August 26, 2022

Via Email

To: Objection Reviewing Officer

USDA Forest Service Northern Region
26 Fort Missoula Road

Missoula, MT 59804

Dear Objection Reviewing Officer:

Thank you for considering our Objection against the Draft

Decision Notice, FONSI, and Environmental Assessment for the

Spotted Bear Mountain Project, Forest Service, Flathead

National Forest, Spotted Bear Ranger District.

Identification of Objectors: Lead Objector:

Michael Garrity,

Executive Director,

Alliance for the Wild Rockies (AWR)

PO Box 505 Helena, MT 59624;

Phone 406-459- 5936.

And for Sara Johnson Native Ecosystems Council

PO Box 125

Willow Creek, MT 59760

And for

Steve Kelly

Director Council on Wildlife and Fish (Formally Montana Ecosystem Defense Project)

P.O. Box 4641

Bozeman, MT 59772

Signed for Objectors this 26th day of August 2022

/s/

Michael Garrity

Name of the Responsible Official, National Forest, Ranger District where Project is Proposed: The Responsible Official, Spotted Bear District Ranger Scott Snelson, has made available a Draft Decision Notice (DDN) and Finding of NO Significant Impact (FONSI) for the Spotted Bear Mountain Project The Spotted Bear Mountain Project area is in the Spotted Bear Ranger District of the Flathead National Forest (FNF). This project proposes approximately 747 acres of commercial logging, 265 acres of precommercial logging, 28 acres of burning, 3.1 miles of new road construction, .9 miles of illegal road upgraded and added to the NFS system. The project area is

located approximately 40 miles southeast of the town of Hungry Horse, MT in Flathead County, MT.

Description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project if applicable, how the objector believes the environmental analysis, Finding of No Significant Impact, and Draft Decision Notice (DDN) specifically violates law, regulation, or policy. The selected alternative, Alternative B-Proposed Action which includes 4,604 acres of vegetation management on National Forest System lands, motorized access management, and a non-motorized trail system. The DDN calls for 2184 acres of commercial logging and 2420 acres of non-commercial logging and burning. As a result of the Draft DN, individuals and members of the above mentioned groups would be directly and significant-ly affected by the logging and associated activities. Objectors (hereafter AWR) are

conservation organizations working to ensure protection of biological diversity and ecosystem integrity in the Wild Rockies bioregion (including the FNF). The individuals and members use the project area for recreation and other forest related activities. The selected alternative would also further degrade the water quality, wildlife and fish habitat. These activities, if implemented, would adversely impact and irreparably harm the natural qualities of the Project Area, the surrounding area, and would further degrade the watersheds and wildlife habitat.

1.Objectors names and addresses:

Lead Objector Mike Garrity

Executive Director

Alliance for the Wild Rockies

P.O. Box 505

Helena, MT 59624

Phone 406 459-5936

And for

Sara Johnson

Native Ecosystems Council

P.O. Box 125

Willow Creek, MT 59760

And for

Steve Kelly

Director Council on Wildlife and Fish

(Formally Montana Ecosystem Defense Project)

P.O. Box 4641

Bozeman, MT 59772

2. Signature of Lead Objector: Signed this 26th day of August 2022 by Lead Objector,

/s/ Michael Garrity

3. Lead Objector:

Michael Garrity, Alliance for the Wild Rockies

4. Name of the Proposed Project, Responsible Official, National Forest and Ranger District where Project is: Spotted Bear Mountain Project; Spotted Bear District Ranger Scott Snelson is the Responsible Official;

The project is in the Spotted Bear Ranger District of the Flathead National Forest. Ranger Snelson chose the proposed action alternative which includes 1,040 acres of logging and burning on National Forest System lands, 3.1 miles of new logging roads and .9 mile of an illegal road added to the NFS in the Draft Decision Notice and FONSI.

NOTICE IS HEREBY GIVEN that AWR objects pursuant to 36 CFR section 218 to the Responsible Official's adoption of the selected Alternative. As discussed below, the Spotted Bear Mountain Project as proposed violates the Clean Water Act, the National Environmental Policy Act (NEPA), the National Forest

Management Act (NFMA), the Endangered Species Act (ESA), the Flathead Forest Plan and the Administrative Procedure Act (APA).

Location of the Spotted Bear Mountain project area is approximately 40 miles southeast of the town of Hungry Horse, MT in Flathead County, MT. Specific Issues Related to the Proposed Projects, including how Objectors believes the Environmental Analysis or Draft Record of Decision specifically violates Law, Regulation, or Policy: We included this under number 8 below.

Thank you for the opportunity to object on the Spotted Bear Mountain Project. Please accept this objection from me on behalf of the Alliance for the Wild Rockies, Council on Wildlife and Fish, Yellowstone to Uintas Connection, and Native Ecosystems Council.

6. Suggested Remedies that would Resolve the Objection: We recommend that the “No Action Alternative” be selected. We have also made specific recommendations after each problem.

7. Supporting Reasons for the Reviewing Office to Consider: This landscape has very high wildlife values, including for the threatened grizzly bear, lynx, big game species, and wildlife dependent upon unlogged. The project area will be concentrated within some of the best wildlife habitat in this landscape which is an important travel corridor for wildlife such as lynx, bull trout, grizzly bears, and wolverine. The agency will also be exacerbating an ongoing problem of displacing elk to adjacent private lands in the hunting season due to a lack of security on public lands. The public interest is not being served by this project. Suggested Remedies to Resolve the Objection: We recommend that the “No Action Alternative” be selected. We have also made specific recommendations after each problem.

Supporting Reasons for the Reviewing Office to Consider This landscape has very high wildlife values, including for the threatened grizzly bear, and lynx, big game species, and wildlife dependent upon mature forest habitat. The project area is concentrated within some of the best wildlife habitat in this landscape which is an important travel corridor for wildlife such as lynx, grizzly bears, and wolverine. The agency will also be exacerbating an ongoing problem of displacing elk to adjacent private lands in the hunting season due to a lack of security on public lands. The public interest is not being served by this project. Thank you for the opportunity to object. NOTICE IS HEREBY GIVEN that, pursuant to 36 CFR Part 218, AWR objects to the Draft Decision Notice (DDN) and Finding of No Significant Impact (FONSI) with the legal notice published on March 16, 2021, including the Responsible Official's adoption of proposed or selected Alternative. AWR is objecting to this project on the grounds that implementation of the Selected Alternative is not in accordance with the laws governing

management of the national forests such as the FLPMA, ESA, NEPA, NFMA, the Flathead National Forest Forest Plan and the APA, including the implementing regulations of these and other laws, and will result in additional degradation in already degraded watersheds and mountain slopes, further upsetting the wildlife habitat, ecosystem and human communities. Our objections are detailed below. If the project is approved as proposed, individuals and members of the above-mentioned groups would be directly and significantly affected by the logging and associated activities. Objectors are conservation organizations working to ensure protection of biological diversity and ecosystem integrity in the Wild Rockies bioregion (including the FNF). The individuals and members use the Flathead National Forest and the project area for recreation and other forest related activities. The selected alternative would also further degrade the water quality, wildlife and fish habitat. These activities, if implemented, would adversely impact and irreparably harm the natural qualities of the Project Area, the

surrounding area, and would further degrade the watersheds and wildlife habitat.

