April 30, 2023

RE: “SPLAT Project Objection”

https://cara.fs2c.usda.gov/Public/CommentInput?project=57353

Via Email Objection against the Final Environmental Assessment (FEA) and Draft Decision Notice (DDN) and FONSI for the South Plateau Landscape Area Treatment Project (SPLAT), U.S. Forest Service-USDA, Custer Gallatin National Forest, Hebgen Lake Ranger District.

Identification of Objectors: Lead Objector: Steve Kelly, Council on Wildlife and Fish, PO Box 4641, Bozeman, MT 59772; Phone 406-920-1381;

and for Michael Garrity, Director, Alliance for the Wild Rockies (Alliance), PO Box 505 Helena, MT 59624; Phone 406-459-5936;

and for Sara Johnson, Native Ecosystems Council PO Box 125, Willow Creek, MT 59760.

Signature of Lead Objector: Signed this 30th day of April, 2023 by Lead Objector, /s/ Steve Kelly

Name of the project: South Plateau Landscape Area Treatment Project (SPLAT), U.S. Forest Service-USDA, Custer Gallatin National Forest, Hebgen Lake Ranger District.

The SPLAT location and project area consists of 39,909 acres located south and west of the town of West Yellowstone in the Hebgen Lake Ranger District of Gallatin County, Montana. The project area extends from US Highway 20 on the north end, to the Montana-Idaho border on the west and south and the Yellowstone National Park boundary on the east.

The Responsible Officer is Ranger JASON BREY, District Ranger, Hebgen Lake Ranger District, Custer Gallatin National Forest. Ranger Bray chose the proposed or selected alternative in the Final EA, Draft Decision Notice and Draft FONSI. It is anticipated that a Final Decision Notice will be issued after objections are filed. Final approval of project activities will not occur until the pre-decisional review process is complete.

NOTICE IS HEREBY GIVEN that Objectors, listed above, object pursuant to 36 CFR section 218 to the Responsible Official’s adoption of the selected Alternative, as discussed below. The SPLAT, 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 Revised Custer Gallatin Forest Plan and the Administrative Procedure Act (APA).

Specific Issues Related to the Proposed Project(s), including how Objectors believes the Final Environmental Analysis and/or Draft Decision Notice specifically violates Law, Regulation, or Policy have been included, section-by-section, in the comment-objection narrative below.

Please accept this objection from me on behalf of the Council on Wildlife and Fish, Alliance for the Wild Rockies, and Native Ecosystems Council, collectively ("Objectors").

Suggested Remedies that would Resolve the Objection: We recommend that the "No Action Alternative" be selected. No other legal alternative has been offered.

Each section of the following Objection has specific suggestions and recommendations. Supporting Reasons for the Reviewing Office to Consider: 1) This Project threatens ecosystem integrity in highly valuable wildlife habitat, including the ecosystems upon which threatened grizzly bear, lynx, wolverine, whitebark pine, big game species, sage grouse, sagebrush and wildlife dependent. 2) Fragmenting and degrading the habitat quality of this landscape – an important linkage corridor for wildlife such as lynx, grizzly bears, and wolverine – gives priority to dominion over the land and life it supports, commodity production, plantation management, and commerce over the principle purpose of the ESA: Recovering threatened and endangered species and conserving habitat critical to their continued existence and recovery.

Objectors are public-interest conservation organizations working to ensure protection of biological diversity and ecosystem integrity in the Wild Rockies bioregion. Individuals and members use the project area for recreation and other forest related activities.

The selected alternative would adversely impact and irreparably harm ecosystem function and integrity and other natural qualities and processes in and around the Project area.

South Plateau Project (SPLAT) Objection

From our DEA comments:

Planning Rule, Custer Gallatin Revised Forest Plan (Plan), and "Condition-Based Management"

Our Comments:

Page 58. The project's use of condition(s) based management is a violation of NEPA, NFMA, the Clearwater Act, the APA and the ESA based on the Federal Court ruling on a Forest Service logging project in the Tongass N.F. Please see the following article by the American bar Association about the use of Condition-Based Management.

