Black Ram EA – Kootenai National Forest
Objection Responses

National Environmental Policy Act (NEPA)
Issue 1: Purpose and Need

Contention 1:

The objector contends that the purpose and need is inadequate because:

- The Responsible Official did not ensure resiliency to insects and disease because he promotes timber harvest to maintain unnatural stasis by eliminating, suppressing, or altering natural disturbances.
- The responsible official inadequately addressed restoration because he proposes logging and road building in addition to unfunded actions, which don't restore ecosystems in violation of NEPA.

Objector(s): Garrity

Response: Forest health in the project area is discussed in the Black Ram Environmental Assessment (pp. 23-24, 100 -103), and begins by addressing fire exclusion since the 1920s. Normal disturbance patterns have been altered for a century, from both fire suppression and the introduced pathogen *Cronartium ribicola*, resulting in a decline in white pine and an increase in tree species susceptible to root disease as well as an increase in fuels. The departure from desired conditions is discussed on EA pages 109 to 111. The majority of lands proposed for vegetation treatments are Management Area 6 (Kootenai National Forest Land Management Plan 2015), where timber production is an objective. Therefore, addressing forest health and resilience to wildfire is a legitimate purpose and need. The project does not purport to eliminate natural disturbance agents, and resource specialists understand the functions performed by insects, disease, and fire at the broader scale.

The EA discloses that certain activities will be implemented when sufficient funding becomes available. The effects of the proposed actions are assessed in the EA. The draft Decision Notice includes these activities. They are not described as "optional". Including these activities, designed to improve watershed conditions, with the intent that they will be implemented is not a violation of NEPA.

Contention 2:

The objector contends that the project does not meet the purpose and need because:

- Alternative 2 does not reduce the potential for high intensity fires while promoting desired fire effects in the WUI and other values at risk because less than half of the project area treatments are within the WUI, and it does not provide a sustainable supply of timber products from national forest land (treating 3,904 of 72,683 acres).

Objector(s): Partin, Peterson

Response: Reducing fuels and influencing fire behavior in the wildland urban interface is one of six listed statements in the purpose and need (draft Decision Notice, pp. 1-2). Project area treatments outside the WUI address landscape level vegetation patterns, structure, and function, as well as increase fire managers' ability to keep a fire from moving into the WUI and other areas with values at risk. Vegetation treatments, as modeled by the fuels specialist, will reduce crown fire potential and stand-replacing wildfire within the WUI and other areas, while promoting fire behavior characteristics s and fuel conditions that allow for safe and effective fire management (EA p. 92, also see Tables 32 and 33 on pp. 86-87).

The Kootenai National Forest is managed under the National Forest Management Act and the Forest Service still maintains a multiple use mandate. Wildlife habitat, water quality, recreation, and visual aesthetics all must be considered, as well as a sustained yield of timber volume. The project was designed to follow the 2015 Kootenai National Forest Land Management Plan and it is expected to provide 57 million board feet of timber.

Issue 2: Scientific Integrity

Contention 1:

Objectors contend that the responsible official did not consider or incorporate the best available science or ensuring scientific integrity, in violation of NEPA, claiming:

- Wakkinen and Kasworm (1997) is not the best available science for grizzly bears because grizzly bear population in the Yaak have not increased 2012.
- EA does not disclose the limitation of models the responsible official relies upon.
- The responsible official does not disclose what way Herb Hammond's "Initial Review" and "Field Assessment" (of old growth characteristics) are inconsistent with Forest Service management directives.

Objector(s): Garrity, Mattson, Peterson

Response: NEPA requires scientific integrity in environmental analyses. Biological assessments must determine they incorporated the best available science. Mr. Garrity asserts Wakkinen and Kasworm 1997 is not the "best available science", but does not provide an alternative. EA Appendix G page 116-117 summarizes recent communications with Mr. Kasworm, a USFWS grizzly bear biologist. The agency retains confidence in the integrity of the research applied in the biological assessment of effects to grizzly bear and that bear management units standards are met. The agency is in consultation with the USFWS regarding effects to threatened and endangered species, and await their Biological Opinion.

NEPA requires that agencies shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusion in the statement. While this applies directly to environmental impact statements, the Forest Service normally also applies it to EAs. The only violation of this is that rather than "footnoted", the scientific references are included in the body of the text. Scientific references are listed in the EA Appendix beginning on page 132.

How Mr. Hammond's information was considered is in the EA Appendix G pages 85-86, Response to Comments.

Issue 3: Response to Comments

Contention 1:

Objectors contend that the responsible official did not respond or inadequately responded to comments in violation of NEPA.

Objector(s): Campbell, Mattson, Peterson, Zukoski

Response: NEPA requirements regarding response to comments apply to environmental impact statements (40 CFR 1503.4), and no such requirement exists for environmental assessments (see 40 CFR 1508.9(b). Sixty-two pages of responses to comments are included in the Black Ram EA to display how public comments were considered. The interdisciplinary team went beyond requirements and responded to all commenters. Relevant information was considered in issue identification and effects analysis.

Issue 4: Alternatives

Contention 1:

Objectors contend that there is no "reasonable range of alternatives" and action alternatives are unreasonable in violation of NEPA.

Objector(s): Garrity, Peterson, Zukoski

Response: The purpose of alternatives is to identify ways to avoid or minimize adverse effects of the proposed action upon the quality of the environment. A range of reasonable alternatives is the heart of an environmental impact statement (40 CFR 1502.14 *2003*), because of the need to explore ways to avoid or minimize expected significant effects of a proposed action. The document produced for this project is an environmental assessment to determine the need for an EIS. It includes one action alternative to the proposed action, based on expressed concerns from the public regarding new road construction and segments of road to be constructed through old growth forest. This does not mean the proposed action was necessarily expected to result in a significant impact to the human environment. The responsible official considered Alternative 3 to resolve a perceived conflict concerning alternative uses of available resources (EA pp. 12-15), and provides rationale for not giving further consideration to other alternatives presented by the public (EA pp. 3-4; draft DN p. 6-8). Also see 36 CFR 220.7(b)(2)(i) regarding alternatives in an EA.

The Finding of No Significant Impact based on the environmental assessment indicates neither an EIS nor a range of alternatives is necessary for the Black Ram Project.

Issue 5: Cumulative Effects

Contention 1:

Objectors contend that the responsible official inadequately addressed cumulative effects, in violation of NEPA and court precedent, including:

- Inadequate cumulative effects analysis for grizzly bear, failing to consider past harvest.
- Considering past, present, and reasonably foreseeable actions including mining, private development, fire, and restoration treatments. Projects named were Buckhorn, O'Brien Lower Yaak Sheep, Knotty Pine, actions in Canada, Spread Thin
- Not reporting cumulative effects of road construction to the area.

Objector(s): Garrity, Mattson, Peterson, Zukoski

Response: Cumulative effects are those from past, present, or reasonably foreseeable actions that overlap in time and space with the effects from the proposed action and alternatives. The cumulative effects analysis area will vary by resource analyzed, based on the spatial extent of effects and the standard measurement unit appropriate to the resource, such as bear management unit (BMU), lynx analysis unit (LAU), or watershed.

The Kootenai National Forest Land Management Plan provides the standards for the resource measures for grizzly bears. They are core area, open motorized route density, and total motorized route density (EA pp. 288, 307-312). Past harvest, fire suppression and road construction are accounted for in the analysis. The EA provides rationale on how the project meets Forest Plan standards. The effects determination is a "may affect, likely to adversely affect" grizzly bears, and is a result of the impacts to the wheeled motorized access management measures associated with Forest Plan standard FW-STD-WL-02. The Forest is in formal consultation with the US Fish and Wildlife Service and awaits their Biological Opinion.

Past, Present, and Reasonably Foreseeable Activities Relevant to Cumulative Effects Analysis are discussed in each resource section (see the EA pp. 30, 34, 60, 131, 151, 197, 228, 250, 306, 329, 340, 353, 362, 369, 380, 389, 397, 406 and 421.) Ongoing or proposed projects are considered if they are relevant to the given resource. Knotty Pine, a newly proposed project, is not adjacent to the Black Ram Project, and therefore not relevant. The Knotty Pine project is downstream from Black Ram and therefore will have no cumulative aquatic impact to Black Ram.

I find cumulative effects were considered commensurate with assessment of effects from the proposal that may overlap in time and space with residual or expected effects from past, present, or reasonably foreseeable actions.

Issue 6: Disclosure and Analysis

Contention 1:

An objector contends that the responsible official did not disclose or analyze items requested by the objector, nor did he address the "ecologically deficient" Forest Plan desired conditions, in violation NEPA.

Objector(s): Garrity

Response: The Council on Environmental Quality encourages agencies to produce documents without extraneous background data and to emphasize real environmental issues. An environmental assessment is meant to briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact (FONSI). This EA errs on the side of inclusion. Items of relevance were included, and are woven throughout the analysis in the EA as well as topics covered in Appendix G *Response to Comments*. Some of the items requested by the objector were not found to be germane to the discussion of effects. The effects analysis was based on the measurement indicators chosen by the resource specialists as well as Kootenai Forest Land Management Plan standards. Also see response to concern regarding an adequate response to comments.

The 2015 Forest Plan is not subject to objection as part of the Black Ram Project.

Issue 7: Garver Area

Contention 1:

An objector claims that the responsible official inadequacy addressed units 37-41 in the Garver area which lack analysis regarding their integration into treatments while on the ground the objector sees timber marking paint in violation of NEPA and at odds with the description of the units on EA page 18. This is apparently about units that overlap or are adjacent to sections of the Pacific Northwest National Scenic Trail (PNNST).

Objector(s): Peterson

Response: Application of tree marking paint is not an irretrievable commitment of resources, nor is it a major federal action (40 CFR 1506.1). The EA addressed the concern of tree-marking paint on leave trees, describing how "the District may use brown paint to cover the tree marking paint to reduce the potential visual effects along the PNNST", if needed (EA p. 18). Tree marking will be assessed post-harvest.

