Friends of the Clearwater

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April 6, 2020

Sent via email to: appeals-northern-regional-office@usda.gov and via US Mail

To: USDA Forest Service
Objection Reviewing Officer
Northern Region
26 Fort Missoula Road
Missoula, Montana 59804

RE: OBJECTION to the Stray Creek Final Environmental Assessment (EA) and Draft Decision Notice (DDN)

Responsible Official: Cheryl Probert, Forest Supervisor, Nez Perce-Clearwater National Forest

Pursuant to 36 CFR Part 218, the Friends of the Clearwater (FOC) files this Objection to the Stray Creek Final Environmental Assessment (EA) and Draft Decision Notice (DDN) issued by Forest Supervisor Cheryl Probert for the Stray Creek Project. This timber sale is proposed for the Lochsa-Powell Ranger District of the Clearwater National Forest (a portion of the administratively combined Nez Perce-Clearwater National Forests).

Pursuant to Part 218, FOC is the lead objector. Contact Person: Gary Macfarlane, FOC Ecosystem Defense Director, P.O. Box 9241, Moscow, ID 83843 (209-882-9755). Attachments, references and other incorporated documents are included on the data CD with the version sent to the Forest Service (FS) via US mail postmarked this date. These attachments represent the best available information and support the comments below.

Within our comment letter, we incorporated the comments of Harry Jageman. We also incorporate Harry Jageman's March 5, 2020 objection into this objection. His objection raises important topics, including the plethora of comment period that have happened all at once, including the forest plan revision. That, coupled with pandemic suggests the Forest Service would be well advised to put a hold on projects during this trying time. We fully agree because it is difficult for members of the public to keep up with this Forest Service's comment periods while having to address anxiety about their own and their loved ones health and manage the profound disruption to daily routines.

Pursuant to 36 CFR 218.8, we state that the following content of this Objection demonstrates connections with previous comments for all issues raised herein, unless the issue or statement arose after the comment period. We've cited back to these earlier comments to demonstrate that connection.

A cd, which includes the references, is included within the one sent via US Mail.

Sincerely,

Gary Macfarlane

NEPA/NFMA VIOLATIONS

This objection point mainly discusses the following issues tree issues, though it raises other interrelated problems with the EA and DDN:

- The Need For An EIS[1]
- Cumulative Impacts
- The Purpose And Need Is Too Narrow And The Apparent desired Conditions Are Not Consistent With The Forest Plan

There is considerable scientific controversy surrounding the assumptions the Forest Service is making about this proposal. We raised them in our comments:

> Science suggests that there are far too few large dead trees to maintain ecologically healthy forests. Hanson (2010) pp. 19-20 (citing Rocca and Romme 2009, Romme et al. 1986). Wildfire, insects, and disease will create the dead trees, so allowing these disturbance events, whether they happen in a short, intense time frame or a longer time frame, to continue is going to be the best route for ecologically healthy forests. Fire, insects, and disease are all natural processes and tree death is natural—it is how forests renew themselves. There is minimally scientific controversy with the science the agency is using to justify the need for this project. Thus, the agency must prepare an EIS.
>
> Given that fire, insects, and disease are natural components to forest ecosystem cycles, the proclaimed need to eliminate root rot as a purpose was unsupported in the scoping document and did not cite any science. What role does root rot play in forest ecosystems? Specifically, what are their benefits? Is it desirable to eliminate root rot entirely? Why? Is it desirable to eliminate root rot and replace with trees that are not susceptible to that disease but is susceptible to others? Why?

and

> Most studies have found that fishers are reluctant to stray from forest cover and that they prefer more mesic forests (Olson et al. 2014, Schwartz et al. 2013, Sauder 2014, Sauder and Rachlow 2014, Weir and Corbould 2010). Both Sauder and Rachlow (2014) and Weir and Corbould (2010) predicted the influence of openings on fisher habitat occupancy based on their data. For example, Weir and Corbould predicted that a 5% increase in forest openings would decrease the likelihood of fisher occupancy by 50%. Sauder and Rachlow (2014) suggested that an "increase of open area from 5% to 10% reduces the probability of occupation by fishers by 39%. Sauder and Rachlow (2014) reported that the median amount of open area within fisher home ranges was 5.4%. This was consistent with "results from California where fisher home ranges, on average, contained < 5.0% open areas" (Raley et al. 2012). The wildlife analysis for Stray Creek, however, is not talking about <10% open areas, it is talking about a minimum of 10% cover in those areas, which is <90% open areas.

