



Protecting Montana's wildlife, land, waters, and
hunting & fishing heritage for future generations.

March 6th, 2023

Mary Erickson, Objection Reviewing Officer
USDA Forest Service, Northern Region
26 Fort Missoula Rd
Missoula, Montana 59804

Re: Objections pursuant to 36 C.F.R. Part 218.8 to the South Otter Landscape Restoration and Resilience Project.

Submitted electronically via <https://cara.fs2c.usda.gov//Public//CommentInput?Project=58396>

Pursuant to 36 C.F.R. Part 218.8, Montana Wildlife Federation (MWF) files this objection on the draft decision notice for the South Otter Landscape Restoration and Resilience Project (hereinafter "South Otter Project" or "the project").

I. Lead Objector

Per 26 C.F.R. Part 218(d)(3), the Objectors designate the "Lead Objector" as follows:

Ilona Wilde
Acting Federal Policy Director
Montana Wildlife Federation
ilona@mtwf.org

II. Description of Objecting Party

Montana Wildlife Federation (MWF) is Montana's oldest and largest statewide conservation organization, founded in 1936 by dedicated hunters, anglers, conservationists, and landowners. Today we represent a diverse group of public land users and advocates who regularly and actively use the lands encompassed by the Custer Gallatin National Forest. MWF's key priorities are the protection of wildlife, wildlife habitat, wildlife habitat security, and public access to public lands. Our objections are aimed at finding a balanced approach that encompasses scientifically based land and wildlife management, access to quality recreation, and the maintenance of a healthy landscape on the Custer Gallatin National Forest.

MWF continues to express deep concern about the commercial harvest, commercial thinning, road building and reconstruction, and prescribed fire over a 10-20 year period on approximately 318,000 acres as described in the South Otter Landscape Restoration and Resiliency Project. We recognize the approximately 500,000-acre Ranger District as the largest block of public land in eastern Montana and many of our members frequent the area for public land hunting. Thus, projects at this Environmental Assessment (EA) level using a new authority found at CFR 218, subpart B, Provisions specific to Project Level Proposals Not authorized Under Healthy Forests



Restoration Act which includes the entire southern portion of the Ashland District, is of importance to us. The proposed treatment acreage, as well as timeframes, although still not uniformly described in various analyses areas, includes 11,165 acres of non-commercial thinning, 36,350 acres of commercial harvest, 39,940 acres of reforestation by planting or natural regeneration, 184,150 acres of prescribed burning and 545 miles of roads or trails that will need to be reconstructed, realigned, or undergo heavy maintenance to meet Forest Service (FS) haul standards. In addition, 168 miles of temporary road would be constructed for the project, for a total of upwards of 713 miles of roadwork.

Because of the size and duration of the project, complexity, various implementation timeframes and insufficient analysis particularly of direct, indirect, connected and cumulative effects, the project remains difficult to comprehend and public involvement and comment extremely challenging. We find it completely unacceptable that the Forest Service has minimized public involvement on this project. We also are deeply disturbed that it appears this project will serve as a template for future Forest Service analyses. Specifically, the Forest Service held no public meetings, hosted no public field trips, produced no published updates, and provided minimal information to the public concerning this massive project. This sets a poor precedent for the Forest Service's assertion of public involvement and engagement during project implementation during the next 20 years. MWF believes that given these numerous deficiencies with this immense project, a Finding of No Significant Impact (FONSI) cannot be justified.

III. Objections

A. We object to the Forest's failure to comply with the National Environmental Policy Act's "hard look requirements."

The National Environmental Policy Act (NEPA) is the nation's bedrock environmental statute. NEPA is said to have "twin aims." First, the statute commands agencies to consider environmental impacts of proposed actions. Second, NEPA ensures that "the relevant information will be made available to the larger audience that may also play a role in both the decision-making process and the implementation of that decision."¹ The analysis used in the South Otter Project fails to comply with NEPA review framework.

1. We object to the South Otter Project's insufficient final environmental assessment and draft decision notice due to the lack of site-specific information.

