

# Objection Responses

## Soldier Butler EA and draft DN

### Lolo National Forest

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#### Issue 1 – National Forest Management Act (NFMA)

##### Issue 1.1 – Reforestation Requirements

**Objector:** Alliance for the Wild Rockies

**Contention:** The EA fails to analyze and disclose compliance with NFMA, which regulates reforestation practices including requiring restocking in five years.

**Response:** The EA discusses restocking or regeneration of treated forested stands in the Environmental Consequences section under Forested Vegetation. It states that the proposed action (Alternative B) would “Reduce/maintain appropriate levels of pathogens, insects, and other disturbances in order to create decadence, mortality, and interactions with fire that lead to regeneration of new tree cohorts and diverse understories.” (EA, p. 60) The cumulative effects discussion explains that within the analysis area for the Soldier Butler project, where regeneration harvest has been applied in past Forest Service timber sales, sites have been restocked with desired species and stocking levels with locally-adapted seed. Further, on an additional 335 acres within the analysis area uneven-aged harvest was applied “the stands were regenerated by creating small openings or through single tree selection that retains an overstory age class, but also creates an environment suitable for regeneration of shade intolerant species (ponderosa pine and western larch).” (EA, p. 66)

The Monitoring Plan section of the Forested Vegetation Report (Project File, pp. 75-76) states “Reforestation surveys would be conducted on natural regeneration and planting units at the end of the first and third growing seasons to assure adequate stocking levels as described in the silvicultural prescription are met. Any additional reforestation needs determined as a result would promptly be scheduled for treatment to achieve certification status within five years of final harvest.”

I find that the Responsible Official has adequately addressed compliance with NFMA and the Forest Plan to restock harvested areas within 5 years.

#### Issue 2 – National Environmental Policy Act (NEPA)

##### Issue 2.1 – An EIS is Required for the Project

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** An EIS is required and should be prepared.

**Response:** The EA states “The Forest Service has prepared this Environmental Assessment (EA) to disclose the direct, indirect, and cumulative effects of the proposed action and alternatives and determine whether they may significantly affect the quality of the human environment and thereby require preparation of an Environmental Impact Statement (EIS). This EA fulfills agency policy and direction to comply with the National Environmental Policy Act (NEPA), the Lolo National Forest Plan, 40 CFR 1508.9, 36 CFR 220.7, and other relevant federal and State laws and regulations.” (EA, p. 1) The Draft Decision Notice (DDN) describes the Finding of No Significant Impact and states, “After considering the environmental effects described in the Soldier-Butler Project EA and resource reports, I have determined that the Selected Action will not have a significant effect on the quality of the human environment based on the context and intensity of its impacts (40 CFR 1508.27).” (DDN, pp. 9-14)

I conclude that an environmental impact statement is not required.

## Issue 2.2 – Scoping

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The scoping process was flawed. The objector asserts that the Forest Service needed to re-scope after the Ninemile Demographic Connectivity Area (DCA) for grizzly bears was designated by the US Fish and Wildlife Service.

**Response:** The DCA referred to by the objector was identified in the NCDE Conservation Strategy by the NCDE Subcommittee (an interagency group) and then incorporated into the Lolo National Forest Plan in 2018 through a plan amendment. (EA, pp. 101-102)

The Draft Decision Notice for the Soldier Butler Project states, “The proposal was listed in the Schedule of Proposed Actions on December 16, 2016 and was provided to the public and other agencies for comment during scoping December 16, 2016 to January 17, 2017. Additional public involvement included a public meeting prior to scoping to introduce the upcoming proposal (May 17, 2016), and another during scoping to share information and answer questions (January 12, 2017).” (DDN, p. 8) The EA and Wildlife Report disclose that the project is within the Ninemile DCA and the EA discusses the Conservation Strategy (pp. 101-102). The DCA is also discussed throughout the Wildlife Report. A 30-day comment period on the Draft EA began on March 15, 2019.

I conclude the responsible adequately scoped and involved the public in the Soldier Butler proposal.

## Issue 2.4 – Purpose and Need

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The purpose and need statement is flawed. Use a common sense definition of WUI and reference the updated (2018) Missoula County CWPP.

**Response:** The EA and Project File state that reducing the wildfire risk to landowners and communities in the WUI is an objective of the project (EA, pp. 2-3). The rationale for the draft decision (and how it meets the purpose and need of the project) are articulated in the Draft Decision Notice (pp. 3-5). The Draft Decision Notice also discusses how the Forest Service has discontinued referencing and utilizing the 2005 Missoula County CWPP and moved to the 2018 CWPP. (p. 2)

This issue was also raised during the comment period on the Draft EA. The responsible official responded “...Soldier-Butler is within the area assessed in the Missoula County Community Wildfire Protection Plan (CWPP). Figure 1, on p. 7 of the Fire and Fuels Report, identifies these fuels reduction priorities within Missoula County and highlights the Soldier-Butler project area (Ninemile Area) as one of these priority locations.” (DDN, Response to Comments, pp. 55-56)

I conclude the responsible official appropriately defined the purpose and need and disclosed the rationale for the Wildland Urban Interface.

## Issue 2.5 – Effects Analysis

**Objector:** Michele Dieterich

**Contention:** The objector asserts that the analysis is inadequate as it relates to the project’s impacts on the forest ecosystem, carbon sequestration, water quality, and water quantity.

**Response:** 36 CFR 218.10 states “Objections set aside from review, (4) except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously

submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues.” The objector did not comment on this issue during public opportunities to comment. Therefore, pursuant to 36 CFR 218.10(a)(4) no further response is warranted.

### Issue 3 – Climate Change

#### Issue 3.1 – Climate Change Effects

**Objector:** Alliance for the Wild Rockies

**Contention:** The EA fails to consider that the effects of climate change on the project area.

**Response:** 36 CFR 218.10 states “Objections set aside from review, (4) except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues.” The objector did not comment on this issue during public opportunities to comment. Therefore, pursuant to 36 CFR 218.10(a)(4) no further response is warranted.

