2020 Stray Creek Environmental Assessment

Nez Perce-Clearwater National Forests

Responses to Objections

Harry Jageman, Friends of the Clearwater

# **Issue 1**: **NEPA/NFMA**

## Contention 1A: Comment Period

The objector contends that the responsible official attempts to stymie meaningful public comment on the project by combining the scoping and comment period, thereby only allowing 30 days for commenting on the preliminary environmental assessment.

### Objector(s): Harry Jageman

### Response: The objector expresses frustration with the number of Nez Perce-Clearwater National Forest projects released with overlapping time frames for public comment or objection periods, as well as during a Forest Plan Revision comment period. The timing of public involvement for projects with overlapping timeframes is not within the purview of this review. However, NEPA (40 CFR 1501.7) and Forest Service regulations (36 CFR 218.25) require the responsible official to provide opportunities for public comment. Forest Service regulations further require opportunities for members of the public to object to the draft decision if they previously submitted written comments on the project (36 CFR 218). Other opportunities for public involvement are often provided aside from the formal scoping/comment period.

Regulations do not address timing of multiple projects on a national forest to facilitate public involvement. The Nez Perce-Clearwater National Forests are a large combined unit consisting of six ranger districts, each with a program of work. It is reasonable to assume that proposed actions on different districts of the Nez Perce-Clearwater would occasionally overlap in time. Forest Service regulations do require the responsible official to provide a 30-day opportunity for public comments on environmental assessments and that the public be notified through a legal notice in the newspaper of record (36 CFR 218.25 (a)(1)(i)). The responsible official met this requirement by publishing a legal notice in the Lewiston Morning Tribune on October 12, 2019.

The purpose of scoping is to determine the scope of issues to be addressed and (in the case of an EIS) for identifying the significant issues related to a proposed action (40 CFR 1501.7). Forest Service regulations apply this NEPA regulation to all projects including EAs (36 CFR 220.4(e)). The Stray Creek Environmental Assessment (EA), Draft Decision Notice (DDN) and project file indicate that this occurred.

I conclude the responsible official complied with NEPA and Forest Service regulations for scoping and providing opportunities to comment.

## Contention 1B: Cumulative Effects Analysis

Objectors contend that cumulative impacts have not been addressed in almost every aspect of this proposal, including grazing, in violation of NEPA.

### Objector(s): Harry Jageman, FOC

### Response: The objector also contends that the Stray Creek Project is within the recently approved Lolo Insect and Disease Project area and should have been analyzed with that proposal. The Stray Creek project boundary is within the Lolo Insect and Disease Project boundary (Stray Creek EA, p. 1, Figure 2, p. 3; Lolo Insect and Disease EIS, pp. 3-4). The responsible official’s reasoning for analyzing the two separately relates to timing. He states in response to this comment “The need for the Stray Creek project did not arise until 2018 and project development of a proposed action began late summer of 2019; with scoping of a proposed action occurring in October/November of 2019.”

I have asked the responsible official address the timing of the two projects in the final Decision Notice.

Cumulative effects are addressed throughout the EA under individual resource sections. For Forested Vegetation, direct, indirect, and cumulative effects are discussed on page 14 in the EA. However, the determination of cumulative effects is unclear, and I have asked the Silviculturist to clarify this in the EA.

The Botany section of the EA discloses the effects to Forest Service Region 1 sensitive plant species affected by the project (pp. 15-16). There would be no concerns for overall species viability due to the small percentage of habitat affected. Cumulative effects for all affected species are summarized in the EA as “the overall trends in habitat for these species would be increasing with the overall advancement of succession.” A more detailed discussion by species is included in the Botany Specialist Report (project file 15-001\_200212).

The cumulative effects of grazing from the active grazing allotment in the project area are discussed in the Botany Specialist Report, which states “Ongoing allotment management activities are designed to continue to improve trends in rangeland health, vegetation, watershed conditions, and in ecological sustainability relative to livestock grazing. In addition, the improved forage in harvest areas will serve to draw livestock away from some of the more sensitive areas where rare species and suitable habitat are found.” (*ibid,* p. 11).

