February 10, 2020

Ken Coffin, District Ranger
Custer Gallatin National Forest
Beartooth Ranger District
6811 US Highway 212
Red Lodge, MT 59068

RE: COMMENTS ON THE DRAFT SUPPLEMENTAL IMPACT
STATEMENT (SEIS) FOR THE GREATER RED LODGE AREA
VEGETATION AND HABITAT MANAGEMENT PROJECT

Dear Ranger Coffin,

Please accept these comments on the Draft Supplemental Environmental Impact Statement (SEIS) on the Greater Red Lodge Area Vegetation and Habitat Management Project form me for the Alliance for the Wild Rockies and Native Ecossytems Council.

The agencies must reinitiate and complete reconsultation on the Custer Forest Plan to address current grizzly bear distribution and suitable habitat; this has not yet been done.

ESA regulations mandate that "[r]einitiation of formal consultation is required .

. . (b) If new information reveals effects of the action that may affect listed species .
. . in a manner or to an extent not previously considered . . . .” 50 C.F.R.
§402.16(b); see Alliance for the Wild Rockies v. USDA, 772 F.3d 592,601 (9th
Cir.2014).

The grizzly bear is an ESA-listed threatened species that is present on the Forest. Grizzly bears “are known to occur” in the Project area.

The Project is within the Rock Creek “Bear Analysis Unit,” which is a unit that the Interagency Grizzly Bear Study Team deems to be “biologically suitable and socially acceptable areas for grizzly bear occupancy” outside of the Yellowstone Grizzly Bear Recovery Zone.

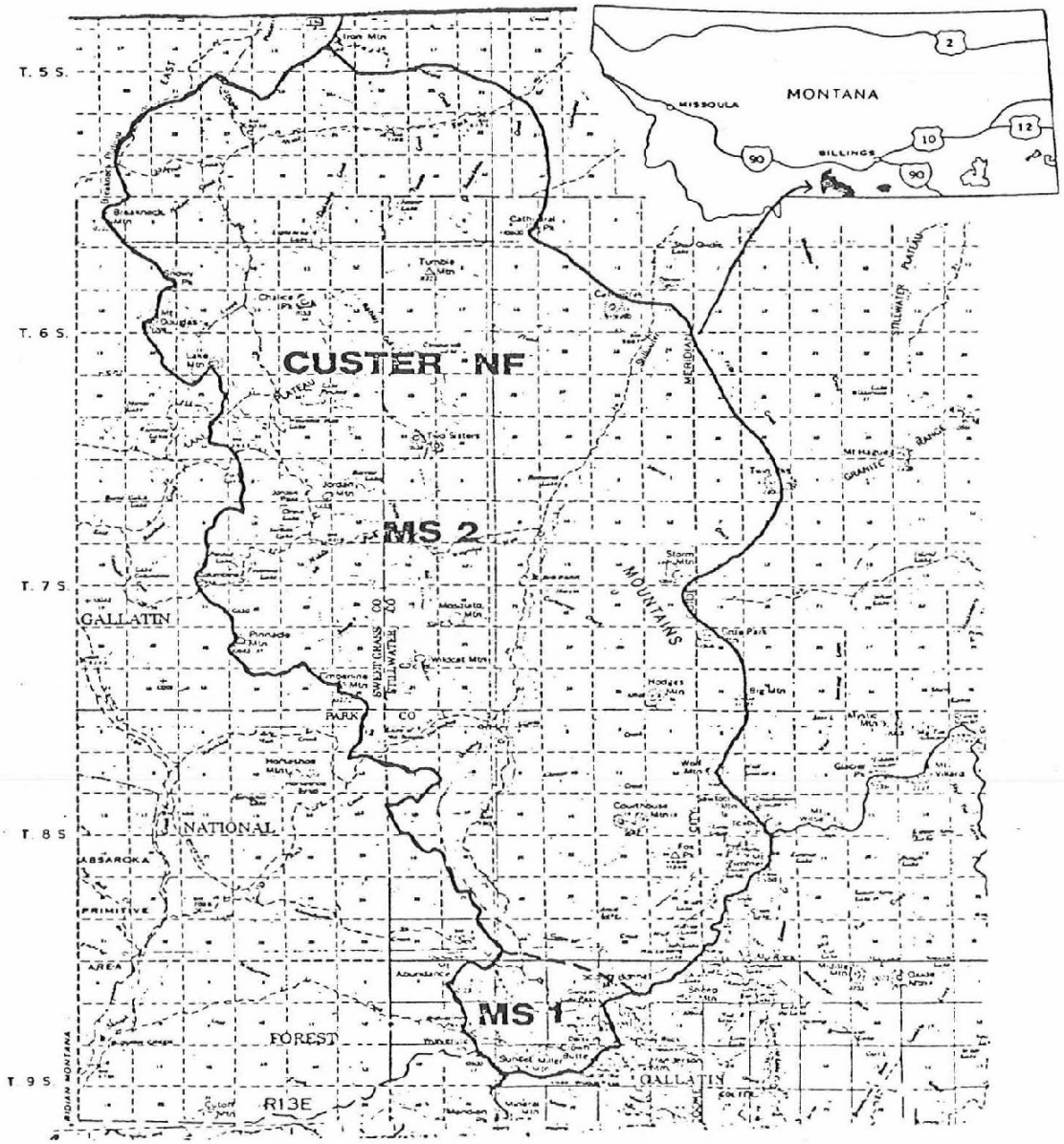
The Grizzly Bear Recovery Plan states that roading, logging, and grazing are competitive uses of grizzly bear habitat and that “[r]oads probably pose the most
imminent threat to grizzly habitat today.” The Project authorizes 1,051 acres of commercial logging, and an additional 756 acres of noncommercial burning and tree removal, temporary construction, re-construction, or maintenance of approximately 19 miles of logging roads, opening of 1.5 miles of roads for logging although those roads were slated for decommissioning, and reconstruction and opening of the Nichols Creek road for public motorized