Statements that Demonstrates Connection between Prior Specific Written Comments on the Particular Proposed Project and the Content of the Objection

ROADS

We wrote in our comments:

I. NECESSARY ELEMENTS FOR PROJECT EIS or that need to be answered in an EA:

- ***Disclose the acreages of past, current, and reasonably foreseeable logging, grazing, and road-building activities within the Project area;***

- ***Solicit and disclose comments from the Montana Department of Fish, Wildlife, and Parks regarding the impact of the Project on wildlife habitat;***

- ***Solicit and disclose comments from the Montana Department of Environmental Quality regarding the***

impact of the Project on water quality;

- ***Disclose the biological assessment for the candidate, threatened, or endangered species with potential and/or actual habitat in the Project area;***

- ***Disclose the biological evaluation for the sensitive and management indicator species with potential and/or actual habitat in the Project area;***

- ***Disclose the snag densities in the Project area, and the method used to determine those densities;***

- ***Disclose the current, during-project, and post-project road densities in the Project area;***

- ***Disclose the Flathead National Forest's record of compliance with state best management practices regarding stream sedimentation from ground-disturbing management activities;***

- ***Disclose the Flathead National Forest's record of compliance with its monitoring requirements as set forth in its Forest Plan;***

- ***Disclose the Flathead National Forest's record of compliance with the additional monitoring requirements set forth in previous DN/FONSIs and RODs on the Flathead National Forest;***

- ***Disclose the results of the field surveys for threatened, endangered, sensitive, and rare plants in each of the proposed units;***

- ***Disclose the level of current noxious weed infestations in the Project area and the cause of those infestations;***

- ***Disclose the impact of the Project on noxious weed infestations and native plant communities;***

- ***Disclose the timeline for implementation;***

. ***Disclose the amount of big game (moose and elk) hiding cover, winter range, and security currently available in the area;***

. ***Disclose the amount of big game (moose and elk) hiding cover, winter range, and security during Project imple mentation;***

. ***Disclose the amount of big game (moose and elk) hiding cover, winter range, and security after implementation;***

. ***Disclose the method used to determine big game hiding cover, winter range, and security, and its rate of error as determined by field review;***

. ***Disclose and address the concerns expressed by the ID Team in the draft Five-Year Review of the Forest Plan regarding the failure to monitor population trends of MIS and the failure to compile data to establish a reliable inventory of sensitive species on the Forest;***

The Forest Service responded:

The EA states that barriers will be installed to prevent motorized use on closed roads. What is the effectiveness of these barriers, and how many miles of closed roads are expected to have illegal motorized use?

The Forest Service responded:

- ***Focusing on the last 20 years, in the 2000s and 2010s there was approximately 442 and 153 acres of timber harvest, respectively, within the project area. Within the last 20 years, there has not been any grazing permits***

issued within the project area. Regarding road activities since 2000, 48 miles of roads were decommissioned and 2.8 miles of temporary roads were authorized in and around the project area by the Spotted Beetle Resource Management Project (2002). The Spotted Bear River and Soldier Addition II Projects (2011) authorized 6.6 and 5.6 miles of temporary roads, respectively, near the Spotted Bear Mountain Project area, but not within the project area.

Montana Department of Fish, Wildlife, and Parks were notified during scoping of the proposed action and at the release of the EA. Comments were not received.

The Forest Service did not respond to the vast majority of our comments in violation of NEPA, NFMA and the APA.

Remedy: Choose the No Action Alternative or withdraw the Draft Decision Notice (DDN) and write and EIS that fully complies with the law.

We wrote in our comments:

Please find attached, an order signed on May 26, 2022 by the federal district court in Montana vacating the USFWS's withdrawal of the proposed listing rule. Wolverines are now protected as a species proposed for listing. Therefore the Forest Service must conference with the U.S. Fish and Wildlife Service on the impact of the project on wolverines.

The Forest Service responded:

An acreage summary of the various wolverine habitats is provided in the effects section for the No-action alternative (updated EA pp. 44-45). The effects of proposed road management activities on wolverine are described on page 45 of the updated EA. Maps of potential maternal wolverine/ denning habitat, primary wolverine habitat, and male/female dispersal habitat with proposed vegetation treatment units are included in project file exhibit Q-12. (p. 45 of the DDN)

Wolverines could be disturbed in primary and dispersal habitat during these activities. Current information does not indicate that potential stressors, such as land management activities like those proposed under the Spotted Bear Mountain Project (or other activities such as recreation, infrastructure development, and transportation corridors), pose a threat to the distinct population segment (USDI 2013). Land management activities (principally timber harvest, wildland firefighting, prescribed fire, and silviculture) can modify wolverine habitat; however, the wolverine is a generalist species that appears to be little affected by changes to the vegetative characteristics of its habitat (USDI 2013). Although some forested connections would be narrowed by proposed vegetation management, connectivity of forested cover would not be severed through implementation of project activities (project file exhibit Q-14). (pp. 44-45 of the EA)

The project is in violation of the ESA, NEPA and the APA because the Forest Service did not consult or conference with the FWS on the impact of the project on wolverines.

REMEDY

With draw the DDN and conference or consult with the FWS on the impact of the project on wolverines.

We wrote in our comments:

Please see the attached report titled: “Have western USA fire suppression and megafire active management approaches become a contemporary Sisyphus?” By Dominick A. DellaSala, Bryant C. Baker, Chad T. Hanson, Luke Ruediger[e,f], William Baker

The Forest Service responded:

The analysis of fire and fuels effects examined the site-specific outcomes of specific proposed treatments based on current fire behavior modeling. The article cited is national and multi-agency in scope. (P.47 DDN)

The DDN states on page one:

The purpose of the Spotted Bear Mountain Project is to move the project area towards the desired conditions defined by the 2018 Flathead National Forest Land Management Plan (forest plan). The difference between the existing condition and the desired condition creates a need for management action on the ground. The following purposes for the Spotted Bear Mountain Project compelled the need for action:

- ***Improve the diversity and resilience of terrestrial ecosystems and vegetation.***

- ***Reduce tree densities and fuel loadings within the wildland-urban interface to result in***
  less intense fire behavior near communities and facilitate safe wildland fire operations.

- ***Provide a mix of forest products to contribute to economic sustainability, providing jobs and income to local economies.***

The abstract of DellaSalla et al 2022 states:

Fire suppression policies and "active management" in response to wildfires are being carried out by land man- agers globally, including millions of hectares of mixed conifer and dry ponderosa pine (Pinus ponderosa) forests of the western USA that periodically burn in mixed severity fires. Federal managers pour billions of dollars into command-and-control fire suppression and the MegaFire (landscape scale) Active Management Approach (MFAMA) in an attempt to contain wildfires increasingly influenced by top down climate forcings. Wildfire suppression activities aimed at stopping or slowing fires include expansive dozerlines, chemical retardants and igniters, backburns, and cutting trees (live and dead), including within roadless and wilderness areas. MFAMA involves logging of large, fire-resistant live trees and snags; mastication of beneficial shrubs; degradation of wildlife habitat, including endangered species habitat; aquatic impacts from an expansive road system; and logging-related carbon emissions. Such impacts are routinely dismissed with minimal environmental review and defiance of the precautionary principle in environmental planning. Placing restrictive bounds on these activities, deemed increasingly ineffective in a change climate, is urgently needed to overcome their contributions to the global biodiversity and climate crises. We urge land managers and decision makers to address the root cause of recent fire increases by reducing greenhouse gas emissions across all sectors, reforming industrial forestry and fire suppression practices, protecting carbon stores in large

trees and recently burned forests, working with wildfire for ecosystem benefits using minimum suppression tactics when fire is not threatening towns, and surgical application of thinning and prescribed fire nearest homes.

The Spotted Bear Mountain project is not following the best available science and not meeting the purpose and need of the project in violation of NEPA, NFMA, and the APA.

Please see the attached paper by Dr. William Baker titled: "Are High-Severity Fires Burning at Much Higher Rates Recently than Historically in Dry-Forest Landscapes of the Western USA?"

