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Objection Reviewing Officer
USDA Forest Service
Northern Region
26 Fort Missoula Road
Missoula, MT 59804

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[redacted] objects to the Custer Gallatin National Forest Plan for the following reasons:

Issue 1

The Draft Record of Decision on page 1 states "the Custer Gallatin National Forest has a history of multiple co-existing uses, including recreation..... ", yet the Custer Gallatin National Forest Draft Plan focuses on segregating uses to in their words, "avoid user conflict.

In my 66 years of recreating in the Custer Gallatin National Forest I can honestly say conflict between users is very rare. People wishing to enjoy our area of public lands are inspired by the unique landscape and appreciate others they meet and share their experience. In my mind the Forest Service should not be making decisions based on prejudice, discrimination, intolerance, and bias but this is what has been included in the plan.

The Forest Plan decisions on appropriate recreation activity is not based on science but rather an arbitrary land allotment based on an assumed condition. I request the Forest Service revisit this decision and adjust these land allocations more fairly based on the "a history of multiple co-existing recreation uses."

Issue 2

The Forest Service is creating wilderness without the consent of Congress. The Custer Gallatin National Forest Draft Record of Decision (CGNFDRD) states on page 26 and additional pages :" I have decided to include a plan component that motorized and mechanized transport is not suitable in recommended wilderness." This is an arbitrary decision which circumvents Congress and their sole authority to designate wilderness. Although the plan states the Forest Plan will not make site specific decisions on specific motorized and mechanized use, the decision to remove motorized and mechanized use in areas recommended as wilderness in future planning actions is in fact a site-specific decision on these uses being made in the Forest Plan.

Whether an intentional play on words or simply a bait and switch, the Forest Plan is in fact making site specific decisions which WILL be implemented in future travel planning decisions. During the tenure of Region 1 Forest Supervisor Tidwell a white paper was created which stated the philosophy of Recommended Wilderness Area management was to remove all historic motorized and mechanized use. This philosophy, which was never stated as policy, has been challenged over the years by groups like Citizens for Balanced Use and others. The argument that the Forest Service is creating wilderness without congressional designation has great merit.

Recent letters from the Forest Service Chief Christiansen dated August 6, 2019 to several of the Idaho congressional delegation along with a letter dated April 23, 2019 from current Region 1 Forest Supervision Leanne Marten state: "All prior (RWA) direction has been superseded". **Exhibit A**. This indicates the philosophy initiated and actions taken to remove motorized and mechanized use in areas recommended as wilderness in past decisions by Region 1 has changed both nationally and in Region 1 but the Custer Gallatin National Forest Supervisor Mary Erickson is not recognizing this change. We request the Custer Gallatin Forest Supervisor recognize the recent change in management of recommended wilderness and allow existing and current historic use to continue.

Issue 3

Citizens for Balanced Use (CBU) and our members and supporters object to the designation of 77,631 acres of recommended wilderness in the Gallatin Crest of the Hyalite Porcupine Buffalo Horn (HPBH) Wilderness Study Area. When recommending areas for wilderness the Forest Service must look at both the eligibility and the suitability of these areas for designation by congress. When Forest Service ID Team leader Virginia Kelly was asked during a meeting of the Custer Gallatin Working Group collaborative whether the Forest Service was preforming eligibility and suitability analysis of these areas being considered for recommended wilderness her reply was: "We are not doing a suitability analysis for recommended wilderness, but only completing an eligibility analysis."

On page 8 of the Draft Record of Decision under "Key Elements of the Decision #3", Supervisor Erickson makes the following statement: " Plan components that identify motorized and mechanized transport, communication facilities, and public rental use of the Windy Pass Cabin are not suitable in areas being recommended for wilderness." The Windy Pass Cabin has been an important destination and

structure historically used by the public. Her decision to remove this opportunity simply because she is recommending this area as wilderness must be reversed. The public continues to lose more and more recreation opportunities and the Windy Pass Cabin has great recreational value.