[1] See attached FOIA and response about not doing EISs without regional office approval. We would hope the memo is not a reason for failure to do an EIS because the memo is a political document, rather than one based upon law. If that was the reason an EIS was not done, it would violate NEPA.

> "Salvage or thinning operations that remove dead or decayed trees or coarse woody debris on the ground will reduce the availability of forest structures used by fishers and lynx." (Bull et al., 2001.)

Simply put, the scientific record does not support the assumptions in the EA. Rather than address important issues, alternatives "were eliminated from detailed study." That leads to the related issue of cumulative impacts.

This project should have been folded into the Lolo Insects and Disease timber sale EIS. It was known the time that project was analyzed. Our comments also stated:

> The Forest Service should use something like GRAIP-Lite to model sediment delivery (if that is an appropriate watershed model) or a sediment delivery model that is an appropriate watershed model to model for sediment from road use and should include the road use from the cumulative effects from the Lolo Insects and Disease Project. The agency used this sediment modeling for the BA in the Lolo Insects and Disease Project for sediments from road use.

However, we can find no modeling runs on sediment from this project on the website, let alone an analysis of cumulative impacts. Indeed, the reference to modeling (EA at 22) was in reference to the Lolo Insects and Disease timber sale, which suggests it should have been analyzed in that proposal. Also, the cumulative impacts from grazing on sediment and water quality need to be analyzed.

The purpose and need is narrow:

> The need for the Stray Creek proposal is to increase early-seral species diversity across the project area and provide economic benefits to rural communities by harvesting timber. The proposal is needed because stands within the project area are dominated (70%) by grand fir/Douglas-fir mix that are affected and more susceptible to disease such as root rot, and where the composition once was more diverse with a higher percentage of early seral species such as western white pine, western larch, and ponderosa pine that are less susceptible to root disease.

EA at 4. We addresses this concern in our comments, though there was not a complete EA on which to base more detail:

> Your purpose and need do not account for the best available science nor the current climatic period. What is the need to treat for disease when that is a natural part of the forest cycle? Nor is there an economic need for this when a much larger project, Lolo Insects and Disease, has just been approved in this area and has yet to go forward. Demonstrate these needs with science.

The other problem with the purpose and need is that the forest plan does not include a desired future condition based upon seral species. One of the major problems is the use of (and abuse of) non-NEPA and non-decision documents as programmatic decision documents, like a forest plan.

The Forest Plan does not direct an increase in ponderosa pine, western larch and western white pine at the expense of cedar or Douglas fir nor does it require certain desired conditions or DFCs in terms of seral species. The narrow purpose and need violates NEPA as evidenced by the rejection of alternatives mentioned earlier in this objection point.

The two main statutes that govern the management of our National Forests are the National Environmental Policy Act (NEPA) and the National Forest Management Act (NFMA). These two intertwined environmental laws form the procedural path the Forest Service must follow when making management decisions that affect National Forest land. One of the most important steps in this path is the requirement of public participation in the management decisions. Public participation in Forest

Service management decisions is extremely important because it helps to ensure agency compliance with the applicable environmental laws that control or affect land and resource use and provides for administrative appeal and judicial review of these decisions. If the agency wishes to use another set of DFCs other than those in the forest plan, it needs to comply with NEPA and NFMA by doing a forest plan amendment.

Forest Service land-management decision-making is a two-stage process. Briefly, there is the planning stage and the site-specific project stage. The planning stage is the production of Land and Resource Management Plans (LRMP's or Forest Plans), which create a framework for subsequent forest management. Forest Plans are regarded as programmatic documents that establish the management direction of the forest. The second stage is the development of site-specific projects, which determine the specific uses to which the forest will be put to accomplish the goals set forth in the Forest Plan. Site-specific projects are required to comply with the management prescriptions established in the Forest Plan.

Remedy

Withdraw the EA and prepare and EIS that looks at cumulative impacts, including the effects of climate change.

WATERSHEDS, AQUATICS, AND TES SPECIES

We refer you to the points raised in Harry Jageman's second, third an fourth objection points regarding water yield/ECA and sediment. We adopt those points as well, which point out how the proposal fails to meet the Forest Plan. We do want to expand on one of the topics raised in those two points. The objection point notes, "The idea that all sediment impacts will be short-term and mitigated by PACFISH buffers and other Best Management Practices is unrealistic and not supported by any data." Furthermore, the current conditions of the stream documented in the EA are below forest plan standards. The Forest Service has had over 30 years to recover streams. PACFISH has been in place for 25 years. If BMP's and PACFISH prevent sediment and other problems, as the EA and supporting material allege, then the current conditions of the stream would meet Forest Plan standards. The fact that they don't indicate three possibilities: the BMPs are not completely effective in preventing sediment, BMPs and PACFISH have not been followed as the agency alleges, or a most likely, a combination of both.

