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February 2, 2021

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

RE: OBJECTION AGAINST THE SAWMILL-PETTY PROJECT DRAFT DECISION NOTICE/FINDING OF NO SIGNIFICANT IMPACT

1. **Objectors Names and Addresses and Telephone Numbers**

Lead Objector Sara Johnson, Director, Native Ecosystems Council (NEC), PO Box 125, Willow Creek, MT 59760; 406-579-3286.

Mike Garrity, Director, Alliance for the Wild Rockies (AWR), PO Box 505, Helena, MT 59624; 406-459-3659.

Signed for Objectors this 2nd day of February, 2021

Sara Johnson

2. Name of the Proposed Project, Name of the Responsible Official, Name of National Forest and Name of the Ranger District on which the Proposed Project will be Implemented.

Sawmill-Petty Project on the Ninemile Ranger District of the Lolo National Forest, Responsible Official Carolyn Upton, Lolo Forest Supervisor.

3. <u>Attachments/Appendices to the Objection</u>

We have included 2 attachments and 2 appendices along with this objection. The attachments address the impact of forest openings on wildlife, and impacts of logging and prescribed burning on western forest birds. Appendices A and B include hard copies of relevant portions of publications and/or reports that were cited in the 2 attachments.

4. <u>A Description of those Aspects of the Proposed Project Addressed by the Objection, including how Objectors believe the Proposed Project specifically violated Law, Regulation or Policy, including how these Violations Were Previously Addressed in Specific Written Comments on the Proposed Project.</u>

On September 29, 2020, NEC and AWR provided comments and questions on the draft Environmental Assessment (EA) for the Sawmill-Petty Project. We are following through with these comments by including each specific issue as legal violations cited in this Objection. Discussion of each of these legal violations also includes addressing the Forest Service "Response to Comments" in Appendix D of the Draft Decision Notice. As noted in the following discussions, these Response to Comments have not resulted in the dismissal of any of our concerns and issues identified in our draft EA comments.

a. **The timeline is outside the scope of the NEPA (National Environmental Policy Act) and cannot meet the requirements of the National Forest Management Act (NFMA) because the Lolo Forest Plan lacks any valid conservation strategies for wildlife associated with snags, old growth forests, and 50 species of western forest birds; this means that the agency would be implementing a long-term project (15-20 years) without any conservation of wildlife, which means that the diversity requirement of the NFMA cannot be met; in addition, the agency cannot meet the requirements of the NEPA to provide high quality data to the public, because the size and complexity of the project prohibit the agency from defining impacts to wildlife for each year of the project; the size of the Sawmill-Petty project is also outside the scope of both the NEPA and the NFMA because reasonable wildlife surveys are not possible, either by qualified individuals, or multiple year surveys required to locate some species, as the goshawk.**

The implementation schedule for the Sawmill-Petty Project in Appendix C only goes out to 2030, but activities are actually planned for at least 15 years, with prescribed burning likely going out much further. In the Response to Comments, the agency noted that a female grizzly bear is expected to move into the project area within the next 10 years, and that additional consultation would be required if this happens. How would new restrictions on logging and burning impacts address this event, given that logging contracts would be in place? Although not noted in the Response to Comments, the current plight of North American avifauna is not addressed in the proposed project, so this lack of analysis and a conservation strategy would be implemented for 15 years or more, with the significance of impacts unknown. The NEPA does not allow long-term impacts to be implemented without an adequate assessment of impacts. This approach essentially escapes the purpose of the NEPA. The status of western forest birds cannot be accurately predicted 15 years from now, so this project is clearly outside the scope of the NEPA timelines.

The size of the proposed Sawmill-Petty project is clearly a violation of the NEPA timeline because the agency is unable to provide even a reasonable level of information on habitat conditions for wildlife over the life of the project. There were no maps or data provided on the level of hiding cover for MIS elk for each year of the proposed project, because of the complexity of the proposal. The amount of roads with motorized activity over several vehicle trips per 12 hour period as displacement to elk for each year of the project, which is habitat effectiveness, was not provided The location of elk security areas during each year of the proposed project was not provided, either with maps or percentage of areas in security. The location and amount of grizzly bear security areas during each year of the project was not provided as well. Leaving out the impacts to wildlife for each year of a long-term project is just a means of the agency escaping the requirements of the NEPA. Providing data for the beginning and end of a long-term project does not comply with the requirements of the NEPA. In order to comply with the information requirements of the NEPA, the agency has to limit the size and length of a project to one where high quality information can be provided to the public during the life of the project.

