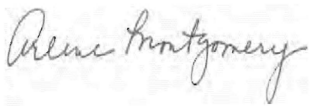
BEFORE THE OFFICE OF THE REGIONAL FORESTER
REGION ONE – USDA FOREST SERVICE
Objection Reviewing Officer

FRIENDS OF THE WILD SWAN	)	
Objector	)	
	)	NOTICE OF
	)	OBJECTION
v.	)	PURSUANT TO
	)	36 CFR 218
CHIP WEBER	)	
FLATHEAD NATIONAL FOREST SUPERVISOR	)	
Responsible Official	)	

OBJECTION DECISION:

Draft Decision Notice and Finding of No Significant Impact (DN) for the Taylor Hellroaring Project August 2019. Chip Weber, Flathead National Forest Supervisor, responsible official.

OBJECTOR:



Arlene Montgomery
Lead Objector
Program Director
Friends of the Wild Swan
PO Box 103
Bigfork, MT 59911
406-886-2011

September 23, 2019

STANDING:

Members of Friends of the Wild Swan recreate in and otherwise visit the Project Area. We submitted scoping comments for the first project on April 28, 2017 and the first Environmental Assessment on February 8, 2018. We also submitted joint comments on that Environmental Assessment with Swan View Coalition, WildEarth Guardians and Brian Peck on January 22, 2018 and February 2, 2018. We objected to the draft Decision Notice for the first EA on July 3, 2018. We submitted comments on the second Taylor Hellroaring Project Environmental Assessment on May 23, 2019.

We incorporate by reference the objections submitted by Swan View Coalition and Brian Peck. We also incorporate the comments we submitted previously during initial scoping, the first Taylor Hellroaring Project Environmental Assessment on behalf of Swan View Coalition, Brian Peck and WildEarth Guardians, scientific literature, comments submitted by Dr. Brian Horejsi and the objections to that draft Decision Notice from Friends of the Wild Swan, Swan View Coalition, WildEarth Guardians, Alliance for the Wild Rockies and Native Ecosystems Council.

• OBJECTION STATEMENT
The Taylor Hellroaring project fails to adequately analyze a range of alternatives.

We raised this issue in our comments on the first Taylor Hellroaring Environmental Assessment and Objection and the second Taylor Hellroaring EA.

OBJECTION
The project is aimed at logging and mountain bike trails. The logging and road building portion of the action alternatives are exactly the same. The EA fails to provide any evidence that the alternatives will meet the purpose and need to maintain and improve terrestrial wildlife species habitat and security.

The project's alternatives 2 and 3 do not meet the purpose and need to maintain and improve terrestrial wildlife species habitat and security.

- Forty-four percent (427 acres) is clearcuts and other even-aged logging.

- The proposed action will result in five openings (totaling 16 units) greater than 40 acres, with the range between 41 and 94 acres.

- Twenty-eight miles of new permanent mountain biking trails, some through old-growth forest habitat. To make matters worse the selected alternative adds in Trail L5 and Trail 2 even though the Draft Decision at page C-64 acknowledges the impacts from those two trails on wildlife: "the effects of proposed Trails 2 and L5 (total of approximately 4.6 miles) on wildlife in the Hellroaring Basin were recognized during project development. This helped drive the development of Alternative 3, as described in Issues section and Alternative 3 section of Chapter 1 of the environmental assessment. Neither Trail 2 nor Trail L5 would be constructed under Alternative 3."

- Four and one-half miles of new temporary and system roads.

- Fuels reduction near old-growth forests and tree species conversion.

These activities <u>do not</u> maintain and improve habitat and security for wildlife.

In spite of the importance of the threatened and endangered grizzly bears and Canada lynx to recovery of ecosystem integrity, and their value to the public reflected in the Endangered Species Act and related laws, and despite the fact that the project analysis area includes cumulatively degraded habitat conditions for these species, the Taylor Hellroaring Project continues to degrade habitat and displace wildlife.

Furthermore, the Biological Opinion does not accurately characterize the selected alternative, thus does not accurately analyze impacts to grizzly bear and lynx nor quantify take. The Biological Opinion was prepared in May 2018 and references the previous Forest Plan and its standards. The revised Forest Plan has different standards that must be analyzed for impacts to grizzly bear and lynx in a new Biological Opinion.