Cumulative effects on fuels are disclosed on page 17 in the EA. The section concludes “The combined cumulative effects from past actions and the ongoing and foreseeable actions would be reduction of fuels, trending the project area toward a more diverse age class structure, and breaking up of vertical and horizontal continuity of the fuels bed in treated acres.”

For soils, cumulative effects are disclosed in the EA (p. 21) and in the Stray Creek Soils Analysis document in the project file. The cumulative effects on soil productivity measured by Detrimental Soil Disturbance (DSD) are the same as direct effects and below the 15 percent threshold that complies with the Forest Plan (project file 17-001\_191220).

There are no expected cumulative effects to soil stability in the short term, and effects are expected to be beneficial in the long term.

See response to Contentions 5A and 5B below for discussion of cumulative effects to wildlife.

Cumulative effects to water quality and quantity are discussed in the EA on pages 22 and 23, respectively. Stray Creek project activities are not expected to contribute to cumulative effects on water quality due largely to design features and Best Management Practices. Water quantity measured as Equivalent Clearcut Area (ECA) is predicted to reach 22 percent cumulatively. This is between the 15 percent optimum level and 30 percent poor “where potential channel instability may begin to occur” (p. 23).

I conclude the responsible official considered the cumulative effects of the Stray Creek Project on affected resources in compliance with NEPA, and they do not result in significant effects.

## Contention 1C: Purpose and Need

The Objector contends that the narrow purpose and need violates NEPA and does not account for the best available science nor the current climatic period. He contends 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, in violation of NFMA.

Objector(s): FOC

Response: Appendix O of the Clearwater Forest Plan (pp. 0-27-28) is quite clear in regard to vegetation treatments in stands with high rates of root disease, and does indeed direct an increase of ponderosa pine, western larch and western white pine at the expense of grand fir and Douglas-fir. Cedar is not a species targeted for harvest in Stray Creek. An abundance of relevant scientific literature regarding root disease in Northern and North Central Idaho was applied to the analysis of the project (project file 11-008\_200130). [Seedlings](https://www.nationalforests.org/our-forests/your-national-forests-magazine/how-the-forest-service-grows-millions-of-seedlings-each-yearhttps:/www.nationalforests.org/our-forests/your-national-forests-magazine/how-the-forest-service-grows-millions-of-seedlings-each-year) planted for reforestation are grown to be suited to present site conditions. The purpose and need to treat a relatively small area to promote disease-resistant tree species while providing economic benefits to rural communities does not violate NEPA.

### Contention 1D: Need for EIS

The objector contends that there is considerable scientific controversy surrounding the assumptions the Forest Service is making about this proposal, therefore an EIS should have been prepared (NEPA). The objector cites literature regarding the need for large dead trees to maintain ecologically healthy forests.

### Objector(s): FOC

**Response:** The importance of snags is recognized in the Clearwater Forest Plan and it therefore provides snag habitat guidelines. There is no scientific controversy about the importance of snags, as the agency does not refute their value. Wildfire, insects, and disease will continue to create snag habitat across the Clearwater National Forest. There is also no scientific controversy about the effects of root disease on forests in North Central Idaho. The project does not purport to eliminate root disease from the site, and the actions proposed are in accordance with Appendix O of the Clearwater Forest Plan. The Stray Creek FONSI documents that there are no contradictions in the science used to develop/analyze the project or science that was submitted by the public, and the Stray Creek project will not have significant effects on the quality of the human environment considering the context and intensity of impacts; therefore an EIS was not warranted (Stray Creek Draft DN p. 9, Stray Creek FONSI).