Dr. Baker writes: "Programs to generally reduce fire severity in dry forests are not supported and have significant adverse ecological impacts, including reducing habitat for native species dependent on early-successional burned patches and decreasing landscape heterogeneity that confers resilience to climatic change."

Dr. Baker concluded: "Dry forests were historically renewed, and will continue to be renewed, by sudden, dramatic, high-intensity fires after centuries of stability and lower-intensity fires."

Based on Dr. Baker's paper, the proposed action will not meet the purpose and need of the project. Baker writes on p. 20:

“Management issues

The evidence presented here shows that efforts to generally lower fire severity in dry forests for ecological restoration are not supported.”

Dr. Baker’s paper is the best available science. Please explain why this project is not following the best availablescience. The Draft Decision Notice is in violation of NEPA.

In “Fire Ecology in Rocky Mountain Landscapes” by William Baker, Dr. Baker writes on page 435, “ ...a prescribed fire regime that is too frequent can reduce species diversity (Laughlin and Grace 2006) and favor invasive species (M.A. Moritz and Odion 2004). Fire that is entirely low severity in ecosystems that historically ex- perience some high-severity fire may not favor germination of fire- dependent species (M.A. Moritiz and Odion 2004) or provide habitat key animals (Smucker, Hutto, and Steele 2005).” Baker continues on page 436: “Fire rotations equal the average mean fire interval across a landscape and are appropriate intervals at which individual points or the whole landscape is burned. Composite fire intervals underestimate mean fire interval and fire rotation (chap 5) and should not be used as prescribed burning intervals as this would

lead to too much fire and would likely lead to adversely affect biological diversity (Laughlin and Grace 2006).”

Please find (Laughlin and Grace 2006) attached.

Dr. Baker estimates the high severity fire rotation to be 135 - 280 years for lodgepole pine forests. (See page 162.). Baker writes on page 457-458 of Fire Ecology in Rocky Mountain Landscapes:

“Fire rotation has been estimated as about 275 years in the Rockies as a whole since 1980 and about 247 years in the northern Rockies over the last century, and both figures are near the middle between the low (140 years) and high (328 years) estimates for fire rotation for the Rockies under the HRV (chap. 10). These estimates suggest the since EuroAmerican settlement, fire control and other activities may have reduced fire somewhat in particular places, but a general syndrome of fire exclusion is lacking. Fire exclusion also does not accurately characterize the effects of land users on fire or match the pattern of change in area burned at the state level over the last century (fig 10.9). In contrast, fluctuation in drought linked to atmospheric conditions appear to match many state-level patterns in burned area over the last century. Land uses that also match fluctuations include logging, livestock grazing, roads and development, which have

generally increased flammability and ig- nition at a time when the climate is warming and more fire is com- ing."

Schoennagel et al (2004) (please find attached) states: "High-elevation subalpine forests in the Rocky Mountains typify ecosystems that experience infrequent, high-severity crown fires []. . . The most extensive subalpine forest types are composed of Engelmann spruce (Picea engelmannii), sub- alpine fir (Abies lasiocarpa), and lodgepole pine (Pinus contorta), all thin-barked trees easily killed by fire. Extensive stand-replacing fires occurred historically at long intervals (i.e., one to many centuries) in subalpine forests, typically in association with infrequent high-pressure blocking systems that promote extremely dry regional climate pat-terns." Please find Schoennagel et al (2004) attached.

Schoennagel et al (2004) states: "it is unlikely that the short period of fire exclusion has significantly altered the long fire intervals in subalpine forests. Furthermore, large, intense fires burning under dry conditions are very difficult, if not impossible, to suppress, and such fires account for the majority of area burned in subalpine forests.

Schoennagel et al (2004) states: "Moreover, there is no consistent re- lationship between time elapsed since the last fire

and fuel abun- dance in subalpine forests, further undermining the idea that years of fire suppression have caused unnatural fuel buildup in this forest

zone."

Schoennagel et al (2004) states: "No evidence suggests that spruce– fir or lodgepole pine forests have experienced substantial shifts in stand structure over recent decades as a result of fire suppression. Overall, variation in cli-mate rather than in fuels appears to exert the largest influence on the size, timing, and se-verity of fires in sub- alpine forests []. We conclude that large, infrequent stand replacing fires are 'business as usual' in this forest type, not an artifact of fire suppression.".

Schoennagel et al (2004) states: "Contrary to popular opinion, previous fire suppression, which was consistently effective from about 1950 through 1972, had only a minimal effect on the large fire event in 1988. Reconstruction of historical fires indicates that similar large, high-severity fires also occurred in the early 1700s. Given the historical range of variability of fire regimes in high-elevation subalpine forests, fire behavior in Yellowstone during 1988, although severe, was neither unusual nor surprising."

Schoennagel et al. (2004) states: “Mechanical fuel reduction in sub-alpine forests would not represent a restoration treatment but rather a departure from the natural range of variability in stand structure.”

Schoennagel et al (2004) states: “Given the behavior of fire in Yellowstone in 1988, fuel reduction projects probably will not substantially reduce the frequency, size, or severity of wildfires under ex- treme weather conditions.”

Schoennagel et al (2004) states: “The Yellow-stone fires in 1988 revealed that variation in fuel conditions, as measured by stand age and density, had only minimal influence on fire behavior. Therefore, we expect fuel- reduction treatments in high-elevation forests to be generally unsuccessful in reducing fire frequency, severity, and size, given the overriding importance of extreme climate in controlling fire regimes in this zone. Thinning also will not re-store subalpine forests, because they were dense historically and have not changed significantly in response to fire suppression. Thus, fuel- reduction ef- forts in most Rocky Mountain subalpine forests probably would not effectively mitigate the fire hazard, and these efforts may create new ecological problems by moving the forest structure out-side the his- toric range of variability.”

Please find Schoennagel et al (2004) attached.

The NEPA requires a “hard look” at climate issues, including cumulative effects of the “treatments” in the proposed project when added to the heat, drought, wind and other impacts associated with in- creased climate risk. Regeneration/ Restocking failure following wildfire, prescribed fire and/or mechanical tree-killing has not been analyzed or disclosed. There is a considerable body of science that suggests that regeneration following fire is increasingly problematic.

NEPA requires disclosure of impact on “the human environment.” Climate risk presents important adverse impacts on cultural, economic, environmental, and social aspects of the human environment. – people, jobs, and the economy – adjacent to and near the project area. Challenges in predicting responses of individual tree species to climate are a result of species competing under a never-before-seen climate regime – one forests may not have experienced before either.

In an uncertain future of rapid change and abrupt, unforeseen transitions, adjustments in management approaches will be necessary and some actions will fail. However, it is increasingly evident that the greatest risk is posed by continuing to

implement strategies inconsistent with and not informed by current understanding of our novel future....

Achievable future conditions as a framework for guiding forest conservation and management, Forest Ecology and Management 360 (2016) 80–96, S.W. Golladay et al. (Please, find attached)

Stands are at risk of going from forest to non-forest, even without the added risk of "management" as proposed in the project area. The project is currently is violation of NEPA, NFMA, and the APA.

REMEDY

Choose the No Action Alternative or withdraw the Draft Decision Notice (DDN) and write and EIS that fully complies with the law.

We wrote in our comments:

Please make certain that the Wildland Urban Interface is correctly defined. We frequently see projects defined with a very large WUI, which has not been defined correctly. This is particularly important for exceptions and exemptions for activity in lynx habitat, including critical habitat.