### Issue 4 – Economics

#### Issue 4.1 – Economics Analysis

**Objector:** Alliance for the Wild Rockies

**Contention:** The economic analysis is inadequate; it doesn’t comply with NFMA, RPA and 36 CFR 219.27(a)(7)

**Response:** 36 CFR 218.10 states “Objections set aside from review, (4) except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues.” The objector did not comment on this issue during public opportunities to comment. Therefore, pursuant to 36 CFR 218.10(a)(4) no further response is warranted.

### Issue 5 – Roadless

#### Issue 5.1 – Inadequate Roadless Analysis

**Objector:** Alliance for the Wild Rockies

**Contention:** Analysis of impacts to Inventoried Roadless Areas (IRA) and roadless areas is inadequate because it doesn’t comply with Roadless Rule, NEPA, NFMA, and APA.

**Response:** Some of the contentions in the objectors’ letter were unclear and could not be addressed. For example, the objector quotes comments they allegedly made on the Draft EA about roadless areas that were not be found in their comment letter. The objector says “The Forest Service responded on page 248 of the EA” but the EA is only 134 pages long.

Regarding contentions about the analysis of roadless areas in the EA, the Roadless Report document in the project file (2018\_12\_20\_IRA\_Rdls\_Rept) documents the analysis of the Reservation Divide Inventoried Roadless Areas (or IRA) and roadless expanse adjacent to the IRA. The 13,095 acres of the IRA and 1,069 acres of roadless expanse were analyzed for effects to seven attributes: naturalness;

inspirational, recreational, cultural/historical, educational/scientific, and unique values, and manageability (Roadless Report, p. 7) The Roadless Report states, “Ecosystem Management Burn (EMB) Units 101 and 102 are the only management activities proposed within the Reservation Divide IRA and roadless expanse through the Soldier-Butler Project.” (p. 11) No long-term impacts to the roadless character were identified as a result of the project.

I conclude that the responsible official complies with the 2001 Roadless Rule (36 CFR 294)

## Issue 6 – Recreation and Travel

### Issue 6.1 – Travel Management Rule Minimum Road System

**Objector:** Michele Dieterich

**Contention:** The objector asserts that the decision to keep 39 miles of road slated for decommissioning under the French Face decision violates the requirement to identify the minimum road system.

**Response:** 36 CFR 218.10 states “Objections set aside from review, (4) except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues.” The objector did not comment on this issue during public opportunities to comment. Therefore, pursuant to 36 CFR 218.10(a)(4) no further response is warranted.**Issue**

## 7 – Grizzly Bear

### Issue 7.1 – Grizzly Bear Effects Analysis

**Objectors:** Alliance for the Wild Rockies, Flathead-Lolo-Bitterroot Citizen Task Force, and Michele Dieterich

**Contention:** The analysis of the project’s impacts on grizzly bear was inadequate.

**Response:** NEPA requires the responsible official to disclose and consider the effects of the project (40 CFR 1508.9). A number of comments were made on the Draft EA related to the effects analysis for grizzly bears. The responsible official responded in *Appendix D: Response to EA Comments* of the Draft Decision Notice (pp. 68-79). One responses states, “Regarding occupancy, this situation is in constant flux. ... Due to grizzly bears’ continuing expansion and associated recent observations/detections the discussion on occurrence may be slightly out of date. These updates will be included in the Final Biological Assessment (BA) and will factor in to the determination for effects to grizzly bears.” (Draft DN, p. 68) The responsible official also explains there is ongoing work with other agencies involved with grizzly bear management and that monitoring occurred with a partner, the Ninemile Working Group in 2018 all in an attempt to “keep abreast of new information”. The responses also address the adequacy of the grizzly bear analysis.

I conclude the responsible official complied with NEPA.

### Issue 7.2 – US Fish and Wildlife Service Consultation

**Objector:** Alliance for the Wild Rockies and Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The effects to grizzly bears from the project include potential disturbance or displacement due to human presence, road construction and use, motorized use and other mechanized equipment.

The presence of these activities and the presence of roads may lead grizzly bears to avoid otherwise suitable habitat. The project is “Likely to Adversely Affect” the grizzly bear therefore formal consultation with the US Fish and Wildlife Service (FWS) is required. The EA presents no evidence of Formal Section 7 Consultation.

**Response:** Grizzly bear security, motorized use and roads, road construction, and disturbance are discussed in detail in the Wildlife Report (pp. 72-93) and in the EA (pp. 101-113). A biological assessment was written and transmitted to the USFWS in March 2019 for informal consultation. The conclusion documented in the Wildlife Report is that either action alternative is “Not Likely to Adversely Affect (NLAA) grizzly bears” (Wildlife Report, p. 92).

After the comment period on the Draft EA, the Forest Service reconsidered the NLAA determination based on further discussion and data, and determined that the proposed action “may affect, likely to adversely affect” grizzly bears. This is documented in a letter from the wildlife biologist to the USFWS in the project file dated August 19, 2019 (2019\_08\_19\_email\_tomson\_to\_dixon\_re\_gb\_laa) Formal consultation was reinitiated with the USFWS and the responsible official will wait for the biological opinion before signing the decision on the Solder Butler project.

I conclude that the responsible official is in compliance with the Endangered Species Act and appropriately reinitiated consultation.

### Issue 7.3 – Grizzly Bear Guidelines

**Objector:** Alliance for the Wild Rockies

**Contention:** The Interagency Grizzly Bear Guidelines (IGBC 1986) document directs the FS to manage for “multiple land use benefits” to the extent that these uses are compatible with grizzly recovery. The EA does not disclose if adverse project or cumulative impacts are consistent with the requirement to prioritize the needs of the grizzly bear for the applicable Management Situation(s).

**Response:** Please see response to Issues 7.1 and 7.2.

Applicable land management direction (Lolo Forest Plan, amended 2018, following the 2018 USFWS grizzly Bear Recovery Plan Supplement) requires management of stable (not increasing) amounts of open motorized routes in the Ninemile DCA to allow bear populations to expand from the Northern Continental Divide Ecosystem (NCDE) to the Bitterroot ecosystem. The implications of potential adverse effects are currently under consideration by the US Fish and Wildlife Service.