The Revised Forest Plan and its governing authority under the Revised 2012/2015 Planning Rule functions as it was imagined: A convenient override of the intent and letter of multiple national environmental laws.

Of course, we still have no idea what, how, where and when this project will be implemented. This is not "fine-filter analysis" as a key element of "adaptive management," the foundational philosophical/theological management scheme described in the Revised Custer Gallatin Forest Plan. It is not "site-specific" analysis. It is "condition-based" management, which is "segmenting" or "piecemealing," in violation of NEPA and the ESA. See: *Conner v. Burford,* 848 F.2d 1441, 1457 (9th Cir. 1988).

The Forest Service's widespread use of CBM also creates compliance challenges under the Endangered Species Act (ESA). Section 7(a)(2) of the ESA requires federal agencies to consult with the Fish and Wildlife Service and/or National Marine Fisheries Service whenever a proposed action "may affect" listed species or destroy or adversely modify its critical habitat to ensure that the action is "not likely to jeopardize" these species. 16 U.S.C. § 1536. CBM conflicts with that statutory requirement because it does not allow agencies to properly determine whether an action "may affect" or is "likely to jeopardize" a listed species when the consulting agencies do not know the specifics of when or where the action will be implemented, or what the site-specific impacts of the action may be.

For some projects, the Forest Service has tried to avoid this tension by conducting section 7 consultation prior to each phase of a CBM project, but this approach has run headlong into the general rule against segmenting project consultation duties under the ESA. See, e.g., Conner v. Burford, 848 F.2d 1441, 1457 (9th Cir. 1988). With few exceptions, section 7 consultation must cover the overall effects of the entire project at the initial stage before the project can commence. Thus, regardless of whether agencies choose to consult up front or to consult in stages, the Forest Service is likely to face significant legal hurdles when its CBM project "may affect" listed species.

CBM is not only legally dubious, but also unnecessary. The Forest Service already has NEPA-compliant methods to deal with situations that require a nimble response to the needs of a dynamic landscape. In these cases, the Forest Service can complete a single "programmatic" analysis to which future site-specific decisions will be tiered. This programmatic approach allows the Forest Service to speed the consideration and implementation of site-specific, step-down proposals. Unlike CBM, this approach allows for public review of site-specific decision-making and administrative review of those decisions.

https://www.americanbar.org/groups/environment_energy_resources/publications/fr/20210510-the-us-forest-services-expanding-use-of-condition-based-management/

Objection: End the NEPA "shell game" here, and now.

Yet while programmatic analysis and tiered decision-making can increase agency efficiency, we note that it is not an exception to the requirement that site-specific analysis and

public comment on that analysis precede site-specific decisions. In other words, agencies may not play a shell game.

-Request for CEQ-Issued Guidance and/or Regulatory Change Addressing Federal Land Management Agency Attempts to Avoid Site-Specific NEPA Analysis and Disclosure ("Condition-Based Management"), (February 3, 2022) P. 25.

Weeds, roads and prescribed fire

Our comments:

Pages 67-68. The Forest Service did not include binding legal standards for noxious weeds in its revision of the Custer Gallatin Forest Plan in violation of NFMA so the project will also violate NFMA, NEPA and the APA.

How effective have BMPs been at stopping (i.e. preventing) new weed infestations from starting during logging and related road operations? Is it true that new roads are the number one cause of new noxious weed infestations?

Why isn't the Forest Service considering a Forest Plan amendment in this Project to amend the Forest Plan to include binding legal standards that address noxious weeds? Is it true that noxious weeds are one of the top threats to biodiversity on our National Forests?

How can the Forest Service be complying with NFMA's requirement to maintain biodiversity if it has no legal standards that address noxious weeds?

Pages 75-76. Weed colonization can also deplete soil nutrients and change the physical structure of soils. The Forest Service's own management activities are largely responsible for noxious weed infestations; in particular, logging, prescribed burns, and road construction and use create a risk of weed infestations. The introduction of logging equipment into the Forest creates and exacerbates noxious weed infestations.