use for five years. The Project will increase the area with total motorized route density over 2 mi./mi.
in the Project area during the Project from 21.1% to 26.2%. FS000967. The Project will decrease secure (roadless) habitat in the Project area during the Project from 61% to 54%.

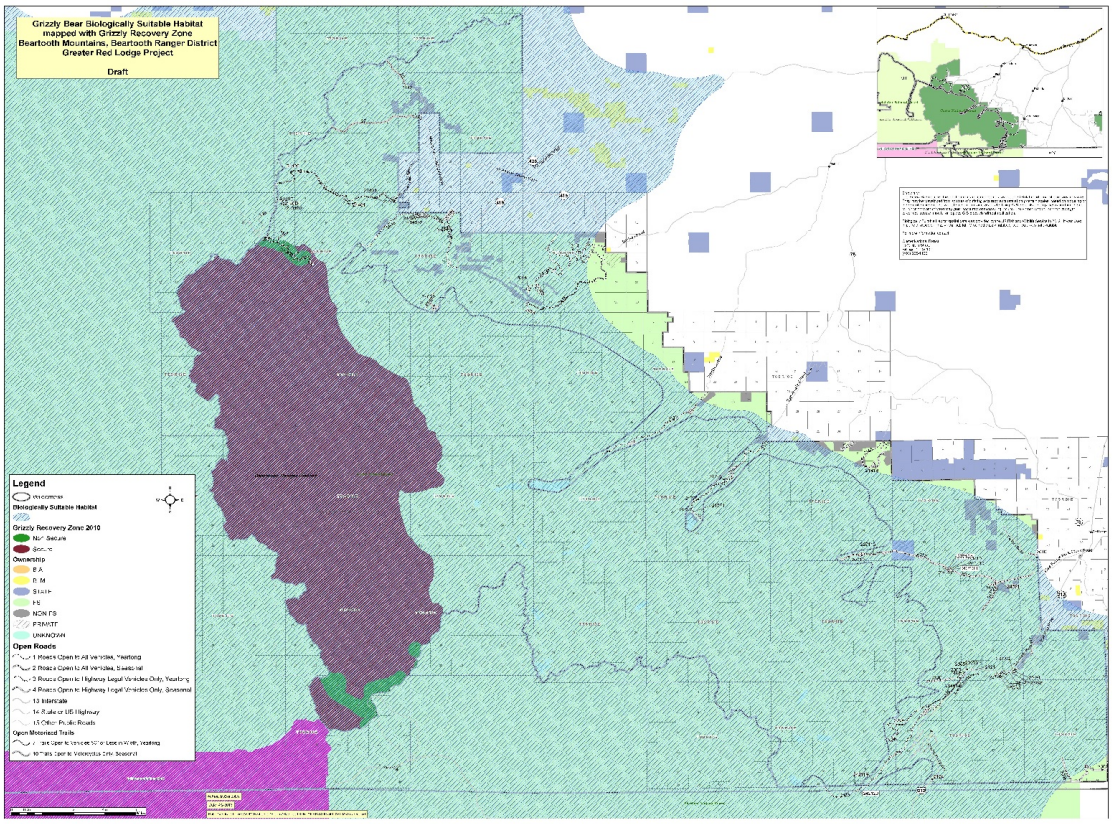
The most recent EIS, Biological Evaluation, and Biological Opinion/Incidental Take Statement addressing the impact of Custer Forest Plan implementation on grizzly bears were produced in June 1985, which was over 30 years ago. At that time grizzly bears only occurred within a designated Wilderness area (94%), and in an area where no logging or grazing was permitted (6%): "Most of the occupied habitat is within the Absaroka-Beartooth Wilderness and not available to development. The area outside is not classified commercial timber nor is it within any range allotment." Thus, the agencies' analysis of Forest Planimpacts to grizzly bears on the Custer National Forest 30 years ago presumed that "there is no timber harvest, livestock grazing, or roading planned in grizzly bear habitat in any of the alternatives." Based on the available information in 1985, USFS designated the upper Stillwater drainage as Management Situation 1 grizzly habitat, and designated the lower Stillwater drainage as Management Situation 2 grizzly habitat.

Thirty years have now passed; the Custer National Forest has not revised its Forest Plan under the fifteen year revision schedule envisioned by NFMA, see 16

U.S.C. §1604(f)(5), and now grizzly distribution and suitable habitat have changed on the Custer National Forest. USFS now considers biologically suitable grizzly habitat to expand far beyond the originally mapped Management Situation 1 and 2 areas. See from the GRLA case-FS038236 (current map of biologically suitable habitat); FS006642 (map prepared for 1985 Forest Plan consultation).