The 1986 Interagency Grizzly Bear Guidelines the objector mentions no longer apply to grizzly bear management on the Lolo National Forest or in the project area. The Lolo National Forest’s Forest Plan was amended on December 27, 2018 to include measures designed to conserve grizzly bears. These amendments became effective immediately. (Wildlife Report, p. 73) The 2018 USFWS Recovery Plan Supplement/NCDE Forest Plan Amendment were applied in order to maintain grizzly bear connectivity between the NCDE and Bitterroot Ecosystem. Effects of the project on grizzly bears were disclosed in the EA (pp. 102–113) and the Wildlife Report (pp. 80-93). Section 7 USFWS consultation is ongoing and will provide the USFWS’s biological opinion on whether any potential changes in connectivity would affect recovery of the species.

### Issue 7.4 – Grizzly Bear Security

**Objector:** Alliance for the Wild Rockies, Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** Schwartz et al. (2010) noted that management for grizzly bears requires not only the provision of security area, but control of open road densities between security areas. Otherwise, grizzly

bear mortality risks will be high as bears attempt to move across highly roaded landscapes to another security area. There needs to be scientifically-based direction regarding road densities located outside of and between security areas.

**Response:** The 2013 NCDE Conservation Strategy, finalized as the 2018 NCDE Recovery Plan Supplement, and incorporated into the Lolo Forest Plan in 2018 was specifically designed to control open road densities between security areas and to avoid high mortality between the NCDE and Bitterroot Recovery Zones. Direction in the Conservation Strategy is scientifically-based. The EA discloses how the project is consistent with this direction (EA, pp. 110-113). See also response to Issues 7.2 and 7.3.

### Issue 7.5 – Grizzly Bear Impacts from Human Uses

**Objector:** Alliance for the Wild Rockies

**Contention:** Grizzly bears are winter-sleepers rather than true hibernators. If high density motorized routes are known to disturb, displace, habituate, and raise mortalities among grizzlies in spring, summer, and fall, there's no logical, or scientific reason to believe they don't do the same to sleeping bears in winter. The Soldier-Butler EA fails to demonstrate that such incidental take is in fact low, admitting that snowmobile effects are expected to increase because of the logging.

**Response:** The Wildlife Report (pp. 80-92) discusses effects to grizzly bears including security and motorized access changes. Over-snow and winter route access is not expected to change, although winter harvest is not specifically restricted. The response to comments (DDN, comment WL-15-4, p. 76) states that the "analysis does not suggest that snowmobile effects are anticipated to increase". The Response to Comment 10-14 (DDN, p. 69) provides additional information about denning habitat and potential effects on bears in winter or on denning habitat. The level of potential take described in the contention will be thoroughly reviewed in the USFWS Biological Opinion and terms and conditions may be provided to the Lolo National Forest responsible official to reduce take to a level that would continue to provide connectivity between the recovery zones.

### Issue 7.6 – Effects of Openings on Grizzly Bears

**Objector:** Alliance for the Wild Rockies

**Contention:** The EA fails to show that the openings to be newly created by the project won't exceed levels of current incidental take.

**Response:** Please see response to Issue 7.5. The EA and Wildlife Report disclose how the project meets legal requirements for grizzly bears and potential effects on individual bears from the project. USFWS will decide if the Lolo National Forest will exceed levels of incidental take overall. Objectors brought up this issue during scoping for the proposed action. The responsible official responded "There are no standards related to opening size in the Forest Plan Amendment for grizzly bears and vegetation management is not an emphasis area of the grizzly effects analysis. As such we do not anticipate the USFWS to focus on openings when assessing incidental take. Consultation with USFWS is in process and not yet complete." (DDN, p. 76)

### Issue 7.7 – Challenges to implementation of the NCDE Conservation Strategy and Plan Amendments

**Objector:** Alliance for the Wild Rockies

**Contention:** Objectors challenge the NCDE Conservation Strategy and the recent NCDE Forest Plan Amendments and how the project implements them.

**Response:** The Lolo NCDE Forest Plan Amendment (2018) specifically implements ESA section 7(a)(1) requiring federal agencies to work toward recovery of listed species. The EA (p. 113) and Wildlife Report (p. 92) disclose how the project meets requirements in the Plan Amendment. The response to comments in the draft Decision Notice (pp. 76-77) respond to specific points about the NCDE amendment.

I conclude that the Responsible Official has adequately documented that the 2018 Plan Amendment is being followed.

### Issue 7.8 – Effects on Movement

**Objector:** Alliance for the Wild Rockies

**Contention:** The EA does not include an analysis of seasonal grizzly bear habitat components. It does propose to push grizzly bears around regardless of seasonal habitat needs: “Any bears that are in the project area may be disturbed and/or temporarily displaced into the upper elevations of the project area where open and high-use road densities are low... or shift their use to other parts of the Ninemile DCA.”

**Response:** The EA (p. 101) and Wildlife Report (p. 72) disclose how the project affects habitat components for grizzly bears and the potential effects on individual bears from the project. This issue was raised in comments on the Draft EA. The responsible official responded to this concern in *Appendix D: Response to Comments* in the Draft Decision Notice (comment WL-15-11, pp. 77-78). The response addresses effects on spring habitat and project design criteria that protect this habitat component.

### Issue 7.9 – Grizzly Bear Expansion

**Objector:** Alliance for the Wild Rockies

**Contention:** The EA claims that grizzly bears are only recently beginning to expand their range but fails to explain what's different all of a sudden. In reality, grizzly bears have been trying to occupy previously suitable habitat for decades; the habitat in the project area is marginal because of the cumulative impacts of management and other human activities. The FS does not want to be accountable for its share of these impacts.