The Response to Comments section of the draft DN for this project noted that the wildlife report said that staggering of the many projects planned for the Sawmill-Petty Project will mitigate elk displacement.

However, how this will be achieved each year of the project was never disclosed to the public.

The agency also is required by both the NEPA and the NFMA to limit site-specific projects to a time and area of the landscape to that which ensures that valid, multiple-year wildlife surveys will be conducted in order to disclose impacts to wildlife as well as ensure Forest Plan protections will be implemented.

One key factor in regards to the unacceptable long term proposal of vegetation treatments in the Sawmill-Petty landscape is that these projects will continue to be implemented under a Lolo Forest Plan that has severe deficiencies for preservation of wildlife. For example, the snag management strategy defined in the Forest Plan is outdated by at least 30 years. Wildlife associated with snags need snags within a forest, not within a harvest unit (Goggans et al. 1989; Swallow et al. 1986; Bull et al. 1997). As well, the Forest Plan allows logging of old growth, as long as minimum criteria are maintained. This too will not protect wildlife associated with old growth. And the Forest Plan is completely lacking in any conservation strategy for at least 50 species of western forest birds, a large group of wildlife that are undergoing severe declines since the mid-1970's. And finally, the Lolo Forest Plan has no analysis or strategies to address climate change, including for western forest birds. It is clear that climate change will continue to have devastating impacts on birds (D'Ammassa 2020; Untitled 2020). Implementing a 15-20 year project without any valid conservation strategies for wildlife in the Lolo Forest Plan is a violation of the NFMA since wildlife diversity will not be maintained.

b. The application of Forest Plan monitoring to implementing a 10-20 year project cannot be done, in violation of the National Forest Management Act.

In the Response to Comments on this concern by NEC and AWR, the Forest Service acknowledged that monitoring of management activities on the Lolo National Forest are ongoing. However, the agency was not able to define how yearly and biennial monitoring could be applied to a 15-20 year project. As with using long-term projects to escape the timeliness of the NEPA, the Forest Service is also using long-term projects to escape the monitoring requirements of the NFMA. How can you apply recent monitoring results to a project that will continue for 15-20 years?

c. The agency failed to define to the public how all the various activities, logging, prescribed burning, road reconstruction, new road construction, etc., will be coordinated over time to prevent excessive disturbances to wildlife, with elk as the indicator species for summer habitat effectiveness.; this is a violation of the NEPA.

The various maps for the project display a massive amount of activities that would be ongoing over 15-20 years. Even if the agency actually made an attempt to define to the public how disturbances to wildlife would be limited with all these activities, it would clearly be impossible for the public to digest this schedule, and understand it on the ground. Again, the agency is using a large and long-term project to escape the requirements of the NEPA, which is to provide high-quality information to the public as to how agency management activities are going to be implemented on public lands. As just one example, where is the information and maps that show where elk security areas will occur during each year of the project? Where will grizzly bear security areas be located during each year of the project? What will the active motorized route density for elk and grizzly bears be for each year of the proposed projects? How has the project been designed so that these security areas and road densities will not be exceeded during any given year of the project?

d. The impacts to wildlife are uncertain due to a lack of surveys.

In response to this concern, the Forest Service stated in the Response to Comments that surveys for wildlife were done one year, in 2020, in certain forest stands (multistory forest for lynx) that were in units. This hardly provides valid surveys for forest raptors and woodpeckers, including the goshawk and pileated woodpecker. Surveys are critical to protecting any remaining raptor and woodpecker nesting areas in this landscape, due to extensive habitat losses from past logging and burning. It is highly unlikely that high-quality wildlife surveys can be done pect valid wildlife surveys to be done by timber marking crews, who will not be using accepted survey methods for locating goshawks and pileated woodpeckers and the accepted period for surveying. For example, goshawk nest surveys are usually done early in the spring (Reynolds et al. 1992, and Clough 2000). And Clough (2000) noted that in her research, it took about 114 hours to locate each goshawk nesting pair.