The Forest Service responded:

- ***The Community Wildfire Protection Plan for Flathead County, MT was updated in 2021. The Spotted Bear Mountain Project used the updated WUI identified in the 2021 Community Wildfire Protection Plan. This project does not include use of lynx exceptions or exemptions.*** (P. 31 DDN)

The Spotted Bear Mountain Project DDN, FONSI and EA did not clearly demonstrate that the project uses a legal definition of the Wildland Urban Interface (WUI) in violation of NEPA, NFMA, the Healthy Forest Act and the APA. The Spotted Bear Mountain Project purpose and need is based on false assumptions in violation of NEPA, NFMA and the APA.

Remedy

Choose the No Action Alternative or withdraw the draft decision and write an EIS that fully complies with the law.

We wrote in our comments:

CANADA LYNX VIABILITY

On page 325 of the EA, it discusses "Correlates of Canada Lynx Reproductive Success in Northwestern Montana" by Megan K. Kosterman.

And "Understanding and predicting habitat for wildlife conservation: the case of Canada lynx at the range periphery" by HOLBROOK et al that confirms Kosterman's findings.

Does the action alternative comply with Kosterman and Holbrook's recommendations?

1) USFS needs to take a hard look at impacts to lynx under NEPA, apply the lynx conservation measures and standards of the NRLMD, and consult on lynx via section 7 of the ESA b/c the best available science -- including recent tracking surveys conducted by WTU -- confirm lynx's presence and use of the area;

(3) USFS has failed to survey for lynx as required by the Biological Opinion on the Northern Rockies Lynx Management Direction (NRLMD).

In order to meet the requirements of the FS/USFWS Conservation Agreement, the FS agreed to insure that all project activities are consistent with the Lynx Conservation Assessment and Strategy (LCAS).

LCAS requirements include:

Project planning—standards.
1. Within each LAU, map lynx habitat. Identify potential denning habitat and foraging habitat (primarily snowshoe hare habitat, but also habitat for important alternate prey such as red squirrels), and topographic features that may be important for lynx movement (major ridge systems, prominent saddles, and riparian corridors). Also identify non-forest vegetation (meadows), shrub-grassland communities, etc.)

adjacent to and intermixed with forested lynx habitat that may provide habitat for alternate lynx prey species.

2. Within a LAU, maintain denning habitat in patches generally larger than 5 acres, comprising at least 10 percent of lynx habitat. Where less than 10 percent denning habitat is currently present within a LAU, defer any management actions that would delay development of denning habitat structure.

3. Maintain habitat connectivity within and between LAUs.

Programmatic planning-standards.

1. Conservation measures will generally apply only to lynx habitat on federal lands within LAUs.

2. Lynx habitat will be mapped using criteria specific to each geographic area to identify appropriate vegetation and environmental conditions. Primary vegetation includes those types necessary to support lynx reproduction and survival. It is recognized that other vegetation types that are intermixed with the primary vegetation will be used by lynx, but are considered to contribute to lynx habitat only where associated with the primary vegetation. Refer to glossary and description for each geographic area.

3. To facilitate project planning, delineate LAUs. To allow for assessment of the potential effects on an individual lynx, LAUs should be at least the size of area used by a resident lynx and contain sufficient year-round habitat.
4. To be effective for the intended purposes of planning and monitoring, LAU boundaries will not be adjusted for

individual projects, but must remain constant.
5. Prepare a broad-scale assessment of landscape patterns that compares historical and current ecological processes and vegetation patterns, such as age-class distributions and patch size characteristics. In the absence of guidance developed from such an assessment, limit disturbance within each as follows: if more than 30 percent of lynx habitat within an LAU is currently in unsuitable condition, no further reduction of suitable conditions shall occur as a result o vegetation management activities by federal agencies.

Project planning-standards.
1. Management actions (e.g., timber sales, salvage sales) shall not change more than 15 percent of lynx habitat within a LAU to an unsuitable condition within a 10- year period.

Programmatic planning-standards.
1. Identify key linkage areas that may be important in providing landscape connectivity within and between geographic areas, across all ownerships.
2. Develop and implement a plan to protect key linkage areas on federal lands from activities that would create barriers to movement. Barriers could result from an accumulation of incremental projects, as opposed to any one project.

Please demonstrate that project activities are consistent with above and all other applicable programmatic and project requirements.

The U.S. Court of Appeals for the Ninth Circuit hold that "[o]nce an agency is aware that an endangered species may be

present in the area of its proposed action, the ESA requires it to prepare a biological assessment . . . .” Thomas v. Peterson, 753 F. 2d 754, 763 (9thCir. 1985). If the biological assessment concludes that the proposed action “may affect” but will “not adversely affect” a threatened or endangered species, the action agency must consult informally with the appropriate expert agency. 50 C.F.R. §§ 402.14 (b)(1), 402.12(k)(1).

Canada lynx are listed under the ESA.

Canada lynx may be present in the project area and the proposed project may affect lynx by temporarily increasing road density, removing vegetative cover, and engaging in mechanized activities that could displace lynx.

Please complete a biological assessment for lynx and formally consult with USFWS regarding the project’s potential impacts on lynx.

The Forest Service responded:

Section 7 consultation with USFWS will be completed for all ESA proposed species, listed species, and designated critical habitat known to occur in the project area before the decision for the project is finalized.

The analysis for the Spotted Bear Mountain Project considered the best available scientific information in relation to Canada lynx. Forest plan direction for management of lynx habitat is beyond the scope of this project.

The Forest Service did not respond to all of the issues, concerns, and questions we raised about lynx and lynx critical habitat in violation of the ESA, NEPA, NFMA, and the APA. The Forest Service did not adequately show that the Spotted Bear Mountain project complies with the law.

REMEDY

Withdraw the DDN and FONSI and write an EIS that fully complies with the law.

We wrote in our comments:

Grizzly Bears

In May 2019, the United Nations released a report finding that the current rate of species extinction "is already at least tens to hundreds of times higher than it has averaged over the past 10 million years."[1] The mountain caribou in the lower 48 states went extinct just a few months ago. Like the Cabinet-Yaak grizzly bear, the mountain caribou lived primarily on National Forest land, had a population of less than 50 individuals, and was threatened by logging and roads.

Alliance reiterates this point here because the agencies issued similar assurances regarding the mountain caribou that they now issue for the Cabinet-Yaak grizzly bear. For example, in litigation to protect the mountain caribou in this Court, the agencies represented that they would "meet caribou needs" by using the best available science and applying forest plan

protections, and not approving logging projects unless they concluded that the project was "not likely to adversely affect" the mountain caribou. Jayne v. Sherman, 706 F.3d 994, 1001 (9th Cir.2013)(quoting FWS Biological Opinion).

In Jayne, these statements were accepted as adequate protections for the mountain caribou. Now the mountain caribou is extinct. It is not too late to avoid the same fate for the Cabinet-Yaak grizzly bear. As members of Congress stated when

[1] *https://www.ipbes.net/sites/default/files/downloads/spm_unedited_advance_f or_posting_htn.pdf*

they passed the ESA: "The agencies of Government can no longer plead that they can do nothing about [the grizzly bear]. They can, and they must. The law is clear." Tennessee Valley Auth. v. Hill, 437 U.S. 153, 184 (1978) (quoting Congressional Record).

The preservation of endangered species takes "priority over the 'primary missions' of federal agencies." Accordingly, courts must "afford[] endangered species the highest of priorities," and act with "institutionalized caution" when reviewing ESA cases. Cottonwood Envtl. Law Ctr. v. USFS, 789 F.3d 1075, 1091 (9th Cir.2015). This Court holds that the "fundamental principle [of institutionalized caution] remains intact and will continue to guide district courts when confronted with requests for injunctive relief in ESA cases." Id. Although the district court did not apply this fundamental principle in this case, this Court may now remedy that error by issuing a temporary

injunction pending appeal to preserve the status quo until a final decision is issued on the merits.