**Response:** This issue was raised by the objector in previous comments and although the objector's contention is largely beyond the scope of the proposed action, the responsible official responded in *Appendix D: Response to Comments* in the Draft Decision Notice. The response states, “The Forest Service has been a part of several of these decisions/strategies which have facilitated grizzly bear recovery – not to mention a long-term commitment by the Forest Service to reduce road densities and manage closures. The recent best available scientific information does not point to Forest Service roads or vegetation activities as measurable sources of mortality for grizzly bears. It is clear that that majority of grizzly bear mortalities occur when grizzly bears leave public lands. Here they encounter highways, human attractants and high concentrations of livestock, all of which can result in human-related mortality either directly or through management removal.” (p. 78)

### Issue 7.10 – Cumulative Impacts

**Objectors:** Alliance for the Wild Rockies and Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The EA fails to take a hard look at cumulative activities in adjacent areas, e.g. the expansion of the footprint of the ski area on national forest lands at Snowbowl. Further the EA does not address previous projects completed by the Forest Service nor the consideration of the Flathead Reservation which is part of the DCA.

**Response:** The Wildlife Report describes the analysis area used for direct and indirect effects to grizzly bears and rationale for its use. It states, "The Soldier-Butler project area was used for analysis of direct and indirect project effects to grizzly bears. The size of the analysis area, 45,514 acres or 70.6 square miles, could reasonably contain one to two female grizzly bear home ranges (average size of a home range for a female grizzly bear ranges from 26 to 94 square miles; (Blanchard & Knight, 1991; Mace & Roberts, 2011; Mace & Waller, 1997a, 1997b)." (Wildlife Report, p. 76) Conditions for bears are defined by research and applied through USFWS direction such as the Grizzly Bear NCDE Recovery Plan Supplement (Conservation Strategy). Within this framework, conditions for bears in the project area and across the DCA are functioning and acceptable especially because road density and traffic after project activities will return to pre-project levels. During project work, traffic and road use by contractors would increase, but only in a few smaller areas at a time (Wildlife Report, p. 81). DCA-scale analysis focused on items identified in the Recovery Plan Supplement (Conservation Strategy) as those that would most impact an expanding grizzly population.

Discussion of roads and the relationship with the Frenchtown Face Project is also present in the project record. The USFWS Grizzly Bear Conservation Strategy did not connect activities on the Flathead Indian Reservation to the Lolo National Forest portion of Zone 1. For this reason and because almost none of the project activities occur adjacent to the Reservation it was not included in the cumulative effects analysis area.

I conclude that the responsible official complied with NEPA and adequately analyzed cumulative effects to grizzly bears.

#### **Issue 7.11 – Effectiveness of Road Closures**

**Objector:** Alliance for the Wild Rockies

**Contention:** The Soldier-Butler Project EA fails to disclose the questionable effectiveness road closures for the purpose of eliminating human access behind closures. We incorporate the Amended Complaint for case CV-18-67-DWM for the purposes of explaining how roads affect wildlife and that ineffective closures on national forest land are all too common.

**Response:** The Forest Service responds to unauthorized access as it is discovered.

#### **Issue 7.12 – Access Amendment**

**Objector:** Alliance for the Wild Rockies

**Contention:** An objector makes numerous references to the Cabinet Yaak grizzly bear population and its associated access amendment.

**Response:** The project is not within or adjacent to the Cabinet-Yaak Ecosystem. The responsible official followed the applicable grizzly bear direction in the 2018 Lolo National Forest NCDE Plan amendment for grizzly bear.

#### **Issue 7.13 – Management Situation 1**

**Objector:** Alliance for the Wild Rockies

**Contention:** The Objector alleges that the project area is in Management Situation 1 (MS-1), and if there is a conflict between grizzly bears and a management decision in MS-1 habitat, the conflict needs to be resolved in favor of the grizzly.

**Response:** The project area is not within grizzly bear Management Situation 1. The Wildlife Report states, "The Lolo NF encompasses portions of three grizzly bear recovery areas: the Northern

Continental Divide, Cabinet-Yaak, and Bitterroot Ecosystems. The Soldier-Butler project area is located in between all of these recovery areas, and thus provides a linkage area between them. The NCDE Conservation Strategy (NCDE Subcommittee 2018) identifies the Ninemile Demographic Connectivity Area (DCA) as being important for occupancy by female grizzly bears and area that will support eventual dispersal to the Cabinet-Yaak and Bitterroot Ecosystems from the expanding NCDE grizzly population (Figure12)." (pp. 72-73) Therefore application of the NCDE Amendment is appropriate for this project.

#### Issue 7.14 – Grizzly Bear Activity

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The EA significantly understates the level of grizzly bear activity documented by Montana Fish, Wildlife and Parks.

**Response:** Please see Appendix B: Response to Comments in the Draft Decision Notice (pp. 68-69). The response discusses grizzly bear activity reported in the wildlife report and EA and acknowledges the objector's point that additional data are available and will be researched and included in the Biological Assessment. The Wildlife Report states, "it is reasonable to conclude that at this time grizzlies in the analysis area are in relatively low densities, but use is expected to increase in coming years." (pp. 76-77)

#### Issue 7.15 – Ninemile Demographic Connectivity Area Protection

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The failure to adequately assess and protect the Ninemile DCA is a major weakness of the EA. Linkage areas need to be identified and analyzed.

**Response:** The entire DCA is a linkage area which has been identified and analyzed. See *Appendix D: Response to Comments* in the Draft Decision Notice (DDN, comment WL-10-5, p. 69).

#### Issue 7.16 – Grizzly Bear population connectivity

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** U.S. Fish and Wildlife Service and the Forest Service must ensure connectivity between isolated grizzly bear subpopulations.

**Response:** See response to Issues 7.2, 7.8 and 7.15. The 2018 NCDE Grizzly Bear Forest plan amendment was designed to ensure connectivity between isolated grizzly bear subpopulations. The USFWS and Forest Service cooperated to incorporate the 2013 Conservation Strategy recommendations into Forest Plan Amendments in order to maintain the NCDE grizzly bear population and provide linkages to the Bitterroot ecosystem.