Issue 8: Prepare an EIS

Contention 1:

Objectors contend that impacts are significant, and the responsible official must prepare an EIS to be compliant with NEPA and case law (Idaho Sporting Congress v. Thomas, Ninth Circuit).

Objector(s): Garrity, Peterson, Zukoski

Response: An environmental assessment was conducted to determine the need for an EIS, in accordance with regulations from the Council on Environmental Quality. The determination, based on the results of the effects analysis documented in the Black Ram Environmental Assessment, is a finding of no significant impact. This determination is included in the draft Decision Notice (pp. 13-19). Effects were considered in terms of context and ten intensity factors as required at 40 CFR 1508.27, with a rationale provided for the finding of each factor.

Issue 9: Finding of No Significant Impact Intensity Factors

Contention 1:

The objector contends that the responsible official inadequately disclosed the ten intensity factors in the FONSI (40 CFR 1508.27(b) because of the unique characteristics and controversy regarding the project.

Objector(s): Peterson

Response: A FONSI is based on context and intensity. The FONSI for Black Ram Project discloses the existence of unique characteristics and that no significant adverse effects to these characteristics are expected because of project design. Controversy in the context of significance is not about discontent with the project from a few individuals. It is about scientific dispute about the effects of the actions. As stated in the FONSI, these are not actions with uncertain consequences. Many similar past projects on the Kootenai National Forest have been undertaken and a different result is not expected from Black Ram. A thorough assessment was completed, and no significant impacts were found.

Endangered Species Act significance and NEPA significance are not synonymous. Short-term effects to grizzly bears have been recognized, and therefore the Forest is in formal consultation with the USFWS regarding the project.

Issue 10: Unit 72 and Rampike Area

Contention 1:

An objector contends that the responsible official did not adequately address unit 72 and the Rampike area regarding the absence of fire in violation of NEPA. Additionally, the objector requests public access to maps showing the alterations made in the 2020 field season to Unit 72, 72A, and 72B.

Objector(s): Peterson

Response: A four-page stand diagnoses was written for Unit 72 by a Certified Silviculturist (project file Forest_Vegetation/20190426DataUntsStdDiagUnit72AB0005). Here is an excerpt:

> Stand History and Development: Originated from a wildfire in early 1800s. Large "relic" WL and WP and some LP indicate that the stand following the disturbance was a seral stand which then

transitioned to ES/AF over time due to lack of disturbance. Fire suppression in the Upper Yaak watershed has likely had an influence on the overall landscape- there have been 23 lightning fires suppressed since 1986, some of them starting in early July. This is important to note because it indicates that even though human influence in the Rampike stands proposed for harvest isn't readily seen, their structure and composition has, in fact, been shaped immensely by humans.

This appears to agree with the assertion that the stand has not experienced fire in about 200 years. Plot data measurements indicate the average stand age is 170-180 years old with remnant older western larch and western white pine. The biophysical setting and characteristics of stands in the Rampike area are specifically described in EA Appendix G on page 79.

Figure 40 on EA Appendix page 128 is a full-page map of Units 72, 72A and 72B, showing the alterations made to the original unit 72 configuration after field visits.

The objector's complaint is mooted by evidence and there is no violation of NEPA.

Issue 11: Research Natural Area

Contention 1:

An objector contends that the responsible official did not respond to comments regarding an opportunity to designate northern units of the project area as research natural areas in violation of NEPA.

Objector(s): Peterson

Response: The letter from Jane Jacoby of the Yaak Valley Forest Council included this statement: "The unburned northern tier along the Canadian border offers a wonderful opportunity for Research Natural Areas and can serve as the baseline/foundation for a land management plan that is committed to identifying, studying, and managing the upper Yaak as the refugia that it already is." This is an observation made by Ms. Jacoby, and was not considered a substantive comment. The Responsible Official is not obliged to act on this observation, nor is he required to respond to every opinion stated in regard to a project, particularly for an environmental assessment. This is not a failure to consider an important aspect of a problem.

A more specific letter regarding Unit 72 was sent to the Forest Supervisor, District Ranger and Regional Forester dated September 11, 2020. This was long after the planning and comment phase of the Black Ram Project. I find there is no NEPA violation.

Issue 12: Effects Analysis

Contention 1:

An objector claims the EA fails to include an effects analysis on songbirds and amphibians, in violation of NEPA.

Objector(s): Peterson

Response: The Black Ram EA considers the effects to migratory birds (i.e. songbirds), on pages 413 to 424. The Black Ram EA considers aquatic species (i.e. amphibians) on pages 36 to 54. Coeur d'Alene salamander and the northern leopard frog are not present in the project area. A response to a comment regarding amphibians is included in EA Appendix G, page 114.

There is no NEPA violation.

National Forest Management Act (NFMA)

Issue 13: Forest Plan Amendments

Contention 1:

An objector feels that updates are required to both the Forest Plan and the EA (necessitating a Black Ram EIS) based on scientific recommendations surrounding use of overland corridors in addition to RHCA's by sensitive amphibian species, and recent finding relative to impaired long-term health and viability of migratory bird populations, particularly in forested lands of the Pacific Northwest..

Objector(s): Peterson

Response: The concern regarding updates to the Forest Plan are outside the issues subject to objection for this project. The concern regarding the need for a Black Ram EIS is answered at Issue 8.

Issue 14: Forest Plan Compliance

Contention 1:

An objector contends that the responsible official is in violation of the Kootenai National Forest plan in violation of NFMA because NFMA requires the responsible official ensures the compliance to the Forest Plan. The objector notes the need to remove roads to create suitable grizzly bear habitat.

Objector(s): Zukoski

Response: Compliance with the Kootenai National Forest Land Management Plan is exhibited in every resource section of the EA. Motorized route density upon completion of the project will meet Forest Plan standards (EA pp. 301-302). Compliance with the National Forest Management Act is explicitly included in the draft Decision Notice.

Wildlife

Threatened and Endangered Species

Issue 15: Impacts to Grizzly Bears

Contention 1:

An objector contends that the responsible official fails to adequately analyze impacts to grizzly bears by: not including a reasonable alternative to protect grizzlies; not responding to comments regarding impacts to grizzly bears when comments offered ways to better protect grizzlies; making blanket statements saying that the EA is adequate; failing to take a hard look at baseline conditions for and impacts, including disturbance and displacement to grizzly bears; failing to consider that the project road actions will cause grizzly bear mortality.

Objector(s): Zukoski

Response: According to the Interagency Grizzly Bear Guidelines (Interagency Grizzly Bear Committee Taskforce, Mealey, U.S. Department of Interior, U.S. National Park Service, & U.S. Bureau of Land Management 1986), cited on pages 296-297 of the EA, the objectives of land management within grizzly bear

habitat are "to maintain and enhance habitat and to minimize potential for grizzly-human conflicts". The project purpose and need to promote grizzly bear foraging opportunities is consistent with the guidelines.

Identifying and managing key stressors and trending towards desired vegetative conditions similar to that with which grizzly bears evolved meets the intent of the Interagency Grizzly Bear Guidelines (*ibid*) and 2015 Forest Plan direction (EA p. 297; LRMP p. 32; IGBC consistency for compliance with 2015 Forest Plan, FW-WL-GDL-15, Hill 2019). Actions from this project are of the type described in the 2015 Forest Plan Biological Opinion (USDI FWS 2020) that do not have substantial effects on grizzly bear populations.

Current baseline population estimates are based on Kasworm (2018, 2019, 2020), generally regarded as the most relevant and applicable science on this matter. Baseline conditions for key stressors (attractants, road impacts, recreation infrastructure, open motorized route density, total motorized route density, core, large, remote areas and landscape connectivity, juxtaposition of foraging habitat and cover, habitat suitability, seasonal components) are disclosed on pages 290-297 of the EA, and the analysis on pages 298-306 adequately describes the differences that would occur under alternatives 2 and 3 relative to the existing conditions. Consistency with Interagency Grizzly Bear Guidelines and cumulative effects were addressed (EA pp. 305-307). Disturbance is addressed as a potential effect for relevant grizzly bear stressors, and is expected to be limited to short duration. The short duration and low intensity of these activities is also unlikely to cause displacement (EA pp. 299-300).

Recent (2017-2019) Cabinet Yaak Ecosystem (CYE) grizzly bear mortalities are disclosed on page 297 of the EA. The objector fails to provide evidence to support the claim that project-related activities could result in grizzly bear mortality.

Alternative 3 was developed to respond to wildlife concerns (no new permanent road construction and treatment of 461 fewer harvest acres) and is analyzed in the EA.

I conclude the grizzly bear analysis is sufficient to support a FONSI.

Issue 16: Seasonal Restrictions for Grizzly Bears

Contention 1:

An objector contents that the responsible official mistakenly relies on seasonal restrictions to potentially mitigate impacts to grizzly bears because the Forest Service does not and will not implement these restrictions in violation of NEPA.

Objector(s): Zukoski

Response: The objector does not specify how NEPA would be violated and the contention that design features would not be implemented is based on opinion. Denning habitat within the project area is described on page 296 of the EA. Denning habitat, itself, would not be impacted by the project because only five units are wholly or partially located at the edge of denning range. None of these units are on steep ground associated with denning sites or heavy winter snows precludes harvest access until summer (EA p. 305). Grizzly bear design features are listed on page 21 of the EA. The first four are specific to timing restrictions to avoid or minimize effects to bears emerging in the springtime. Seasonal restrictions are included in contract provisions and road access management.

There is no violation of NEPA.

Issue 17: Grizzly Bear Recovery Plan Compliance

Contention 1:

An objector contends the responsible official did not analyze how the project may impact the grizzly bear recovery plan objectives or how grizzly bears in the Yaak ecosystem are moving toward recovery goals and how this project may impact achieving these goals in violation of NEPA.