NEPA requires the agency to take a "hard look at the environmental consequences." The Forest's obligation to do so is not lessened at the landscape or project level.² In fact, NEPA's review obligations are more stringent and detailed at the project level, or "implementation

¹ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

² *Methow Valley Citizens Council*, 490 U.S. at 348.



stage,” given the nature of “individual site-specific projects.”³ “[G]eneral statements about possible effects and some risk do not constitute a hard look, absent a justification regarding why more definitive information could not be provided.”⁴ NEPA requires the agency to provide the public “the underlying environmental data’ from which the Forest Service develop[ed] its opinions and arrive[d] at its decisions.”⁵ “The agency must explain the conclusions it has drawn from its chosen methodology, and the reasons it considered the underlying evidence to be reliable.”⁶ In the end, “vague and conclusory statements, without any supporting data, do not constitute a ‘hard look’ at the environmental consequences of the action as required by NEPA.”⁷

The South Otter Project’s environmental assessment (EA) and Draft Decision Notice purport to be a project-level analysis using a new form of a “landscape-based management approach”⁸ and that no additional NEPA analysis will occur for this large-scale project. The project’s analysis does not consider or include important project details – like road construction and implementation of the various phases of the project – which means the Forest has not taken the required “hard look” at all of the project’s direct, indirect, and cumulative effects. The vague, landscape-scaled NEPA analysis used in the project’s final EA and FONSI is flawed and is not permissible by law nor policy.

Site-specific NEPA analysis is critical to ensuring informed public participation, formulating and evaluating alternatives, understanding project benefits, and avoiding or mitigating adverse project impacts. NEPA comments regarding site-specific effects often result in project modifications to prevent potential impacts on resources such as water quality, species, soil quality, and habitat. Without disclosing this site-specific analysis, the public cannot give the Forest valuable feedback.

a. The analysis lacks site-specific details regarding project-implementation activities.

One of the primary examples of this lack of specificity is the timeline and lifespan of the project. The proposed action maps depict the exact locations of “opportunity areas,” breaking down nine distinct “potential harvest areas.” The Forest identifies each harvest area’s commercial thin, improvement cut, or reforestation area on the maps. We appreciate the Forest’s level of clarity in these maps. However, the timeline for how it will perform treatments in these nine opportunity areas is unclear. According to the final EA, the prescribed burns will occur in intervals of 5 – 25

³ *Ecology Ctr., Inc. v. United States Forest Serv.*, 192 F.3d 922, 923 n.2 (9th Cir. 1999); see also *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 800-01 (9th Cir. 2003).

⁴ *Or. Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1134 (9th Cir. 2007) (citation omitted); see also *Or. Natural Res. Council Fund v. Goodman*, 505 F.3d 884, 892 (9th Cir. 2007) (holding the Forest Service’s failure to discuss the importance of maintaining a biological corridor violated NEPA, explaining that “[m]erely disclosing the existence of a biological corridor is inadequate” and that the agency must “meaningfully substantiate [its] finding”).

⁵ *WildEarth Guardians v. Mont. Snowmobile Ass’n*, 790 F.3d 920, 925 (9th Cir. 2015).

⁶ *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1075 (9th Cir. 2011).

⁷ *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 973 (9th Cir. 2006).

⁸ Final EA at pg 1.



years, and the stated planning period is 10 –15 years.⁹ But nowhere in the draft EA nor the final EA does the Forest delineate any specific implementation of this broad timeline in these nine harvest areas.

The Forest's approach to road construction in this project further exemplifies its failure to disclose adequate site-specific analysis with appropriate time for public input. While there is one mapping document provided where the Forest discloses "potential" temporary road locations, the site-specific impacts of these roads are not analyzed in the project's supporting documents and final EA. Further, the maps showing the potential temporary road segments were not available during the scoping or draft EA public comment periods: that document was created in December 2022 and posted to the project page in January 2023. The only information disclosed to the public at those stages was a potential list of mileages for all proposed road activities¹⁰ and a 150-page table that is incomprehensible to the general public.¹¹ None of the maps disclosed the location of other road activities (other than already existing public motorized routes) and at no point in this project has the Forest made available the appropriate site-specific information on all road construction, upgrades, and the opening of closed roads for administrative use.¹² This makes it essentially impossible for the public to provide meaningful input about possible impacts of road construction on wildlife, weeds, cultural resources, or other local factors that could help inform the Agency's development plan. Further we have noted that the base map in which the remaining transportation routes and vegetative units are planned have errors and show roads where they do not exist or access where there is none. Needed access and how and under what circumstances that would be acquired is not revealed further failing to disclose project effects.

b. The analysis lacks site-specific details about road reopening, construction, and maintenance, and location details.