# **Issue 2: Aquatics**

## Contention 2A: Hydrologic Analysis

The objector contends the responsible official failed to report actual water yield condition and road densities in Yakus Creek, which is the primary Forest Plan watershed in the project area.

**Objector(s): Harry Jageman**

### Response: The objector states “The water yield analysis suggests that the existing ECA of the 10,032-acre watershed will be 18% after harvest on the Lolo Insects and Disease Project and that this will increase to 22% following the Stray Creek project. The existing road density in the Middle Lolo sub-watershed is 3.2 miles/square mile, but it is also unknown what area was being evaluated to obtain this number.”

For clarity and understanding, I have asked Ranger Knapton to clarify the methodology used to estimate Equivalent Clearcut Area (ECA) as an indicator of water yield and to include a map of the analysis area used to determine water yield and road densities, defining the relationship of Yakus Creek to Middle Lolo HUC 12 watershed, and providing the acreage. The map may be an appendix to the EA.

## Contention 2B: Sediment Analysis

Objectors contend that the prediction of no measurable increase in sediment in Yakus Creek or downstream locations is based largely on a subjective evaluation, and further, if BMPs 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.

### Objector(s): Harry Jageman, FOC

### Response: The EA discloses that regeneration harvest and road density are potential sources of sediment (pp. 21-22). It also states, “erosion predictions from similar Forest projects show that regeneration harvest has the potential to increase erosion over base levels by 2 to 15 times within units; however, design criteria and best management practices (BMP) implementation should buffer streams … from project-related sedimentation.” (p. 22). A document in the project file (20-020) entitled *PACFISH Buffer and Temporary Road Monitoring and Miscellaneous Timber Sale Observations Report* provides additional information to support the statement in the EA. The surveys conducted found no evidence of sediment moving from harvest units into PACFISH buffers or into project areas streams. (Project file Document 20\_020, p. 5)

The EA explains how the project design proposes to avoid sedimentation (p. 5). Design features include road surfacing, with addition of cross drain and drainage dip features which prevent the connections between ditches and live water. Temporary roads will be constructed on ridgelines with no stream crossings.

The existing condition of Yakus Creek may be a result of a variety of factors, including 2015 wildfire, legacy harvest (prior to the Forest Plan), and/or roads in need of maintenance. Present design criteria is intended to avoid negative effects from the Stray Creek Project. (Project file, Watershed analysis)

I conclude the responsible official adequately analyzed and considered sediment produced by project activities.

## Contention 2C: Road Decommissioning Effects

The objector questions the claim in the EA that suggests past road decommissioning has provided beneficial impacts to the watershed and that 18-miles of past road obliteration has already improved stream conditions, because no data is provided to back up these claims (in violation of the Administrative Procedure Act).

**Objector(s): Harry Jageman**

Response: The EA states that road decommissioning and improvements (i.e. culvert replacements and road upgrades) have removed or reduced sources of potential sediment in and around riparian areas, particularly at stream crossings within the Yakus Creek drainage (p. 24). The objector raised the issue of no data being provided to support this statement in response to scoping. The Response to Comments in the project file (p.35) says the preliminary EA stated that decommissioning has removed potential sediment sources, not that stream conditions have measurably improved as a result of decommissioning. Measurable improvements can take years to occur and are generally dependent on high spring flows to flush the sediment out of the system. However, the removal of dozens of culverts and recontouring of road surface has eliminated the potential delivery of sediment from them. Beneficial impacts from road decommissioning can be expected, but have not yet been measured. There is no violation of the APA.

# **Issue 3**: **Soils**

## Contention 3A: Road Construction Effects

### The objector states that roads and timber harvest should not be planned in areas with high and very high landslide risk (which would violate the Forest Plan).