The removal of trees through logging can also facilitate the establishment of noxious weed infestations because of soil disturbance and the reduction of canopy closure. In general, noxious weeds occur in old clearcuts and forest openings, but are rare in mature and old growth forests.

Roads are often the first place new invader weeds are introduced. Vehicle traffic and soil disturbances from road construction and maintenance create ideal

establishment conditions for weeds. Roads also provide obvious dispersal corridors. Roadsides throughout the project area are infested with noxious weeds.

Our objection: Once established along roadsides, invasive plants will likely spread into adjacent grasslands and forest openings. An ounce of protection/prevention is worth a pound of cure. Treating the symptoms is ineffective – too little, too late.

Roads

Our comments:

Pages 125-126.

Page 9 and 5 of the Revised EA states: "The exact locations of temporary roads are not yet known, but placement would be consistent with Design Features (Appendix B) and subject to Resource Review (Appendix C)."

This is a violation of NEPA, NFMA, the APA and the ESA. If you want to build temporary roads, you need to have a map showing the public where and how much temporary roads will be built. An EIS needs to be written with an analysis of the effects of the new temporary roads and if they roads will be temporary or will people keep using them after they closed. Your economic analysis also needs to be redone and the cost of the temporary roads needs to be shown. 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."

The facts that 1) you are con-structing or reconstructing temporary roads for this project, 2) you have problems with recurring illegal use, 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. Are all of the roads that the Travel Plans call for being closed, actually closed on the ground? Are the road closure barriers effective? If not all of your analysis based on the Travel Plan is not accurate.

Objection: Obviously, illegal road use is a problem for wildlife habitat security.

Remedy: Do the groundwork. Assess the problem. Dedicate FTEs and budget to fix the problem. You can do this – for wildlife.

Habitat quality, habitat type

Our comments:

Page 67.

Prescribed burning activities within the analysis area would likely cumulatively contribute to increases to noxious weed distribution and populations. As a disturbance process, fire has the potential to greatly exacerbate infestations of certain noxious weed species, depending on burn severity and habitat type (Fire Effects Information System 2004). Soil disturbance, such as that resulting from low and moderate burn severities from prescribed fire and fire suppression related disturbances (dozer lines, drop spots, etc.), provide optimum conditions for noxious weed invasion.

Page 72.

Would the habitat be better for whitebark pine, grizzly bears, monarch butterflies, whitebark pine, wolverines, pine martins, northern goshawks, and lynx if roads were removed in the Project area?

Pages 113-114.

Your own Forest Service guidance document, Christensen et al 1993 states: "Reducing habitat effectiveness should never be considered as a means of controlling elk populations." The recurring problem of road closure failures undermines the foundation of the Forest Plan's wildlife security standards, 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 Forest Plan and this project. Roads pose a threat to big game and grizzly bears because roads provide humans with access into big game and grizzly bear habitat, which leads to direct bear mortality from accidental shootings and intentional poachings. Big game flee onto private lands during hunting season. 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 suboptimal habitat conditions.

Objection:

The Custer Gallatin Forest Plan defines habitat type and potential vegetation and potential vegetation group as follows:

habitat type:

A habitat type classification provides an ecologically based system of land stratification in terms of vegetation potential. As the habitat type is the basic unit in classifying land units or sites based on their biotic potential, it emphasizes similarities and differences in ecosystems that carry implications for a variety of land management objectives. Habitat types or habitat type groups can have similar biophysical characteristics, and similar function and response to disturbances. A habitat type will produce similar plant communities at natural or near natural conditions. Also see "potential vegetation type." Forest Plan, p. 215

potential vegetation type and potential vegetation group:

An assemblage of habitat types on the basis of similar biophysical environments, such as climate, hydrology, slope and soil characteristics. This biophysical environment influences the vegetation characteristics and ecosystem processes that occur. The vegetation communities and conditions that would develop over time given no major natural or human disturbances (the climax plant community) would be similar within a particular potential vegetation type classification. See "habitat type." Forest Plan, p. 225

https://www.fs.usda.gov/project/custergallatin/?project=57353

The SPLAT FEA does mention "habitat type" in four (4) instances.