The Forest has not adequately identified, disclosed, and therefore analyzed the impacts of utilizing 18 miles of previously closed routes to complete this project. As stated in our draft EA comments, the Forest does not provide enough information to understand where those routes are (they do not appear on current public access maps precisely because they were closed to public use) and why these specific routes are necessary to carry out the project. These routes were closed in the 2009 Travel Plan for a reason, but the Forest does not explain why the needs of the South Otter project supersede the Forest's previous rationale to close those routes.¹³

⁹ "General prescribed burning or maintenance burning would be implemented at intervals of five-to-25 years, depending on conditions." Final EA at 17; "Direct and indirect effects of the proposed action and its alternatives were analyzed over the planning period (10-15 years) unless specified otherwise." Final EA at 26; see also Wild Montana Draft EA Comments at 6-7.

¹⁰ Draft EA at 19 (Table 3).

¹¹ See <https://usfs-public.app.box.com/v/PinyonPublic/file/1066030565381>.

¹² *Id.* The Route analysis the Forest provided is not a site-specific document. This disclosure is a 150-page table with route "id" numbers, status, and jurisdiction. The table does not disclose the on-the-ground location of any of these routes nor does it disclose where projected temporary roads may be constructed.

¹³ Wild Montana Draft EA Comments at 4-5.



Finally, the Forest fails to adequately identify, disclose, and analyze the impacts associated with a range of unspecified updates, improvements, and reconstruction efforts on 124 miles of existing roads in the project area. The Forest routinely asserts that all construction, decommissioning, and other action associated with roads will be “designed to standards appropriate for their intended uses”¹⁴ and utilizing best management practices.¹⁵ But complying with these standards does not replace nor circumvent the Forest’s foundational NEPA obligations. For example, the Final EA discusses road construction in wetlands and around streams – arguably some of the most sensitive places to construct and maintain roads – without specifics since the Forest does not disclose anticipated locations of these temporary roads yet concludes that “best management practices” would result in effects that are “minor, short-term, and localized.”¹⁶ Standards for construction and maintenance do not replace the Forest’s obligation first to take a hard look at where construction will occur to ensure the location itself is conducive to the effective implementation of these best practices.

Given the presented project plan and analysis’ failure to disclose site-specific information about individual treatment implementation, timelines, and the projected location of associated roads, the Forest also fails to present such necessary information regarding road construction. While the decision notice clarifies that “roads associated with sales must be constructed, used, and obliterated during the contract period (three to five years),”¹⁷ The Forest Service has not disclosed relevant site-specific information about what roads it projects to use, construct, and then decommission in those three to five-year increments associated with specific project units. And as has happened repeatedly on the Ashland Ranger District, contracts are allowed to be extended as the price of timber fluctuates, allowing the temporary nature of these projects to extend several times over the three-five timeframe. These project extensions result in suspension of road reclamation and other assured mitigation efforts, resulting in ongoing environmental degradation.

Without basic disclosure of key project elements, the Forest is unable to carry out its mandated hard look and site-specific analysis of the impacts associated with road construction and use over the life of this project. At best, the Forest puts forth the sort of “vague and conclusory statements, without any supporting data”¹⁸ that explicitly fails to satisfy its NEPA obligations for project-level analysis.

2. We object to the Forest’s lack of public input as required by NEPA.

NEPA's public comment procedures are at the heart of the NEPA review process. To effectuate this aim, NEPA requires not merely public notice, but public participation in the evaluation of the environmental consequences of a major federal action.”¹⁹ A key element of

¹⁴ *Draft* Decision Notice for the South Otter Landscape Restoration and Resilience Project - page 9.

¹⁵ Final EA at 20, 22, and 36.

¹⁶ Final EA at 37.

¹⁷ *Draft* Decision Notice for the South Otter Landscape Restoration and Resilience Project - page 9.