GRIZZLY BEAR MANAGEMENT SITUATION DESIGNATIONS
ON THE CUSTER N.F.



Grizzly distribution has also changed. At the time of Forest Plan
implementation, "the upper Stillwater drainage [was] the only area where there were
any confirmed observations of grizzly bears in the la[s]t 20 years," and "[o]nly one
observation of bears (tracks) ha[d] been recorded in the last 8 years in the
Stillwater." FS006638,FS006643. In contrast, over the past four years, 16 grizzly
bears have been seen within one mile of the Project area, which is east of the
Stillwater drainage. FS001218.

Despite the movement of grizzly bears out of the Wilderness and non-logging/non-grazing areas, USFS has not reinitiated consultation on the Forest Plan to assess the impact of Forest Plan implementation on threatened grizzly bears where they are currently found. In contrast, other NationalForests have reinitiated Forest Plan consultation – or have been implicitly or explicitly ordered to do so – to address changes in grizzly bear distribution and habitat:

The Gallatin National Forest reinitiated consultation on its Forest Plan because "[g]rizzly bears have expanded their range in the [Greater Yellowstone Area]over the past decades. . . . The current distribution of grizzly bears on the Forest includes areas outside the recovery zone. . . ."

• In the Beaverhead-Deerlodge National Forest, "there have been verified grizzly bear observations in areas outside the action area as it was defined in the 2010 biological opinion [for the Forest Plan]" so "the Forest Service [] reinitiated consultation to consider the effects of the Forest Plan on grizzly bears in the remaining Forest areas." Native Ecosystems Council v. Krueger, 946 F.Supp.2d 1060,1075 (D.Mont.2013).