Her decision to not allow communication facilities is another area of concern. These facilities provide critical communications for search and rescue, law enforcement, fire suppression, and are vital infrastructure to protect the health, safety, and welfare of the public. Over 3 million visitors travel through Yellowstone Park every summer season. Many, if not most, travel the 191 corridor between West Yellowstone and Bozeman. Communication towers and facility placement is critical to allow connection in the steep canyon of the highway 191 corridor. To restrict additional communication facilities in the future that may be needed is a poor decision. I request this restriction be reviewed and removed.

The 77,631 acres of the Gallatin Crest in the HPBH may indeed meet the eligibility criteria for recommended wilderness because of its size but according to the data collected by the University of Montana Wilderness Institute this area does not meet the suitability criteria of the 1964 Wilderness Act. In fact, the Forest Service failed to report soundscape intrusions in the final report released in October of 2012. (**Exhibit B)** I met with members of the field crew in 2011 at the Buffalo Horn trailhead and received a firsthand account of their trip into the HPBH to record base data for the 2012 wilderness character monitoring report. I was shown the instruments used and how the information gathered was complied. I asked the field crew a specific question. What was the most surprising thing you found during your trip? I was told by both individuals that they were very surprised at the amount of low flying commercial aircraft over the entire HPBH. In fact, one of the field crew members told me low flying aircraft could be seen and clearly heard every hour on the hour, day and night.

I followed up on this information with the airport authority at Gallatin Airport and was told the low flying aircraft over the HPBH was a result of the incoming flight pattern from flights originating south of Bozeman. I was told day flights consist mainly of commercial passenger flights and private jets. Night time flights are mainly commercial freight traffic and are close to 50% of the incoming flights into the airport. Bozeman is the busiest airport in Montana surpassing Billings and most incoming flights from the south descend in the flight pattern over the HPBH and significantly affect the soundscape of the HPBH. I was told by the Forest Service the information gathered by the U of M Wilderness Institute would be included in the final report.

When the final report was issued in October of 2012, the noise incursion information was missing. **(Exhibit C)** The report did address the missing base data information in the report by making the following statement on page 92. "Reason not used: During the summer of 2011, Wilderness Institute field crews opportunistically monitored the duration and intensity of noise intrusions within the HPBH WSA. The field crews recorded a total of 182 motorized noise intrusions. The majority of recorded noises were from airplanes (89%), with the remaining attributed to vehicles (6%), and helicopters (2%). The opportunistic nature of this data collection precluded and kind of repeatable, standardized survey of auditory intrusions."
"There are ongoing efforts to replace the 2011 survey methods with more robust sampling methods, and a new protocol is being piloted by the Wilderness Institute crews in 2012. Once a standardized method is established, this measure can be implemented."

In recent discussions with Region 1 and Custer Gallatin Forest Plan ID Team Leader on this issue, no further protocols have been established nor any efforts underway to establish a standardized method in

order to record this information in the future. Nearly 8 years later and the Gallatin Airport is busier, the fights are more frequent, yet the Forest Service does not seem interested in including soundscape incursions in any report. Is this being done intentionally? Would these soundscape intrusions in the HPBH WSA prevent this area from being recommended or designated as wilderness? I met with Custer Gallatin Supervisor Mary Erickson and since retired Kimberly Schlenker, author of the Wilderness Character Monitoring Report, on the issue of this information on flight noise intrusions missing from the final report. Supervisor Erickson is fully aware of the amount of noise intrusions from aircraft in the HPBH yet she has recommended 77,631 of new wilderness on the crest of the HPBH in the new Forest Plan. CBU objects to the decision of recommending wilderness in an area they are fully aware does not meet wilderness suitability.