Measures implemented beginning in the 1990s for protection of the threatened grizzly bear have decreased the amount of road available for motorized public travel and management activities, while increasing security for grizzly bears as well as other wildlife species.

The well-established scientific consensus is that roads pose the most imminent risk to this grizzly population. Ninety percent of this population's Recovery Zone habitat is located on public National Forest lands. Thus, the federal government has the power to limit road density for grizzly bear protection on the vast majority of its habitat and thereby prevent the extinction of this grizzly population.

However, the U.S. Forest Service has prepared multiple years of monitoring reports regarding its implementation of road closures in grizzly habitat. These monitoring reports establish that these road closures are routinely violated and therefore ineffective: members of the public regularly ignore signs, drive around gates or earthen berms, remove obstructions such as boulders or logs, or simply create their own new motorized routes.

Although these monitoring reports are only required for the Recovery Zone, there are incidental observations in these reports regarding closure violations found in grizzly habitat

outside of the Recovery Zone, in the government-designated "Bears Outside Recovery Zone" or "BORZ" areas.

Please disclose how often closed roads are monitored for closure violations. Please disclose all of the road closure violations in the Flathead National Forest over the last 5 years.

The recurring problem of road closure failures undermines the foundation of the Flathead Forest Plan management regime, which relies on these road closures to achieve certain densities of open and total roads both inside and outside the Recovery Zone. The agencies must address this problem and its impacts in an updated ESA consultation for the Flathead Forest Plan. The agencies must also address this problem and its impact in an updated ESA consultation and in the special use projects and is another reason that an EIS should be written for the spexial use Projects.

How does the FP complies with the "best available science" on grizzly recovery, or the 2012 Planning Rule that required Forest to emphasize "Connectivity?"

The majority of the Northern Continental Divide Grizzly Bear Ecosystem – is National Forest land, managed by the Forest Service. In terms of all of the human uses that affect grizzly bears, "[r]oads probably pose the most imminent threat to grizzly habitat today. The management of roads is one of the

most powerful tools available to balance the needs of people with the needs of bears." Accordingly, the U.S. Fish & Wildlife Service (FWS) states: "It is strongly recommended that road management be given the highest priority within all recovery zones." Roads pose a threat to grizzly bears because roads provide humans with access into grizzly bear habitat, which leads to direct bear mortality from accidental shootings and intentional poachings.

Human access also leads to indirect bear mortality by creating circumstances in which bears become habituated to human food and are later killed by wildlife managers. Human access also results in indirect mortality by displacing grizzly bears from good habitat into areas that provide sub-optimal habitat conditions.

Displacement may have long term effects: "Females who have learned to avoid roads may also teach their cubs to avoid roads. In this way, learned avoidance behavior can persist for several generations of bears before they again utilize habitatassociated with closed roads." Both open and closed roadsdisplace grizzly bears: "grizzlies avoided roaded areas even where existing roads were officially closed to public use []. Females with cubs remained primarily in high, rocky, marginal habitat far from roads. Avoidance behavior by bears of illegal vehicular traffic, foot traffic, and/or authorized use behind road closures may account for the lack of use of areas near roads by female grizzly bears in this area.

This research demonstrated that a significant portion of the habitat in the study area apparently remained unused by female grizzlies for several years. Since adult females are the most important segment of the population, this lack of use of both open-roaded and closed-roaded areas is significant to the population." In addition to having a significant impact on female grizzly bears, displacement may also negatively impact the survival rates of grizzly cubs: "survivorship of the offspring of females that lived in unroaded, high elevation habitat was lower than that recorded in other study areas in the [Northern Continental Divide Ecosystem].

The majority of this mortality was due to natural factors related to the dangers of living in steep, rocky habitats. This is important in that the effects of road avoidance may result not only in higher mortality along roads and in avoidance of and lack of use of the resources along roads, but in the survival of young when their mothers are forced to live in less favorable areas away from roads."

Current peer-reviewed science still finds that roads have the most significant impact on grizzly bear survival: "[o]f all the covariates we examined, the amount of secure habitat and the density of roads in nonsecure habitat on public lands had thegreatest effect on grizzly bear survival."

Roads, even if nominally "temporary," can still have long-lasting generational displacement effects on grizzly bears because females teach their cubs to avoid these areas.

These roads can therefore result in direct mortality, indirect mortality, and reduced cub survival. When applied to an extremely small, endangered[2] population of fewer than 50 individuals that is already experiencing high mortality rates, failing recovery targets, and hovering at less than half the numbers needed for viability, these harms are amplified and create a great cause for concern for Alliance's members. Neither the "imminent harm" posed by roads nor the dire status of this population are acknowledged by the agencies.

The project will not maintaining and enhancing grizzly habitat and will increase the potential for grizzly-human conflicts in violation of NFMA, NEPA, the APA and the ESA.

The Forest does not have a good track record of keeping closed roads closed. The Forest Service does not disclose the road mileage behind these ineffective closures; therefore it is unclear how many miles of additional open and total roads must be added to the existing condition calculations as a result of these ineffective closures.

There are at least three problems with the FNF's record of amount of roads. First, because "undetermined" is a sub-category of "unauthorized" roads, it is possible that the particular undetermined roads at issue in this case were created—without authorization from the Forest Service—in the interim between the measurement of the Access Amendments baseline and the Forest Service's survey of existing roads for the Project.

All. for the Wild Rockies v. Savage, 897 F.3d 1025, 1036, n.18 (9th Cir. 2018). In light of these circumstances that (1) road closures/barriers are regularly breached but the Forest Service conducts no systematic monitoring to determine how many miles of illegal road use are occurring behind barriers each year, and (2) the Forest Service simply ignores illegal "undetermined" roads and does not include them in its calculations for open or total roads in the annual monitoring reports, the open and total road numbers in the monitoring reports are not accurately reflecting the conditions on the ground. It is therefore reasonable to assume that the baselines in the project area regularly exceeded because the reported conditions hover at or near the baseline.

Chronic recurring road closure breaches cannot reasonably be construed as "temporary;" and illegal road use does not fall within the scope of Access Amendment "temporary" roads.

The Forest Service and FWS have acknowledge that road closure breaches (and resulting illegal road use) are not addressed in the Revised Flathead Forest Plan. Nonetheless, the agencies argue that all road closure breaches regardless of whether they are chronically recurring and regardless of how long they last on the landscape must be construed as "temporary" road increases. Onto this premise, the agencies then bootstrap an additional argument that because certain specific types of temporary roads were addressed in the Access Amendment, that discussion must also apply to "temporary" road increases from illegal road use.

First, it is not reasonable to construe recurring illegal road use as "temporary" road density increases. The monitoring reports indicate that public users may repeatedly breach the same closure year after year. See, e.g., AR42:000059-62 (noting that boulders placed in 2015 have been removed and unauthorized users are again circumventing gate on Road 2236). Moreover, the Forest Service may take years to act on known violations. See, e.g., AR42:000061 ("The Clatter Creek gate (268) was included on the 2015 gate repair contract but after the bids came in the Clatter Creek gate was dropped due to repair costs for all gate repairs exceeding available funding. In BY2016 the gate remained damaged and ineffective."); see also AR43:000081-82 (note 2)(during planning for the Hanna Flats logging project in the Idaho Panhandle N.F., the Forest Service found illegal motorized use on 15.7 miles of road that were not included in the baseline but the agency postponed remedial action until implementation of the logging project; in the 2018 monitoring report, the agency concedes it has still not yet eliminated this illegal use); see also AR232:000767 (finding that four barriers did not effectively prevent motorized use but deferring any action to fix the problems).