This clearly demonstrates that the proposed project is outside the scope of the NEPA, for providing high quality information to the public, due to the size of the project. The project is clearly too large to ensure that even minimal surveys will be done for wildlife. This means that project impacts on MIS cannot be predicted, which means the use of an EA for this project is a violation of the NEPA. The ability of the agency to complete valid wildlife surveys, over a valid period of time (over years, not one year), which is a requirement of the Lolo Forest Plan, dictates that the size of proposed projects needs to be based on the completion of multiple-year high quality wildlife surveys completed by qualified surveyors. This requirement needs to be included in the costs of the project, which would clearly be a huge required expense. However, for this project, there appears to have been almost no budgeting for wildlife surveys, as none are included in the economic report, and almost no surveys were done during project planning, even though the project is planned to begin this next year.

e. A Forest Plan amendment is needed for this project as MIS will not be managed for persistence across the project area, as is claimed in the Lolo Forest Plan.

Without high-quality surveys for MIS, such as the goshawk and pileated woodpecker, there is no management possible for these species since a key factor is protecting nesting habitat. As well, the sensitive flammulated owl cannot be conserved without location of nesting areas. The importance of identifying nesting habitat was noted in the 1997 Targhee National Forest Revised Forest Plan, where specific habitat requirements have been identified for goshawk and various owl nesting areas, including the flammulated owl. A habitat conservation plan for forest raptors and woodpeckers is not possible unless nesting areas are located There are also specific conservation strategies identified for the MIS pileated woodpecker (Bull and Holthausen 1993), which requires location of territories. Since this project does not adherer to the Lolo Forest Plan to survey and thus conserve habitat for various MIS and sensitive species, a Forest Plan amendment is needed, including an analysis as to how these lack of surveys will affect predictions as to viability of MIS and sensitive species during the current planning period.

f. <u>The Agency Failed to Provide any Meaningful Information on the Distribution and Percentage of Old-growth Forests in the Project Area, in violation of the NEPA and the NFMA.</u>

This concern was not cured in the Response to Comments. It remains unclear how much old growth as per Green et al. (1991) occurs in the Project Area, where these areas are, and which areas are planned for logging and/or burning. In the Attachment addressing the impact of logging on western forest birds, we provided recommendations by the current best science that from 20-25% old growth is recommended for wildlife in the landscape, including for the MIS goshawk and pileated woodpecker that occur in the Sawmill-Petty Project Area. A large number of forest birds also depend upon old growth forests (20 species). Given the requirement of the Lolo Forest Plan to maintain MIS, and the requirement of the Migratory Bird Treaty Act (MBTA) and the Memorandum of Understanding (2008) between the U.S. Fish and Wildlife Service (FWS) and the Forest Service, maintenance of 20-25% old growth is essential for conservation of these species. If this level of old growth is not currently provided in the project area, then significant adverse impacts already exist for western forest birds and Lolo National Forest MIS. Determination of the significance of the proposed project on wildlife requires a valid inventory of old growth. As a result, the current and projected impact of past and planned projects in the project area are unknown, including whether or not these impacts were or will continue to be significant, in violation of the NEPA. And if old growth-associated wildlife species are not being maintained in the project area, then the agency is violating the NFMA, which also means that significant impacts will be triggered by the project.

As per the requirements of the NEPA, the agency needs to provide a complete, detailed inventory of old growth, including early, middle and late phase old growth (Whitford 1991; USDA 1993) to the public, and demonstrate how this old growth is being managed to preserve wildlife diversity and viable populations.

g. The agency claim that logging will not degrade habitat values for wildlife is invalid, as no analysis has ever been done for this project or in the Lolo Forest Plan to demonstrate that logging and under-burning of the various stages of old growth (early, middle and late) will not alter values to wildlife; the Lolo Forest Plan clearly violates the NEPA and the NMFA as well, for allowing logging and burning of old growth forests while claiming these areas remain functional old growth for wildlife; a Forest Plan amendment is required that maintains old

growth habitat values for wildlife, instead of including such areas in the timber management program.

We have provided an attachment to this objection that includes relevant information as to why logging old growth stands, or underburning them, degrades and/or completely destroys several or all the key values that old growth provides to wildlife. These changes created by logging are extensive, Neither the wildlife report for the Sawmill-Petty Project, or the Lolo Forest Plan FEIS, provide any analysis as to how the logging and prescribed burning of old growth forests, including early, middle and late stages of old growth, affect wildlife use. Just saying that the minimum criteria by Green et al. (1991) are maintained by logging and burning does not constitute an analysis of these treatment effects on wildlife. This implies that a seed tree harvest is old growth management. As is noted in our Attachment, a wide range of birds are impacted by logging of old growth, and a valid conservation strategy for old growth has to address wildlife values. If logging preserved old growth values for wildlife, there would be no need to require old growth forests, since these would be provided with timber management.

h. The claim in the EA that habitat for the MIS pileated woodpecker and northern goshawk will benefit from the project is false, and is a violation of the NEPA by providing information that conflicts with the current best science, and also violates the NFMA by a failure to maintain MIS, which in turn are being used as an indicator of wildlife diversity.