1) *The project area is home to native wildlife appropriate to the available habitat types.* p. 20

2) *Treatments will provide for a mosaic of habitat types and species compositions in the project area to promote high quality grizzly bear habitat.* p. 69

3) *However, project design features will provide for undisturbed habitat while activities occur, and provide a beneficial mosaic of habitat types (structural stages and stand compositions) in the project area post implementation.* p. 76

4) *Patches should be provided in mid-aged and older mixed conifer/subalpine fir/lodgepole pine stands that have multiple canopy layers*

and good levels of regeneration within 5 meters of the ground; these patches should be situated near riparian willow communities where possible to reduce energy expenditures when moose move between these two habitat types.

Patches will be retained in appropriate conifer stands on at least 20% of proposed treatment acres. p. 102

Objection: *Pfister et al.* (1977) is not cited in the Custer Gallatin NF Plan or the SPLAT FEA.

Today, *Pfister et al.* is considered the "best available science" in the field of habitat typing. It is often, to this day, spoken fondly of as *The Bible* for habitat-type classification, a detailed expression of the overall environment, ie. an ecological classification. There is, quite simply, no better system in existence being used for interpreting the ecological potential of the forested landscapes of Montana and the Northern Rockies. Federal land managers attempting to make intelligent prescriptions for managing/manipulating forest vegetation should, and must, use Pfister's habitat type classifications as the foundation of forest ecosystem analysis.

Pfister is foundational; it is the ground upon which forest ecology and ecosystem science rests in our bioregion. There is no substitute, and any and all attempts to truncate, or compartmentalize elements within *Phister's* holistic, habitat-type classification system, represents a most objectionable form of "scientism" that reeks of a hidden agenda that has little to do with interpreting the forest's ecological potential.

ESA (Endangered Species Act): As a foundational ecosystem analysis and interpretation tool, *Pfister et al.* is linked directly to specific language, unambiguously articulated by Congress, to describe the *Purposes* of the Endangered Species Act.

(b) PURPOSES

The purposes of this chapter are to provide a means whereby the ecosystems upon which endangered species and the threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species,and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section. 16 USC, Chapter 35, §1531(b)

We urge the Forest Service to simply comply with the clear intent of Congress, and its own (government funded) research to properly identify the ***habitat type*** in the project area using *Pfister, et al.* and arrive at an intelligent decision

based on the best available science, and the intent and purposes of the federal laws which govern these types of project-level management actions. Emphasis added.

The SPLAT FEA analysis references Pfister, and then proceeds to depart into a lengthy narrative, not about habitat type, but some typing using inadequate (FIA)data, insufficient field examination, data manipulation and computer modelling that fails to follow Pfister's habitat typing methodology.

Field Testing is Necessary.

Journal Article: Classifying Forest Habitat Types Based on Potential Climax Vegetation Robert D. Pfister, Stephen F. Arno
Forest Science, Volume 26, Issue 1, March 1980, Pages 52–70, https://doi.org/10.1093/forestscience/26.1.52

Abstract

The authors describe methods for classifying forest habitat types based on potential climax vegetation. Reconnaissance plots are inventoried on road or trail transects; plots are located subjectively (but without bias) and are selected to represent the spectrum of environments supporting mature forest communities. Essential quantitative data are obtained using simple, time-efficient procedures, including estimation of canopy-coverage classes for all vegetation. Analysis proceeds through a series of successive approximations utilizing synthesis tables, ordinations, environmental-data correlations, ***and field-testing of the preliminary classification.*** *Content and format of the final classification are discussed. The classification system was developed during extensive habitat type classification studies in the Rocky Mountains of Montana. Similar approaches are being used in many forested areas of western North America.* Forest Sci. 26:52-70. Emphasis added.
https://academic.oup.com/forestscience/article-abstract/26/1/52/4656335

How *Pfister et al.* (1977) is Used:

Some of the current and potential uses of habitat types using Pfister et al. (1977) include:

1. Timber management--developing seed source and seed transfer rules, serving as a stratification for tree improvement programs, selecting species fox planting (Pfister 1972b), comparing natural regeneration (Shearer 1976), evaluating cutting and regeneration methods, and assessing relative timber productivity.