¹⁸ *Great Basin Mine Watch*, 456 F.3d at 973.

¹⁹ *State of Cal. v. Block*, 690 F.2d 753, 771 (9th Cir. 1982).



fulfilling NEPA obligations is the responsible agency making “available to the public, information of the proposed project's environmental impact and [to] encourage public participation in the development of that information.”²⁰ Failure to offer “meaningful public comment”²¹ opportunities by taking “diligent efforts to involve”²² the public at multiple junctures²³ “undermines the very purpose of NEPA, which is to “ensure that federal agencies are informed of environmental consequences before making decisions and that the information is available to the public.”²⁴

The Forest's Draft Decision notice states: “Public engagement for the South Otter Project before the scoping period and comment to the Draft EA consisted of attending meeting, field trips and giving project updates to forest users, private landowners, livestock grazing permittee(s), outfitter/guide permittees, local grazing association, local, state, federal, and tribal governments.”²⁵ This statement shows that there was only one meeting through this process, and does not state if it was publicly attended. Immediately following this statement, the Forest Service states “Not all permittees or private landowners were personally contacted”.²⁶

There was a lack of public involvement and engagement outside of the two letters providing project information: the January 13, 2021 Project Proposal letter and the October 26, 2022 Project Comment letter. This is contrary to the typical robust public engagement on the Custer Gallatin National Forest, as noted by public meetings, informational zoom calls, availability of large-scale maps, field trips and so on. We conclude that this lack of public involvement fails to meet the intent of NEPA, including CEQ regulations and policies, as well as Forest Service policies intending to ensure public engagement.

The public was denied the opportunity to participate in a meeting in which the FS should have presented and explained this complex, multi-activity, 20-year, 318,000 acre proposal. This lack of public involvement on this project is unprecedented in USFS Region-One. At no time were there ever any public meetings, field reviews or opportunity for dialog offered by the FS. Instead, the FS forced the public to process this massive project without the benefit of large maps or explanation by reading through a proposed action and navigating a complex and illogical filing system to find supporting documents, analysis, and activity maps. Some of these

²⁰ *Trout Unlimited v. Morton*, 509 F.2d 1276, 1284 (9th Cir. 1974).

²¹ 40 CFR § 1501.9 (2022).

²² 40 CFR § 1506.6 (2022).

²³ *Id.* The regulation refers to multiple opportunities for public comment in a variety of manners. While certainly not all forms of public engagement are appropriate in all projects, the regulation clearly intends for the agency to pursue and provide multiple methods of securing meaningful public input. “Provide public notice of NEPA-related *hearings*, public *meetings*, and other *opportunities* for public involvement, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected by their proposed actions. When selecting appropriate *methods* for providing public notice, agencies shall consider the ability of affected persons and agencies to access electronic media.” (emphasis added).

²⁴ *Citizens for Better Forestry v. US Dept. of Agri.*, 341 F.3d 961, 971 (9th Cir. 2009) (quoting *Okanogan Highlands Alliance v. Williams*, 236 F.3d 569, 473 (9th Cir. 2000)).

²⁵ Draft Decision Notice for the South Otter Landscape Restoration and Resilience Project at 6.

²⁶ *Ibid.*



maps and materials were not available until after the 30-day comment period. This lack of bona fide public engagement does not meet basic NEPA requirements and represents a fatal flaw in the NEPA process. Further, the FS never presented why this project scale and NEPA methodology were chosen; and in doing so left it up to the public to grapple with an unfamiliar and compressed NEPA process that effectively inhibited and minimized public involvement and public comment.

As we stated earlier in our comments, private meetings with County Commissioners or the Custer Gallatin Working Group (CGWG) are not a replacement for public engagement. It is unacceptable that the FS agreed to meet with members of the Custer Gallatin Working Group in 2021 and again in 2022, while not fully engaging members of the local public, including those living within the project area.²⁷ The public was not included in the Forest Service's opportunity to review the project as described by CGWG Chair, John Prinkki who lives in Bridger, Montana. Further there was no notice in any public facing document from the CGWG of these tours. Mr. Prinkki, unlike members of the general public, was given "an overview of the project, a 2 hour tour and provided maps illustrating the project's scope of 200,000 acres".²⁸ Mr. Prinkki related that: "District Ranger, Ron Hecker provided us with a strong understanding of the project scope and goals and we were invited to attend another field trip in 2022 as work advanced".²⁹ These selective invite-only field trips do not meet NEPA public involvement requirements because they were not publicized or open to all members of the public.