### Objector(s): Harry Jageman

### Response: The objector acknowledges that the proposed 425-acre regeneration harvest unit does not include high-risk landslide prone areas, but says it is unclear if reconstructed roads or new temporary roads occur on high risk landtypes. The Response to Comments document in the project file addressed the concern stating “Temporary roads would not be built on landslide prone areas and no harvest would occur on any field-identified areas.” (p. 37). The Stray Creek Soils Analysis document, also in the project file, further discloses “Approximately 31 acres of skyline harvest is proposed on landtypes rated as high for mass wasting risk; however, the Proposed Action involves excluding field-verified landslide-prone areas from harvest, so sensitive areas will be excluded as they are found in the field.” (p. 6). This is in accordance with Clearwater Forest Plan Standard 11 for Soils (p. II-33).

## Contention 3B: Harvest on Slopes over 35%

### The objector questions why timber harvest by ground-based equipment is being allowed on slopes between 35 and 45% (Design Feature SR-2) when past operations have shown that tractor harvest on such steep slopes has led to increased ground disturbance and sedimentation (which would violate the Forest Plan).

### Objector(s): Harry Jageman

**Response:** The Clearwater Forest Plan directs that timber sales are to be designed to consider cost-effectiveness while maintaining the long-term sustained yield and protecting the soil and water resources (p. II-25). The responsible official replied to this concern in the Response to Comments (p. 37). The original response states the 45% slope limit on ground-based skidding comes from the Idaho Forest Practices Act and that the limit is used in conjunction with soils analysis of detrimental soil disturbance (DSD) to modify harvest methods in areas that are determined to have damaged and/or sensitive soils.

I have asked Ranger Knapton to edit the design criteria to state: **“**In all units, ground-based equipment will only operate on slopes less than 45% and tractor skidding will only occur on slopes less than 35%. Exceptions can be authorized where mitigation measures are applied and soil, slope and equipment are determined appropriate to maintain soil function.” The response to comment number 130 will be updated to reflect the design criteria wording. This complies with the Forest Plan.

# **Issue 4**: **Vegetation**

## Contention 4A: Stand Composition

The objector contends that the presence of shade-tolerant Douglas-fir, grand fir and western red cedar are the norm for most of the project area and not the “high risk” situation described in the EA. He contends there is no need to convert to intolerant species, and references Cooper et al. 1991. It appears the objector asserts a violation of NFMA and NEPA.

Objector(s): Harry Jageman

**Response:** The goals for Management Area E1 in the Clearwater Forest Plan (pp. III-57-58) include providing optimum, sustained production of wood products. Silvicultural methods are to be appropriate for the stand and the terrain. Appendix O describes that in areas where root disease is severe enough to make the stands non-productive, the existing vegetation may have to be removed and replaced with resistant species. When stands with root disease are harvested they should be regenerated with resistant species. National Forests are to be managed for multiple-use and sustained yield.

The EA describes how the project area is now dominated by grand fir and Douglas-fir, in a landscape that was once more diverse in species composition. It is well-established grand fir and Douglas-fir are highly susceptible to root disease, and scientific literature describes that if susceptible species are allowed to persist on site, it can lead to a reduction in forested acres over time (EA p. 14). This concern was addressed in the Response to Comments document. Shade-intolerant species such as western larch, ponderosa pine and (rust-resistant) western white pine happen to be the species that are more resilient to root disease, and the project will regenerate the sites with those species, as well as leave the existing mature trees of those species. Western red cedar will remain abundant in riparian areas, and is not a targeted species for harvest. Cooper et al. 1991 speaks to the persistence of Douglas-fir and grand fir throughout all seral stages in the Abies grandis/Clintonia uniflora habitat type, but not in the context of root disease centers. Douglas-fir and grand fir will not be entirely eliminated from the site, and the promotion of disease-resistant tree species will allow for long-term site productivity.

### The project is consistent with Forest Plan direction, NEPA and scientific literature.

## Contention 4B: Root Disease

The objector contends that root disease is also a normal stand component in these habitat types and no real evidence is presented in the EA to suggest that root disease is more prevalent in the project area than elsewhere on the Forest.