Since goshawk distribution in the Project Area is unknown, it will be impossible for the agency to meet the claims made in the EA that a 40-acre protected area around nests will be met with the project, which will ensure no significant adverse impacts will occur to this MIS. As we noted previously in regards to a lack of wildlife surveys, a goshawk research project in Montana required an average of 114 hours for each goshawk nest area that was located (Clough 2000). Given the almost complete lack of surveys in the Sawmill-Petty project area, the agency will not be protecting goshawk nesting areas, which means that any such areas will possibly be destroyed with logging. In addition to logging, the prescribed burning will remove snowshoe hare habitat, an important prey species for goshawks in Montana (Clough 2000). And logging will remove both snowshoe hare habitat (Holbrook et al. 2017b) and red squirrel habitat in forest stands

(Herbers and Klenner 2007, Holloway and Malcolm 2006). So it will be impossible that this project will not impact goshawks, and cause further declines that were initiated with past logging and burning activities. In turn, the claims made in the NEPA analysis for the Sawmill-Petty Project, that adequate habitat will be maintained for the goshawk, was never supported with any documentation. Adequate habitat includes 20% old growth (Reynolds et al. 1992), and enough forest in the landscape to prevent conversion to red-tailed hawk habitat (La Sorte et al. 2004). It is unclear if either of these requirements are currently met, let alone will be met with project implementation.

Monitoring over a 15-30 year period of the pileated woodpecker demonstrated severe declines of this MIS due to logging (Bull et al. 2007). This amazing monitoring program is a direct contradiction of the claims made in the Sawmill-Petty NEPA analysis that pileated woodpeckers will benefit from the project, and that adequate habitat will remain. The definition of "adequate habitat" was never provided, although this has been defined in a publication on this woodpecker by Bull and Holthausen (1993). This includes 25% old growth. The level of old growth that will be provided in the project area was never identified.

i. There was no information provided on snag habitat or snag management in the EA, in violation of the NEPA; application of the snag management direction in the Lolo Forest Plan is a violation of the NFMA, as this strategy will not conserve wildlife associated with snags, including 20 species of western forest birds; the Lolo Forest Plan needs to be amended before any additional vegetation management projects are implemented in order that a valid conservation strategy for birds and other wildlife associated with or benefited by snags is implemented; otherwise, the diversity requirement of the NFMA cannot be met with vegetation projects, regardless of the timeline planned; the amended snag management strategy needs to address the direct conflict between timber management objectives to reduce insects and disease in forest stands with the critical function of insects and disease for wildlife.

Not only is the Lolo Forest Plan, and as well, the Sawmill-Petty proposal 30-plus years outdated for snag management, but the purpose and need of the project is in direct conflict with the conservation of 20 species of western forest birds that require snag habitat for nesting and foraging. Large blocks of older forest where insects and disease are allowed to occur at

natural, undisturbed levels are essential for the 20 species of western forest birds associated with snags (Swallow et al. 1986; Goggans et al. 1989; Bull et al. 1997). A more recent example is the nesting of the three-toed woodpecker in beetle-infested stands in the Elkhorn Mountains of Montana with over 70 larger snags per acre, which provided a good bark beetle forage resource to feed nestings (Saab et al. 2012).

The direct conflict between wildlife management (maintaining high snag densities and insect infestations on the landscape) in the Lolo Forest Plan as well as the Sawmill-Petty Project, where a goal is to reduce insects and disease, means that the Forest Service is failing to conserve 20 species of western forest birds dependent upon snags, in violation of the NFMA. Any vegetation management projects should not go forward until the Lolo National Forest creates an amendment to the Forest Plan that corrects this severe conflict and implements a valid conservation strategy for wildlife associated with snags. Proceeding with vegetation management projects without fixing this deficiency means the agency is knowingly creating severe adverse impacts on wildlife, and failing to disclose these impacts in NEPA documents, and knowingly violating the NFMA by creating severe losses of wildlife habitat by emphasizing timber production and subsidies to private interests.

j. The analysis of the Sawmill-Petty Project on big game impacts is a violation of the NEPA; impacts on habitat effectiveness, cover, and security failed to represent on-the-ground effects of the project, or to apply accurate definitions of open roads and security areas; this means the significance of such impacts on elk were never evaluated (no hard look).