NEPA does not allow the deciding official to pick and choose who receives project information; nor does NEPA allow access to information because of position or perceived influence. NEPA does not allow the deciding officer to discriminate by not providing to some members of the public the same information offered to others.

None of the involvement of the CGWG was included in any of the documentation presented in the EA during the 30-day comment period. The emails of Mr. Prinkki along with other CGWG documents appeared in January after the close of the comment periods and after MWF presented this situation in our 11/23/22 comment letter.³⁰

3. We object to the project's "scale and scope of work" and unclear project length and timeline.

As stated in our original comments and still left unanswered after the FS's Draft Decision Notice, "The lack of site specificity, implementation areas, timing, duration or coincident, connected or cumulative actions and consequences are not disclosed to the public."³¹ This leaves not only the public, but also the agency, with insufficient information to sign a Finding of No Significant Impact (FONSI). In the Forest's Draft Decision, there is no clear timeline presented for the

²⁷ MWF Draft Proposed EA Comments South Otter November 2022 at 2.

²⁸ South Otter Project Documents: File, Public Involvement, Working Group Tour.

²⁹ Ibid.

³⁰ MWF Draft Proposed EA Comments South Otter November 2022 at 2.

³¹ MWF Draft Proposed EA Comments South Otter November 2022 at 3.



completion of this project. A deficiency that appears repeatedly in many of the analysis reports is a clear understanding of the project area and District-wide implications. Inaccuracies are common, current site conditions are either unknown or overstated, resulting in erroneous conclusions. This could have resulted from the project's large size and complexity and/or NEPA team members being generally unfamiliar with the area.

Further, the relationship between proposed activities and the timing of implementation are not revealed nor are coincident activities and duration. There are descriptions of various restoration treatments and efforts in the Effects Analysis timeline that describe some projects spanning 10 years, 10 to 15 years, and some spanning upwards of 30 years - but no clear timeline for the full completion of the South Otter project is defined.

4. We object to the lack of supporting analysis on the project's implications on wildlife and wildlife habitat.

1. Hiding Cover

MWF is concerned about commercial timber harvest proposed on the last remaining 'green islands' of timber in the area, that provide both thermal and hiding cover, as well as recreation opportunities. Due to previous large-scale wildfires in the area, hiding cover for wildlife has been greatly reduced in the Ashland Ranger District. Quality timber and spatial distribution of hiding cover is crucial to use of the landscape by elk and deer.³² Hiding cover on public land also plays a key role in keeping elk on the landscape during hunting season. By removing hiding cover from public lands, wildlife are pushed onto adjacent private lands; decreasing hunting opportunities and making it harder to successfully manage herd numbers. In the Forest Service Draft Decision notice, wildlife conditions are only mentioned in the "Alternatives Considered but Dismissed from Detailed Analysis" section.³³ We find it irresponsible for the Forest Service to issue a draft decision notice for a project that spans over 300,000 acres that does not consider implications on wildlife conditions and habitat. Without some measure of how the proposed action will impact the availability and distribution of hiding cover, the assumption of no negative impact cannot be supported.

2. Thermal Cover

The draft decision notice does not account for or evaluate the impact of the proposed treatments on thermal regulatory cover. MWF's comments explain that with both elk and deer utilizing the project area year-round, the availability of regulatory thermal cover for both winter and summer is critical.³⁴ The proposed treatments would render the existing stands, that are currently providing thermal cover, ineffective by reducing crown density below recommended levels. The conclusion in the Draft Decision Notice that the lands can be adequately restocked within five years after final regeneration harvest,³⁵ does not meet any threshold for effects disclosed including the finding that these activities will benefit big game species over the long term. Also, there is no specified year for the "final regeneration harvest", making the timeline for

³² MWF Draft Proposed EA Comments South Otter November 2022 at 4.