If this omission of noise intrusions was intentional as covering up the data, the Forest Service personnel could be in violation of Title 18, Part 1, Chapter 47, 1001, which states: *"(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-*

(1) Falsifies, conceals, or cover up by any trick, scheme, or device a material fact;

(2) Makes any materially false, fictitious, or fraudulent statement or representation; or

(3) Makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

*Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both."***(Exhibit D)**

Clearly this does not rise to a level of international or domestic terrorism but it does raise the question as to why this information was covered up and not included in the report. CBU finally received the rare data gathered by the field crew from Region 1 after numerous requests, nearly 2 years later, and with help from our Montana congressional delegation.

After I met with the field crew at Buffalo Horn in 2011, I met with Supervisor Erickson and Wilderness and Recreation Director Schlenker and shared the information on flight noise. At that time, they assured me it would be included in the report. I was very surprised it was not in the report but even more astounded at the excuse given in the report. There was no legitimate reason to not include this information. One may suggest a report to disqualify the HPBH as wilderness would have gone against the desires of Wilderness and Recreation Program Manager Schlenker. I have had numerous interactions with Ms. Schlenker during her tenure with the Gallatin National Forest and now Custer Gallatin National Forest and she was clearly a proponent of more wilderness. Was the omission of this information intentional? Yes. Was the information relative to the HPBH area being considered as new wilderness? Yes. Did Supervisor Erickson know about the aircraft noise intrusions and the omission of this information in the report? Yes. Did Supervisor Erickson ignore this information and recommend this area for wilderness in the new Forest Plan? Yes. CBU objects to the Supervisor Erickson's formal recommendation of this area as wilderness. This is an arbitrary decision to recommend 77,631 acres of the HPBH WSA as wilderness in the new Forest Plan while knowing of the noise intrusions.

The U of M Wilderness Institute monitored the HPBH periodically during the summer months of 2011. They were not in the area every day and not in the HPBH WSA all of the time. Field notes record 189 noise intrusions with notes included which state: "3 airplanes during 1-hour lunch" and "airplane, heard many throughout the night". This information is critical in making any decision regarding recommending this area as wilderness but Supervisor Erickson has ignored the facts of this study, the raw data collected,

and the intentional exclusion of this information in the final report. Instead Supervisor Erickson makes the following statement on page 15 of the Draft Record of Decision under "Gallatin and Madison Mountains" she states: "Many individuals and groups provided input on recommended wilderness areas, and I reviewed and found information and insights of value in all of them. For this landscape, I found the work of the Gallatin Forest Partnership to be the most compelling. This was due to the area specific recommendations combined with local knowledge, and the outreach and coalition-building across diverse interests that accompanied their proposal."

In accepting the Gallatin Forest Partnership, Supervisor Erickson has ignored the science and facts when it comes to recommending the 77,631 acres of the HPBH WSA as new wilderness. This is an arbitrary decision based on user preference rather than science and facts. The fact remains the recommended wilderness in the HPBH WSA does not qualify for wilderness because of the recorded noise intrusions.

In addition, her statement that the Gallatin Forest Partnership is made up of diverse interests is false. This coalition did not have any motorized recreation interests. When the Gallatin Forest Partnership was asked to include CBU in their discussions we were rejected. The Gallatin Forest Partnership did not include any winter and summer motorized recreation interests. The Gallatin Forest Partnership did not include any agriculture representation. The Gallatin Forest Partnership did not include any timber representation. The Gallatin Forest Partnership did not include any mining interests, rock and gem hunters, private land in holders, and they certainly did not include any state or local government.

So, who are the Gallatin Forest Partnership? This group was led by Hilary Eisen with Winter Wildlands and drafted the proposal in cooperation with Barb Cestero with the Wilderness Society, Darcy Warden with the Greater Yellowstone Coalition, Sally Cathey with the Wilderness Association, Christian Appel with the Montana Backcountry Hunters and Anglers, and Mike Fiebig with the American Rivers and Montana Backcountry Alliance. The Gallatin Forest Partnership is nothing more than a coalition of environmental groups. The group did reach out to select individuals to sign on to the plan after it was written as to appear to be a token cross section of representation, but in reality this is a pro wilderness proposal which Supervisor Erickson is defending as her rational to recommend 77,631 acres of new wilderness in the HPBH WSA, even when she is totally aware this area does not qualify for new wilderness.