2. Range and wildlife management--assessing relative forage production, comparing potential values for domestic grazing, and evaluating summer and winter use by big game (Lyon 1975; Maxcum 1975).

3. Watershed management--estimating relative precipitation, evapotranspiration, and moisture-holding characteristics.

4. Recreation--assessing suitability for various types of recreational use, evaluating impacts of use on plant communities and sites (Helgath 1975; Dale 19731, and predicting recovery rates following disturbance.

5. Forest protection--categorizing fuel buildup, implementing fuel management, and evaluating the natural role of fire including frequency and intensity of burns (Aldrich 1973; Arno 1976); and assessing susceptibility to various insects and diseases.

6. Natural area preservation--helping to ensure that the environmental spectrum is adequately represented in research natural areas (Schmidt and Dufour 1975).

Some management implications are discussed in the descriptions of the habitat types in this report. Additional implications can be developed from the appendix data.

Valuable information regarding the response of each habitat type to specific treatments can be obtained by carefully documenting and analyzing field observations. Also, field research studies in many functions can use the habitat types as a stratification for designing studies. Study results can then be reported in a form suitable for application on appropriate habitat types. Emphasis added.

Habitat Mapping:

Habitat type maps have become an important management tool in the Northern Region of the USDA Forest Service (Deitschman 1973; Stage and Alley 1973; Daubenmire 1973). They provide a permanent record of habitat type distribution on the landscape and a basis for acreage estimates for land-use planning.

Maps may be made at various scales and degrees of accuracy, depending upon objectives. For research studies, project planning, etc., maps should be accurate and detailed; each phase of a habitat type should be delineated, especially for research studies. The map scale should range from 4 to 8 inches per mile. At a broader level of planning (multiple use planning unit, National Forests, etc.) map accuracy and detail may decrease and mapping efforts may

be extensive. Habitat types are often the finest subdivisions shown, and map scale can range from 1 to 2 inches per mile.

Still broader levels of mapping may be required for regional needs (selection of powerline corridors, State or regional planning); these may employ scales of 1/4 to 1/2 inch per mile, and may depict only habitat type groups or series. These should be synthesized from large-scale habitat type maps whenever the latter are available.

Selecting a mapping approach and appropriate scale to produce an acceptable map must be based on the following: (I) anticipated use of the map, (2) accuracy level required, (3) availability of adequately trained personnel, and (4) amount of time and financial support available to achieve the specified accuracy level.

At scales of 4 to 8 inches per mile, the habitat types or phases are useful as the mapping units, accepting inclusions (up to 15 percent) of other types too small to map separately. In complex topography and at smaller map scales, special mapping units must be developed, which may be called complexes or mosaics. Such mapping-unit complexes must be defined for each area being mapped, rather than on a preconceived grouping. The amount and relative positions of habitat types and phases within a complex must be specified because the management interpretations of a mapping unit are tied to the taxonomic units--series, habitat type, and phase.

Regardless of the mapping scale used, the field reconnaissance should identify stands to the phase level. The amount and location of field reconnaissance should also be specified on the map or in a report for users of the map. Finally, the map accuracy should be estimated and checked to maintain quality control in application of the habitat type classification. Pfister, (1977) p.140. Emphasis added.

The "groupings" used in the SPLAT FEA implementing the Custer Gallatin NF Plan seemed to be used interchangeably with "cover type" and/or "vegetative type," which do not have the same meaning, and lack the qualitative ecological elements necessary to conduct proper "fine-filter" analysis at the project (site-specific) level.