The draft Decision Notice at pages A-6 and A-7 disclose that new there will be 28.32 miles of new trail construction in addition to 14.85 miles of trails on currently open roads. The US Fish and Wildlife Service's Section 7 consultation document on page 1 characterizes the proposed project as: "In addition to vegetation management and road work, the project would create 28 miles of new, non-motorized trails. *Fifteen of those miles would follow existing open roads*." (Emphasis added) Therefore, the consultation document only analyzes 13.47 miles of new mountain biking trails when there will actually be 28.32 and must be revised. This includes Trails 2 and L5 that the Forest Service acknowledges have negative impacts on wildlife.

REMEDY
Develop an alternative that does not maintain degraded habitat conditions and does not construct mountain bike trails through sensitive wildlife habitat.

Eliminate Trails L5 and 2.

Reconsult with the US Fish and Wildlife Service.

• OBJECTION STATEMENT
The Taylor Hellroaring project contributes to the already degraded baseline habitat conditions for lynx.

We raised this issue in our comments on the first Taylor Hellroaring Environmental Assessment and Objection and the second Taylor Hellroaring EA.

OBJECTION
The Endangered Species Act requires the Forest Service to insure the Project is not likely to result in the destruction or adverse modification of critical habitat. 16 U.S.C. §1536(a)(2). Activities that may destroy or adversely modify critical habitat are those that alter the physical and biological features to an extent that appreciably reduces the conservation value of critical habitat for lynx. 74 Fed. Reg. 8644.

The Taylor Hellroaring Project does not comply with the Northern Rockies Lynx Management Direction (NRLMD) in the Forest Plan or lynx critical habitat criteria.

Veg S2 states: Timber management projects shall not regenerate more than 15% of lynx habitat on NFS lands within an LAU in a 10-year period. Current stand initiation habitat and early stand initiation habitat together are approximately 23.2% in the Upper Big LAU and 13.5% in the Lakalaho LAU. This project individually may not regenerate more than 15% but cumulatively the LAU baseline exceeds the 15% standard due to past activities. The Taylor Hellroaring project is additive to an already degraded baseline, the Upper Big LAU will increase to 23.6% and the

Lakalaho will increase to 17.5%.

The EA is confusing because it uses the term multi story forage habitat which is not the NRLMD's "multi story mature or late successional forest" in VEG-S6. There is no definition of multi story forage habitat and how it differs from multi story mature habitat. Furthermore, the EA essentially ignores the large openings that will be created with both action alternatives. There is no analysis of lynx avoiding these large openings, there is no analysis of roads and biking trails running through or adjacent to old-growth forest habitat, there is no analysis of logging in late successional forest and there is no analysis of lynx being displaced from key habitat.

There is no cumulative impacts analysis of lynx displacement from the Hellroaring Basin Project.

REMEDY
• The Taylor Hellroaring project should not proceed until the baseline conditions in the LAUs improve to comply with Veg-S2.

• An EIS should be prepared that fully analyzes the impacts to lynx and critical habitat from both the Taylor Hellroaring and Hellroaring Basin projects that will occur in the same place at the same time.

• OBJECTION STATEMENT
The Taylor Hellroaring Environmental Assessment fails to analyze the impacts of logging, roads and mountain biking trails on wolverine.

We raised this issue in our comments on the first Taylor Hellroaring Environmental Assessment and Objection and the second Taylor Hellroaring EA.

OBJECTION
The EA failed to analyze the impacts to wolverine. The EA discloses that wolverines would be disturbed or displaced "to some degree" by trails in maternal denning sites and this would be long term. It discounts any impacts from roads or logging even though logging will result in a loss of cover that is wolverine habitat and wolverine maternal denning habitat. No analysis, and the EA ignored new science such as:

Fisher, et al Wolverines (Gulo gulo luscus) on the Rocky Mountain slopes: natural heterogeneity and landscape alteration as predictors of distribution found: Wolverines were more abundant in rugged areas protected from anthropogenic development. Wolverines were less likely to occur at sites with oil and gas exploration, forest harvest, or burned areas, even after accounting for the effect of topography.

Wolverines elsewhere avoid human-disturbed areas (Carroll et al. 2001; Rowland et al. 2003; May et al. 2006) and recreational and industrial activity (Krebs et al. 2007). Human activities such as trapping, poaching, and road mortality have accounted for 46% (North America; Krebs et al. 2004) to 52% (Scandinavia; Persson et al. 2009) of known-cause wolverine mortalities across their range.

Wolverines avoid roads and other human development in British Columbia (Krebs et al. 2007), Norway (May et al. 2008), Idaho (Copeland et al. 2007), Montana (Carroll et al. 2001), and throughout the northwestern United States (Rowland et al. 2003).