Objector(s): Harry Jageman

Response: The goals for Management Area E1 in the Clearwater Forest Plan (pp. III-57-58) include providing optimum, sustained production of wood products. Silvicultural methods are to be appropriate for the stand and the terrain. Root disease is a common occurrence in North Idaho forests, indeed, and the pathogens will remain on site, as explained in the Response to Comments document (pp. 16, 18). The scope of the project is relatively small, and the EA does not claim that root disease is more prevalent in the Stray Creek area than elsewhere.

The EA and draft Decision are consistent with Forest Plan Direction for MA E1 and Appendix O.

## Contention 4C: Stocking Density

The objector contends that claims about stocking density in existing stands appear to be overstated. He asserts that these systems always had high densities of trees, as documented by Haig (1932) in his description of the white pine type years ago and long before the effects of fire suppression was considered a major issue.

### Objector(s): Harry Jageman

### Response: As provided in the Response to Comments document (p. 16), stocking density was not a factor leading to the purpose and need for the project. While there is one mention of overcrowded stands in the EA (p. 1) under “project location”, it is a general statement and is not discussed in the Forested Vegetation section. Current conditions within the treatment area do not represent over-crowded stands, and reducing forest density is not a need in the proposal.

# **Issue 5**: Wildlife

## Contention 5A: General Wildlife Analysis

The objector contends the Stray Creek wildlife analysis makes several erroneous conclusions that are not supported by the best available science (Schultz 2010) and fails to answer the “so what” question of what habitat losses associated with the project mean. He asserts the examination of cumulative effects is also very weak for most species.

Objector(s): Harry Jageman

Response: The Clearwater Forest Plan includes a Forest-wide goal to provide habitat for viable populations of all indigenous wildlife species. Cumulative impacts (40 CFR 1508.7) is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Effects must overlap in time and space.

### The Forest considered the literature by Schultz 2010 in regard to cumulative effect (project file 06-001\_191217). The author takes issue with cumulative effects analysis based on habitat metrics, asserting it fails to account for long-term or broad-scale impacts on population monitoring. Habitat metrics are used for wildlife species analysis at the project or larger scale to identify potential habitat, and the possible impacts of the project actions to species in the analysis area. Based on case law, it is appropriate for the agency to use measurements of habitat availability as a proxy for population/viability assessments (Inland Empire Public Lands Council v. USFS 1995, Lands Council v. McNair 2008).

### The wildlife report includes an assessment of other activities that may cumulatively impact the wildlife species analyzed (project file 22-004). While a finding is made for each of the species analyzed, I find rationale must be clarified for the findings presented in the wildlife report/ biological evaluation.

I am instructing Ranger Knapton to document the findings of the biological evaluation in the decision notice. (FSM 2672.4).

## Contention 5B: Cumulative Effects on Wildlife

The objector disagrees with the assumption the project will not contribute to cumulative habitat losses at the Forest level, and asserts the responsible official has no idea what the cumulative impact is of numerous past and proposed projects on the species of concern. See Schultz 2010. It appears the objector is asserting a violation of NEPA, NFMA and APA.

### Objector(s): Harry Jageman

### Response: NEPA requires an assessment of the effects from the proposed action, and those effects that overlap in time and space with effects from past, present and reasonably foreseeable actions. The habitat requirements and home ranges of individual species dictate the effects analysis area.

### It is disclosed in the EA that the current habitat in the project area is unlikely to support the size or structure of vegetation preferred by the goshawk and pileated woodpecker for nesting habitat. It also discloses a lack of optimum habitat for marten and fisher. The continued existence of species is dependent on habitat at the Forest scale (CNF Plan p. VI-34), not from any one project area. The wildlife monitoring report in the project file (23-083) provides trend data for the relevant species, as required by the Clearwater Forest Plan. The Forest is in compliance with NFMA.

However, I find the wildlife biologist must revisit the analysis area chosen for goshawk and pileated woodpecker and confirm if their original findings remain accurate. See 5E and 5F.