Objector(s): Zukoski

Response: The objector fails to state how this violates NEPA. Grizzly Bear Recovery Plan (USDI Fish and Wildlife Service 1993) recovery goals and objectives are identified at the ecosystem level, rather than at the project level, and are coordinated, monitored, and reported at a higher level. The most current annual research and monitoring efforts and reports summarizing them (Kasworm 2019 and 2020) are incorporated, by reference, into the EA (p.289).

I conclude the grizzly bear analysis is consistent with the grizzly bear recovery plan.

Issue 18: Grizzly Bear Cumulative Effects

Contention 1:

Objectors contend that the project boundary is too narrowly drawn because of past cumulative impacts to grizzly bears that have occurred across the area because logging negatively impacts grizzly bears. They assert the project activities combined with past, foreseeable, and ongoing actions will have detrimental impacts to grizzly bears and the slow growth of female grizzly bears in the area.

Objector(s): Mattson, Peterson

Response: The spatial and temporal context for the grizzly bear effects analysis is located on pages 289-290 of the EA and the rationale for choosing established Bear Management Units (BMUs) has been disclosed.

Changes in the annual growth rate of the female grizzly bear population is beyond the scope of this analysis. However, the EA references Cabinet-Yaak Ecosystem population and trend information for 2018-2019 based on the best available scientific information (Kasworm 2018, 2019, and 2019 personal communication), and discloses potential project area cumulative effects (EA pp. 306-307).

Another contention is that the FONSI neglects to protect grizzly habitat from immediate and cumulative impact of forest management, and thus violates the ESA. The EA (p. 36) summarizes the purpose of the Endangered Species Act. The Forest is awaiting a biological opinion from the USFWS on the Black Ram project, fulfilling its ESA obligations.

Another contention questions the project purpose and need to promote grizzly bear foraging opportunities. The change in the number of acres treated resulting in early successional habitat or the maintenance of open forest conditions as the resourced indicator and measure to show increased foraging opportunities provided by the project was disclosed in Table 83 (EA p. 289). Typical short- and long-term effects of the proposed actions (p. 290), Forest Plan desired conditions for vegetation (p. 294), the existing condition of foraging habitat (p. 297) are described in the EA. Changes in cover relative to foraging habitat, as a result of the project, are described on pages 303-305 of the EA.

I conclude the grizzly bear cumulative effects analysis is sufficient to support a FONSI.

Issue 19: Human Use Impacts to Grizzly Bears

Contention 1:

Objectors contend that the responsible official inadequately considered human use impacts to grizzly bears including logging, prescribed burning, and road construction, motorized vehicle use, snowmobile use, and trail use all which displace grizzly bears in violation of NEPA.

Objector(s): Mattson, Peterson

Response: See response to issue 15.

The project tiers to the LRMP FEIS to encourage an increased use of fire (whether it be prescribed fire or natural, unplanned ignitions) as a tool to assist in the restoration and maintenance of the various ecosystems on the KNF (FEIS p. 144) and is consistent with LRMP direction (pp. 21-22) for fire. The analysis (EA pp. 303-305) acknowledges the potential for effects to grizzly bears from harvest activities and prescribed fire.

A biological assessment has been prepared and formal consultation with the U.S. Fish and Wildlife Service has been initiated (see response to Issue 21) based on a "likely to adversely affect" determination for grizzly bear in the biological assessment.

Ongoing types of monitoring of road barriers and closures that occur on the Kootenai National Forest and Three Rivers Ranger District, and remedies for breaches, are disclosed on p. 293 of the EA.

I conclude the grizzly bear analysis is consistent with the Forest Plan, complies with the Endangered Species Act, and is sufficient to support a FONSI.

Issue 20: Grizzly Bear Access Amendment OMRD

Contention 1:

An objector contends that the responsible official violated the grizzly bear access amendment regarding open motorized route density (OMRD).

Objector(s): Zukoski

Response: The design elements of the selected alternative for the Kootenai, Idaho Panhandle, and Lolo National Forests Land and Resource Management Plans Amendment for Motorized Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones allow for the design of projects that have temporarily affected OMRD, TMRD, or Core (LRMP, p. 146-149). As acknowledged by the U.S. Fish and Wildlife Service (2020 LRMP Programmatic Biological Opinion, p. 35), these projects have undergone section 7 consultation and have signed decisions authorizing the temporary changes in access management. The Black Ram project is in the process of undergoing section 7 consultation.

Regarding vehicle trespass, see response to Issue 19.

I conclude the grizzly bear analysis is consistent with the Forest Plan.

Issue 21: Grizzly Bear – ESA Violations

Contention 1:

Objectors contend that the responsible official violated the endangered species act by: Not initiating consultation with the US Fish and Wildlife Service prior to objection since timber harvest is an

"irretrievable and irreversible commitment of resources" under ESA. The Forest Service must not take any action until the BO is received. Objectors contend the implementation of the project will harm grizzly bears, resulting in "take" in violation of Section 9 of the ESA. Further, they assert the BO was not completed so the objectors could not see the results of the USFWS review in violation of NEPA and the ESA.

Objector(s): Garrity, Zukoski

Response: Consistent with Section 7(a)(2) of the Endangered Species Act (EA, p. 36), a biological assessment (Hills 2020) disclosing the potential direct, indirect, and cumulative effects of the proposed action was prepared and consultation with the U.S. Fish and Wildlife was initiated, with communication as early as 7/25/2018. The biological assessment was submitted to USFWS on 9/19/2020, before the objection period. The Forest is awaiting a Biological Opinion that will determine whether the proposed action is likely to jeopardize the continued existence of Cabinet Yaak grizzly bear and will include an incidental take statement, including reasonable and prudent measures and terms and conditions, as necessary. A decision notice will not be signed nor will project implementation begin until the Biological Opinion is received, in compliance with 50 CFR 402.09.

The objector also contends that the Forest Service should make timing restrictions on mechanized equipment operation a requirement of the project design criteria to ensure grizzly bears are not disturbed during vulnerable spring emergence period. See response to Issue 16.

I conclude the grizzly bear analysis complies with the Endangered Species Act.

Issue 22: Grizzly Bear Plan Components

Contention 1:

Objectors claim the responsible official's determination of connectivity and geospatial configuration is inadequate specifically within BMUs 14 and 15, which are IRAs 663 and 694. They assert FW-STD-WL-04 and FW-GDL-WL-01: are irrelevant to the project and don't provide necessary assurances. They also claim guidance for grizzly bear "primary conservation area" is not being met.

Objector(s): Mattson, Zukoski

Response: "Primary conservation area" is not applicable the Cabinet Yaak Recovery Zone; it applies to the Northern Continental Divide Ecosystem, and is therefore inapplicable to this project area.

The contention that plan components FW-STD-WL-02, FW-STD-WL-04, FW-GDL-WL-01, and FW-GDLWL- 15 do not provide adequate assurances that will contribute to sustaining the recovery of the grizzly bear population is beyond the scope of the Black Ram analysis (i.e., is an issue with the Forest Plan rather than the project).

An objector contends that as a guideline alone, plan component FW-GDL-WL-01 does not provide the necessary assurances that it will be implemented. However, "a project or activity must be consistent with all guidelines applicable to the type of project or activity and its location in the Plan area" (LRMP p. 3).

Bear Management Units 14 and 15, chosen as the spatial boundaries for the grizzly bear analysis, are the appropriate scale for conducting the analysis (see Issue 39) and both either meet or exceed (are better than) the standard for core blocks (EA, p. 292-293) and would continue to do so under the proposed action (EA, p. 302-303; Black Ram in-kind replacement of core map 2019).

I conclude the grizzly bear analysis is consistent with the Forest Plan.

Issue 23: Grizzly Bear Habitat

Contention 1:

Objectors contend that the responsible official did not provide a meaningful assessment of habitat security and prospective project impacts, did not consider the best available science for grizzlies, need to make management decision that favor grizzly bear and its habitat, did not consider the reduction of cover, and should not have treated in high quality habitat as stated in alternatives 2 and 3; all in violation of NEPA.

Objector(s): Garrity, Peterson

Response: The project is consistent with Forest Plan guideline FW-GDL-WL-15 and the project record includes documentation of project consistency with the Interagency Grizzly Bear Guidelines.

The potential for effects of the proposed action, including disturbance and displacement (see response to Issue 17), cumulative effects (response to Issue 39), and core (responses to Issues 41 and 43), to key grizzly bear stressors are disclosed in the EA.

While we agree with the objector's point that avalanche chutes and riparian areas have high habitat value, the actions suggested by the objector (i.e., closure and/or storage of all roads within 500 m of an avalanche chute or riparian area), do not address the purpose and need for the proposal (EA, p. 1-3). The analysis of the alternatives emphasized high-quality spring habitats (EA, p. 305; spring habitat and project units map), which are the most critical of the seasonal habitats in the project area.

An alternative (Alternative 3) without new permanent road construction and treatment of 461 fewer harvest acres was developed to address public concerns about the impacts of building new roads in the project area, but was not chosen (EA and FONSI, p. 4-7).

There is no NEPA violation.

Issue 24: Road Closures

Contention 1:

Objectors contend that the responsible official erroneously did not prioritize road closures in the project area to provide security to grizzly bears in the area.

Objector(s): Mattson, Peterson

Response: Baseline conditions and environmental consequences for key stressors, including core, large, remote areas and landscape connectivity are addressed in the response to Issue 17.

Ongoing types of monitoring of road barriers and closures that occurs on the Kootenai National Forest and Three Rivers Ranger District, and remedies for breaches, are disclosed on page 293 of the EA. In addition, the USFWS acknowledges, "A private entity's non-compliance with the Forest's access management is an illegal activity. While illegal use of the Forest via motorized access in areas unauthorized for such use may occur within the action area, such illegal use is not a Forest action" (USFWS 2020, p. 38).

Issue 25: Project Response to Pilgrim 2 Litigation

Contention 1:

An objector says that the responsible official is not considering the Pilgrim 2 court order or its existence because he isn't ensuring secure habitat for grizzly bears with secure gate closures resulting in harm to the species in violation of NFMA and ESA.