Thus, while the Forest Service insists that all breaches are temporary, those same breaches may be recurring or may have lasted for many years prior to discovery and remedial action, resulting in a chronic situation. The situation with the BORZ is a good illustration of this problem S although the Forest Service insists that it fixes all breaches as soon as possible, nonetheless at least four out of seven BORZ areas chronically

fail to meet both the open and total road baseline conditions from the Access Amendment, as shown above in the table in Section B.

Second, even assuming that illegal road use could be construed as "temporary," it still does not have the same effect as lawful temporary road use. A breach of a closure device that results in public motorized use in effect results in an open road. The Access Amendment severely restricts temporary increases in open roads: "immediately following completion of all mechanized harvest and post- harvest slash activities requiring use of the road, to allow motorized public use during the bear summer season prior to the fall bear hunt (i.e., June 16 - August 31) for activities such as personal firewood collection. This public access would only be provided in cases where the mechanized harvest and/or post-harvest slash activities occurred during the same active bear year."

Thus, temporary increases in open roads are limited to a June 16-August 31 window, and may only occur in the same year in which logging activities have already occurred and used that particular road, presumably because grizzlies would have already been displaced from those areas. In contrast, illegal motorized use behind road closure breaches is not limited to a June 16-August 31 window, and is not limited to a single year entry on a road along and on which logging activities have already been occurring.

Moreover, illegal road use would also constitute an increase in total roads. However, temporary increases in total roads are only permitted if the roads are "effectively" gated to prevent public use during a project, (2) after project use, the roads are treated so as to "effectively prevent[] motorized access" and require no motorized access for maintenance for at least 10 years, and (3) upon project completion, the area is "returned to or below the baseline levels contained in Table 16" of the Access Amendment ROD. Obviously a road that has illegal road use is not "effectively" gated to prevent public use.

Thus, illegal road use does not comply with the restrictions set for lawful increases in temporary roads neither open nor closed in the Access Amendment and therefore cannot possibly have the same effects. It is simply implausible that unlimited illegal road use occurring at any time in any location would have the same effect on grizzly bears as Access Amendment temporary roads that are significantly restricted in both timing and location. Indeed, illegal road use is illegal precisely because the Forest Service has already closed these specific roads to protect grizzly bears. If illegal motorized use occurs on these roads that were closed to protect grizzly bears, it may displace grizzly bears from areas that they would otherwise not be displaced from.

Becasue of the serious impacts to grizzly bears, please demonstrate compliance with Forest Plan standards relevant

to grizzly bears, and analyze the direct, indirect, and cumulative impacts to grizzly bears.

The Forest Service must comply with National Forest Management Act ("NFMA") and its implementing regulations. NFMA requires the Forest Service to ensure that site-specific management projects are consistent with the applicable forest plan. 16 U.S.C. § 1604(i). Thus, the Forest Service must ensure that all aspects of the proposed action comply with the Flathead Panhandle National Forests Land Management Plan.

Road density and habitat security standards used by the Flathead NF are patently deficient, partly because they are based on research that conflates behavioral phenomena such as avoidance and displacement with demographic phenomena, notably survival. The scale is wrong as well, given that exposure to mortality hazards logically accrues over years as a consequence of cumulative annual movements of bears vis-à-vis hazardous environs.

Compounding prospective problems with the project, proposed activities are concentrated in an area that is vital for facilitating movement of grizzly bears between core habitats. Project activities will diminish rather than enhance security needed not only to facilitate transit of bears, but also increase odds that exposed bears will survive.

The extent to which poaching, malicious killing, or other

suspect circumstances are associated with human-caused deaths is also instructive regarding the overall effectiveness of conflict mitigation efforts during 1999-2017 to offset the problematic effects of road-access and poaching. By its nature, malicious killing/poaching is a criminal act undertaken by criminals. Such behavior is rooted in attitudes and outlooks that are notoriously unresponsive to education and 'outreach'. The phenomenon is about willful malfeasance. As such, limitations on road access coupled with improved law enforcement and successful prosecutions are logically the most appropriate redress—not, for example, conflict mitigation by a specialist who is not tasked primarily with law enforcement.

Before pursuing this any farther, some clarification of obfuscations in the dead bear database is needed. During 1999-2017 a number of deaths were ascribed to 'Undetermined' human causes, 'Poaching' or listed as 'Under investigation'. The first and last categories are not explicit, but nonetheless strongly suggestive. Certainly, 'Under investigation' suggests that the death occurred under suspicious circumstances warranting investigation—with a strong likelihood of either poaching or other unwarranted lethal action by the involved people. Such suspicions are rarely definitively resolved. 'Undetermined' is also more suggestive of malfeasance rather than innocence on the part of the involved people. Given the alternatives, such deaths are more defensibly allocated to causes more resistant than not to

1) malicious or otherwise suspect causes account for a large portion—if not majority—of grizzly bear deaths in the Northern Contintenal Divide Ecosystem; (2) that aggressive

limitations to road access by the USFS are needed, especially in areas with concentrations of productive habitat (Proctor et al. 2015, 2017).

F. Access Management is Critical to Limiting Malicious & Other Unjustified Killing

The consensus of relevant research is unambiguous about the link between road access and grizzly bear mortality. The more access, the more dead bears there are, with disproportionate concentrations near roads (Brannon et al. 1988; Benn & Herrero 2002; Nielsen et al. 2004; Wakkinen & Kasworm 2004; Boulanger & Stenhouse 2014; McLellan 2015; Proctor et al. 2017, 2018). Dead bears tend to be concentrated within 100 to 500 m of roads, averaging around 300 m (± 195 m) among studies where distance was noted.

Unfortunately, there is a common conflation of the extent to which radio-marked grizzly bears spatially avoid roads with the geospatial configuration of mortality risk and, even more important, decrements in survival and population growth. These parameters are not synonymous. Even though a bear might underuse habitats within a certain distance of roads, this does not translate into a 1:1 correlation with exposure to risk of human-related mortality during a bear's lifetime. Conflation of avoidance with mortality risk has led to the unstated assumption that the former can be used to set standards for the latter.

Please examine the cumulative effects of this project.

The Forest Service could unequivocally benefit grizzly bears in this area by the closure and retirement of roads.

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The Forest Service responded:

Effects of proposed activities on grizzly bears and grizzly bear habitat are disclosed on pages 36-43 of the updated EA. Project compliance with forest plan components is displayed within the updated EA (including design features) and in the forest plan consistency document (project file exhibit R-1).

Road closures will be inspected upon completion of project activities and effectiveness of closures will be monitored in the future through the FNF's annual closure device monitoring. Research has not demonstrated that high-intensity-use nonmotorized trails significantly impact grizzly bear populations or that there are areas of significantly higher mortality risk near high- intensity-use non-motorized trails. The Biennial Monitoring Evaluation Report for the Flathead National Forest (2019-2020) showed that, overall, 92% of road closure devices forest-wide were found to be effective at restricting unauthorized public use (project file exhibit R-30 pp. 58-59).

The NCDE Conservation Strategy was incorporated into the 2018 revised forest plan. The NCDE Conservation strategy is an interagency memorandum of understanding which coordinated strategies, standards, and guidelines developed for

managing the grizzly bear population, human-grizzly bear conflicts, and grizzly bear habitat to ensure their continued conservation in the NCDE.

Since road closure violations are pervasive throughout the project area and the Forest, the FNF is in violation of not only the Forest Plan but also the big game security standards.

It is fair to assume that there are many more violations that regularly occur and are not witnessed and reported. It is also fair to assume that you have made no effort to request this available information from your own law enforcement officers, much less incorporate it into your analysis. Considering your own admissions that road density is the primary factor that degrades elk and grizzly habitat, this is a material and significant omission from your analysis– all of your ORD and HE calculations are wrong without this information.