Wolverine occurrence also increases with topographic ruggedness, where there is a combination of low- and high-elevation habitats. Bighorn sheep (Ovis canadensis Shaw, 1804) (Festa-Bianchet 1988), mule deer (Odocoileus hemionus (Rafinesque, 1817)) (D'Eon and Serrouya 2005), and other ungulates winter at lower elevations; in Scandinavia, wolverines showed significant selection for lower elevation habitats during winter months (Landa et al. 1998). It is possible that wolverines require lower elevations for foraging and higher elevations for predation refuge. Persistent spring snow cover has been hypothesized as important (Schwartz et al. 2009; Copeland et al. 2010) but is not a good predictor at this scale, since spring snow cover was sufficiently persistent across our study landscape to prevent modelling but wolverine occurrence still varied.

The EA did not address our questions about displacement: Are wolverine being displaced by Big Mountain Ski Area and the mountain biking trails there and other areas around Whitefish? How much more displacement will over 28 miles of new mountain biking trails cause for wolverine as well as other wildlife?

REMEDY
Prepare an Environmental Impact Statement that analyzes impacts to wolverine from the Taylor Hellroaring and Hellroaring Basin projects occurring at the same time in the same place.

• OBJECTION STATEMENT
The Forest Service needs to prepare an Environmental Impact Statement for the Taylor Hellroaring Project.

We raised this issue in our comments on the first Taylor Hellroaring Environmental Assessment and Objection and the second Taylor Hellroaring EA.

OBJECTION
Pursuant to National Environmental Policy Act (NEPA), the Forest Service must prepare an Environmental Impact Statement (EIS) for projects that "may" result in significant impacts. "Significantly" as used in NEPA requires considerations of both context (the setting of the proposed action) and intensity (the severity of the impact).

The Taylor Hellroaring project may result in "significant" impacts as defined and understood by NEPA's implementing regulations. In addition, the Hellroaring Basin Project area has logging and roads that are from the Taylor Hellroaring Project. Both projects will occur in lynx critical habitat, MS1 habitat for grizzly bears, and wolverine habitat. The project will also result in high uncertain impacts to listed and sensitive species and critical habitat, involves highly controversial impacts, violates a number of laws, and establishes a dangerous precedent for how lynx critical habitat and MS1 habitat is managed. The Forest Service concedes that the project is likely to adversely affect lynx and lynx critical habitat and grizzly bears. In addition, the Taylor

Hellroaring project – when added to other federal, state, and private actions – may have a cumulatively significant impact. The Forest Service's decision, therefore, not to prepare an EIS and the finding of no significant impact (FONSI) violates NEPA and is arbitrary and capricious.

The project EA tiers to the Forest Plan EIS for its analysis. Forest Plans are "aspirational". The Forest Service powerpoint on Forest Plans asks "How is a Forest Plan Used? The plan is a general framework to guide forest staff when they propose, analyze, and decide upon projects and activities." It goes on to state that "these projections need to be realistic and consistent with the aspirational nature of forest plans." [Foundations of Forest Planning]

The broad analysis done for the Forest Plan must serve as a guide for projects. Projects must have site-specific analysis of impacts to wildlife, fish, water quality, scenic values, etc. This EA does not.

The project results in five openings greater than 40 acres in size (Units 6, 7, 8; 13, 14, 15; 21, 22, 27, 30; 32, 33, 34; and 42, 52, 53). Regional Forester policy (FSM 2471.1) directs the size of harvest openings created by even-aged silvicultural practices (e.g. seed tree, shelterwood, and clearcut harvest prescriptions) would be normally 40 acres or less. The National Forest Management Act at 219.27(d)(2)(ii): Size limits exceeding those established in paragraphs (d)(2) and (d)(2)(i) of this section are permitted on an individual timber sale basis after 60 days public notice and review by the Regional Forester.

The EA does not analyze the impacts to wildlife of exceeding the opening size, it instead tiers to a generic Forest Plan standard that states that exceptions "may" occur. The response to comments about this issue references FW-DC-TE&V-03 and FW-DC-SCN-01 but these are desired conditions, the impacts to wildlife must still be analyzed on a site specific level and not rely on *aspirational* desired conditions.

REMEDY
Develop an Environmental Impact Statement.

• OBJECTION STATEMENT
The Forest Service did not take a hard look at how climate change affects and is affected by this project.