• In the Kootenai National Forest, USFS "recognize[d] that grizzly bears have expanded outside the areas identified as

recovery zones in the 1993 Recovery Plan, and that the bears have taken up in the areas referred to as the reoccurring use polygon" and this Court held that USFS was violating ESA §9
because USFS did not have a valid biological opinion/incidental take statement for grizzly bears in those areas outside the 1993 recovery zone. Alliance for
the Wild Rockies v. Bradford, 720 F.Supp.2d 1193,1209 (D.Mont.2010).

Here, the new information demonstrating suitable grizzly habitat and potential grizzly presence on the Custer National Forest outside of the area originally analyzed thirty years ago for the Forest Plan requires that the agencies must reinitiate and complete reconsultation on the impacts of Forest Plan implementation.
50 C.F.R. §402.16(b); see Bradford, 720 F.Supp.2d at 1209; Krueger, 946
F.Supp.2d at 1075; USDA, 772 F.3d at 601.

Furthermore, until the agencies complete reconsultation, this Project can not go forward. The Federal District Court of Montana addressed a similar situation in Krueger, in which USFS had reinitiated consultation on the Beaverhead-Deerlodge Forest Plan to address current grizzly bear distribution, yet the agency still planned to proceed with activities that may have affected grizzly

bears during the consultation. 946 F.Supp.2d at 1076 (D.Mont.2013). The Court held:

"the Project must be enjoined until Defendants complete the reinitiated consultation for grizzly bears. It is "well-settled that a court can enjoin agency action pending completion of section 7(a)(2) requirements." Wash. Toxics Coalition v. EPA, 413 F.3d 1024,1034 (9th Cir.2005). Section 7 provides that "[a]fter initiation of consultation required under subsection (a)(2) of this section, the Federal agency ... shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of anyreasonable and prudent alternative measures which would not violate subsection (a)(2) of this section." 16 U.S.C. §1536(d)."

Because "timber sales constitute per se irreversible and irretrievable commitments of resources under § 7(d)," Pac. Rivers, 30 F.3d at 1057, "individual [timber] sales cannot go forward until the consultation process is complete on the underlying plans which [the agency] uses to drive their development," Lane Cnty, 958 F.2d at 295.

USFS's remapping and redefining of "lynx habitat" requires a stand alone NEPA analysis and ESA consultation; this was not done.

USFS's designation of the Project area as Management Situation 2 requires a stand alone NEPA analysis and ESA consultation; this was not done.

USFS still has not fully and fairly disclose wildland urban interface delineationand open road density in the Project EIS.

1. Did the Forest Service conduct NEPA analysis (i.e. an EA or EIS) for the Carbon County Pre-Disaster Mitigation Plan/Community Wildfire Protection Plan (PDM/CWPP) which the Forest is using for this project?

2. If the Forest Service did not conduct NEPA for the Carbon County Pre-Disaster Mitigation Plan/Community Wildfire Protection Plan (PDM/CWPP), please immediately start that NEPA process.

3. Please provide a map showing the Carbon County Pre-Disaster Mitigation Plan/Community Wildfire Protection Plan (PDM/CWPP) Wildland Urban Interface (WUI)

boundary and the locations of all homes in comparison to the project area.

4. If the Forest Service did not conduct NEPA for the PDM/CWPP Wildland Urban Interface (WUI) boundary, please disclose the cumulative effect of the GRLA project EIS to avoid illegally tiering to a non-NEPA document. Specifically analyze the decision to prioritize mechanical, human-designed, somewhat arbitrary treatments as a replacement for naturally-occurring fire.

5. Did the Forest Service conduct ESA consultation for the Carbon County Pre-Disaster Mitigation Plan/Community Wildfire Protection Plan?

6. How will the decreased elk security and thermal cover affect wolverines? Please formally consult with

the US FWS on the impact of this project on wolverines since they are a candidate species?