Objector(s): Peterson

Response: The objector's points of contention include 1) failure to provide secure habitat for grizzlies (i.e., secure gate closures); and 2) the seeming contradiction between the project's long-term contribution to grizzly bear sustainability, by benefitting foraging habitat, while the Endangered Species Act section 7 determination is "Likely to Adversely Affect" grizzly bears. The first contention was addressed in the response to issue 40. The second point of contention is addressed in responses to Issues 39 and 42. In addition, the differences between significance under NEPA and the Endangered Species Act are described on p. 16 of the draft FONSI: In NEPA, significance is defined and specific. Determinations regarding Endangered Species Act effects include the words adverse. An action may have an adverse effect, yet not rise to the level of Significance as described in the NEPA. In this project, this is the case.

Issue 26: Impacts to Canada Lynx

Contention 1:

An objector contends that the responsible official did not take a hard look by failing to disclose project impacts to lynx and lynx habitat.

Objector(s): Zukoski

Response: A biological assessment was prepared by biologists to disclose effects of the project on endangered, threatened, and proposed species (Black Ram BA). Under provisions of the Endangered Species Act, Federal agencies must seek to conserve endangered and threatened species and to ensure that actions are not likely to jeopardize the continued existence of any of these species. It was determined the Black Ram Project *may affect, not likely to adversely affect* Canada lynx and Canada lynx critical habitat (Black Ram BA; Black Ram draft DN FONSI, p.16, EA Black Ram, p. 314-342).

The rationale and determinations of effects to Canada lynx and Canada lynx critical habitat are summarized in the EA (Black Ram EA, p. 334 and 342). The determination for Canada lynx "is based on: 1) lynx are generally considered tolerant of human activity; 2) implementing design features that minimize disturbance during denning periods and potential denning habitat; 3) proposed harvest in Alternatives 2 and 3 would increase early stand initiation habitat than currently exists; 4) proposed actions would move stands towards desired vegetative conditions characteristic of the area, including increased habitat diversity; 5) regeneration harvest is proposed within stands that currently do not provide lynx foraging habitat (i.e., stem exclusion) which could improve lynx winter foraging opportunities in approximately 15 years; 6) treatments would reduce the risk of severe fire within the treated and surrounding areas; 7) there would be a minor increase of early stand initiation habitat within the Hawkins LAU which is well below the standards for VEG S1 and VEG S2; 8) activities would retain potential movement areas; 9) large areas of the project LAUs would remain free of activity to accommodate potential short-term displacement from activity areas; 10) the Project Area units are a very small portion of the LAUs; and 11) lynx mortality is not expected" (EA p. 334).

The determination for Canada lynx critical habitat "is based on: 1) vegetation management, both regeneration harvest and prescribed burning would not affect currently suitable multistory foraging and young forest habitat; 2) affected stands in currently unsuitable habitat would become suitable in approximately 15 years; 3) there would be no effect to current denning habitat, however pockets of fire mortality and snag and down wood retention guidelines are likely to improve future denning site material; 4) matrix habitat may change in canopy cover and species composition, but there would be no loss; and 5) winter snow conditions would not change as a result of management" (EA p. 342).

Consultation was initiated with US Fish and Wildlife Service on September 16, 2020; the responsible official will receive a response prior to signing the decision for the Black Ram Project.

Lynx habitat analysis was based on lynx analysis units (LAUs), consistent with the 2015 Forest Plan and 2007 Northern Rockies Lynx Management Direction (Forest Plan, Appendix B). Table 93 in the Black Ram EA (p. 322) identifies the current condition of the affected LAUs in the context of recent research. Tables 95 and 96 provide documentation of how habitat would be affected in each LAU with each alternative (pp. 326-327). The analysis clearly demonstrates how the Black Ram Project aligns with NRLMD standards for the percent of lynx habitat affected (BA, Table 15, pp. 43-44). Also, a map of lynx habitat overlaid with the Black Ram Project area and proposed actions is included in the BA (Figure 8, p. 47).

In conclusion, I find the project level analysis for Canada lynx and Canada lynx critical habitat is complete.

Issue 27: Cumulative Effects to Lynx

Contention 1:

Objectors contend that the responsible official failed to properly analyze the cumulative impacts from private development and trapping to lynx.

Objector(s): Garrity, Zukoski

Response: Consistent with the Northern Rockies Lynx Management Direction (NRLMD), the lynx habitat analysis area is the affected lynx analysis unit (LAU) in occupied habitat (Black Ram EA, p. 317; 2015 Forest Plan, Appendix B). The two LAUs within the Black Ram Project boundary, Hawkins and Robinson, occur completely on Forest Service lands and therefore private property development would not be considered.

The objector raising the issue of cumulative effects on Canada lynx due to trapping did not bring up this issue during scoping or EA comment period. Therefore, they have no standing on this issue. However, trapping on Forest Service lands is addressed in the Effects to Wildlife section of the EA (p. 285). Trapping "..is regulated by Montana Department of Fish, Wildlife and Parks (MFWP)…the FS also works in partnership with the FWS to assist with the recovery of animals listed, or which may be listed, under the Endangered Species Act (ESA)."

I conclude that the cumulative effects analysis is adequate.

Issue 28: Lynx Habitat vs Snowshoe Hare Habitat

Contention 1:

The objector contends that the responsible official should have evaluated lynx habitat independently instead of using snowshoe hare habitat as a proxy, in violation of NEPA.

Objector(s): Zukoski

Response: Comments regarding lynx analysis were addressed in the EA (Appendix G, pp. 125-126). A rationale for lynx habitat analysis methodology is provided in the BA (pp. 42-46) and EA (pp. 314-318). Habitat analysis is consistent with Northern Rockies Lynx Management Direction (NRLMD) and Forest Plan (FW-STD-WL-01). It is stated that "snowshoe hares are the primary prey of lynx, and habitat use by lynx is associated with those conditions that support hare populations" (EA p. 314).

See response to Issue 26 for more information on analysis and documentation for Canada lynx and Canada lynx critical habitat.

I conclude that effects to Canada lynx and Canada lynx habitat are analyzed adequately.

Issue 29: Impacts of Clearcuts on Lynx

Contention 1:

An objector contends that the responsible official failed to address the impacts of clearcuts on winter lynx habitat in violation of NEPA.

Objector(s): Zukoski

Response: Comments regarding lynx analysis were addressed in the EA (Appendix G, p. 125-126). Effects from proposed vegetation management including clearcutting are reported in the EA (p. 324-342). Under Direct and Indirect Effects to Canada lynx, the EA states "timber harvest would occur in areas that are…not currently suitable lynx habitat and/or would be outside the LAU" (EA p. 326). The Canada lynx critical habitat analysis discloses that "regeneration harvest (clearcut, seed tree, and shelterwood) in matrix habitat would impact about 1500 acres (Alternative 2) or less (Alternative 3), but would not remove matrix habitat…large blocks of unaffected habitat comprises matrix habitat and would continue to provide connected areas for large movements throughout the LAU" (EA p. 339).

See response to Issue 26 for more information on analysis and documentation for Canada lynx and Canada lynx critical habitat.

I conclude that effects to Canada lynx and Canada lynx habitat are analyzed adequately.

Issue 30: Human use Impacts to Lynx

Contention 1:

An objector contends that the responsible inadequately analyze the impacts from log truck hauling, road and vehicle use, and recreational activity in the project area in violation of NEPA.

Objector(s): Zukoski

Response: Comments regarding effects of road use on lynx were addressed in the EA (Appendix G p. 126). Effects of roads are documented in the Human Use and Activity section of the Canada lynx effects analysis (EA pp. 323-324). This analysis considers the open road system use and maintenance as well as snow machine and pedestrian traffic on restricted or barriered roads.

See response to Issue 19 for more information on analysis and documentation for Canada lynx and Canada lynx critical habitat.

I found the analysis of effects of road use on lynx and subsequent response to comments thorough and well-documented.

Issue 31: Lynx ESA Compliance

Contention 1:

An objector contends that the responsible official's conclusion that the project is not likely to adversely impact Canada lynx is arbitrary and capricious and in violation of the ESA.

Objector(s): Zukoski

Response: See response to Issues 26, 28, 29, and 30 regarding effects analysis of Canada lynx and Canada lynx critical habitat, as well as consultation with US Fish and Wildlife Service.

I find the project level analysis for Canada lynx and Canada lynx critical habitat is complete.

Issue 32: Wolverine

Contention 1:

An objector contends that the methodology for wolverine analysis violates both NEPA and the ESA and a BA should be prepared for wolverine because it is a species proposed for federal listing under the ESA.

Objector(s): Garrity

Response: This issue was also raised during the comment period and addressed in the EA under Response to Comments (Black Ram EA, Appendix p. 127).

A biological assessment was prepared by biologists to disclose effects of the project on endangered, threatened, and proposed species (Black Ram BA). Under provisions of the Endangered Species Act, Federal agencies must seek to conserve endangered and threatened species and to ensure that actions are not likely to jeopardize the continued existence of any of these species. In September 2020 when the BA was submitted to USFWS, wolverine was a proposed species. It was determined the Black Ram Project *is not likely to jeopardize the continued existence* of wolverine (Black Ram BA; Black Ram draft DN FONSI p.16; Black Ram EA p. 342).

The rationale for determination of effects was based on: "1) project activities will not contribute to the identified primary or secondary threats to the wolverine DPS (climate change, inadequate regulation of climate change, harvest, and small population size); 2) none of the proposed activities are considered a threat to the DPS (U.S. Department of the Interior, 2013); 3) the individual project activities and cumulative actions may result in relatively trivial disturbances, which in turn are unlikely to modify daily movements in relation to the large wolverine home range size; 4) wolverines apparently are able to adjust to, and co-exist with, moderate levels of disturbance; and 5) the project would not contribute cumulatively to effects of activities or conditions on other land entities" (Black Ram BA, p. 83-84).