³³ *Draft* Decision Notice for the South Otter Landscape Restoration and Resilience Project at 6.

³⁴ MWF Draft Proposed EA Comments South Otter November 2022 at 4.

³⁵ *Draft* Decision Notice for the South Otter Landscape Restoration and Resilience Project at 8.



regeneration of thermal cover vague and not considering effects on big game wildlife. Thermal cover needs to be maintained in the project area.

3. Secure Habitat

While the initial analyses and draft decision notice address the availability of secure habitat, these metrics only utilize block size and distance from open roads as factors in identifying secure habitat. Use of the landscape by elk, particularly during hunting season, is dependent on having secure habitats with vegetative components. In the Forest's draft decision notice, only protection for aquatic habitat is mentioned.³⁶ Our initial comments explain that secure habitat currently averages 29 % across the entire project area, ranging from 12-43 % depending on subunit. With a stated goal of 30 %, we cannot support proposed treatments that significantly reduce or eliminate the level of secure habitat such as: Reanus Creek that goes from 37% to 0%, Tooley Creek from 12% to 0%, and Wild Hog 33% to 10%. Further concerning is the fact that most of Reanus, Tooley and parts of Wild Hog are bordered by miles of fire scarred land with virtually no remaining secure habitat.³⁷

The impact of the proposed action will most likely move elk onto adjacent private lands where secure habitat and hiding cover are readily available and where hunter access is restricted. This will lead to less hunter opportunity on public lands and potentially will lead to game damage complaints from private landowners.

5. We object to the lack of supporting analysis and the conclusions on the project's implications to hunting opportunities on public land.

Public lands within the Ashland Ranger District provide high quality hunting opportunities for a variety of species including turkey, elk, antelope, mule deer and white-tailed deer.³⁸ Many of MWF's members, along with public land hunters across the country, frequent this landscape each year to enjoy these sporting pursuits. We are concerned by the potential effects and consequences to public land hunters from the multiple coinciding activities proposed on 318,000 acres of the southern portion of the Ashland Ranger District. If the project was implemented as currently described, there would be few areas for quality public land hunting left in the District. Areas north of the project are also undergoing vegetative treatments and have had significant fires in the past 25 years, further limiting opportunities for public land hunting.

Specifically, we are concerned that the draft decision plan does not mention the potential impacts this project will have on hunting opportunities. Road construction activities sufficient to bring 545 miles of roads, travel-ways, and motorized trails, along with 168 miles of temporary roads, to a standard for commercial haul will minimize and marginalize opportunities for public hunting on the largest block of public land in Eastern Montana. Further road and travelway introduction, including 168 miles of temporary roads into areas that were previously roadless, not only changes wildlife hiding cover and displace wildlife, but significantly diminishes the few

³⁶ Ibid

³⁷ MWF Draft Proposed EA Comments South Otter November 2022 at 5.

³⁸ MWF Draft Proposed EA Comments South Otter November 2022 at 3.



remaining areas of timbered “back county” where recreationists can enjoy the discovery and sense of quiet and environment of an undisturbed eastern Montana Ponderosa Pine Forest.

6. We object to the Forest’s “minor modification” to route designations (Motorized Trails) in the Ashland Travel Management Plan Record of Decision.

The project’s draft decision states the Forest’s intent to add “a minor modification” to the FS INFRA database for a coincident administrative road designation on approximately 291 miles of trail open to all vehicles within the South Otter project area”.³⁹ As stated in our original comments, MWF does not agree that this is a “minor modification” to the route designations listed in the Ashland Travel Management Plan Record of Decision.⁴⁰ The proposed modification to route designations made in the Ashland Travel Management Record of Decision is significant and will alter the way the public uses the National Forest. The physical changes are significant because they will substantially alter the effects disclosed in the Travel Plan Record of Decision (ROD). Further, this is an amendment to a standing ROD and requires a Supplemental EIS (40 CFR 1502.9, amend a ROD with a Supplemental EIS). A Supplemental EIS needs to be completed to fully disclose the effects that were disclosed in the 2009 Travel Management Plan.