#### Issue 7.17 – Consideration of Conservation Strategy and Amendments

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** Analysis doesn't consider Grizzly Bear Conservation Strategy, the recent Forest Plan Amendments or demonstrate tie to the project.

**Response:** The EA discussion of effects on grizzly bear (pp. 101-104 ) discusses how the Conservation Strategy and amendments bear on the project's proposed actions. These discussions are focused on motorized access because that is the main factor in the Conservation Strategy for potential grizzly bear connectivity between ecosystems. The analysis considers the Grizzly Bear Conservation Strategy, and the recent Forest Plan Amendments and ties them to the project as the main item of regulatory framework for the project.

I conclude that the responsible official adequately considered and discussed the Grizzly Bear Conservation Strategy and associated amendments to the Forest Plan.

### Issue 7.18 – Road Density Analysis

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The road density analysis in the EA is seriously flawed.

**Response:** The road density analysis in the EA provides rationale from research and policy about how and why roads could affect grizzly bears, possible thresholds that may define grizzly use and non-use, and how the alternatives change road densities in relation to those possible thresholds (EA, pp. 103-107). The analysis describes potential disturbance, areas with higher and lower road densities and lengths of time they are likely to remain in that condition.

The analysis considers key issues about bear use of areas impacted by roads. The EA and wildlife report present the difference between disturbances (present on timber sale roads) versus the effects of mortality risk (present along with disturbance on open roads).

I conclude the responsible official appropriately analyzed road density in relation to effects on grizzly bears.

### Issue 7.19 – Scale of Road Density Analysis

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The road density analysis in the EA was not performed at the correct scale.

**Response:** The NCDE amendment defines the scale of road density analysis as the entire Ninemile DCA. This is a connectivity area needed to support some lower level of bears to facilitate population growth into the Bitterroot Ecosystem. Density calculations were made at this scale. However, discussion of how bears may respond to changes in road use in the project area and on habitat security, disclose that road densities would be higher in some areas than in others. There would be opportunities for bears to move between higher and lower road density areas (EA, pp. 104-106).

I conclude the road density analysis was conducted at the scale required by the Lolo Forest Plan.

### Issue 7.20 – Road Density Effects on Grizzly Bear

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** Road densities proposed in the project will make the area unavailable for grizzly bear use.

**Response:** The objector contends that high road densities across the south half of the project area would make much of the DCA unsuitable for grizzly bears (see EA, p. 105, Alt B). The objector raised this issue in scoping comments. The responsible official responded “there is scientific evidence that female grizzly bears with cubs have successfully occupied areas outside of the PCA with road densities higher than the suggested 19-19-68 ruleset for the NCDE recovery area – see response to comment (WL-10-5). For these reasons we do not agree with the comment nor do we concur that the EA reveals roads open for timber haul have the same impacts to grizzly bears as roads open to public use.” (Draft DN, p. 72) See also Response to Comments WL-10-13 (pp. 72-73) and WL-10-18 (pp. 74-75)

Further, the EA discloses that: 1) Road densities are the same before and after project implementation, 2) higher road densities represent the relatively short period of project implementation, 3) roads will not be in use all at once, thus a theoretical maximum displayed would not actually occur.

### Issue 7.21 – Obligations under the Ninemile DCA

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** Forest Service is disregarding agreements and obligations regarding the Ninemile DCA.

**Response:** The discussion of effects on grizzly bears (EA, pp. 101-104) disclose how the project's proposed actions affect conditions for bears in the Ninemile DCA. The discussion is focused on motorized access because it is the main requirement specified by USFWS in the Ninemile DCA to maintain grizzly bear connectivity between ecosystems. The EA (p. 113) outlines how the Responsible Official meets the Amendment in the Ninemile DCA.

I conclude the responsible official considered requirements for the Ninemile DCA and meets those requirements for the project.

### Issue 7.22 – Analysis and Response Regarding Denning Habitat

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The EA contains no discussion of the potential impacts on grizzly bear denning habitat and den site selection even though the Project will include winter activity. The Response to Comments acknowledges this and attempts to back-fill on this issue, without amending the EA.

**Response:** Please see response to Issue 7.5. The EA contains minimal discussion of denning habitat because no denning has been observed and minimal to no impacts to denning habitat are anticipated. This issue was also raised in comments to the Draft EA. The responsible official responded in *Appendix D: Response to Comments* in the Draft Decision Notice (p. 74). The response says denning habitat is not limiting and long-term effects are not anticipated.

I conclude that the response to comments was adequate regarding bear denning.

### Issue 7.23 – Road Impacts on Grizzly Bear Habitat

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** Roads and altered habitat are known barriers to grizzly bears and other wildlife

**Response:** The 2018 Lolo National Forest NCDE Plan Amendment provides management direction. In Appendix D: Response to Comments in the Draft Decision Notice (comment WL-10-16, p. 74) the responsible official states "grizzly bears are moving outside of wilderness areas and the PCA and into more heavily-roaded and human-influenced landscapes – areas with much higher levels of road density than the PCA standards require." The response further concludes "But the mere presence of forest roads, and especially those closed to public, does not appear to be a barrier to grizzly bear movements based on recent science, grizzly bear research/monitoring and empirical evidence"

The effects of roads as potential barriers to grizzly bear movement were analyzed in the EA and Wildlife Report/BA. The Responsible Official concluded that although some effects would occur, and individual grizzly bears would be affected, all requirements of the NCDE Amendment would be followed. amendments.

### Issue 7.24 – Forest Service Commitments

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** "Commitments" made by the Forest Service are unreliable. Regarding inclusion of roads that were set for decommissioning on a previous project.

**Response:** The Draft Decision Notice (p. 6) presents a general description of the legality and reasons for revising portions of the Frenchtown Face Project. The responsible official cites three reasons for changes to the previous decision; a) unaccounted for pre-existing rights on some roads; b) the need for some of these roads during implementation of the Soldier-Butler project; and/or, c) because some of these roads are in the wildland urban interface and are needed for ingress and egress for public and firefighter safety.” Appendix B also includes a table of why each specific route is needed.