On October 13, 2020, the US Fish and Wildlife Service withdrew the proposed rule to list wolverine (Federal Register). The Biological Assessment and USFWS consultation are no longer required. However, wolverine is a sensitive species in Region 1 and all effects analysis remains applicable for the Black Ram Project.

I find the wolverine analysis and determination to be complete and well-documented. The present status of the wolverine will be disclosed in the Decision Notice.

General Wildlife

Issue 33: Wildlife Diversity

Contention 1:

An objector contends that wildlife diversity was inadequately considered in violation of NEPA.

Objector(s): Garrity

Response: The coarse-filter approach was used in the revision of the Kootenai National Forest Land Management Plan (2015) to provide for the diversity of plant and animal communities. The coarse filter approach to providing wildlife habitat diversity is also addressed in the EA, page 285, as well as in the Response to comments (EA Appendix p. 112). This discussion incorporates by reference the 2013 Forest Plan FEIS and supporting wildlife documentation, which in turn assessed how implementation of the 2015 Forest Plan supports wildlife diversity. I conclude that the responsible official adequately considered wildlife diversity in the NEPA document.

Issue 34: Big Game

Contention 1:

An objector contends that the responsible official inadequately analyzed big game winter range and elk security due to the agency's inability to manage road closures and consider cumulative impacts of fires and other projects.

Objector(s): Garrity, Peterson

Response: The EA provides analysis of current conditions and expected impacts to big game habitats, including winter ranges (pp. 400-409). It also provides an analysis of elk security, which would remain unchanged according to the 2015 Forest Plan definition (EA pp. 410-412). Furthermore, in the response to comments, the responsible official addressed project-specific comments from other individuals and entities for big game (EA Appendix pp. 115-116). Regarding cumulative impacts of fires and other projects, refer to NEPA responses for cumulative effects and Issue 55 - impacts of past fires and fire suppression.

Issue 35: Noxious weed impacts on forage

Contention 1:

An objector contends that the responsible official did not analyze how weed populations and trends are affecting forage that the agency claims will be improved on the project.

Objector(s): Campbell, Garrity

Response: As stated in the EA (p. 186), "The weed program on the Forest uses integration pest management approaches, including prevention and control measures that limit introduction, intensification, and spread due to management activities." The EA also incorporates by reference the desired condition included in the 2015 Kootenai NF LMP under FW-DC-VEG-10 and GA-DC_VEG-YAK-03 to minimize impacts to other natural resources. In the appendix of the EA (p. 95), the response to comments stated "Displacement of forage due to noxious weeds in the project area is not a concern. At the project level, highest concentrations of invasive

plants are found on major travel routes. Project-specific design features were developed to mitigate the spread of noxious weeds." The effect of the project on forage was adequately assessed.

Issue 36: Fisher

Contention 1:

An objector contends that the responsible official did not analyze fisher despite forest plan requirements in the forest plan to do so.

Objector(s): Garrity

Response: The objector is mistaken. Fisher is a sensitive species and impacts to the fisher were analyzed in the EA (pp. 378-389).

Issue 37: American Marten

Contention 1:

An objector contends that "pine" marten was not properly analyzed since the responsible official did not ensure viable population of "pine" marten and by not considering science (Moriarity et al. 2016; Bull and Blumton 1999; Hargis et al. 1999 and Wasserman et al. 2012)

Objector(s): Garrity

Response: There are no Forest Plan or other Forest Service direction to analyze American marten; the marten is not a federally listed or regionally listed sensitive species. The coarse filter approach to providing habitats for species such as marten is addressed in the EA (p. 285,) as well as in the Response to comments (EA Appendix p. 112). This discussion incorporates by reference the 2013 Forest Plan FEIS and supporting wildlife documentation, which in turn assessed how implementation of the 2015 Forest Plan supports wildlife diversity. Marten are present on the forest in suitable habitats (forest and state natural heritage databases). Marten are also widespread and abundant across their North American range. Ecosystem Research Group (2012) analyzed the effects of managing for the desired conditions for vegetation in the Forest Plan and disclosed that marten viability on the Forest is not likely at risk (p. 95). Additionally, pages 212-214 in the Forest Plan FEIS (2013) discuss the effects on marten from managing habitat under the Forest Plan. The research reference provided by the objector (Moriarty et al. 2016) is consistent with this project analysis because in treatment units, stand structure would be diversified in the long term and treated stands would have increased likelihood of long-term resiliency.

There is no requirement to specifically address marten.

Issue 38: Northern Goshawk

Contention 1:

An objector contends that the responsible official did not properly conduct surveys consistent with the "Northern Goshawk Inventory and Monitoring Technical Guide" nor heeding the warnings of (Squires, Reynolds, Boyce) which warn of using 600 acres for nesting areas.

Objector(s): Garrity

Response: There are no Forest Plan or other Forest Service direction to analyze the northern goshawk. The coarse filter approach to providing habitats for species such as goshawks is addressed in the EA, page 285, as

well as in the Response to comments (EA Appendix p. 112). This discussion incorporates by reference the 2013 Forest Plan FEIS and supporting wildlife documentation, which in turn assessed how implementation of the 2015 Forest Plan supports wildlife diversity. The Forest Plan FEIS (pp.212-215) discusses the effects on goshawk from managing habitat under the Forest Plan. The update of potential habitat (ERG 2012, p. 96) is more recent than the information cited by the objector and is site-specific to the Kootenai NF. The northern goshawk is mentioned also in the migratory bird section (EA p. 417) and the response to comments (EA Appendix p. 115). Forest plan guideline, FW-GDL-WL-16, addresses management at known active raptor nests using the best available information. Ecosystem Research Group (2012) found the effects of managing for the desired conditions for vegetation in the Forest Plan support goshawk persistence and disclosed that goshawk densities are determined by the distribution of habitat on the Forest more so than the total habitat availability (p. 96); this is due to the territoriality of the species.

Issue 39: Black-Backed Woodpecker

Contention 1:

The objector contends that the responsible official is in violation of NEPA because he did not consider black-backed woodpecker.

Objector(s): Garrity

Response: Impacts to black-backed woodpecker habitat and occurrence were discussed in the EA (p. 344) and analyzed in the EA (pp. 358-365). The analysis incorporates by reference the 2013 Forest Plan FEIS and supporting wildlife documentation (specifically ERG 2012, pp. 82-83), which in turn assessed how implementation of the 2015 Forest Plan supports long-term sustainability of woodpecker habitats and populations. I conclude that the responsible official adequately considered black-backed woodpecker habitat in the NEPA document.

Issue 40: Wildlife Corridors

Contention 1:

An objector contends the responsible official did not take a hard look at impacts to wildlife corridors in violation of NEPA.

Objector(s): Peterson

Response: An analysis of wildlife habitat connectivity was provided in the EA as appropriate for certain species (e.g., grizzly bear, EA pages 294; 303), and additional information was provided in our response to comments (EA Appendix pages 113 and 126). The response to comments (EA Appendix page 113) explains the dynamic nature of vegetation compositions, structures, patterns, and processes, which means habitat connectivity would vary over time and would differ for each terrestrial species. For example, connectivity for a fish is a linear feature. For wide-ranging species (large carnivores and herbivores), the entire forest provides expansive connectivity, although early-seral vegetation is under-represented. The analysis incorporates by reference the 2013 Forest Plan FEIS and supporting wildlife documentation, which in turn assessed how implementation of the 2015 Forest Plan supports habitat connectivity (2013 Forest Plan FEIS pages 374 and 377). I conclude that the responsible official adequately considered wildlife corridors in the NEPA document.

Aquatic Resources

Issue 41: Desired Conditions for Fish Species

Contention 1:

An objector contends that desired conditions for the project area do not include fully functioning stream ecosystems that include healthy resilient populations of fish and it doesn't disclose the areas of unstable and highly erosive *(sic)* soils that are at risk to mass movement and erosion in combination with management activities in violation of NEPA.

Objector(s): Garrity

Response: The Kootenai National Forest Land Management Plan (2015) provides desired conditions that address the desire for fully functioning stream ecosystems that include healthy resilient populations of fish (p. 22, aquatic habitat FW-DC-AQH-01 and aquatic species FW-DC-AQS-01).

The Black Ram EA (pp. 36-54) includes discussion of fully functioning stream ecosystems that include healthy and resilient populations of fish. Regarding landtypes of concern, the EA discloses the data source (Soil Survey of Kootenai National Forest Area Montana and Idaho, Kuennen and Nielsen-Gerhardt 1995) and states that no harvest is proposed on landslide-prone areas (EA p. 238). Landtypes of concern constitute less than one percent of the project area (p. 235).

The Black Ram project will apply RHCA buffers and all applicable soil and water conservation measures (i.e. Best Management Practices) to ensure that ecosystems containing streams, habitat and populations are maintained or improved within the project area.

The analysis complies with NEPA. I find that no further analysis is necessary.

Issue 42: Amphibian Species

Contention 1:

An objector contends that the responsible official failed to take a hard look at amphibian species including the Coeur d'Alene salamander and the northern leopard frog in violation of NEPA. The objector also suggests that no timber sales should be proposed in the salamander's habitat.

Objector(s): Garrity

Response: Sensitive aquatic species identified on the Kootenai National Forest include Columbia River redband trout (*Oncorhynchus mykiss gairdneri*), westslope cutthroat trout (*O. clarkii lewisi*), western pearlshell mussel (*Margaritifera falcata*), Coeur d'Alene salamander (*Plethodon idahoensis*), northern leopard frog (*Rana pipiens*), and western toad (*Bufo boreas*).

The EA aquatics section indicates that neither the Coeur d' Alene salamander nor northern leopard frog are present in the project area or its area of influence (p. 38) but suitable habitat is present for Coeur d'Alene salamander which will be clarified in the final EA.

Table 20 on page 52 displays that suitable habitat for northern leopard frog is present on the Kootenai NF but there is no suitable habitat present in the project area and the final EA will reflect this information.. The finding for both species is "no impact." See response to Issue 12.