Our comments further expounded on this point:

> The project area lies within the Middle Lolo subwatershed and the scoping document will directly impact "Stray Creek, Rat Creek, and Yakus Creek. Stray Creek and Rat Creek are a second order tributaries to Yakus Creek and Yakus Creek is tributary to Lolo Creek." PA p. 15. The agency admits that Yakus Creek exceeds Forest Plan objectives for sediment. Because of excess sediment, the forest plan lawsuit settlement requires there to be no measurable increase. The scoping document doesn't offer an analysis; it offers a prediction based on no analysis. There isn't even quantifiable measurements of the existing condition. To sum up, this section does not disclose measurements of the existing condition and it does not have an analysis (which should take into account logging and road operations), but it does have a conclusion that appears to be based on mere speculation.
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> Where are the data that supports the assumptions and where is the analysis?
> We expect that analysis to be explained in an understandable way and use models that have been verified and are appropriate for the analysis.

> The Forest Service should use something like GRAIP-Lite to model sediment delivery (if that is an appropriate watershed model) or a sediment delivery model that is an appropriate watershed model to model for sediment from road use and should include the road use from the cumulative effects from the Lolo Insects and Disease Project. The agency used this sediment modeling for the BA in the Lolo Insects and Disease Project for sediments from road use.
>
> In any event, the agency should validate all models it uses.
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> What monitoring has occurred in this watershed commensurate with the Clearwater Forest Plan Settlement Agreement?
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> In addition to the cumulative effects from the past project areas, we noticed that the Central Zone CE replacement culverts for the Lolo Creek Drainage, which was scoped privately to only FOC and the Tribe, proposed culvert replacements along what we learn now (according to the scoping document) will be haul routes for this project. … .

Rather than rely on consistent monitoring data, monitoring has not been consistent as required by the Forest Plan, or even modeling, there is none in the project record on the web as noted in the first objection point, the agency claims tat BMPs and will cure all. Judge Erickson in his decision on the Fish Bate Timber Sale on the Clearwater National Forest clearly pointed out that BMPs can't be relied upon. (See attached). Contrary to the court ruling, the Forest Service continues to rely on BMPs. The fact that the area has 45% cobble embeddedness shows that the management paradigm of the agency—little or no monitoring and reliance on BMPs—is a failed management strategy.[2]

Thus, this proposal would affect TES species. While the upper part of Yakus Creek may not be critical habitat, the EA on page 24 states that steelhead were found near the project area. Given the decline of steelhead, extraordinary measures are required. (See attached folder of fish issues, including an October, 2019 letter from NOAA about the steep decline of steelhead). Further, the EA notes that Westslope cutthroat are located in the project area in Stray Creek.

Remedies

Withdraw the EA and prepare an EIS

Alternatively, do no temporary road construction, road reconstruction, and do not log on areas above 35% slope

VEGETATION, OLD GROWTH, AND OLD GROWTH SPECIES

We refer you to the points raised in Harry Jageman's fifth objection point regarding tree species, stand density, and root rot, which we have incorporated into this objection. To further expand on the issue, we repeat a sentence from comment made in our first objection point, "Science suggests that there are far too few large dead trees to maintain ecologically healthy forests." The EA does not demonstrate that it has sufficient old growth. Our comments stated:

> The agency has provided no maps of many of the below species' modeled habitat, which leaves the public with not much to scrutinize until more information becomes available.

[2] In any case, as objection point four states, the Forest Service is not following the BMPs and doing tractor logging on slopes that exceed 35%.

We are prejudiced from commenting in depth on old growth because of the paucity of information provided, none of which is analysis and are simply conclusions.

Field verification of old growth stands will occur for all timber harvest and new road construction projects. The scoping document does not indicate this has been done.

There is not much disclosed about the old growth in this project area. From the Lolo Insects and Disease past harvest map, it appears as if the agency is planning timber harvest for areas that have not had a record of previous timber harvest. Demonstrate that the agency is complying with the forest plan and settlement agreement with maps and analysis showing where old growth is in addition to where the proposed logging units are located, and demonstrate that someone has visited these areas on the ground. Demonstrate the agency is meeting its snag guidelines.

What is the forest like in this area, and are there old-growth-dependent species found here? Please disclose if the proposed cutting units will, in the foreseeable future, qualify as old growth or whether they do now. From Google Timelapse, it looks as if at least one section of the previously unlogged areas existed in 1984 and has not been disturbed since then, which, by the Forest Service's calculation, would make the area at least potential old growth or potential future old growth.