I conclude that the responsible official appropriately changed a past decision and considered changed conditions and new information.

## Issue 8 - Wolverine

### Issue 8.1 – Wolverine Consultation

**Objector:** Alliance for the Wild Rockies

**Contention:** The analysis for wolverine is inadequate because it does not use best available science and does not set a meaningful threshold in violation of NFMA and NEPA. Formal consultation with USFWS is required.

**Response:** The North American Wolverine is proposed for listing under the Endangered Species Act and was also identified as a Sensitive species by the Forest Service in Region One (Wildlife Report, p. 127). In 2014, Region One of the Forest Service prepared a Programmatic Biological Assessment (BA) regarding the effects of routine national forest projects on the proposed wolverine (USDA Forest Service 2014). The Forest Service assessed the effects of multiple routine activities and made a no Jeopardy determination for the proposed wolverine. The USFWS concurred with that determination (Bush 2016, Bush and Conard 2014). Therefore, as long as the Soldier Butler project fits within the actions described in the Programmatic BA, there should be no need to conference with USFWS regarding wolverine for this project.

The analysis of effects to wolverine is documented in the Wildlife Report (pp. 127-134) and summarized in the EA. Analysis focused on the specific aspects of wolverine biology and habitat that are most relevant to evaluate direct, indirect, and cumulative effects. Much of the biological information that informed the selection of analysis measures is derived directly from the federal register notice for proposed listing published by the USFWS. The analysis of wolverines concluded “Both action alternatives for the Soldier-Butler project **“May Impact Individuals or Habitat (MIIH)”**, but are not likely to lead to a trend towards Federal listing or loss of viability for the wolverine” (Wildlife Report, p. 134). Rationale for the determination is included in the Wildlife Report.

## Issue 9 - Lynx

### Issue 9.1 – Inadequate Lynx Analysis

**Objectors:** Alliance for the Wild Rockies, Flathead-Lolo-Bitterroot Citizen Task Force, and Michele Dieterich

**Contention:** The Soldier-Butler EA fails to consider, apply, and incorporate best available science and fails to demonstrate consistency with all Forest Plan/NRLMD direction, in violation of the Endangered Species Act (ESA). The project will result in unauthorized take as defined by Section 9 of the ESA. Further, the analysis is inadequate.

**Response:** The Wildlife Report in the project file describes how the lynx analysis aligns with the framework of the Northern Rockies Lynx Management Direction (NRLMD) and how the effects to habitat

components deemed most important to the survival and recovery of the species were analyzed. (Wildlife Report, pp. 50-52) The report emphasizes that “The Soldier-Butler project area is NOT within Critical Habitat, and thus no discussion of Critical Habitat is included in this analysis.” (p. 51)

As stated in the EA, minor effects are predicted from the project on lynx and/or lynx habitat because use of the area by lynx has not been recently documented. Habitat will not be measurably affected because the project was designed to comply with the NRLMD vegetation standards and guidelines. Furthermore, the project activities will increase snowshoe hare habitat in the long-term by creating stand initiation structural stages which provides winter snowshoe hare habitat, which is an important prey species for lynx. (EA, pp. 100-101) The Wildlife Report and EA also disclose recent scientific publications used in the lynx analysis.

I conclude that the responsible official considered and applied current lynx science and is in compliance with the Endangered Species Act.

### **Issue 9.2 – Lynx Critical Habitat**

**Objector:** Alliance for the Wild Rockies

**Contention:** Please consult with the USFWS on the NRLMD in lynx critical habitat

**Response:** There is no critical habitat in the project area. Please see response to Issue 9.1.

### **Issue 9.3 – National Forest Management Act Consistency**

**Objector:** Alliance for the Wild Rockies

**Contention:** There must be maps and adequate discussion of the connectivity issue in the EA, making it possible to see the landscape features that affect connectivity and metapopulation dynamics within and between LAUs both within and outside the project area.

**Response:** There are no identified linkage areas for lynx in or near the project area. None of the putative corridors identified by Squires et al. (2013) for connecting U.S. lynx populations to Canadian populations are impacted by the Soldier-Butler project. (Wildlife Report, p. 65)

## **Issue 10 - Fisher**

### **Issue 10.1 – Fisher Effects, Viability, and Decline**

**Objector:** Alliance for the Wild Rockies

**Contention:** The Soldier-Butler EA fails to adequately analyze the effects on fisher due to trapping or from use of the road and trail networks. The analysis for the fisher, as for most wildlife, doesn't disclose the direct, indirect or cumulative impacts on important habitat components, such as snags, logs, foraging habitat configuration, connectivity, cover, prey species impacts, etc. Further the analysis fails to address the viability and decline of Fisher.

**Response:** The Wildlife Report (pp. 104 – 105) discusses the current and historic status of fisher in the Nine Mile area. It discloses that Fisher have been and continue to be very rare in the area and are not considered regular inhabitants of the project area (Wildlife Report, p. 107). The project area contains minimal habitat for fisher due to scarcity of lower elevation cedar and grand fir forests and does not likely contribute to sustained fisher presence in the Northern Rockies (Wildlife Report, p. 108). The Wildlife Report also discusses trapping related access and considers trapper access in the effects analysis (pp. 108, 110). Direct and indirect effects including loss of cover, and downed wood and snags are also discussed in the report with the caveat that, due to lack of fisher presence in the area, it is unlikely that

either action alternative would impact fishers. Effects determinations, including cumulative effects, are included in the Wildlife Report (pp. 111-112). The determination for this species is “**May Impact Individuals or Habitat**”, but would not contribute to a loss of viability at the population scale, and thus would not lead to a trend towards Federal listing or loss of viability for the population or species” (Wildlife Report, p. 112)

## Issue 11 - Elk

### Issue 11.1 – Inadequate Analysis

**Objectors:** Alliance for the Wild Rockies and Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The analysis of the project’s impacts on elk and elk habitat is inadequate.