The Forest took a "hard look" at the relevant amphibian species and is consistent with NEPA and the National Forest Management Act (NFMA) for analysis of sensitive species.

Issue 43: Riparian Management Objectives

Contention 1:

An objector contends that The EA doesn't disclose the trends of project area stream segments in terms of Forest Plan Riparian Management Objectives (RMOs).

Objector(s): Garrity

Response: The Aquatic Resources section of the EA (pp. 37-38, 43, 45, and Tables 14, 15, 16) clearly discusses and displays existing conditions related to project area stream RMOs.

Issue 44: Sediment and Activities in RHCA

Contention 1:

An objector claims that the responsible official provides no quantitative estimates of instream sediment or sediment yield although log haul and other traffic significantly increases the amounts of sediments transported from road surfaces.

Objector(s): Garrity

Response: Multiple regulatory authorities govern implementation of project activities as they relate to water resources (including, but not limited to: Clean Water Act (33 U.S.C. §1251 et seq. (1972)) National Forest Management Act (1976), the Kootenai National Forest Land Management Plan (2015), and multiple Administrative Rules of Montana. The Forest Service must complete defensible analyses demonstrating maintenance of water quality as it relates to designated beneficial uses (which may include, but not be limited to, human consumption as potable water). The Black Ram project falls within the Yaak River Watershed Total Maximum Daily Load planning area. Per the KNF Forest Plan, project activities should strive to comply with all nutrient and pollutant load limits. Both the Forest Plan and ARMs provide for short-term water quality exceedances so long as all applicable soil and water conservation measures (i.e. Best Management Practices) have been applied within a project area.

The Water Resources Analysis within the Black Ram EA discloses modeled quantitative estimates of sediment delivery (i.e. under current conditions as well as anticipated estimates under project implementation). The EA provide specifics from model outputs (pp. 271-277). These outputs have been contextualized in plain language (p. 274) and evaluated against targets outlined within applicable components of the Yaak River TMDL along with other regulatory authorities. The analysis in its current form has met the regulatory burden; I find that no further analysis is necessary.

Contention 2:

The EA doesn't indicate proper and thorough analysis has occurred to justify logging and/or burning in RHCAs, as required by the Forest Plan. The objector contends that the Kootenai N.F. has ignored scientific research that has found adverse ecological consequences associated with forest harvest adjacent to streams.

Objector(s): Garrity

Response: The Black Ram project does not propose any timber harvest within the Riparian Habitat Conservation Area (EA p. 46). The Kootenai Forest Plan includes provisions to increase or decrease default RHCA widths under a narrow range of circumstances and provided that Riparian Management Objectives are maintained (p. 118 of Kootenai Forest Plan, Black Ram EA p. 268).

With respect to prescribed fire, provisions have been included in the EA to allow for fire to back into RHCAs. No direct ignitions would occur within RHCAs (EA pp. 90, 270). These activities are in line with Montana State Stream Management Zone Law and the Kootenai National Forest Plan.

Soils

Issue 45: Detrimental Soil Disturbance

Contention 1:

Objectors contend that the R1 Soil Quality Standards regarding Detrimental Soil disturbance were inadequately applied because it does not disclose the DSD percent limit based on the amount of damage, does not analyze areas outside of treated areas, arbitrarily shows diluted DSD percentages on past treated areas, and does not consider the impacts of roads and the benefit of down woody debris.

Objector(s): Garrity and Campbell

Response: The objectors dispute the KNF adherence to the Forest Service Manual Regional Supplement for Soils Analysis (2500-2014-1), also termed the R1 Soil Quality Standards. This FS manual is used as a means for evaluating compliance to NFMA 1976 and the Forest Plan. The KNF analyzed soils using their documented methodology (EA pp. 232-234, 236) and applied the thresholds from the R1 Soil Quality Standards to evaluate compliance. The EA soils analysis used three analysis indicators, one of which was detrimental soil disturbance as defined by the R1 Soil Quality Standards (EA p. 233). The EA presents the summary of the soil analysis findings in Table 76, finding no units would exceed 15% (EA p. 239). The 15% threshold for potential impairment is a benchmark listed in the R1 Soil standards and disclosed in the EA methodology (EA p. 236). The existing and cumulative disturbance data table is in the project file (20181200DataProjectedDSD0003).

The objectors contend the KNF does not analyze for effects outside of treated areas. The EA explains the focus of analysis in terms of activity area following direction in the R1 Soil Quality Standards, and further gives rationale that soil productivity is spatially static and productivity in one location does not affect productivity in another location (EA p. 234).

There is a contention the KNF diluted percentages on past treated areas. The KNF discloses both the surveys and the reported numbers in the project file. Over half of the surveyed units have reported values from past harvest. Of these, ten units have percentages greater than monitored effects from contemporary harvest systems (EA p. 233), despite the KNF finding of initial soil recovery in past harvest areas (EA p. 234). These high numbers reported in the survey data do not support the claim that the KNF would be arbitrarily diluting the findings. Furthermore, the over 90 surveys suggest a comprehensive approach.

The EA distinguishes the type of activity type for the analysis in the methods section (EA pp. 234, 237) where temporary roads, skid trails, and landings are a part of the activity area considered by the analysis. The EA further clarifies that [system] roads are not part of the soils analysis since they are not part of the productive landbase. However, the EA does note that road interactions for landslide prone areas was considered during project planning (EA p. 235). In addition, the EA discusses roads bluntly in the effects section, reiterating that

new road construction and road decommissioning and storage would not affect DSD determinations since these relate to system [administrative] changes. Road maintenance is similarly addressed in the effects section.

Coarse woody debris is addressed in the EA as part of the soil analysis indicator, soil nutrient cycling. Benefits of coarse wood is described in the Soil Existing Condition section and relates this attribute to larger soil processes in narrative and backed with scientific literature. The effects determination is based on the distribution of CWD and its capability to hold water to benefit growth, as well as other attributes (EA p. 239; CWD distribution reported in Table 8, p. 16). Table 8 discloses the unit target distribution by biophysical setting along with emboldened units currently deficient based on the soil condition field work. The soils analysis refers to Table 8 since both wildlife and soils are benefitting resources. The EA further brings out the benefits of coarse wood specifically in regard to moisture holding capacity and unit 72 in response to the Yaak Valley Forest Council's comment (Appendix p. 103) and in the compliance statement to FW-DC-SOIL-01 (EA p. 241).

Contention 2:

The objector contends that the EA does not disclose the areas of unstable and highly erosive *(sic)* soils that are at risk of mass movement and erosion—naturally or in combination with management activities.

Response: The EA discloses *erodible* soils, in particular landslide prone soils, in their analysis indicator 1 sensitive soils. In the effects section, the KNF finds no harvest activities are proposed in landslide prone areas. Since KNF Forest Plan components reference landslide prone and erodible soils, the EA further addresses the issue with compliance statements (EA p. 242). FW-DC-SOIL-02 has a desire to not destabilize highly erodible soils; the KNF points to BMPs to avoid issues with reference to Montana DNRC monitoring as evidence for the effectiveness of these measures. For FW-GDL-SOIL-04, regarding ground-disturbing management activities, the KNF explains that the project would exclude any landslide prone areas found during sale layout (*ibid*.). Although obvious risks were not observed in the soil condition surveys, potential areas that may turn up would be excluded.

The responsible official adequately considered soil effects, including adherence to soil quality standards.

Vegetation

Issue 46: Project Preparation

Contention 1:

An objector claims failure to pre-plan, design, and map leave islands and wet areas during project planning reduces the likelihood of their implementation and excludes biologically relevant ground-level assessments of the habitat needs of terrestrial species that depend on ephemeral water sources during key portions of their life cycles.

Objector(s): Peterson

Response: Creation of leave islands and exclusion of previously unknown wet areas during unit layout is standard operating procedure. Protection of streams and wetlands is described in the draft Decision Notice and in the EA in numerous places (draft DN pp. 7, 8, 14; EA pp. 8, 52, 53; Appendix p. 79).

Issue 47: Opposed to Timber Harvest

Contention 1:

An objector contends that the timber sales should not be allowed because it is detrimental to the ecosystem and the planet, and the area should be returned to wilderness.

Objector(s): Garrison

Response: Effects to the environment were analyzed and documented in the Black Ram Environmental Assessment. This analysis led to the determination that the project will not have a significant effect on the environment. The draft Decision Notice documents this finding on page 13, explaining the ten factors used in making the determination and how they are considered using context and intensity. NEPA ensures informed decisions are made and carried out in the interest of the human environment. The Forest Plan is written under the auspices of the National Forest Management Act, an act written to make sure the agency applies sustainable practices in forest management. The 2015 Kootenai Forest Plan has designated the areas being treated in the Black Ram project as suitable for timber harvest. Wilderness designation is made by Congress, and is outside the scope of this project.

Issue 48: Failure to examine Regeneration

Contention 1:

An objector contends that the responsible official does not adequately analyze regeneration success post treatment in violation of NEPA.

Objector(s): Garrity

Response: The Forest Service is required by law to reforest per the NFMA (16 USC 1600(3)(e)(ii)). It is apparent in the EA and Decision Notice that regeneration success is routinely analyzed. All stands treated with a regeneration harvest are systematically monitored at years one, three, and five. Forest monitoring reports are cited in the draft DN (p. 8); 95 percent of regenerated stands are satisfactorily stocked and of the remaining five percent, 95 percent are progressing or certified as stocked now(EA p. 137). There is a typographical error on page 137 of the EA.

Regeneration prescriptions are written by certified Silviculturists who consider the expected growing conditions on each site, and appropriate to the biophysical setting.

This concern was included in the response to comments on EA Appendix page 68. The Forest is in compliance with NFMA and NEPA.

Issue 49: Historical Range of Variability

Contention 1:

Objectors contend that the historical range of variability was inadequately analyzed because the analysis did not consider past treatments, patch size, sound levels, grazing in violation of NEPA.

