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Objection Reviewing Officer
USDA Forest Service, Northern Region
26 Fort Missoula Road, Missoula, MT 59804
appeals-northern-regional-office@usda.gov
katelyn.miller2@usda.gov
(Sent via email, USPS mail, and the Forest's website:
[https://cara.f\\$2c.usda.gov/Public/CommentInput?Project=61529](https://cara.f$2c.usda.gov/Public/CommentInput?Project=61529).)

Re: "BMU-4 Access Project

Dear Objection Reviewing Officer:

I am writing on behalf of two objectors: Judy Hutchins, of Heron, Montana, and Tyson Jerald of Manson, Washington. Please consider this their objection to the BMU-4 Access Project decision, and below I will review all the factors required under 36 C.F.R. § 218 (8)(d). Ms. Hutchins' original comments are included as Exhibit A; and Mr. Jerald's original comments, and Forest Service confirmation of receipt and consideration, are included as Exhibit B. Thus, both are entitled to file objections under 36 C.F.R. § 218 (5)(a).

By way of background, Ms. Hutchins owns the Bobby Quartz and Blue Creek Mining Claims, and Mr. Jerald owns the Broken Hill Mining Claim. Both properties are currently solely accessed via Broken Hill Road, which is slated to be "closed with barrier, no administrative use allowed." (*See* Environmental Assessment (EA), pp. 6 & 7.) The road provides the properties with their only reasonable access point, and as such they should continue to be allowed this access pursuant to 16 U.S.C. § 3210. The road to the north that was bulldozed in by the prior owner does not provide reasonable and regular access. As noted in both of their comments, their access to their inholdings will be unreasonably restricted by the closure of Road 2290. They suggest instead that the Forest keep Road 2290 gated and open solely for administrative purposes and for access for these two private inholdings.

Ms. Hutchins and Mr. Jerald would also note that they have provided the Forest with access through their properties on this road, first starting in 2017 for required mine remediation at the Broken Hill Mine being conducted by the Forest; and in 2022 during the 2022 Billiard Mountain Fire. Indeed, the Forest Service used Ms. Hutchins' and Mr. Jerald's property as a fire camp during the Billiard Mountain Fire. and Mr. Jerald's property as a fire camp during the fire. Road 2290 provided fire crews with critical access for the Billiard Mountain fires of 2022. Without this access, a much more substantial amount of Forest Service lands would have burned during the fire. Additionally, Road 2290 provided fire crews with the ability to protect the home structure on Broken Hill. Eliminating administrative access for Road 2290 will result in complete lack of accessibility for fire suppression activities for the west side of Billiard Mountain as well as no access for fire crews to protect Mr. Jerald's home structure on the Broken Hill property.

Ms. Hutchins and Mr. Jerald also point out that the mine remediation that was conducted in 2017 has not been completed. Extensive amounts of fencing and waste remain at the mine remediation site. In the mine remediation document, a 20-year plan is discussed for monitoring and evaluation of the mine remediation site. The Objectors represent that the closure to administrative use of FS road 2290 will render these evaluation and waste removal activities incomplete.

Below, the Objectors address the requirements of 36 C.F.R. § 218.8 (d).

1. Judy Hutchins, P.O. Box 104, Heron, MT 59844; 406-847-2717; jhutch7497@aol.com. Tyson Jerald, 41 Bachus Lane, Manson, WA 98831, 509-679-0384, tysonjerald@hotmail.com
2. Signatures: See below.
3. Judy Hutchins is the lead objector.
4. BMU 4 Access Project, Michael Feiger, Cabinet District Ranger, Kootenai National Forest.
5. Basis for Objection: Both Ms. Hutchins' and Mr. Jerald's objections were and are grounded in the issue of access to their inholdings, and the fact that the proposed closure of Road 2290 portion of this project deprives them both of reasonable access. Under the Alaska Native Interest Lands Conservation Act (ANILCA), 16 U.S.C. § 3210(a), the Secretary of Agriculture "shall provide such **access** to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to **secure to the owner of the reasonable use and enjoyment.**" (Emphasis added) See *Adams v. United States*, 3 F.3d 1254, 1259 (9th Cir. 1993) Adequate access is defined as "a route and method of access to non-Federal land that provides for reasonable use and enjoyment of the non-Federal land consistent with similarly situated non-Federal land and that minimizes damage or disturbance to National Forest System lands and resources." 36 C.F.R. § 251.111. As both Ms. Hutchins and Mr. Jerald noted in their comments, the closure of Road 2290 will deprive them of reasonable access because the private mining trail to the north end of the properties is dangerous and does not provide reasonable motorized access. In the

case of both of them, essentially limiting their access to foot access will not provide for the reasonable use and enjoyment of their properties. Additionally, as both also noted, neither of them intends to access their respective properties more than 2-3 times per year. The complete closure of FS road 2290 will prohibit them from reasonably accessing their properties throughout the year. Additionally, as noted by Mr. Jerald, there remains unfinished reclamation at the mine pit of the Broken Hill Mine, and the road will be necessary for completion of that reclamation and removal of equipment and waste. Finally, the road currently provides critical access for fire personnel, as shown by last year's fire. Accordingly, Ms. Hutchins and Mr. Jerald request that their access to their properties via Road 2290 remain open to them under ANILCA, and that the road not be "closed with barrier, no administrative use allowed", given recent and necessary administrative use of the road by the Forest Service.

6. Connection Between Comments and This Objection. As noted above in ¶ 5, this objection is based on specific comments made by each Objector, as required by 36 C.F.R. 218.8(c). In their comments, both requested continuing reasonable access to their properties via Road 2290. Ms. Hutchins requested the following in her comment (Exhibit A): "I would like to make a very simple comment on a proposed road closure in the Blue Creek drainage. I request that the Broken Hill Road # 2290 remain 'gated', not 'stored with barrier closure', for the next 10 years. As the owner of the bulk of the patented mining claims up there I would like to maintain reasonable access to my private property." And Mr. Jerald made a similar request, requesting "that we be allowed to safely access our properties", and that Road 2290 "allows for seasonal trip permits for the owners of the upper properties on Broken Hill Mountain." (Exhibit B.)

Thank you for your consideration, and please let me know if we will be able to meet with you to discuss this Objection.

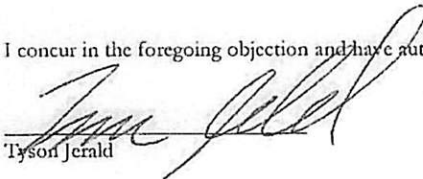
Sincerely,

A handwritten signature in blue ink, appearing to be "David K. W. Wilson, Jr.", with a long horizontal flourish extending to the right.

David K. W. Wilson, Jr.

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I concur in the foregoing objection and have authorized my attorney to file it on my behalf.


Tyson Jerald

Date: 4-11-2023

I concur in the foregoing objection and have authorized my attorney to file it on my behalf.

J. Hutchins
Judy Hutchins

Date: 4/11/2023

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