There was no map of hiding and thermal cover over the life of the proposed project. There was no valid definition of security applied to the project, so project impacts on elk security during and after the project were not accurately disclosed to the public. There are 2 recommendations for defining elk security, and both include hiding cover and/or minimum levels of canopy cover (Hillis et al. 1991; Lowrey et al. 2019). In addition, Lowrey et al. (2019) reported that in heavily-hunted landscapes, as in the Elkhorn Mountains of Montana, preferred elk security was in areas up to 60% canopy cover and up to 2 miles from active motorized routes.

The impact of activities and road use during the summer seasons for the timeline proposed for the project was never identified to the public. It remains unknown exactly how elk habitat effectiveness as per Lyon et al. (1985) will be measured for EACH year of the proposed project. These impacts cannot be averaged out at the end of the project, in 15-20 years. The direct impact of each year's activities need to be defined to the public. This includes an motorized activities over several vehicle trips per 12-hour period. Elk are displaced from roads with as little as 2-4 vehicles trips per 12 hours (USDA-MFWP 2013, attached to this objection), so any analysis that includes only roads open to the public will be invalid. Administrative use includes logging and other timber management activities, and will clearly exceed 2-4 vehicle trips per 12 hours, and thus impact elk. All administrative use on roads needs to be included in the analysis of elk habitat effectiveness during the summer season.

The impact of vehicle activity on roads was not updated to include the current best science as per Lowrey et aL. (2019), where elk selected security areas from 1.4 up to 2 miles of active motorized routes. The impact of the multitude of roads that will be used and constructed for this project means that the most current information needs to be used in assessing the impact of these roads on both elk security and elk summer habitat effectiveness.

The agency failed to define the current status of elk vulnerability for the Sawmill-Petty project area. Instead, population data was used as an alternative measure, which is not only invalid, but actually demonstrates an lack of security on public lands when elk numbers are over objectives; this indicates that elk are not available to public hunting due to displacement to private lands in the hunting season due to a lack of security on public lands (USDA-MFWP 2013).

The 15-year elk logging study in Montana (Lyon et al. 1985) defined good elk cover as 66% of the complete landscape. The current stated level of hiding cover in the project area is 59%, which is fairly close to what qualifies as "good cover" as per documented elk use over 15 years in Montana (Lyon et al. 1985). The proposed project will reduce this down to 41%, while increasing noncover habitat up to 59% of the project area. The impact of this hiding cover loss is not addressed in the analysis of elk security, which is a NEPA violation. The agency claims that security will be reduced slightly, but still meet the 30% recommendation. With only 41% hiding cover retained after project completion, it would be highly unlikely

that there would still be 30% security, which requires hiding cover provided by the understory (Hillis et al. 1991) or canopy cover levels ranging from 30-60% (Lowrey et al. 2019).

k. The direct and cumulative impacts of prescribed burning on elk winter range and elk calving areas was not identified in the Sawmill-Petty Project, in violation of the NEPA.

Although the agency claims that prescribed burning of elk winter ranges and calving ranges improves elk habitat, the data supporting this claim was never provided in the wildlife report or Sawmill-Petty EA. The public has no information as to what the impacts were on elk from the Ecosystem Maintenance Burning (EMB) for the Petty Creek Big Game Project. This information is essential to this NEPA analysis as the public needs to know that such activities actually resulted in documented benefits to big game, as additional projects are being planned. The importance of this monitoring information is all the more important as in the Response to Comments section, at page 65, it is noted that the FWP stated that no burns on, or adjacent to elk winter ranges and elk calving grounds should occur. Apparently the FWP does not agree that past burning on elk winter ranges and elk calving grounds resulted in benefits to elk. So the NEPA analysis for the Sawmill-Petty project has violated the NEPA by failing to address this conflict, while planning to burn big game winter range and calving areas.

L. Project assessments of impacts on the grizzly bear are nonexistent, in violation of the NEPA, the NFMA and the Endangered Species Act (ESA); the analysis of security areas is a violation of the NEPA and the ESA, since the agency has created your own definition of security, with no minimum size, which is inconsistent with the existing definitions of security; the agency needs to enter formal consultation with the U.S. Fish and Wildlife Service (FWS) in order to obtain a "take permit" for the increased potential for grizzly bear mortality that will occur from the vast use and increase in open and total roads in the Sawmill-Petty Project Area.