I think we have found the origin of the "grouping" of habitat types transformed magically into virtual reality by computer technology in the following Region 1 report: *Region 1 Existing and Potential Vegetation Groupings used for Broad-level Analysis and Monitoring Technical Report***,** Barry Bollenbacher et al. (October 2015)

Mapping potential vegetation from imagery alone is impossible, modeling it with biophysical surfaces and climate data is not trivial. Currently, the only

consistently derived contiguous layer of potential vegetation is the R1 PVT layer, also known as the "Jones" layer, which was developed for the Cohesive Strategy in 2004 utilizing multiple data sources.

In some cases the classification differs for types in Montana versus Idaho. The cross walk between field recorded habitat type and the R1 PVT groups developed by Jones is documented in R1 Inventory Data Look-up Tables Database, and depicted in Tables 2 and 3 as well. p.3

See also: Table 2: R1 Forested Potential Vegetation Group Crosswalk. Labels in parenthesis are the column name in 01_LUT_HT_PVT in the *R1 Inventory Data Look-up Tables Database. ADP, Footnote 1.*

1 Automatic Data Processing Code (habitat type publications) - includes all codes from valid references in Region 1 for use with NRM FSVeg. Unless otherwise specified, codes are from 101 (Forest Habitat Types of Montana, Pfister and others 1977) or 110 (Forest Habitat Types of Northern Idaho: a Second Approximation, Cooper and others, 1991) p.5

Clear as mud. NEPA requires understandable procedures and methods. Neither the Plan, nor the SPLAT explain how we got from Pfister's "habitat typing" to the computer models that aggregate/make arbitrary "groupings" now being employed in Region 1, on the Custer Gallatin NF, and for the SPLAT. This (conflating and grouping habitat types with computer simulations and cover/vegetative types) is "garbage-in, garbage out" scientism, a violation of NEPA.

Old Growth/Old Growth Habitat

Our comment: The project will violate the NEPA if there are no valid surveys for old growth habitat within each project area. Old growth types need to be defined and quantified by timber types, such as lodgepole pine, Douglas-fir, mixed conifer, spruce, subalpine fir, and limber pine. The Forest Service's failure to use the Forest Plan definition of old growth, and consequent failures to demonstrate compliance with Forest Plan old growth standards for retention and viability, violates NFMA, NEPA, The Gallatin Forest Plan, the ESA, and the APA. The Forest Plan has no old growth standards or definition for lodgepole pine. This is allowing the Forest Service to log old growth in violation of NEPA, NFMA and the APA. p.53

Objection: The SPLAT FEA does not utter the phrase: "old-growth habitat." It talks quantitatively about old growth characteristics, old growth stands and old growth status, but not habitat (quality), not once.

Is Green et al. the "best available science" as required by the 2012/2015 Planning Rule? If so, they must follow it, all of it. What I have noticed since dealing with Green et al. – a comprehensive old growth definition and

procedural guide – is that the agency (state and/or federal) claiming to be following *Green* never do so in total, usually ignoring the qualitative elements that require extensive field surveys and monitoring – especially old-growth habitat conditions, quality, habitat effectiveness and connectivity – resorting to quantitative minimums (spacing, dbh, canopy cover, etc.) elements with a lot of numbers, computer models and happy talk. **Alway, always** there is less/lower habitat effectiveness/quality and fewer high-quality acres of old-growth habitat following project completion when misapplying *Green.*

Green et al. is based on (Pfister et al.) ***habitat types.*** **Emphasis added.**

The foundation of *Green et al. is Pfister. Pfister* is "crucial in conducting the regional level analysis." The following quote explains the "ecologically based classification" methodology. The following quote comes from Green et al. (April, 1992)

Within the Northern Rockies various attempts at old growth definition were made during the Forest planning process. Unfortunately, these efforts continued to follow the definitions being developed in Oregon and Washington or emphasized structural characteristics related to old growth- associated wildlife species. Pfister (1987) conducted the first quantitative analysis based on ecological data for the Northern Rockies. This effort concentrated on the Kootenai and Nez Perce National Forests and provided a structure for the analysis presented in this paper. The analysis provided a basic review of concepts and provided an ecologically based classification of old growth based on numbers of large trees, snags, and down logs and described associated attributes of layers, canopy cover, age, and basal area. Pfister (1987) provided eight recommendations for further analysis, some of which have been ***crucial*** *in conducting the regional level analysis. Emphasis added*