7. Do unlogged old growth forests store more carbon than the wood products that would be removed from the same forest in a logging operation?

8. How much more carbon would the project area absorb every year if the no action alterantive is chosen versus the prefered alternative?

9. What is the cumulative effect of National Forest logging on U.S. carbon stores? How many acres of National Forest lands are logged every year? How much carbon is lost by that logging?

10. Is this Project consistent with "research recommendations (Krankina and Harmon 2006) for protecting carbon gains against the potential impacts of future climate

change? That study recommends "[i]ncreasing or maintaining the forest area by avoiding deforestation," and states that "protecting forest from logging or clearing offer immediate benefits via prevented emissions."

11. Please disclose the last time the Project area was surveyed for whitebark pine, wolverines, pine martins, northern goshawk, grizzly bears and lynx.

12. Please disclose how often the Project area has been surveyed for whitebark pine, wolverines, pine martins, northern goshawks, grizzly bears and lynx.

13. Would the habitat be better for whitebark pine, wolverines, pine martins, northern goshawks, grizzly bears and lynx if roads were removed in the Project area?

14. What is the U.S. FWS position on the impacts of this Project on whitebark pine, wolverines, pine martins,

northern goshawks, grizzly bears and lynx? Have you conducted ESA consultation on wolverines?

15.Please provide us with the full BA for the whitebark pine, wolverines, pine martins, northern goshawks, grizzly bears and lynx.

16.How will the Forest Servic that closures are effective when they haven't been in the past?

17.How often will the closures be monitored to be sure they are effective? Please include monitoring reports for the effectiveness of road closures for the past 10 years.

18.How will the Forest Service ensure that illegal roads or trails are not being built?

The recurring problem of road closure failures undermines the foundation of the Forest Plan's wildlife security standards, which relies on these road closures to achieve certain densities of open and total roads both inside and outside the Recovery Zone. The agencies must address this problem and its impacts in an updated ESA consultation for the Forest Plan and this project.

Roads pose a threat to big game and grizzly bears because roads provide humans with access into big game and grizzly bear habitat, which leads to direct bear mortality from accidental shootings and intentional poachings. Big game flee onto private lands during hunting season. Human access also leads to indirect bear mortality by creating circumstances in which bears become habituated to human food and are later killed by wildlife managers. Human access also results in indirect mortality by displacing grizzly bears from good habitat into areas that provide sub-optimal habitat conditions.

Displacement may have long term effects: "Females who have learned to avoid roads may also teach their cubs to avoid roads. In this way, learned avoidance behavior can persist for several generations of bears before they again utilize habitat associated with closed roads." Both open and closed roads displace grizzly bears: grizzlies avoided roaded areas even where existing roads were officially closed to public use.

Females with cubs remained primarily in high, rocky, marginal habitat far from roads. Avoidance behavior by bears of illegal vehicular traffic, foot traffic, and/or authorized use behind road closures may account for the lack of use of areas near roads by female grizzly bears in this area. This research demonstrated that a significant portion of the habitat in the study area apparently remained unused by female grizzlies for several years. Since adult females are the most important segment of the population, this lack of use of both open-roaded and closed-roaded areas is significant to the population.

In addition to having a significant impact on female grizzly bears, displacement may also negatively impact the survival rates of grizzly cubs: "survivorship of the offspring of females that lived in unroaded, high elevation habitat was lower than that recorded in other study areas in the [Northern Continental Divide Ecosystem]. The majority of this mortality was due to natural factors related to the dangers of living in steep, rocky habitats. This is important in that the effects of road avoidance may result not only in higher mortality along roads and in avoidance of and lack of use of the resources along roads, but in the survival of young when their mothers are forced to live in less favorable areas away from roads.

Thank you for your time and consideration of our comments.

Sincerely yours,

Mike Garrity,

Executive Director

Alliance for the Wild Rockies

PO Box 505

Helena, MT 59624

406 459-5936

And for

Sara Johnson, Director

Native Ecosystems Council

PO Box 125

Willow Creek, MT 59760