**Response:** One objector also states “The EA does not contain a valid analysis of the effects of road densities, disturbance and loss of cover on elk.” The objectors do not specifically state why the effects analysis for elk is inadequate or invalid. One objector states “Going back to the Montana Cooperative Elk-Logging Study, it has been well known that logging and roadbuilding impact elk populations.”

The Wildlife Report discusses impacts to elk from the proposed action including the effects of logging and roadbuilding. The Report includes discussion of data sources, analysis methods, and assumptions used. It describes the existing condition for elk (and other big game species) in the project area, and also addresses population trends. Further, it explains that management objectives and habitat management goals are taken from the Montana State Elk Management Plan (Wildlife Report, p. 36-44)

The Wildlife Report cumulative effects section concludes “Shifts in use areas would likely occur, but are not expected to completely change or to render the analysis area un-useable, by any means. Herd dynamics would continue to shift in response to changing conditions, but no major population increases or declines would be anticipated. Hunting, wildlife viewing, and availability of the species as prey would continue.” (p. 49)

I conclude the responsible official appropriately considered, analyzed, and disclosed the effects to elk from the proposed action in compliance with NEPA.

### Issue 11.2 – Effects of the Plan Amendment

**Objectors:** Alliance for the Wild Rockies and Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The effect of project activities including the proposed forest plan amendment would adversely affect the MIS elk. The EA fails to justify the claims of overall net ecological benefit (“for the sake of accomplishing fuels reduction”) that are alleged by exceeding standards.

**Response:** There is no forest plan amendment proposed related to elk thermal cover and timing restrictions in the Draft Decision Notice. It does, however, provide Resource Protection Measure (RPM WILD – 15b) that limits harvest and road building to periods of time outside of December 15 through May 1 east of Kennedy Creek. (DDN, p. 6)

### Issue 11.3 – Addressing Elk in Project Design

**Objector:** Alliance for the Wild Rockies

**Contention:** The EA claims, “Past experience has shown that it is unlikely that work would be occurring in multiple drainages at the same time further providing dispersal areas.” Then why doesn’t the EA include this in project design specifications?

**Response:** RPM WILD – 15b was developed specifically for this project in consultation with Montana Fish, Wildlife, and Parks personnel and limits harvest and road building activities to times outside of December 15 to May 1 east of Kennedy Creek where winter forage is less abundant than in other areas of the project. (DDN, p. 6) Because the feasibility of harvest operations occurring in more than one drainage at a time is low, the analysis accounts for this very likely scenario.

## Issue 12 – Pine Marten

### Issue 12.1 – Improper effects analysis

**Objector:** Alliance for the Wild Rockies

**Contention:** Objector claims there is an ineffective effects analysis of the MIS Pine marten

**Response:** The pine marten is not an MIS on the Lolo National Forest (Lolo National Forest Plan FEIS, pp. III-28 to III-29).

## Issue 13 – Pileated Woodpecker

### Issue 13.1 – Effects to Pileated Woodpecker

**Objector:** Alliance for the Wild Rockies

**Contention:** The Soldier-Butler EA indicates the proposed logging would remove forest habitat components which provides habitat for species needing the kind of habitat features found in mature and old- growth forests, such as the pileated woodpecker. This project impacts the woodpecker's viability and needs to consider snags and coarse woody debris.

**Response:** The wildlife report details the effects to pileated woodpecker (pp. 18-24). Effects include a limited amount of removal of pileated woodpecker habitat, and retention of a large proportion of the habitat. The report concludes that far more habitat remains after project activities than is needed to maintain a viable population (pp. 23-24). Resource Protection Measures in the EA specify old growth protection (p. 34).

## Issue 14 – Northern Goshawk

### Issue 14.1 – Goshawk Viability and Surveys

**Objector:** Alliance for the Wild Rockies

**Contention:** There is no indication the FS has sufficiently surveyed for goshawk nest stands in the project area. The FS must utilize goshawk survey methodology consistent with the best available science. For example the recent and comprehensive protocol, "Northern Goshawk Inventory and Monitoring Technical Guide" by Woodbridge and Hargis 2006. Further the EA fails to describe the quantity and quality of habitat necessary to sustain the viability of northern goshawk.

**Response:** The Wildlife Report discloses the methodology used to analyze impacts to Northern goshawks including surveys and observations conducted in the summer of 2015 using acoustical calling methods from Woodbridge and Harris, 2006. (pp. 24-25) Multiple goshawks were observed, along with successful nesting behavior. The Wildlife Report discloses potential impacts to goshawks from the action alternatives and concludes "the project is not expected to contribute negative cumulative impacts to goshawk, goshawk habitat, or goshawk prey." (p. 34) The *Summary and Conclusions* presents the rationale for this conclusion.

I conclude the responsible official appropriately conducted goshawk surveys, and considered and addressed viability of this species.

## Issue 15 – Black-backed Woodpecker and Flammulated Owl

### Issue 15.1 – Inadequate Analysis

**Objector:** Alliance for the Wild Rockies

**Contention:** The analysis of the project's impacts on black-backed woodpeckers and flammulated owls is inadequate is in violation of NEPA, NFMA, the Forest Plan and the APA.

**Response:** Black-backed woodpeckers and Flammulated owls are Sensitive Species on the Forest Service's Northern Region list. (EA, p. 95) The Black-backed woodpecker is also a Species of Concern in Montana.

Effects to flammulated owls from the action alternatives are disclosed in the Wildlife Report (pp. 112-120). This includes the status of habitat for the species across the Lolo National Forest and potential effects to viability. The Wildlife Report states, "While the treatments in much of the project area are expected to result in long-term improvement of conditions for flammulated owls, there could be some short-term negative effects" (p. 118) Rationale for this conclusion follows the statement. The determination for flammulated owls in the Wildlife Report is that the action alternatives "**May Impact Individuals or Habitat (MIIH)**" but is not likely to lead to a trend towards Federal listing or loss of viability for the species."