We raised this issue in our comments on the first Taylor Hellroaring Environmental Assessment and Objection and the second Taylor Hellroaring EA.

OBJECTION
Published scientific reports indicate that climate change will be exacerbated by logging, and that climate change will lead to increased wildfire severity (including drier and warmer conditions that may render obsolete the proposed effects of the project). The former indicates that the Taylor Hellroaring Project may have a significant adverse effect on the environment, and the latter undermines a central underlying purpose of the Project. Therefore, the Forest Service must candidly disclose, consider, and fully analyze the published scientific papers addressing climate change in these two contexts. The response to our comments was that climate change is

mentioned in several places, that's it, only mentioned not analyzed. The EA attempts to tier to Forest Plan analysis on climate change but that was also deficient.

The Taylor Hellroaring Project purports to replicate past conditions created by fire by using logging; however, the effects of climate change were not adequately analyzed. These stands that are seedtree logged may not regrow due to increased temperatures drying out the understory. The Forest Service cannot use the past as a desired future condition because the future is uncertain due to climate change.

Challenges in predicting responses of individual tree species to climate are a result of "species competing under a never-before-seen climate regime – one forests may not have experienced before either." Achievable future conditions as a framework for guiding forest conservation and management*, Forest Ecology and Management* 360 (2016) 80–96, S.W. Golladay et al.

NFMA requires restocking in five years. Forest managers must analyze and disclose the fact that the current conditions make old assumptions about natural regeneration obsolete. The FS can no longer "insure that timber will be harvested from the National Forest system lands only where…there is assurance that such lands can be restocked within five years of harvest." (NFMA§6(g)(3)(E)(ii)).

Assuming large clearcuts will regenerate is no longer automatically consistent with NFMA's "adequate restocking" requirement. Scientific research can no longer be ignored.

At dry sites across our study region, seasonal to annual climate conditions over the past 20 years have crossed these thresholds, such that conditions have become increasingly unsuitable for regeneration. High fire severity and low seed availability further reduced the probability of postfire regeneration. Together, our results demonstrate that climate change combined with high severity fire is leading to increasingly fewer opportunities for seedlings to establish after wildfires and may lead to ecosystem transitions in low-elevation ponderosa pine and Douglas-fir forests across the western United States. Wildfires and climate change push low-elevation forests across a critical climate threshold for tree regeneration*, PNAS* (2018)*,* Kimberley T. Davis, et al.

The Forest Plan has no strategy for carbon reduction and this project will increase carbon emissions from log trucks driving to access the project area and from removing stored carbon from the forest.

The Taylor Hellroaring EA did not analyze the impacts to fish from rising stream temperatures, less water and increased peak flows due to climate change.

REMEDY
Include a thorough analysis of climate change impacts in an EIS.

• OBJECTION STATEMENT
The Forest Service failed to use the best available science.

Our comments cited and included numerous scientific literature publications.

OBJECTION

• Published scientific reports indicate that prescribed actions proposed by the Forest Service for the Project area will actually increase fire severity, ***not*** reduce fire severity.

Because wildfire severity, intensity and spread is the central underlying theme that is critical to support the project, the Forest Service must disclose, analyze and fully discuss the credible, published scientific papers that analyze whether commercial logging is an effective means of fire suppression. The Forest Service should have discussed published scientific papers, which make findings based on actual scientific studies, not simply rely on computer models and internally produced, unpublished documents written by land managers. Failing to discuss and disclose published scientific papers is a violation of NEPA, NFMA, the APA and the Forest Plan.

At minimum, the Forest Service should have addressed the following issues in detail:

(a) which published scientific studies are applicable to western larch and Douglas fir forests,
(b) whether logging large diameter trees helps or hinders efforts to reduce fire risk,
(c) whether logging without prescribed burning helps or hinders efforts to fire risk, and
(d) whether all small diameter trees must be removed in order to reduce fire risk.

In light of this information, and in full light of the fact that the reduction of fire severity is a purpose and need in this project, there is no rational connection between the facts, the purpose and need, and the decision to remove many mature trees leaving oversized clearcuts.

• The Taylor Hellroaring EA failed to include and use in its analysis best available science regarding:

Mountain pine beetles (Six et al 2014)
Snags (Lorenz et al 2014)
Wolverine (Fisher et al, as well as others)
Fuel treatment effectiveness (Rhodes and Baker)
Defensible space (Syphard)
Climate Change (Davis, Golladay)
And others.