The Forest Service had made a decision not to manage this area for grizzly bears, even though future occupancy by female grizzly bears is expected, and even though this landscape is located in an important linkage zone for bears from the NCDE to other ecosystems, even as far as the Greater Yellowstone Ecosystem. This area provides a unique linkage zone

between the NCDE, the Cabinet-Yaak, and Bitterroot Recovery areas, as well as to the Greater Yellowstone Ecosystem.

The agency did not map any grizzly bear security areas for each year of the expected project. For a 15-20 year project, it does not provide the public with a reasonable level of information to define security before and after this project. The agency is not dismissed from the requirements of the NEPA and ESA just because you are implementing a long term, large project.

The agency claims that administrative use, including logging traffic, does not displace bears or increase their mortality risk. As a result the massive use and increase of roads for this project is identified as a "nonsignificant impact" on grizzly bears. Most notably, there is an undeniable huge impact on future grizzly bear use in this key linkage area. Use of this landscape for this purpose is being precluded by this project. There was no actual analysis as to what impact this will have on bear conservation and dispersal into adjacent ecosystems. One way of getting at this type of measure is to use existing data on motorized violation levels on roads and quantify what this would like be for the total existing and new roads that will be developed in this project area, and as well, how this affects grizzly bear mortality risk. The agency seems to believe that mortality of "transient" bears is not a concern. In a linkage zone, mortality of grizzly bears will be more significant because of the lost **opportunities for dispersal and genetic interchange between ecosystems. What is this measure?**

The EA did not quantify the expected increase in grizzly mortality risk from the increase in total roads, all of which will be accessible to hunters. If this impact cannot be quantified, how does the agency know the impacts will not be significant? The EA at 103 notes that monitoring of road violations will occur as funding allows. So the massive increase in roads is an agency priority for funding, but monitoring of road violations is not. If road violations cannot be monitored at an effective level, then the mileage of roads in a given area of the landscape should be scaled back to a level where sufficient monitoring of violations can occur. Otherwise, the agency is acknowledging that the potentially significant impact of road violations is not going to be measured.

The EA and Response to Comments did not identify the data that demonstrates that logging and burning will increase grizzly bear foods, including huckleberry, an shrub that grows in shaded forests. What is the research that has demonstrated increased use by grizzly bear in logged and burned habitat on the Lolo National Forest, or in the NCDE? It is a violation of the NEPA to make unfounded claims on the impacts of vegetation management.

m. <u>The project will have long-term adverse impacts on the ability of this landscape to promote the conservation of the threatened Canada lynx.</u>

The current best science has not been incorporated into the designation of Lynx Analysis Units in the Project Area, with the current LAUs being far too large to measure the quality of lynx habitat or the impacts of vegetation treatments.

Our attachment on the impacts of openings on wildlife include a discussion on how the current best science on lynx demonstrates that the Northern Rockies Lynx Management Direction (here after "Lynx Amendment") promotes extinction of lynx instead of conservation. This Forest Plan direction needs to be updated to actually promote lynx conservation before any further vegetation treatments on the Lolo National Forest are implemented.

The NEPA analysis for the Sawmill-Petty Project did not evaluate how the proposed logging and burning will impact populations of snowshoe hares. How is it known that these populations will not be significantly reduced with this project, and thus not require an EIS?

The claim that roads do not impact lynx was not supported with any science. Squires et al. (2010) defined roads with dense forest cover and under 8 vehicle trips per day as road use that did not impact lynx. Certainly most, if not all, of the roads that will be sued for the Sawmill-Petty Project will have a higher volume of road use than this. As well, many of these roads will lack any significant vegetative cover along the roadway, which will exacerbate impacts of traffic.

There was no demonstration in the EA that the project complies with Forest Plan direction to maintain connectivity across LAUs. This requires at

least 65% cover, either in regenerating clearcuts (18-20%) and at least 50% mature forest. There was no map that displayed how this connectivity will be maintained during each year of the proposed project.

n. <u>The project clearly will exacerbate an already severe noxious weed problem in this landscape, which requires an EIS.</u>