The 2016 A19 report, Table 8b, shows the results of closure device monitoring on the Flathead National Forest from 2006 through 2015. This table shows from 3-13 percent of the barrier devices were found to be ineffective in preventing unauthorized use, depending on the year, with an average of 6.9 percent per year from 2006-2015. Since 2011, the average road closure effectiveness has improved, not declined. Since 2011, the average percentage of ineffective closures improved to 5 percent (project file exhibit L-012).

The veracity of the FS's inventory of system and nonsystem ("undetermined" or "unauthorized") roads is at issue here also. This is partly because the FS basically turns a blind eye to the situation with insufficient commitment to monitoring, and also because violations are not always remedied in a timely manner.

The Spotted Bear Mountain project would violate the Forest Plan/Access standards, a violation of NFMA because of road closure violations.

The EA does not disclose how many years the existing core ares have provided the habitat benefits assumed under the Forest Plan. As pointed out, some has been lost (due to "private infrastructure development") and we're not told of other likely and for see able reductions.

The EA does not take a hard look as road closure violations. It also shows the inadequacy of Forest Plan road density metrics.

Have you closed or obliterated all roads that were promised to be closed or obliterated in the Travel Plan? Or, are you still waiting for funds to close or obliterate those roads? This distinction matters because you cannot honestly claim that you are meeting road density standards promised by the Travel Plan if you have not yet completed the road closures/obliterations

promised by the Travel Plan. Furthermore, as noted above, you have a major problem with recurring, chronic violations of the road closures created by the Travel Plan, which means that your assumptions in the Travel Plan that all closures would be effective has proven false. For this reason, you cannot tier to the analysis in the Travel Plan because it is invalid.

Christensen et al (1993) states: "Any motorized vehicle use on roads will reduce habitat effectiveness. Recognize and deal with all forms of motorized vehicles and all uses, including administrative use." Please disclose this to the public and stop representing that roads closed to the public should not be included in habitat effectiveness calculations. The facts that (a) you are constructing or reconstructing over 13.3 miles of new system roads and 5.3 miles of temporary roads for this project, (b) you have problems with recurring illegal use, which means that your conclusion that this Project will have no effect on open road density or habitat effectiveness is implausible to the point of being disingenuous. You cannot exclude these roads simply because you say they are closed to the public. Every road receiving motorized use must be included in the HE calculation. You must consider all of this road use in order to take a hard look that is fully and fairly informed regarding habitat

effectiveness. In the very least you must add in all “non-system” roads, i.e. illegal roads, as well as recurring illegal road use (violations) in your ORD calculations.

The Spotted Bear Mountain project did not adequately analyze the cumulative effects on grizzly bears of the Spotted Bear Mountain project and other cumulative effects on grizzly bears.

REMEDY

Choose the No Action Alternative or you must either complete new NEPA analysis for the Travel Plan on this issue or provide that new analysis in the NEPA analysis for this Project. Either way, you must update your open road density calculations to include all roads receiving illegal use.

Creating barriers on roads to prevent motorized access will not affect recreational use, including hiking, hunting, bike riding, and berry picking, for example, Where are these impacts to grizzly bear displacement and mortality risk addressed?

The agency failed to define total road densities at present, what these will be during the 5 years of project implementation, and what these will be once the project is completed. So the impacts to grizzly bear displacement and mortality risk are not identified to the public.

In Case 9:19-cv-0056-DWM the United States District Court for the District of Montana ruled on 6/24/21 that the Flathead Forest Plan was illegal because the Fish and Wildlife Service violated the ESA by not considering the impacts of ineffective road closures in its 2017 BiOp. The court also ruled that the FWS violated the ESA by using a flawed incidental take statement for grizzly bears and the core density standards and secure core habitat surrogate violate the ESA.

The Revised Forest Plan and the Spotted Bear Mountain project weakens grizzly bear habitat protections by allowing new roadbuilding throughout the Flathead National Forest, without meaningful and permanent reclamation of other roads elsewhere in the Forest to compensate for the new road construction. This new management direction is a significant departure from former Forest Plan Amendment 19, which required the Forest Service to reclaim roads according to stringent requirements such that a reclaimed road would "no longer function as a road or trail." Amendment 19 EA.

The New roadbuilding in the Spotted Bear Mountain project without meaningful reclamation to ensure no net increase in the road system presents a significant threat to grizzly bears, because motor vehicle users and other recreationists can trespass on the supposedly "impassable" roads and thus encroach on grizzly bear habitat. Further, even unused roads cause detrimental impacts to grizzly bear survival and reproduction, because grizzly bears are displaced from roaded habitat, regardless of whether the roads receive public or administrative use. However, in concluding that the Revised Forest Plan will

not jeopardize the species, FWS's Revised Biological Opinion failed to adequately examine adverse impacts to grizzly bears from unauthorized motorized use on roads closed according to the Revised Forest Plan's weaker closure standards; failed to consider the displacement impacts caused by roads even when they do not receive motorized use; and failed to account for increased roadbuilding enabled by the Forest Service's abandonment of stringent road-reclamation requirements.

The Forest Service has failed to rationally determine, based on a consideration of all relevant factors, whether the Revised Forest Plan's new management direction will jeopardize the survival of grizzly bears in the Flathead and therefore the Spotted Bear Mountain project.

The FWS's Revised Biological Opinion is therefore arbitrary, capricious, and not in accordance with law, and should be set aside pursuant to the ESA and APA and therefore can not be used as a basis for the Spotted Bear Mountain Project.

We wrote in our comments:

Economics. The economic analysis is incomplete and does not fully explain all of the costs of the project.

The Forest Service responded:

The economic analysis is summarized in the updated EA (p. 12), complete feasibility and efficiency analyses are included as project file exhibits (available upon request).

The Forest Service makes the public send a FOIA request for the project file and has been labeling the requests complicated requests which means they have 30 working says to respond. This is longer than then time period given to object. Therefore the Spotted Bear Mountain project is in violation of NEPA and the APA not only for not responding this question but the Decision Notice stated several times that the public should look at the project file which they are not making available to the public.

REMEDY

Withdraw the DDN and FONSI and write an EIS that fully complies with the law or choose the No Action Alternative.

We wrote in our comments:
How will the project affect climate change?

The Forest Service responded:
A detailed analysis of climate change was not included in the environmental assessment because the forest scale is the most appropriate scale for analyzing these effects. Therefore, the project tiers to the detailed analysis for climate change in the forest plan final EIS, alternative B modified (USDA 2018c). For more information, please refer to appendix 7 of the final

EIS for the forest plan, including the climate change related response to comments (pp. B-127 through B-131).

The Spotted Bear Mountain Project is in violation of NEPA, NFMA, and the APA for not responding to our question about climate change.

REMEDY

Withdraw the DDN and FONSI and write an EIS that fully complies with the law or choose the No Action Alternative.

The EA and the DDN do not demonstrate that the project will meet the Purpose and Need in violation of NEPA, ESA, NFMA, and the APA.

Please see the attached paper by Dr. William Baker titled: "Are High-Severity Fires Burning at Much Higher Rates Recently than Historically in Dry-Forest Landscapes of the Western USA?"

Dr. Baker writes: "Programs to generally reduce fire severity in dry forests are not supported and have significant adverse ecological impacts, including reducing habitat for native species dependent on early-successional burned patches and decreasing landscape heterogeneity that confers resilience to climatic change."

Dr. Baker concluded: "Dry forests were historically renewed, and will continue to be renewed, by sudden, dramatic, high-intensity fires after centuries of stability and lower-intensity fires."