Objector(s): Garrity, Peterson

Response: The EA considers past treatments (pp. 103-104), fire history (pp. 23, 100-101), and addresses historic(al) range of variability (pp. 99, 105-107., 109-112). Grazing is not identified as a past, present, or reasonably foreseeable action in the project area. Sound is not identified as a relevant concern for the project.

Historic(al) patch size is an indicator (EA p. 97, 125) and the desired patch size is derived from the 2015 Forest Plan (Table 2), based on the biophysical setting. Patch is defined in the Forest Plan as "An area of vegetation that is relatively homogenous that differs from surrounding vegetation." (Forest Plan p. 115). "Patch" has the same simple meaning in the Black Ram EA. There is no violation of NEPA.

Issue 50: Regeneration Harvests

Contention 1:

An objector claims that the responsible official is in violation of NEPA and NFMA by inadequately addressing the need and impacts to resources regarding clearcuts and regeneration harvests, addressing the 40-acre restriction in the Forest Plan, and addressing patch sizes.

Objector(s): Peterson

Response: The 2015 Kootenai Forest Plan includes the desired range of patch sizes for each biophysical setting (p. 18). The Forest Plan includes a standard for proposing harvest openings over 40 acres, and that standard was met. Public notification was made and approval from the Regional Forester was obtained (Project file 20190815Docx1MckenzieC1xAuth40Acres0003). Table 116 in the EA Appendix discloses the acreages by unit. All are within the ranges prescribed in the Forest Plan. The EIS for the Forest Plan addressed the impacts to resources from these patch sizes, therefore an in-depth analysis for this site-specific project was unnecessary.

The draft Decision Notice and FONSI determined consistency with NFMA and the Kootenai Forest Plan.

Issue 51: Beetle Risk

Contention 1:

The objector contends the responsible official failed to provide evidence regarding beetle impacts on the project area because the objectors field visit found no evidence of spruce bark beetle in Unit 72 (Rampike area).

Objector(s): Peterson

Response: Regional pathologists and entomologists visited the project area in August 2017 and provided a trip report (project record **20190508LtrBRFHPReportx1GarciaT1x0026**). The report includes this paragraph:

> Of greatest concern in the PA is SB, especially in areas with homogenous patches of mature Engelmann spruce in the large size class (e.g. the Rampike area; Appendix C-Fig. C1). This beetle is highly attracted

to freshly downed material whether it be human- or nature-caused (Schmid and Frye 1997; USFS 2010; Jenkins et al. 2014). If populations are able to build in this material, an outbreak can occur. Often these outbreaks are short lived and somewhat localized. However, if sufficient high-hazard spruce stands are available (Randall et al. 2018; Steele et al. 1996), SB can cause significant wide-spread mortality on landscape scales (Holsten et al. 1999; Munson 2005).

PA is project area. SB is spruce beetle. The EA states on p. 102 that consideration of forest health emphasizes prevention as opposed to suppression as a management strategy for insects, pathogens and natural disturbances that are considered detrimental to resource production. This emphasis is made with recognition of their beneficial role regarding resources and ecosystem functions.

Proposed treatments are based on sound rationale provided by subject matter experts.

Issue 52: Treatment of Moist Forest Types and Old Growth

Contention 1:

Objectors contend that harvest in moist forest types will destroy functioning old growth, increase fragmentation, increase fire risk, is not based in science, and will violate the Forest Plan. They further contend the EA does not address this conflict, in violation of NEPA.

Objector(s): Garrity, Peterson, Zukoski

Response: Prescribed treatments to improve resiliency in old growth stands are based in science. No less than 24 scientific research papers regarding these treatments are cited on page 126 of the EA. The treatments are designed to maintain functioning old growth stands (EA p. 129, EA Appendix p. 84). Treatments are not intended to reduce fire "risk", but to reduce fire intensity and severity (EA p. 74, Appendix G p. 74.) Increasing patch size decreases fragmentation (EA pp. 129-130).

How and why the project complies with FW-DC-VEG-03 is disclosed in the EA (pp. 112, 129, 133). Increasing the resistance and resilience of potential old growth stands meets the desired condition of increasing the amount of old growth at the forest-wide scale. How and why the project complies with FW-GDL-VEG-01 is disclosed on page 112,138. Characteristics of treated stands will not be modified beyond the point of meeting Green et al., in accordance with the 2015 Kootenai Forest Plan.

Table 49 (EA p. 120) shows that the large size class across the project area will decrease from 43 percent to 42 percent. The preponderance of stands in the project area are in the large size class, and a decrease of one percent is not significant. The EA states that the acreage of stands that would have structures similar to old growth is predicted to increase by approximately 78 percent over current amounts over the next 50 years (pp. 111-112).

There is no violation of NFMA or NEPA.

Issue 53: Recruitment Old Growth

Contention 1:

The objector contends that the responsible official does not explain "old growth recruitment criteria" in violation of NEPA.

Objector(s): Garrity

Response: The Forest Vegetation section used and referred to the 2015 Forest Plan definition of recruitment potential old growth (EA pp. 112-113). Projections are based on modeling, as disclosed in the EA. There is no violation of NEPA.

Fire and Fuels

Issue 54: Need for more Wildland Urban Interface (WUI) Treatment

Contention 1:

Objectors contend that the responsible official did not emphasize treatment of the WUI, where the treatments are actually needed.

Objector(s): Peterson, Partin

Response: The responsible official analyzed a reasonable range of alternatives and conducted a thorough analysis of the project area and identified the best opportunities for treatment in the WUI based on existing fuels conditions, prior treatments and wildfires and cumulative effects. The initial proposed action was modified to incorporate public input and to incorporate changed conditions due to recent wildfire and suppression activities (EA p. 6). This contention was addressed in the response to comments (EA Appendix G, pp 73-78). Also see response to NEPA: Purpose and Need Contention 2.

I conclude that the proposed action and alternative were appropriately developed to meet the purpose and need statement to "Reduce the potential for high intensity wildfire while promoting desirable fire behavior characteristics and fuel conditions in the Wildland Urban Interface and other areas with values at risk."

Issue 55: Impacts of Past Fires and Fire Suppression

Contention 1:

Objectors contend that the responsible official did not take a hard look at the impacts of past fires and fire suppression effects, including the Davis fire nor the need for restoration of burned areas in violation of NEPA.

Objector(s): Garrity, Zukoski

Response: Past wildfires and suppression activities were addressed in the existing conditions (EA pp. 23-24) and in the effects analysis to Forest Vegetation (EA pp. 100-101) and Soils (EA p. 236). The proposed action was modified to incorporate changed conditions due to recent wildfire and suppression activities in the 2018 Davis Fire area (EA pp.4-6). Potential resource concerns due to suppression activities on the Davis Fire were mitigated as per the 2018 Davis Fire, Fire Suppression Activity Rehabilitation Plan (in project files 20181017DocDavisRehbPlnx1BothmanT1x0007**).**

I conclude that the responsible official addressed past actions, including past wildfires and suppression activities, into the description of existing conditions and in the analysis of environmental effects.

Issue 56: Fuel Treatment Effectiveness

Contention 1:

An objector contends that the responsible official inadequately determined that treatments are needed or are effective and rather the responsible official should rely on natural fire to treat the area while treatments should be focused on private property, additionally fuel treatment effectiveness should be analyzed at the fireshed level.

Objector(s): Garrity

Response: This objector is questioning the need for the proposed fuels treatments, the effectiveness of the proposed treatments in meeting the purpose and need, and the fuels analysis conducted by the Forest Service. The responsible official provides adequate rationale for the need for fuels treatments (EA. pp. 2-3), and the effects analysis of fire and fuels section describes how the action alternatives would meet the purpose and need as well as Forest Plan direction (EA pp. 84-95). Analysis methods are described in the fire and fuels section (EA pp. 76-78). The spatial extent for fuels analysis is described is the project area boundary (EA. p.78). Fireshed boundaries were delineated at a national scale and have not been applied to project level analysis. Treatments on private property are outside the control of the Forest Service and the agency is a sponsor of the Firewise program, encouraging homeowners to reduce fuels around homes in the interface.

I conclude that the responsible official applied sound rationale for the purpose, need and approved methodology in analyzing and the effects of the proposed fuels treatments.

Climate Change

Issue 57: Impacts of Climate Change to Vegetation

Contention 1:

Objectors contend that the responsible official did not conduct a proper analysis of the impacts of climate change on forest vegetation, in violation of NEPA. They further contend that the responsible official fails to provide climate change modeling or account for variability of models.

Objector(s): Peterson, Garrity

Response: The objector contends the analysis violated NEPA by failing to consider how climate change impacts project area vegetation including that the "desired" vegetation conditions will likely not be achievable or sustainable. The Forest Vegetation effects analysis provided context of climate change influences to vegetation in the methodology, existing conditions, and modeled future conditions. The methodology states, "The HRV was reviewed in the context of climate change and were found to be consistent with conditions that would improve resistance and resilience under climate change." (EA p. 99). The importance of past and current disturbances (including fire, insects, disease, climate change, and increasing human uses) when evaluating "whether current management will be within acceptable and feasible bounds for potential future landscape conditions" are considered (EA pp. 99, 102, 103). The Northern Rockies Climate Change Vulnerability Assessment (Halofsky et al. 2018). to consider past, current, and future climatic influences on vegetation and disturbances was included in the discussion of Affected Environment (EA p. 100). Modelling of future old growth stand acres that were used in development of the Forest Plan was applied to this project. These models included climatic and other disturbance variables (EA p. 112).

The responsible official adequately considers climate change impacts to forest vegetation.

Issue 58: Carbon and Carbon Sequestration

Contention 1:

An objector contends that the responsible official does not discuss the effects of clearcuts on water retention or soil and water chemistry because clearcutting can affect carbon sequestration; nor did the responsible official analyze carbon cycling and storage in violation of NEPA.