Why is the silviculture expert analyzing old growth when the reason for old growth is to maintain wildlife that depends on old growth? Because of the reasons for maintaining old growth (wildlife), should the wildlife biologist be analyzing this issue?[3] Are there old-growth-dependent species in the area?

Is there old growth or step-down old growth in the project area? When is the last time it was counted and what projects have occurred in this watershed and forest-wide since that time? The PA does not disclose which Old Growth Analysis Unit this falls into. Has the Forest Service validated or ranked old growth? Please map this out. Some of the pictures you provided contain old-growth characteristics, such as an understory and overstory that looks to exceed 70 percent, stand decadence, and downed logs. Has a wildlife biologist visited these areas to evaluate them as potential old growth? Is the Forest Service logging step-down old growth? Are you considering thinned areas of old growth to be old growth, in contravention of characteristics outlined in the forest plan?[4] The Forest Service's statement that species are susceptible to root disease "prevent stands from obtaining old growth structure because of continuing mortality" is inaccurate because old growth is the decadence that results from intact stands impacted by fire, insects, and disease. What does eliminate old growth, however, is logging—thinning as well as regeneration logging. Logging will remove old growth characteristics.

The EA contends no old growth will be logged. That begs the question of whether there is enough old growth left. The Reilly memos demonstrate the Forest Service is not meeting Forest Plan standards for old growth on the Clearwater National Forest (included on the website for Stray Creek, 24-001_061113OldGrowthAnalysisClearwaterNationalForest and 24-002_061207_CLW_StepDown_18Percent_Old Growth, the title of which is misleading). As such, no

[3] The screen shot shows that old growth is in the wildlife section Stray Creek. Further, the Green et al. 2007 update, what the Forest Service uses for old growth (attached) notes that it was developed with the "professional judgment of the foresters, ecologists, and wildlife biologists" as well as other data. It also states, "**Do not accept or reject a stand as old growth based on the numbers alone; use the numbers as a guide."** (Emphasis in original). Yet, that is precisely what is being done here. The point is, on-the-ground verification, by appropriate personnel (a wildlife biologist) is needed.

[4] See attached wildlife reports from the Little Boulder, Upper Lolo, and Windy Shingle Files that show how logging and thinning negatively affect habitat for fishers and other species dependent on old growth.

older forests should be logged. Since that time logging and fire may have reduced the amount of potential old growth and old growth.

Further, the EA admits regarding the American marten, "The proposed action would harvest 35 acres, most of the existing habitat in the project area."[5] Presumably, that habitat consists of mature forests, possibly old growth. The Forest Service cannot demonstrate it is meeting the Forest Plan regarding old growth or adequate habitat for old growth species. Again we refer you to Harry Jageman's objection. Points 6, 7, 8 and 9 which deal with general wildlife and old growth concerns, fisher, goshawk and pileated woodpecker, all of which we addressed in our comments:

> *Fisher*
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> The agency stated that there is habitat for fisher in the analysis area. (The project comprises "all but 93 acres" of fisher habitat.) Yet, the Stray Creek "Wildlife Effects Analysis" had no analysis—it only stated the agency's summary of the current science on fisher, which includes recognition that the species needs complex forest areas and tend to avoid logged openings. In the wildlife effects analysis, the agency recognized that "In summary, the most current science for the Nez Perce-Clearwater National Forest recommends landscapes that have greater than 50% mature forest arranged in contiguous, complex shapes with few isolated patches, and open areas comprising less than 5% of the area appear to constitute a forest pattern occupied by fishers (Sauder 2014, Sauder and Rachlow 2014)." Based on the science that the agency has recognized and the fact that there isn't a record of logging in some of these areas (and other areas might be fairly old harvest areas), there likely will be an impact on fisher.
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> Most studies have found that fishers are reluctant to stray from forest cover and that they prefer more mesic forests (Olson et al. 2014, Schwartz et al. 2013, Sauder 2014, Sauder and Rachlow 2014, Weir and Corbould 2010). Both Sauder and Rachlow (2014) and Weir and Corbould (2010) predicted the influence of openings on fisher habitat occupancy based on their data. For example, Weir and Corbould predicted that a 5% increase in forest openings would decrease the likelihood of fisher occupancy by 50%. Sauder and Rachlow (2014) suggested that an "increase of open area from 5% to 10% reduces the probability of occupation by fishers by 39%. Sauder and Rachlow (2014) reported that the median amount of open area within fisher home ranges was 5.4%. This was consistent with "results from California where fisher home ranges, on average, contained < 5.0% open areas" (Raley et al. 2012). The wildlife analysis for Stray Creek, however, is not talking about <10% open areas, it is talking about a minimum of 10% cover in those areas, which is <90% open areas.
>
> "Salvage or thinning operations that remove dead or decayed trees or coarse woody debris on the ground will reduce the availability of forest structures used by fishers and lynx." (Bull et al., 2001.)
>
> What monitoring has been done on fisher in this forest recently? Has the agency found this species in the project area? Have any surveys been conducted? What is the evidence that this project, when added to the others in the Clearwater that have also eliminated fisher habitat, would not contribute towards a trend towards listing? How will the agency maintain over 50% mature tree habitat? Please explain.