Based on Dr. Baker's paper, the proposed action will not meet the purpose and need of the project. Baker writes on p. 20:

"Management issues

The evidence presented here shows that efforts to generally lower fire severity in dry forests for ecological restoration are not supported."

Dr. Baker's paper is the best available science. Please explain why this project is not following the best availablescience. The Draft Decision Notice is in violation of NEPA.

Remedy, choose the No Action Alternative or write an EIS that com- plies with the law.

In "Fire Ecology in Rocky Mountain Landscapes" by William Baker, (which I am sending a copy of via U.S. mail) Dr. Baker writes on page 435, " ...a prescribed fire regime that is too frequent can reduce species diversity (Laughlin and Grace 2006) and favor invasive species (M.A. Moritz and Odion 2004). Fire that is entirely low severity in ecosystems that historically ex- perience some high-severity fire may not favor germination of fire- dependent species (M.A. Moritiz and Odion 2004) or provide habitat key animals (Smucker, Hutto, and Steele 2005)." Baker continues on page 436: "Fire rotations equal the average mean fire interval across a landscape and are appropriate intervals at which individual points or the whole landscape is burned. Composite fire intervals underestimate mean fire interval and fire rotation (chap 5) and should not be used as

prescribed burning intervals as this would lead to too much fire and would likely lead to adversely affect biological diversity (Laughlin and Grace 2006).”

Please find (Laughlin and Grace 2006) attached.

Dr. Baker estimates the high severity fire rotation to be 135 - 280 years for lodgepole pine forests. (See page 162.). Baker writes on page 457-458 of Fire Ecology in Rocky Mountain Landscapes:
“Fire rotation has been estimated as about 275 years in the Rockies as a whole since 1980 and about 247 years in the northern Rockies over the last century, and both figures are near the middle between the low (140 years) and high (328 years) estimates for fire rotation for the Rockies under the HRV (chap. 10). These estimates suggest the since EuroAmerican settlement, fire control and other activities may have reduced fire somewhat in particular places, but a general syndrome of fire exclusion is lacking. Fire exclusion also does not accurately characterize the effects of land users on fire or match the pattern of change in area burned at the state level over the last century (fig 10.9). In contrast, fluctuation in drought linked to atmospheric conditions appear to match many state-level patterns in burned area over the last century. Land uses that also match fluctuations include logging, livestock grazing, roads and development, which have

generally increased flammability and ig- nition at a time when the climate is warming and more fire is com- ing."

Schoennagel et al (2004) (please find attached) states: "High-elevation subalpine forests in the Rocky Mountains typify ecosystems that experience infrequent, high-severity crown fires []. . . The most extensive subalpine forest types are composed of Engelmann spruce (Picea engelmannii), sub- alpine fir (Abies lasiocarpa), and lodgepole pine (Pinus contorta), all thin-barked trees easily killed by fire. Extensive stand-replacing fires occurred historically at long intervals (i.e., one to many centuries) in subalpine forests, typically in association with infrequent high-pressure blocking systems that promote extremely dry regional climate pat-terns." Please find Schoennagel et al (2004) attached.

Schoennagel et al (2004) states: "it is unlikely that the short period of fire exclusion has significantly altered the long fire intervals in subalpine forests. Furthermore, large, intense fires burning under dry conditions are very difficult, if not impossible, to suppress, and such fires account for the majority of area burned in subalpine forests.

Schoennagel et al (2004) states: "Moreover, there is no consistent re- lationship between time elapsed since the last fire

and fuel abun- dance in subalpine forests, further undermining the idea that years of fire suppression have caused unnatural fuel buildup in this forest

zone."

Schoennagel et al (2004) states: "No evidence suggests that spruce– fir or lodgepole pine forests have experienced substantial shifts in stand structure over recent decades as a result of fire suppression. Overall, variation in cli-mate rather than in fuels appears to exert the largest influence on the size, timing, and se-verity of fires in sub- alpine forests []. We conclude that large, infrequent stand replacing fires are 'business as usual' in this forest type, not an artifact of fire suppression.".

Schoennagel et al (2004) states: "Contrary to popular opinion, previous fire suppression, which was consistently effective from about 1950 through 1972, had only a minimal effect on the large fire event in 1988. Reconstruction of historical fires indicates that similar large, high-severity fires also occurred in the early 1700s. Given the historical range of variability of fire regimes in high-elevation subalpine forests, fire behavior in Yellowstone during 1988, although severe, was neither unusual nor surprising."

Schoennagel et al. (2004) states: “Mechanical fuel reduction in sub-alpine forests would not represent a restoration treatment but rather a departure from the natural range of variability in stand structure.”

Schoennagel et al (2004) states: “Given the behavior of fire in Yellowstone in 1988, fuel reduction projects probably will not substantially reduce the frequency, size, or severity of wildfires under ex- treme weather conditions.”

Schoennagel et al (2004) states: “The Yellow-stone fires in 1988 revealed that variation in fuel conditions, as measured by stand age and density, had only minimal influence on fire behavior. Therefore, we expect fuel- reduction treatments in high-elevation forests to be generally unsuccessful in reducing fire frequency, severity, and size, given the overriding importance of extreme climate in controlling fire regimes in this zone. Thinning also will not re-store subalpine forests, because they were dense historically and have not changed significantly in response to fire suppression. Thus, fuel- reduction ef- forts in most Rocky Mountain subalpine forests probably would not effectively mitigate the fire hazard, and these efforts may create new ecological problems by moving the forest structure out-side the his- toric range of variability.”

Please find Schoennagel et al (2004) attached.

The NEPA requires a “hard look” at climate issues, including cumulative effects of the “treatments” in the proposed project when added to the heat, drought, wind and other impacts associated with in- creased climate risk. Regeneration/ Restocking failure following wildfire, prescribed fire and/or mechanical tree-killing has not been analyzed or disclosed. There is a considerable body of science that suggests that regeneration following fire is increasingly problematic.

NEPA requires disclosure of impact on “the human environment.” Climate risk presents important adverse impacts on cultural, economic, environmental, and social aspects of the human environment. – people, jobs, and the economy – adjacent to and near the project area. Challenges in predicting responses of individual tree species to climate are a result of species competing under a never-before-seen climate regime – one forests may not have experienced before either.

In an uncertain future of rapid change and abrupt, unforeseen transitions, adjustments in management approaches will be necessary and some actions will fail. However, it is increasingly evident that the greatest risk is posed by continuing to

implement strategies inconsistent with and not informed by current understanding of our novel future....

Achievable future conditions as a framework for guiding forest conservation and management, Forest Ecology and Management 360 (2016) 80–96, S.W. Golladay et al. (Please, find attached)

Stands are at risk of going from forest to non-forest, even without the added risk of "management" as proposed in the project area. The project is currently is violation of NEPA, NFMA, and the APA.

REMEDY

Withdraw the draft Decision Notice and write an EIS that fully complies with the law.

Monarch Butterfly.

Monarch butterflies have been proposed for listing under the ESA. This is new information that was not available when we submitted our comments.

The project is in violation of the ESA, NFMA, and the APA for not formally consulting with the FWS on the impact of the project on the Monarch butterfly.
Remedy

Please formally consult with the FWS on the impact of the South Plateau project on the Monarch Butterfly.

Thank you for your time and consideration of our concerns.

Sincerely yours,
Mike Garrity
/s/
(Lead Objector)
Executive Director
Alliance for the Wild Rockies
P.O. Box 505
Helena, MT 59624
406-459-5936

And for
Sara Johnson
Native Ecosystems Council
P.O. Box 125
Willow Creek, MT 59760

And for

Steve Kelly, Director

Council on Wildlife and Fish

(Formally known as

Montana Ecosystems Defense Council)

P.O. Box 4641

Bozeman, MT 59772