As noted in our draft EA comments, the draft EA at 56 defined weed infestations as "extensive." Given that to date these weeds have not been eradicated, why should the public expect additional infestations that will be created by the vast use and construction of roads to be eradicated? The draft EA also notes that the current treatment of weeds is not that extensive, and is not a priority based on funding. Yet the agency has over $5 million dollars to do massive amounts of logging and burning. It is clear the agency has made a decision that weeds will clearly increase further with this massive project of ground disturbances, including roads. The false claim that weeds will decrease with this project are a violation of the NEPA. The true impact of this project, as well as the actual management priorities of the agency, were not accurately disclosed in the EA or Draft DN, in violation of the NEPA. There is clearly agency malfeasance regarding weed management, with agency actions promoting ever-increasing weed infestations across public lands. The agency is disregarding the ecological crisis their management continue to promote. Instead of promoting weed infestations in the Sawmill-Petty landscape, the agency needs to expend monies budgeted for this project on a massive weed control program, so that weed populations are actually controlled and reduced, rather than increased.

o. <u>The proposed project violates the Roadless Area Conservation Rule (RACR).</u>

The proposed treatments in IRAs will exacerbate existing weed problems. This is not ecological restoration.

A Forest Plan amendment is required to eliminate the hiding cover standards for elk. Why is elimination of wildlife Forest Plan standards considered "ecological restoration" of roadless lands?

We have provided extensive examples of why logging and burning harms 50 species of western forest birds, who populations are in significant

decline. Why is reduction of western forest bird habitat in IRAs restoration or maintenance of ecosystems or ecological processes?

Logging and prescribed burning will eliminate snowshoe hare habitat. Why is this ecological restoration?

The agency claims that prescribed burning of forests, including within IRAs, will create more open stands and openings. This has been called Ecological Maintenance Burning (EMB). Why this constitutes ecological restoration is never identified.

The agency failed to provide the monitoring results of previous EMB in the Sawmill-Petty Project Area, to demonstrate what wildlife resources were maintained or restored with this burning. This burning was clearly very extensive, as demonstrates in a map in the Response to Comments at page 66 of Appendix D.

The agency claims in Response to Comments that logging and burning in IRAs, including the Garden Point IRA, is designed to increase resilience of forests in the IRA. It appears that resilience is measured by the level of management actions completed in a forest, either logging or burning. It is not clear how this term applies to wildlife. How is wildlife resilience being measured by these treatments, and if it is not included as an objective of treatment, why not? How can you manage forest stands without addressing wildlife use as well?

The agency seems to indicate that forests that occur in IRAs but are adjacent to previously logged/roaded areas have no value to wildlife, and thus are excluded from the RDAR. We are not aware of what specific regulations in the RACR that exclude portions of the IRA, regardless of wildlife values, that can thus be managed for timber production. The agency needs to define how "substantially altered" is being defined for wildlife values, including why intermingled forests between existing harvest units are considered as "substantially altered" for all wildlife uses.

The agency never defined what the current levels of hiding cover are within previously-logged areas of the Garden Point IRA. Will the proposed logging units result in openings over 40 acres? If so, why is this considered ecological restoration of wildlife? Also, the size of the proposed openings needs to be identified to the public, as per the requirements of the NFMA.

The agency claims that prescribed burning of forests and understory in the IRAs is necessary to protect high value resources. It is clear this definition does not include wildlife resources, but it is not clear what the basis for this determination is. Why aren't wildlife values within IRAs considered "high value resources."

It is not clear that the existing roads in IRAs do not require what is considered "reconstruction," which is not allowed within IRAs. The agency notes that the maintenance of these roads in IRAs includes re-establishing the road prism, reshaping the road, establishing drainage and BMP requirements. It seems that the term reconstruction is just being defined as "improving to a higher standard." This is too narrow a definition of reconstruction, as it eliminates almost any road improvements within IRAs, regardless of the level of reconstruction required.

There is also a question about whether or not any of the roads planned for use in the IRA logging were previously decommissioned. This implies the agency made a prior decision to not use such roads for further management activities, but has not decided to change this decision. So are new drainage features, that were previously removed, going to be installed, and if so, why does this qualify as road maintenance?