Citizens for Balanced Use and many of our members participated in years of collaborative efforts on the future use of the HPBH WSA. It was clear from the start the environmental groups I mentioned above would not settle for any shared multiple use recreation of this area, and especially the Gallatin Crest Trail #96. The environmental groups simply went outside of the true collaborative groups of diverse stakeholders, including agriculture and grazing, timber and wood products, summer and winter motorized recreation, mining, gem and mineral hunters, local governments, etc. They crafted their own wilderness plan for the HPBH WSA, ignoring the lack of suitability of this area as wilderness. And now Supervisor Erickson has commended them for this effort and ignored the other stakeholders and interest groups. Supervisor Erickson is displaying prejudice, discrimination, and bias against the majority of users in this area.

Supervisor Erickson makes the following statement on page 26 of the Draft Record of Decision. "There are currently limited inconsistent land uses and mechanized and motorized uses that will be excluded within the recommended wilderness area boundaries." The reason Supervisor Erickson is able to make this statement is the simple fact she removed these uses several years ago in the HPBH WSA by an

interim order. This order removed both summer and winter motorized and mechanized use, and set the stage for her rational to recommend this area in the Forest Plan as new wilderness. An interim order should be followed by due diligence in an action to either justify the closure to motorized and mechanized use, or to rescind the order and allow the historic motorized and mechanized use to continue.

In all fairness Supervisor Erickson did solicit the U of M Wilderness Institute to complete a base line wilderness character assessment but the results did not prove favorable to this area being wilderness. The base line information was omitted from the final report, no further action was taken to adjust protocol to include aircraft noise intrusions, and Supervisor Erickson continually renewed the interim closure order every year. Now Supervisor Erickson is adopting a flawed plan, created by several environmental groups, ignoring the science and data collected for the area, and recommending 77,631 acres of new wilderness in the HPBH. CBU objects to this action and we request the objection review officer reverse Supervisor Erickson's decision to recommend 77,631 acres of the HPBH WSA as new wilderness.

Issue 4

The Draft Record of Decision sets the projected timber sale quantity at nearly ¼ of the sustained yield capacity of the Custer Gallatin National Forest. This decision will result in continued increase of fuel loads resulting in more frequent and severe fires across the forest. The estimated 10 million board feet of timber harvest annually on a forest of 3 million acres is simply ridiculous.

Montana legislature provided both financial and FTE personnel assistance to the Forest Service in additional NEPA analysis expertise. The Forest Service in this decision has ignored the additional capacity to move projects to completion. In fact, the projected timber harvest projects being proposed by the Forest Service over the next 4 years will not come close to moving this forest back towards a healthy condition. The Forest Chief released a Secretarial Memorandum on June 12, 2020 directing the Regions and districts to "Increase the productivity of National Forests and Grasslands" (**Exhibit F**) but Supervisor Erickson has ignored this direction in the proposed Custer Gallatin Forest Plan.

Over the past 20 years the Forest Service in Montana has closed nearly 22,000 miles of roads according to the final report for HJ 13 conducted by the 2015 Montana Legislature. See final report at: http://leg.mt.gov/content/Committees/Interim/2015-2016/EQC/Committee-Topics/hj-13/hj13-finalreport.pdf
Roads are the very infrastructure that provides agencies the ability to access these lands for proper management. Once the infrastructure is destroyed, management options are reduced along with public access. Roads previously closed to the public should be reopened for firewood gathering and other activities. Firewood is an important resource of supplemental heat and with the current COVID issue, the Forest Service should adapt to the issue of COVID and assist the public in providing a source to gather firewood to help heat their homes and possible income opportunities.