## Contention 5C: Monitoring and Viability

The objector contends it is over 30 years since the current Forest Plan was signed, yet there is currently no statistically reliable monitoring information on the impacts of Forest Service activities on any wildlife species of concern.

**Objector(s): Harry Jageman**

Response: This concern was submitted during the 30-day comment period and the response was posted. Information on species is gathered from observational data, photo monitoring stations and from Idaho Fish and Game. Habitat availability is used as a proxy for direct measurements of population status. Population trend data for relevant species are disclosed in the wildlife monitoring report for 2013 -2017 in the project file (23-083). Additional monitoring records have been added to the project file. The Nez Perce- Clearwater National Forests are revising their Forest Plan and are not required to produce a biennial monitoring and evaluation report this year.

## Contention 5D: Fisher

Objectors contend the responsible official failed to follow the best available science for the protection of fisher habitat and to consider the cumulative impact of the Lolo Insect and Disease project and other projects across the Nez Perce/Clearwater National Forest.

Objector(s): Harry Jageman, FOC

Response: FSM 2670.32 directs that the agency is to avoid or minimize impacts to species whose viability has been identified as a concern. The project will remove 128 acres of mature fisher habitat, which is less than a one percent reduction.

### The wildlife biologist applied the habitat recommendations from Sauder 2014 and Sauder and Rachlow 2015 to the analysis of effects to fisher. The Stray Creek area is not now, nor will it ever be, capable of meeting the recommended thresholds for mature habitat and fragmentation. This is due to the large amount of private land within the effects analysis area. Effects from other projects are considered cumulative if they overlap in time and space with the effects from the proposed action, and this varies by resource. Lolo Insect and Disease is one such project, its effects are considered in the cumulative effects analysis in the wildlife report and summarized in the EA.

The wildlife biologist reached a conclusion of “may impact individuals or habitat, but will not likely contribute to a trend towards federal listing or cause a loss of viability to the population or species of fisher.” The report has been updated to provide context and intensity, and show compliance with NFMA. The DEIS for the [Revised Forest Plan](https://www.fs.usda.gov/detail/nezperceclearwater/landmanagement/planning/?cid=stelprdb5447338) for the Nez-Perce Clearwater Forests discloses there is 1.9 million acres of probable habitat for fisher.

I am directing Ranger Knapton to add a paragraph to the EA that provides context and intensity for effects to fisher, in relationship to habitat available forest-wide. The Decision Notice must also include a brief discussion about findings for sensitive species.

## Contention 5E: Northern Goshawk

Objectors contend the project area is much too small to properly evaluate impacts to goshawk habitat and does not consider the cumulative impacts of ongoing activities like the Lolo Insects and Disease Project. They assert Reynolds (1992) is the scientific literature that should have been applied to the goshawk analysis. The objectors appear to assert a violation of NEPA.

**Objector(s): Harry Jageman, FOC**

Response: Goshawk is a management indicator species for old growth habitat on the CNF. No old growth habitat is proposed for treatment in the Stray Creek project. Goshawk has been found to be a forest habitat generalist (project file 22-003-200113, pp. 8-9). The goshawk is rated secure across its range, and uncommon but not imperiled in Idaho (ibid). Existing goshawk nesting habitat in the project area is fragmented and limited, as described in Response to Comments document (project file 06-002-200131, pp. 25-26). The loss of five acres of marginal potential nesting habitat in the project area led to the finding that the proposed action may impact individuals or their habitat, but is not expected to result in a loss of viability for the goshawk in the planning area (Forest-wide), nor cause a trend toward federal listing of the species.

### NEPA requires professional and scientific integrity in discussions and analyses (40 CFR 1502.24). The objectors preference for use of the Reynolds et al. 1992 was reviewed, but was not considered as the most applicable information, due to being focused on goshawks in the southwestern region of the United States and that it is over 25 years old (project file 06-001-191217). More recent and relevant research by Moser 2007, and Moser and Garton 2009 was employed in the analysis; these studies occurred on the NP-CNF.