Unlike the “data adjustment” presented in the EA, the 291 miles of motorized trails will in most cases have to be constructed or substantially realigned, with many requiring full bench cuts to accommodate the turning radius for haul trucks. The selection of photos presented in Analysis Transportation: Motorized Trails are not accurate representations of the typical motorized trails on the Ashland Ranger District.⁴¹ Most of the photos presented are in flat grasslands, some showing recent grading. This photo “cherry picking” leads the reader to believe the work needed to bring these trails to timber haul standard would be minimal.

The rationale in the Travel Plan ROD for the selected alternative was to keep some user created routes and provide low standard access for hunters on these primitive unimproved two-tracks but further, because of their low standard and low density, their presence did not diminish elk security. The selection rationale in the Travel Plan ROD states:

“Alternative B Modified, expands opportunities for motorized recreation opportunities, and more accurately describes the characteristics and nature of these routes. In other words, routes proposed to be motorized trails do not display characteristics typically associated with roads, such as surfacing, engineering, and prescribed width which has resulted in rutting and no defined drainage, and they may become impassable when wet. Further, the selected, Alternative B Modified, has more benefits to wildlife than Alternative A or the No Action Alternative. Motorized route density would be less under Alternative B Modified than Alternative A and the No Action Alternative. The percent secure elk habitat, a surrogate indicator for other big-game species as well, and the percent of lands that provide core wildlife habitat would be

³⁹ *Draft* Decision Notice for the South Otter Landscape Restoration and Resilience Project at 2.

⁴⁰ MWF Draft Proposed EA Comments South Otter November 2022 at 6.

⁴¹ South Otter Project Documents: File, Analysis Support, Transportation, Motorized Trails.



improved under Alternative B Modified compared to those two alternatives. In particular, they meet the peer-reviewed threshold for 30% or more elk (and deer) secure habitat, unlike Alternative A or the No Action Alternative.”⁴²

While this proposed travel plan change would not alter the display of routes on the Motor Vehicle Use Map, it will change how the routes are used by the public. With reconstruction to meet standards suitable for timber haul and in places, realignment due to grade or other issues, they will receive increased use particularly during hunting season. These impacts need to be evaluated and incorporated into a travel plan amendment.

7. We object to the Forest's Analysis and Conclusion of Economic Effects.

The conclusions presented in the Economic Effects are misleading and seem grossly overstated. The analysis asserts “the proposed action is estimated to contribute a total of 139 jobs and \$7.0 million labor income on an annual average basis”⁴³ and “if no action is taken the estimated 139 jobs would not be created and \$7.0 million in total labor income annually over the next eight to ten years would not occur.”⁴⁴ These figures would be less misleading if there was attribution as to where the benefits of jobs and labor income generated would occur. Powder River County, unlike Rosebud County where the Colstrip energy complex is located, and Crook County WY where Hulett Saw Mill and the popular Devils Tower National Monument are located, has no industry outside of general ranching. Powder River County can be described as fairly non-resilient in an economic sense, so this attribution of jobs and income is important.

There is no evidence presented that either of the two Montana Counties where the project is located would benefit from this anticipated generation of \$7 million annually as there is no support infrastructure and very few workers associated with the timber industry. Instead, it must be assumed that the general recipient of the economic benefits of the proposal are in Crook County Wyoming, over 160 miles away from the project area and not typically associated with either Counties in Montana.

All documentation for the proposal describes the project as located in Rosebud and Powder River Counties in Montana. Yet without reference to methodologies, the Economic Analysis includes Crook County, Wyoming over 160 miles away. At a minimum, Powder River and Rosebud should be separated from Crook County WY to give a fair and honest representation of the location of economic outputs.

The presumption that the majority of the timber harvest activities would occur in the next 8 to 10-year period is not realistic nor does it square with analysis timeframes associated with effects analysis presented elsewhere in the document (including effects to wildlife). However this compressed schedule does generate a much higher economic forecast (as presented).

⁴² South Otter Project Documents: File, Analysis Support, Transportation, Travel Plan ROD.

⁴³ Forest Service EA at 39.

⁴⁴ Forest Service EA at 13.