When these public lands are allowed to deteriorate and fuel loads and down timber litter the forest, wildlife habitat has been severely impacted. Wildlife has been shown in studies such as the recent Elkhorn Mountains Elk Study Report which shows elk are moving to private property for habitat at an alarming rate. The study states the Forest Service should harvest more timber in this area to increase elk habitat. The same is happening in the Custer Gallatin National Forest. Elk numbers on private property have skyrocketed because of poor forest management and lack of timber harvests. This movement of elk to private property has resulted in property damage, reduced forage for cattle, lower hay production, cost

of fences and fence repair, damage to irrigation equipment and facilities, and increased risk of disease transmission such as brucellosis and CWD.

Increased fuel loads are putting entire watersheds at risk when catastrophic fires burn the landscape and soils are baked, wildlife is destroyed, our air is polluted with cancer causing carcinogens, and our streams are polluted when burned landscapes lack vegetation to hold the melting snow and spring rains. These are incidents which could be reduced by increasing timber harvests but the Custer Gallatin Forest Plan has reduced these opportunities to just ¼ of the sustained yield capacity of this forest. CBU understands the litigation costs the Forest Service is facing. As stated on page 24 of the Draft Record of Decision by Supervisor Erickson; "....and the increasing cost of litigation related to forest management activities." These are real concerns but active forest management should not be curtailed or reduced by the threat of litigation. CBU requests the Forest Plan decision be amended to allow the maximum sustained yield of 38.25 million board feet per year. This will allow industry to create a business plan, increase mill capacity, hire more people, and clean up our forests which have continually declined in health over the last 40 years. This won't and can't happen overnight but this Forest Plan must put in place a target of putting us back on a track of increased harvest levels to reduce the severe fuel loads and better forest management.

Issue 5

The Draft Record of Decision addresses the Wild and Scenic rivers that have been proposed in the new plan. Under Wild and Scenic Rivers on page 27 the following statement is made: "The plan includes 30 eligible wild and scenic rivers totaling about 433 miles based on the eligibility study (appendix E of the plan."

Five of these rivers and creeks are located in Gallatin County. They include Cabin Creek, the Gallatin River, Hyalite Creek, Maid of the Mist Creek and Shower Creek. The classification of Wild and Scenic in a proposed Forest Plan would not have an adverse effect on the Forest Service's ability to manage lands adjacent to these Wild and Scenic stream and river classification if current management could continue until congress formally designated them as Wild and Scenic but in the case of the new Custer Gallatin Forest Plan the Forest Service **will manage them as if they were formally designated.**

The Gallatin County Commission recognized the danger of designating rivers and streams as Wild and Scenic in Gallatin County. A wild and scenic designation affects land management activities within a quarter mile buffer on each side of the river or stream measured from the high-water mark. The Wild and Scenic river and stream designations would affect forest management activity in a ½ mile wide corridor. The commission presented a letter to the Forest Service requesting NO wild and scenic rivers and streams be proposed in Gallatin County but Forest Supervisor Erickson ignored this request. (**Exhibit E**)

Forest Supervisor Erickson makes the following statement on page 28 regarding management of wild and Scenic rivers and streams they have identified. " Preliminary classifications are based on the development character of the river on the date of designation and dictate the level of interim protection measures to apply." In other words, the Forest Service is circumventing congress and their authority of reviewing these rivers and streams. The Forest Service in the new Forest Plan is classifying them as appropriate for a Wild and Scenic designation and then taking the final step by managing them as Wild and Scenic as if congress took action and formally designated them as Wild and Scenic. This act by the Forest Service is beyond their authority and I request the objection review officer reject this over reach of authority.