Objector(s): Zukoski, Peterson

Response: The objector contends the analysis violated NEPA by failing to provide adequate analysis of project impacts to climate change. The project record includes an analysis of carbon cycling and storage (20190112RptCarbonx1MacyN1x0010). The analysis provides context for the project's contribution to carbon storage "The total carbon stored on the Kootenai National Forest is approximately 174 Tg, or about thirty-nine one hundredths of one percent (0.0039) of approximately 44,931 Tg of carbon stored in forests of the coterminous United States (Heath, et al. 2011). The Black Ram Project would affect only a tiny percentage of the forest carbon stocks of the Kootenai National Forest, and an infinitesimal amount of the total forest carbon stocks of the United States." (p. 6). The report also acknowledges that conversion of forested lands to non-forested lands is the primary factor negatively impact carbon storages. However, the analysis concludes that the forested lands in the project areas will remain forested.

Effects of the project on soil and water are measured using the indicators established in the 2015 Kootenai Forest Plan (EA p. 52-54, 232). Soil and water chemistry are not chosen resource indicators. Organic matter and coarse woody debris act as a mulch to hold water, and this ensures productivity and resilience (p. 232, Appendix p. 102).

The responsible official adequately disclosed the impacts of the project to carbon.

Issue 59: Climate Change Effects on Soil and Water Resources

Contention 1:

An objector contends that the deciding official has insufficiently addressed climate change effects on water resources within the Black Ram project.

Objector(s): Peterson

Response: The Forest Service Organic Act, National Forest Management Act, Multiple Use Sustained Yield Act, and Clean Water Act all provide direction toward long-term maintenance of water quantity and/or quality, even in the face of changing environmental conditions.

The Black Ram EA includes a detailed assessment of anticipated effects of project activities on water yield. The analysis provides salient detail on best science and found that anticipated increases in water yield and/or peak flows resulting from project activities would likely be negligible.

Though climate change is not explicitly discussed within the Black Ram Water Resources analysis, the analysis is underpinned by the dynamic nature of hydrographs in forested watersheds, as evidenced by reference to varying recurrence intervals that may be affected by forest harvest. By accounting for continuously varying hydrologic response, the project analysis has met the regulatory burden for maintenance of water quantity and quality in the face of changing climate.

Transportation and Recreation

Issue 60: Travel Forest Plan Compliance

Contention 1:

An objector contends that the responsible official fails to demonstrate compliance with FW-OBJ-AR-03 in violation of NFMA.

Objector(s): Garrity

Response: An objector contends that the responsible official fails to demonstrate compliance with FW-OBJ-AR-03 in violation of NFMA. In addition, they contend that NEPA regulations at 40 CFR § 1502.24 weren't followed in respect to methodology, scientific accuracy, and scientific integrity. Furthermore, they assert INFISH Forest Plan Standard #RF-2 was not followed in a Transportation Plan, nor was consistency with Travel Management Rule 36 CFR Part 212, Subparts A, B, and C addressed.

A site-specific project does not have to meet an objective that applies to the entire Kootenai Forest. How this project contributes to this objective is demonstrated on page 253 of the EA. Road maintenance, road decommissioning and intermittent storage are all part of the Black Ram draft Decision.

It is unclear how the objector feels the transportation analysis lacks scientific accuracy. The methodology, including assumptions and limitations, are described in the EA (p. 244-245). Science-based forest-wide and project level travel analyses were conducted and are in the project record (cited on EA p. 254). This complies with Subpart A. The Forest published motor vehicle use maps annually to comply with Subpart B. Subpart C does not compel a site-specific project to designate over-snow vehicle use.

There is no violation of NFMA.

Issue 62: Access to trails

Contention 1:

An objector contends that the responsible official fails to meet the stated purpose and need of maintaining public access across the project area to trails, in violation of NEPA.

Objector(s): Peterson, Aaron

Response: The objector contends that the responsible official fails to meet the stated purpose and need of maintaining public access across the project area to trails in violation of NEPA.

Burn operations creating temporary trail closures for public safety are unlikely to be in effect for more than three days on any given trail. Overall, public access to roads and trails are maintained, four new non-motorized trails are to be created, and Hawkins Lakes parking area will be improved.

The project is not at odds with the purpose and need and does not violate NEPA.

Issue 63: Feasibility of Road Closures and Storage

Contention 1:

The objector is concerned with the economic feasibility of placing roads into storage/decommissioning by proposed methods and doesn't support the Level 5 decommissioning technique.

Objector: Partin

Response: Levels of treatment for the proposed storage and decommissioning can be found in Tables 128 and 129 of the EA and Appendix pages 20-22 where it shows there are no roads proposed for level 5 treatment. This identical concern was included in the response to comments at EA Appendix page 101.

Issue 64: Road Use and Inventory

Contention 1:

An objector contends that the responsible official did not accurately inventory roads within the project area nor take a hard look at unauthorized road use in violation of NEPA.

Objector(s): Peterson, Garrity

Response: Unauthorized road use is acknowledged in the EA in multiple places (p. 293; Appendix pp. 117-118). The Biological Opinion for the Forest Plan extensively addresses unauthorized use and the potential impacts. Roads were inventoried for the project and forest-wide in the respective travel analysis reports. (Project file 20190227Docx1AndersonS1xBlackRamTAR; 20201215DataBMU14BMU15ClosureMonitoringx1HillS1x). It is unclear how the objectors view these inventories as inaccurate.

Issue 65: Road Building through Old Growth

Contention 1:

An objector contends that the responsible official failed to respond to comments regarding insufficient analysis of road building through old growth in violation of NEPA.

Objector(s): Peterson

Response: Effects to old growth from the 0.8 miles of road construction are considered in the EA (p. 112, 130-132). Comments regarding old growth are provided responses in the EA (Appendix p. 87-89). The loss of old growth amounts to 0.13 percent (19 acres / 13,705 acres). An alternative was created that did not include road construction through old growth (EA p. 13; draft DN p. 8). This is not a significant concern, and the project is within Forest Plan direction for old growth. Also see response to Issue 3.

The objector's comments were considered, and a sufficient analysis of effects was conducted.

Issue 66: Pacific Northwest National Scenic Trail

Contention 1:

Objectors contend that the responsible official did not adequately analyze the impacts of the project on the PNWST nor the impacts of the yet to be completed comprehensive management plan on the PNWST in violation of NEPA.

Objector(s): Peterson, Mattson

Response: The EA does a thorough job of analyzing the project and the associated effects to the Pacific Northwest National Scenic Trail (PNNST) (pp. 186 -187). The mileage and routes that make up the PNNST through the project area are disclosed. This National Scenic Trail was established by Congress in 2009, and some of the existing route is located on existing motorized, open roads.

Scenery analysis related to the PNNST is addressed (p. 230) and explains the specific effects from harvest activities along roaded sections of the trail. Design features will lessen the impact from timber harvest and the EA clearly states that within 5 to 15 years the high scenery integrity objective (SIO) will be met. Units treated for fuels will meet the high SIO in a shorter time frame of two to three years.

Forest Plan direction and the National Trails System Act of 1968 provide the guidance for the PNNST and what needs to be considered in this project plan and associated analysis. What the Comprehensive Management Plan for the PNNST will contain is pure conjecture and inappropriate to be included in this analysis.

I conclude that the responsible official adequately analyzed and documented impacts to the PNNST.

Issue 67: Recreation and Trails

Contention 1:

An objector contends that the responsible official failed to properly analyze recreation and trail uses, including unauthorized use, and inadequately responded to his comments, in violation of NEPA.

Objector(s): Peterson

Response: Dispersed recreation and trail use are described in the EA (p. 185). The project alternatives and the various effects to the recreation resource are explained (p. 187). The analysis includes information on proposed trail and recreation infrastructure improvements. Dispersed use and inventories of development level 0-1 sites is a proxy for dispersed use amounts occurring in an area. The EA clearly explains the alternative proposals and how each will affect the project area. Forest Plan direction is clearly linked to all proposed recreation activities proposed within this project area. Regarding response to comments, see Issue 3.

I conclude that the responsible official analyzed and documented recreation and trail uses, including unauthorized use.

Issue 68: Roadless Areas

Contention 1:

An objector contends that the responsible official doesn't recognize best scientific information that indicates the high ecological integrity and functioning of roadless and unmanaged areas in violation of NEPA.

Objector(s): Garrity

Response: The recognition of the ecological integrity and functioning of roadless areas is inherent in the Roadless Area Conservation Rule. They are evaluated using five wilderness attributes, as disclosed in the EA (p. 142). This analysis considers the effects to the entire roadless expanse, including both the inventoried roadless area and the unroaded lands contiguous to the inventoried roadless areas (Northwest Peaks IRA #663 and West Fork Yaak IRA #694).

The extent of the proposed action in roadless areas consists of prescribed burns withs selective slashing of saplings (Black Ram EA, Table 52, p. 149). Low to moderate intensity prescribed burns will not degrade the ecological integrity of the roadless area, and will improve the natural characteristic of the roadless expanse where fire has been excluded. The methodology for assessing effects is to use the characteristics defined in the 2001 Roadless Area Conservation Rule. That meets the NEPA criteria for scientific accuracy.

The responsible official adequately analyzed and disclosed the impacts to roadless areas and associated unroaded areas.

Economics

Issue 69: Economic Analysis

Contention 1:

An objector contends that the economic analysis in the EA fails to account for many of the significant restoration activities with itemized monetary costs of the project activities, in violation of NEPA.

Objector(s): Garrity, Partin, Zukoski

Response: The economic analysis for Black Ram provides a present net value (PNV) calculation for both timber related activities, and all other non-timber related project activities, including those contended by the objector. The PNV calculation shows that the project as planned, across the alternatives, would provide a net positive financial benefit. Individual costs are identified and categorized in the PEAT spreadsheet (PEAT_Black_Ram_4.2.19), in the project file. This spreadsheet is the record which holds the financial efficiency analysis for the entire project and is the tool which calculates the PNV used in the economic analysis report.