and

> *Northern Goshawk*

[5] Marten were omitted from the discussion in the PA.

> What have been the most recent surveys and monitoring for this species? Is it found in the project area? What is the analysis of the impacts?
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> *Pileated woodpecker*
>
> What have been the most recent surveys and monitoring for this species? Is it found in the project area? What is the analysis of the impacts?

The failure to clearly demonstrate the amount of older forests, old growth, and step down is a serious problem. So is the failure to adequate monitor species and their habitat.

Regarding fisher, the EA admits that it would reduce habitat and, in conjunction with Lolo Insects and Disease, the reduction is significant. The Forest Service is not meeting its requirements to protect MI and sensitive species like the fisher, marten (reducing all its habitat), goshawk or pileated woodpecker. Again, we refer you to the objections points raised by Harry Jageman, which we include in this objection.

Remedies

Withdraw the EA

Alternative, don't log in any fisher, marten, goshawk, or pileated woodpecker habitat.

ELK AND OTHER WILDLIFE

Our comments noted:

> We are prejudiced from commenting much on elk because of the paucity of information provided, none of which is analysis and all of which are conclusions. The Forest Service maintains that the proposed action would increase openings within the Yakus elk analysis area by 12%. Please map out this elk analysis area. We expect an accurate environmental baseline in the analysis area with the projects that have occurred in this as well as an analysis using the correct coefficients for roads next to hiding cover and roads next to open areas. What are the cumulative effects to the elk habitat effectiveness in light of the various projects in the same analysis area?

Harry Jageman's objection point ten addresses the problems with the analysis of elk habitat. We reproduce here a salient paragraph from Harry Jageman's objection that underscores the failure to follow the protocol in Servheen et al 1997, which is inexplicably absent from the references on the web but included as a reference in the EA:

> The cutting will also remove hiding cover from adjacent roads and this will increase the impact of those roads on elk habitat potential according to the model. Several of the existing roads and most of the new temporary roads are within or border the proposed regeneration harvest unit. The elk habitat analysis displays no deductions to habitat quality when vegetation adjacent to roads is removed. All roads are still shown as being adjacent to hiding cover in the model calculations, despite the fact that they are within or border the proposed regeneration harvest unit. It seems very improbable that 425-acres of regeneration harvest and an unknown amount of activity from the Lolo Insect and Disease project would not result in a loss of hiding cover along existing and proposed temporary roads.

The calculations must take into account open roads as that is the protocol in Servheen et al 1997. However, it is clear the calculations do not reflect the difference between roads in open terrain or those in forested terrain. Without accurate calculations, the Forest Service and the public can't tell whether even the overly low 25% habitat effectiveness requirement for E1 areas would be met. (See attached Hungry Ridge objection and note from the reviewing officer on this point). This is only one part that needs to be corrected

Our comments also raised the issue of moose. The EA has almost no information on moose. Here is the ums total of the analysis:

> The proposed action would reduce potential moose habitat in the project area by about 134 acres. In 3-15 years forage for moose would be available as understory herbs and shrubs recover. Hiding cover would be available after 15 years. Project activities may disturb or displace an individual moose, mostly during daylight hours.

Since the logging would take place in about 400 acres, losing 134 acres of habitat could be significant. Without an analysis of cumulative impacts, this is hard to place into context as to the impacts.

Lastly, the EA is unclear about certain species. It states, "There is no habitat for species listed or proposed for listing under the Endangered Species Act that occur on the Nez Perce-Clearwater National Forests; this includes Canada lynx and North American wolverine. One assumes it refers to the project area, but that is not clear. Further, the lynx observed by former wildlife biologist on the Clearwater national Forest was in an area not considered habitat as per the map, near Colgate Licks. (Map and photos attached).

Remedies

Redo the elk habitat effectiveness analyses, explain, and put that out for public comment in a supplemental EIS.

Do a cumulative impact analysis for elk

Do a cumulative impact analysis for moose.