Also alarming in the Draft Record of Decision on page 28 is this statement by Supervisor Erickson. "However, wild, scenic, and recreational designations protect the water quality and free-flowing nature of rivers in non-Federal areas, something the Wilderness Act and other Federal designations cannot do." With the ½ mile buffer zone, ¼ mile on each side, these 30 wild and scenic classified rivers and streams in the proposed Forest Plan will have significant adverse effects on private property. It would seem by this statement that the Forest Service is looking for additional ways to control private property through designation of Wild and Scenic rivers and streams. CBU requests all 30 rivers and streams proposed to be classified as Wild and Scenic in the Forest Plan be reviewed as to what private property would be affected by a wild and scenic classification. What effects would Wild and Scenic designation have on the private property located within the ½ mile corridor? Is management of these wild and scenic river and stream corridors, as if congress has formally designated them, proper for an agency to implement without congressional designation?

CBU requests all affected private property owners be notified by mail of the proposed Wild and Scenic designation. Property owners must be informed as to what the impact to their property would be if the Forest Service is to designate and then manage these rivers and streams as Wild and Scenic. The Forest Service must ascertain whether these affected property owners would be in support or oppose this designation.

Active forest management and timber harvest activities are not allowed in Wild and Scenic corridors. Litigation has occurred against commercial timber harvest activities in Wild and Scenic corridors. Property owners engaged in timber harvest on their property to reduce fuel loads may be restricted or prohibited from completing these projects. The Gallatin County Commission was aware of these possible adverse effects on private property and raised this issue in their letter. The Gallatin River proposed to be classified and managed as Wild and Scenic is full of private property throughout the entire reach of the Gallatin Canyon from Gallatin Gateway to the Yellowstone Park line. CBU questions whether this could be an attempt on the part of the Forest Service to gain control of private property through a Wild and Scenic classification. Private property being controlled by a federal agency without due process or just compensation could be considered ripe for a Takings Action.

Issue 6

The Custer Gallatin Forest Plan proposes to close additional access to multiple use recreation. This action is contradictory to the new June 12, 2020 directive from the Chief of the Forest Service. The Secretarial Memorandum (**Exhibit F**) states the purpose of this directive is to "Establish vision, priorities, and direction on:"

- Increasing the productivity of National Forests and Grasslands
- Valuing our Nation's grazing heritage and the National Grasslands
- Increasing Access to our National Forests
- Expediting environmental reviews to support active management

According to the Forest Service and their NVUM survey (**Exhibit G**) less than 3% of the public recreate in wilderness areas yet more than 1/3 of the Custer Gallatin National Forest is designated wilderness and closed to all motorized and mechanized use. Nearly another million acres is designated as roadless and has additional restrictions on motorized and mechanized use. All in all, 2/3 of the Custer Gallatin National Forest restricts multiple use recreation of both motorized and mechanized use. The 2004 Travel Plan

closed nearly 50% of the trails once open to motorized use. Closure after closure in the past 20 years has caused more crowding on the remaining open roads and trails. There has never been a planning action where the Forest Service increases areas of access for motorized recreation.

Motorized use is the fastest going outdoor recreation activity in the nation and Montana but the Custer Gallatin has ignored this activity along with the new directive from the Forest Service Chief. The Custer Gallatin National Forest Supervisor is proposing an additional 125,000 acres of wilderness that will remove all motorized and mechanized use in these areas as soon as possible. Why is Supervisor Erickson being allowed to deviate from a national directive from her boss? Public needs of more multiple use recreation are real. This forest is failing to provide for those needs.

The Forest Plan failed to provide an alternate that would increase motorized and mechanized recreational access to the Custer Gallatin National Forest. Comments were submitted to the Forest Service requesting an alternative that increased access for both motorized and mechanized use. This is a clear violation of NEPA in not providing a wide range of alternatives for the public to comment on. I object to the decision to reduce motorized and mechanized use areas, the lack of an alternative that increased motorized and mechanized access, and the fact the Custer Gallatin Forest Supervisor's decision does not follow the new June 12, 2020 directive from Forest Chief Christiansen. I request the decision be remanded and a new alternative be developed that follows the Chief's directive to increase productivity, increase grazing opportunities, and **increase access**.

Sincerely,

[redacted]

Executive Director
CBU