose and Need Statement" for this project needlessly jeopardizes the ability to defend this project against litigation. It was not many years ago that the Federal District Court recognized that delivery of timber for wood products and harvesting was indeed a righteous purpose of a project. Now, most all USFS projects reflect that Court ruling, and, as Gold Butterfly, document a purpose of the project being "...provide timber products and related jobs" Regardless of my verbal and written input to the Forest, this project FEIS did not refine its purpose and need to include the "for the purpose of securing favorable conditions of water flows" as was both authorized and *mandated* in the Organic Act of 1897.

Bluntly, terms like "ecosystem resilience" and "reduction of chronic sedimentation sources in the Willow Cr watershed" and finally "restore or improve key habitats" are not defined in law, open to interpretation and dispute, and generally challenged by opponents of projects like Gold Butterfly.

Finally, Failure to have redefined the purpose and need for this project further conflicts with the responsibility that the agency is obliged under its Water Compact signed with the State of Montana in 2007. This Compact is unique to Montana. Now, the Compact directs both parties to a "Court of Competent Jurisdiction" to resolve issues not covered within the Compact. Water flow volumes are solely in the prevue of Montana Law. I submit that resource management decisions that fail to acknowledge either timing or volume of water flows violates state law, and the agency's obligations to Senior Water Right Holders in Montana.

Respectfully submitted,



Patrick O. Connell, Certified Forester
Former Montana State Senator

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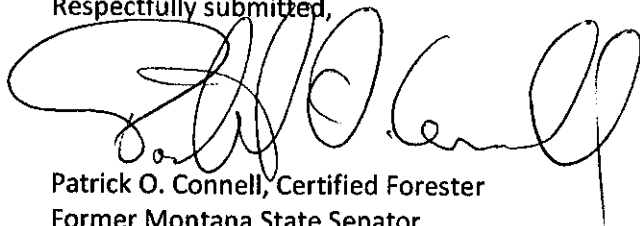
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 Attn: Direction Reviewing Officer
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 Missoula, MT 59804

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