While a Custer Gallatin National Forest zone of influence is mentioned in the economic analysis, the extent of the “influence area” is never described, nor the context behind it.⁴⁵ However, the analysis states that should some of the timber be processed “outside of this zone”, leakage would occur and income would be lost by this “regional economy”. Because the “Regional Economy” is not defined, a map of the connectedness or a rationale on how the two Montana Counties are associated with Crook County WY, renders the Economic Effects Analysis misleading. Flawed assumptions, dubious data⁴⁶, unreferenced methodologies and a compressed activity timeline that significantly adjust the economic forecast upwards, results in a conclusion that fails to meet the analysis’s required regulatory disclosure.

8. We object to the Forest’s Analysis and Conclusion of Effects of Noxious Weeds.

The conclusions of the effects of Noxious Weeds in the proposal are deficient; as existing infestations are underestimated and capacity and success of the District in controlling existing infestations are overstated.⁴⁷ The analysis presumes an increase in noxious weed infestation with the proposal; and further assumes that with monitoring and mitigation efforts, noxious weed increases could be controlled. There is nothing to base this positive conclusion on as currently the rate of spread of numerous weed types within the project area far exceeds the capability of the District to map, contain or eliminate. Massive increases of Leafy Spurge are known to have followed the 2012 fires, yet very limited work is ongoing to control or minimize this spread. Further, new aggressive weed species are currently encroaching within the project area, including Ventenata.

Other challenging weed species including Spotted Knapweed, Hounds Tongue, Canada Thistle, and Cheatgrass are common in large patches within the project area. Many of the proposed activities such as road building, timber harvest, and prescribed burning activities are well known weed accelerators and spreaders. The long term conclusion that noxious weeds will be minimized by monitoring and control simply cannot be substantiated. With the acceleration of weed populations from the multiple and long term ground disturbing activities described in the proposal, increased noxious weeds infestations will be significant. This proposed action will result in substantial and uncontrolled expansion of weeds on public lands with significant negative long term ecological consequences.

⁴⁵ South Otter Project Documents: File, Analysis, Economics, south Otter Economics Analysis, EPS_Key Indicators, EPS_Demographics (in reference to statement that says Headwaters stated data low quality) SO EA, Economics page 37-39 (Zone of Influence).

⁴⁶ (Headwaters “Key Indicators” data self-identified data lowest rank in accuracy and reliability).

⁴⁷ South Otter Project Documents: File, Analysis, Range and Noxious Weeds, South Otter Project Area Noxious Weed Map.



B. Resolution Requested

The appropriate remedy for the project is to utilize a programmatic EIS that appropriately analyzes overall project impacts and tier project EAs to the larger document that fully and adequately analyzes the site-specific impacts of proposed actions. The Council on Environmental Quality's regulations and guidelines permit agencies to prepare programmatic NEPA documents where the agency has a need to determine impacts at a "broad or high-level."⁴⁸ This system is commonly used for large projects with long timeframes and multiple individual components where conditions can change on the ground over time, allowing the agency to pivot promptly by preparing supplemental NEPA analysis to implement the individual components with the appropriate level of analysis and public participation. A programmatic EIS would allow for a range of reasonable alternatives to be considered, additional opportunities for comment, and, importantly, to ensure that elements of project implementation adhere to our nation's bedrock environmental law, NEPA, and the requirements for agency rulemaking under the Administrative Procedures Act.

IV. Conclusion

In conclusion, the Forest Service has not presented enough evidence that it has taken a hard look at its proposed actions. A final decision and Finding of No Significant Impact are unwarranted at this time, as too many potentially significant impacts are not addressed. In addition to the concerns raised here, we concur with Wild Montana's specific objections submitted on this project.

Pursuant to 36 C.F.R. Part 218.8, Montana Wildlife Federation requests to meet with the reviewing officer to discuss the issues raised in this objection and potential resolution. In the event multiple objections are filed on this decision, Montana Wildlife Federation respectfully requests that the resolution meeting be held with all objectors present.

Sincerely,

Frank Szollosi
Executive Director
Montana Wildlife Federation

⁴⁸ See Council on Environmental Quality, *Effective Use of Programmatic NEPA Reviews* (Dec. 18, 2014) at 7, available at https://www.energy.gov/sites/default/files/2014/12/f19/effective_use_of_programmatic_nepa_views_18dec2014.pdf.