However, I find using the project area boundary for the effects analysis area for goshawk is inappropriate. Consistent with Moser 2007, the breeding range for goshawk is the appropriate area to analyze for effects. If this breeding range overlaps in time and space with effects from the Lolo Insect and Disease project, then the cumulative effects analysis must reflect this.

## Contention 5F: Pileated Woodpecker

Objectors contend the project will eliminate any potential for successful nesting by pileated woodpeckers in the project area and does not account for cumulative impacts across the Nez Perce Clearwater National Forest (in violation of NEPA).

### Objector(s): Harry Jageman, FOC

**Response**: Pileated woodpecker is a management indicator species for old growth habitat on the CNF. No old growth habitat is proposed for treatment in the Stray Creek project. The pileated woodpecker is rated secure across its range, and apparently secure in Idaho (project file 22-003-200113, p. 10). Existing nesting habitat in the project area is fragmented and limited, as described in Response to Comments document (project file 06-002-200131, pp. 26-27). The loss of five acres of marginal potential nesting habitat in the project area led to the finding that the proposed action may impact individuals or their habitat, but is not expected to result in a loss of viability in the planning area (Forest-wide), nor cause a trend toward federal listing of the species. This finding is made in the context of over 142,000 acres of PIWO nesting habitat available, as documented in the 2018 monitoring report (project file 23-083).

Effects from other projects are considered cumulative if they overlap in time and space with the effects of the proposed action. The analysis area for pileated woodpecker is the project area.

Because the Stray Creek project area is too small to support a home range, I find using the project area boundary for the effects analysis area for pileated woodpecker is inappropriate. Consistent with Bull et al., the home range for pileated woodpecker is the appropriate area to analyze for effects. If this range overlaps in time and space with effects from the Lolo Insect and Disease project, then the cumulative effects analysis must reflect this.

## Contention 5G: Elk Analysis

The objectors contend the elk habitat calculations are not clear enough to determine whether the 25 percent habitat effectiveness requirement for MA E1 would be met (in violation of NFMA).

**Objector(s): Harry Jageman, FOC**

Response: The Clearwater Forest Plan provides guidelines to apply Servheen et al. 1997 to determine elk habitat effectiveness in the project area, and to maintain 25 percent EHE. Calculations are based on the factors described in the wildlife effects analysis (project file 22-004\_200413, and 22\_006), and have been updated since first posted on the Forest website.

Post-action EHE would be at 39 percent, above the 25 percent prescribed by Servheen. I find the project meets the guidelines recommended by Servheen and is not in violation of NFMA.

## Contention 5H: Shiras Moose

The objector contends that there is almost no information provided for effects on moose and no analysis of cumulative impacts (in violation of NEPA).

### Objector(s): FOC

**Response:** Shiras moose is a management indicator species in the CNF Plan for big-game and for old growth/Pacific yew habitats. The Environmental Assessment provides a brief summary of effects from the analysis found in the wildlife report (project file 22-04\_200413 pp. 20-21).

Moose use a variety of habitats, and no old growth would be removed with the Stray Creek project. Effects to potential habitat for Shiras moose is disclosed in the wildlife report (project file 22-004\_200413) and summarized in the EA. Other than wildfire suppression, which is unquantifiable, there are no other future foreseeable actions within the Stray Creek project area. The project is in compliance with NEPA.

# **Issue 6**: TES

## Contention 6: Effects on Steelhead

The objector contends that the proposed action would affect TES species because the EA states that steelhead were found near the project area and given the decline of steelhead, extraordinary measures are required.