Why does the burning of coarse woody debris created from the 2003 Thompson Creek fire, including within the IRA, constitute "ecosystem maintenance?" This implies that natural forest fires create conditions that need restoration through agency management actions. It is not clear why burned forests require ecological restoration.

p. <u>The conversion of unsuitable timber lands to lands available for logging because this will promote other resources was never discussed as per benefits to wildlife.</u>

The Forest Plan amendments for converting unsuitable timber lands to suitable timber lands was not evaluated as to impacts on wildlife, or how this will affect the management of wildlife across the Lolo National Forest, as defined in the FEIS for the Plan. This amendment will increase the area of the landscape where timber rather than wildlife is being promoted, which with the consideration of cumulative effects of a severely defective Forest Plan (no old growth conservation strategy, no valid snag management

policy, no conservation strategy for western forest birds) may contribute to unknown but likely significant declines of western forest birds on the Lolo National Forest. Any decisions to reduce unsuitable timber land acreages, and increase the acreage of forests subject to logging, require a Forest-wide analysis of how this practice will affecting ongoing population trends of wildlife, including western forest birds.

q. The agency is violating Forest Service direction as well as the NFMA and the NEPA by failing to identify the number and size of openings in the proposed project that will exceed the 40-acre size limit, or that have lost all wildlife values and provide habitat equivalent to a clearcut.

The agency claims at one point that no openings will be created by the project, since no clearcuts will occur, while at the same time, the draft EA at 51 says that open stands include any regeneration harvest. In the Response to Comments, regeneration harvest units include individual tree selection, seed tree cuts, and shelterwood regeneration cuts. So the agency is apparently trying to avoid any disclosure and analysis of openings sizes by claiming that as long as a few trees remain in a regeneration harvest unit, it does not qualify as an opening, which conflicts with agency definitions of openings. The agency also stated that openings over 40 acres were disclosed in Appendix 2 of the Vegetation Report. This is a violation of the NFMA and the NEPA, because the agency is required to disclosed any planned creation of openings over 40 acres to the public at least 60 days prior to a decision. Including such a disclosure in the appendix of a vegetation report that is in the project file does not constitute a reasonable disclosure effort to the public, in violation of Forest Service manual direction and the requirement of the NFMA.

We have provided an extensive review of how opening impact wildlife in one of our attachments to this appeal. The direct impacts may be huge, but the indirect impacts of habitat fragmentation can also be severe. The agency for the Sawmill-Petty Project completed no analysis of how the planned openings will impact wildlife, so cannot justify the conclusion of no significant wildlife impacts from the project.

The review of opening sizes that is required by the Regional Office was not cited in the draft decision. This review needs to be provided in the project record at the time of a draft decision so that the public has full

knowledge of the conclusions of this analysis, and how any specific recommendations provided by the Regional Office are being applied to the Sawmill-Petty Project to mitigate impacts to wildlife. If no mitigation recommendations were provided, this would indicate that this Regional approval is just a paper-work requirement that has no actual effect on project proposals. This would raise public concerns about the lack of any reasonable oversight in regards to agency creation of large openings that have severe impacts on wildlife.

r. The agency is violating the Migratory Bird Treaty Act (MBTA) and the Memorandum of Understanding (MOU) (2008) between the FWS and the Forest Service to conserve neotropical migratory birds and evaluate project impacts on such.

The agency's analysis of project impacts on migratory birds was limited to a brief mention of a few species, along with no actual conclusions about how their habitat needs will be met in the Sawmill-Petty Project Area. As per our attachment on the impacts of logging on western forest birds, it is clear that at least 50 species of these birds will be adversely impacted by the proposed logging as well as "ecosystem maintenance" burning. Due to past vegetation treatments of both logging and burning, in conjunction with the massive proposals for more vegetation treatments, it is highly unlikely that a significant amount of suitable habitat for these 50 species of forest birds will not be removed from this landscape. Due to a lack of analysis, the agency cannot support it's claim that there will be no significant adverse impacts to these 50 species of western forest birds, in violation of the NEPA.

It is clear that the project will cause a vast number of bird deaths due to destruction of nests during prescribed burning and logging operations. This intentional killing of neotropical migratory birds is a violation of the MBRA. It thus requires that the agency obtain a "take permit" for the birds the agency plans to kill. There is no analysis in the Sawmill-Petty NEPA analysis that measures the number of neotropical migratory that will be killed from logging and burning projects over the next 15-20 years. This analysis needs to be done in order for the Forest Service to request a take permit from the FWS for this project.

Relief Requested

The Sawmill-Petty Project needs to be abandoned until the Lolo National Forest amends the Lolo Forest Plan so that valid conservation strategies are developed and implemented for wildlife associated with old-growth forests, for wildlife dependent upon snag forests and insect epidemic and conifer seeds, as well as for western forest birds in general, and until the Lynx Amendment is updated to include the current best science for lynx, including criteria to measure landscape connectivity.

Regards,

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Article by USDA/FWP (2013) included