The Wildlife Report also discusses effects to black-backed woodpeckers. It states, "Because of the lack of suitable habitat in the project area, no surveys for black-backed woodpeckers have been conducted. It is unlikely the analysis area contains any black-backed woodpeckers at this time." (p. 96) However, "Ample future habitat exists for black-backed woodpeckers, if a moderate-to high-severity fire were to occur in the project area, due to the abundance of densely timbered stands." (p. 98) The effects determination for black-backed woodpeckers is the same as for flammulated owls because "Considering the large fires that have created thousands of acres of high-severity fire in dense forests in the past 5 years on the Lolo NF, in addition to other large fires at the Regional scale, viability for this species is expected to be easily maintained in the foreseeable future." (p. 100)

I conclude that the responsible official properly analyzed the effects to both Sensitive species.

## Issue 16 - Aquatics

### Issue 16.1 – Inadequate Analysis

**Objector:** Alliance for the Wild Rockies

**Contention:** EA analysis is inadequate for effects to water quality and fisheries as it pertains to sedimentation, TMDLs, and cutthroat trout.

**Response:** A qualitative sediment and erosion analysis was conducted on project area roads and is contained in Table 9 of the Hydrology Report (p. 16). All identified problem areas from roads would be addressed with the project. The Report discusses consistency with existing TMDLs. (p. 31) The net improvement in long-term sediment amounts primarily comes from the GRAIP-Lite model. This model is based upon empirical data where the GRAIP researchers measured decreases in sedimentation after project implementation. The Hydrology Report also provides a quantitative sediment analysis that breaks down sediment delivery from roads in the project area, by watershed. This shows current

sedimentation, increases during implementation, and decreases post implementation. (pp. 15 and 23-24) The Report also discloses that upgrading the Josephine crossing on the 890 road is part of the Ninemile Watershed Restoration Plan. (p. 31)

Section 2.4 of the Fisheries Report, *Effects Thresholds* describes how Forest Plan Standards 27 and 28 are incorporated into the fisheries analysis. (p. 5) Further, section 5.2, *Biological Evaluation and Biological Assessment* contains a viability assessment for westslope cutthroat trout. It discloses that the risk to local and region populations is considered low. The determination for westslope cutthroat trout is "Not Likely to Adversely Affect / May Impact Individuals Or Habitat, But Will Not Likely Contribute To A Trend Towards Federal Listing Or Loss Of Viability To The Population Or Species". (Fisheries Report, Table 4, p. 18)

I find that the Responsible Official has fully analyzed the effects of the project on water quality and fisheries.

### **Issue 16.2 – USFWS Consultation for Bull Trout**

**Objector:** Alliance for the Wild Rockies

**Contention:** The Forest Service must formally consult with USFWS on the effect of the project on Bull Trout and get a take permit

**Response:** The Fisheries Report states "No level of Section 7 consultation with the USFWS is required as extensive sampling over the past twenty years has failed to detect either resident or migratory populations of bull trout within Soldier-Butler watersheds or mainstem Ninemile Creek." (p. 18) This finding is also addressed in the EA (p. 92).

I find that the Responsible Official has fully analyzed the effects of the project on bull trout and is not required to consult with USFWS because the conclusion is No Effect/No Impact.

## **Issue 17 – Fire and Fuels**

### **Issue 17.1 – Fuel Treatment Effectiveness**

**Objector:** Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** The effectiveness of fuels treatments are not backed up by science and may actually increase risk.

**Response:** The Fire and Fuels Report cites Peterson (p. 30), Rothermel (p. 33), and other scientific literature (p. 34) that provides support to the effectiveness of the proposed actions in meeting the purpose and need of decreasing high intensity wildfire potential within the project area.

I find that the Responsible Official has adequately described the proposed fuels treatments and disclosed the science used in the analysis.

## **Issue 18 - Weeds**

### **Issue 18.1 – Inadequate Noxious Weeds Analysis**

**Objector:** Alliance for the Wild Rockies

**Contention:** Analysis of impacts of noxious weeds is inadequate because it doesn't comply with NFMA, NEPA, the ESA, and APA.

**Response:** The Noxious Weeds specialist report and Appendix C (Resource Protection Measures and Monitoring) of the Draft Decision Notice discuss actions to control and monitor noxious weeds. This includes herbicide application along roads and landings, and the washing of equipment. The Resource Protection Measures ensure that implementation of this project is in compliance with the Forest Plan.

I find that the Responsible Official has adequately analyzed the impacts of proposed actions on noxious weeds and has identified mitigations associated with those impacts that is in compliance with NFMA, NEPA, ESA and APA.

## Issue 19 – Objector Literature

### Issue 19.1 – Literature Cited by Objectors

**Objectors:** Alliance for the Wild Rockies Flathead-Lolo-Bitterroot Citizen Task Force

**Contention:** Objectors cited numerous sources of literature to support their objections.

**Response:** Objection regulations state what can and cannot be considered for objections. I considered literature and screened it per 36 CFR 218.8(b) and (c) into accepting it for further review.

#### 218.8(b):

Objection regulations at 36 CFR 218.8(b) state: *Incorporation of documents by reference is not allowed, except for the following list of items that may be referenced by including date, page, and section of the cited document, along with a description of its content and applicability to the objection. All other documents must be included with the objection:*

1. *All or part of a Federal law or regulation*
2. *Forest Service directives and land management plans*
3. *Documents referenced by the Forest Service in the proposed project EA or EIS that is subject to objection.*
4. *Comments previously provided to the Forest Service by the objector during public involvement opportunities for the proposed project where written comments were requested by the responsible official.*

Numerous literature citations provided by objectors did not meet 36 CFR 218.8(b). Literature that was cited and not provided was not considered.

#### 218.8(c):

Objection regulations at 36 CFR 218.8(c) state: *Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment. The burden is on the objector to demonstrate compliance with this requirement for objection issues.*

Applicable to this regulation, objectors can only include literature that was included in their comment unless new information arose after the opportunity to comment. Regarding literature, new information is only new literature published after the comment opportunity that relates to the project or activity.

Numerous literature citations provided by objectors did not meet 36 CFR 218.8(c). Literature that was provided by objectors that was not provided in the comment period was not considered and none of the literature provided was new information which arose after the comment period.