### Objector(s): FOC

### Response: Steelhead are federally listed as endangered in the State of Idaho. The Stray Creek Fisheries BA/BE documents a determination of no effect to the species because “Steelhead trout occur in Yakus Creek in moderate to high densities. None are known to occur within 600’ of culvert replacement sites. There would be no effects to steelhead trout or their designated critical habitat due to this distance and the small size of the streams where culvert replacements occur. Sediment delivery to known occupied streams as a result of harvest or log haul is not expected due to the implementation of BMPs, including PACFISH buffers adjacent to streams and dust abatement on roads, that minimize sediment input into streams.” (p. 3)

Effects to steelhead were considered in terms of context and intensity, as documented in the Finding of No Significant Impact (p.4).

# **Issue 7**: Old Growth and Old Growth Dependent Species

## Contention 7A: Old Growth Analysis

Objectors contend the EA does not demonstrate there is sufficient old growth to meet the forest plan standards and settlement agreement because of the scant information provided, none of which is analysis but are simply conclusions.

**Objector(s): FOC**

Response:Clearwater Forest Plan guidelines for old growth (Appendix H) prescribe the need to maintain 500 acres of old growth per 10,000 acre old growth analysis area (or Old Growth Unit). This equates to five percent per OGU. The vegetation report (project file 11-008\_2000130, p. 8) discloses that OGU 107 currently has 10 percent existing old growth and 21 percent “step-down” old growth, which is well above the Forest Plan Standard.

# NEPA requires a nexus between the action proposed and the resource affected (40 CFR 1502.15, 1502.16, and 1508.3). The Stray Creek project does not propose any activity in old growth, therefore there are no effects to old growth to be analyzed. I find the project does not violate NFMA or NEPA.

## Contention 7B: Management Indicator and Sensitive Species

Objectors contend the Forest Service is not meeting its requirements to protect MIS and sensitive species like the fisher, marten (reducing all its habitat), goshawk or pileated woodpecker (in violation of NFMA).

### Objector(s): FOC

Response: Habitat requirements are met at the planning area level, which means at the scale of the Clearwater National Forest. Any one project area cannot protect MIS or sensitive species. The CNF Plan states it will provide habitat for viable populations of all indigenous wildlife species, but does not define specific habitat objectives for MIS or sensitive species. Forest Plan direction is to monitor population trends. Monitoring data has been collected locally from camera and hair snare locations on the Forest, as well as from Idaho Fish and Game (project file 23-082), and the wildlife monitoring report for 2013 to 2017 is in the project file (23-083). While in Forest Plan Revision for the combined Nez Perce-Clearwater Forests, the Regional Forester has determined the Forest is not required to publish a Monitoring and Evaluation Report. The current status and available habitat of relevant forest species is described in the Draft Environmental Impact Statement for the Revised Forest Plan, and is available on the [Forest website](https://www.fs.usda.gov/detail/nezperceclearwater/landmanagement/planning/?cid=stelprdb5447338).

The project creates a reduction in habitat, where habitat is currently limited, for the species mentioned.

The Forest Service Manual (FSM 2634) directs District Rangers to “determine if project modifications are necessary to reduce potential negative effects and to meet MIS habitat objectives.”

The findings for sensitive species and MIS for this project are that it is likely to impact individuals or their habitat, but is not expected to result in a loss of viability for the species in the planning area, nor cause a trend toward federal listing.

# I am instructing Ranger Knapton to determine if project modifications are necessary to reduce potential negative effects and to meet MIS habitat objectives. If project modifications are not necessary, he must include the rationale for reducing habitat for sensitive species in the Decision Notice, with the findings from the Biological Evaluation (FSM 2634 and 2672.4).

# **Issue 8**: **Other Issues**

## Contention 8: Incorporation of another objector’s comments/objections by reference

### The objector says “Within our comment letter, we incorporated the comments of Harry Jageman. We also incorporate Harry Jageman’s March 5, 2020 objection into this objection.”

### Objector(s): FOC

### Response: According to 36 CFR 218.8, incorporation of another party’s objection is not allowed.