"FIA Limitations for Old-Growth and Mature Inventory FIA is a national-level and regional-level strategic inventory that provides unbiased estimates of forest attributes over large areas by sampling forests systematically (approximately one plot per 6,000 acres). While the FIA design effectively samples variation in forest composition and structure regionally, rare vegetation types are captured less precisely. Classification error decreases with increasing plot size and increasing density of the attribute being estimated (Azuma and Monleon 2011). Classification errors of old-growth or mature forest for this national-scale inventory have not been tested. Furthermore, our use of FIA stand age is imperfect; stand age is straight- forward for young, even-aged forests; for older stands with multiple cohorts or uneven-aged stands, stand age may not correspond to the time since the last major disturbance (Stevens et al. 2016). Old-growth and mature forests are known to contain trees of varying ages. " FS-1215a Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest

1 plot per 6,000 acres (9.375 sq. miles), and NO "habitat types" (Pfister et al., 1977) make this project-level forest simulation of very limited biological/ecological value. The presumptions (need for cultivation, domestication, management and control) are baked into the FIA Inventory system. No matter what the data and analysis may reveal the system functions the same. Real forests have been replaced with virtual, computer-generated "twins." The twins' data can, and will be, manipulated to create new, "emerging markets" in "ecosystem services" and other abstract "commodities" that banks, hedge funds and the like can bet on. Companies dealing in these financial instruments are already listed on the various financial exchanges. This is new era "forestry," not some genuine interest in old growth, or forests, or life in general. This is "virtual forestry" managing "virtual forests" with no public participation, no public consent, and no NEPA analysis and disclosure.

Ecological Stratification for the Northern Region

In order to classify old growth forests it was decided – where and when, and by whom, exactly, in unknown to objectors – that the most applicable system for stratification of site potential would be groups of habitat types. ***The habitat type classification systems used for this grouping are the "Forest Habitat Types of Northern Idaho: A Second Approximation" (Cooper and others 1991) and "Forest Habitat Types of Montana" (Pfister and others 1977).*** Emphasis added.

The "groupings" used in the SPLAT FEA, implementing the Custer Gallatin NF Plan, seemed to be used interchangeably with "cover type" and/or "vegetative type," which do not have the same definition or meaning, and lack the qualitative ecological elements and resolution necessary to conduct proper "fine-filter" analysis at the project (site-specific) level.

This is a violation of NEPA. NEPA requires understandable procedures and methods. Neither the Plan, nor the SPLAT explain how we got from Pfister's "habitat typing" to the computer models that aggregate/make arbitrary "groupings" now being employed in Region 1, on the Custer Gallatin NF, and for the SPLAT.

<u>Fragmentation: Clearcutting/windthrow and perpetual logging</u>

Our comment: Local native vegetation has evolved with and is adapted to the climate, soils, and natural processes such as fire, insect and disease infestations, and windthrow. Any management or lack of management that

causes these natural processes to be altered may have impacts on native vegetation, including threatened and sensitive plants. p. 82

Objection: Clearcutting in the SPLAT will cause widespread windthrow, and perpetual "salvage logging." Clearcutting is not the "optimum method" in this location, and the FS has made no effort to determine that it is optimum. It is out of habit, not proper NEPA assessment and disclosure.

Please disclose how a field of stumps – an ever-expanding clearcut – creates a "more resilient" forest. The size of units will expand as trees on the perimeter blow down. "Salvage" logging will follow. Rinse and repeat. The FEA has failed to estimate and disclose the ultimate size of clear-cut units after windthrow/blowdown, a NEPA (cumulative effects) violation.

NFMA§ 6(g)(3)(F) …insure that clearcutting, seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-aged stand of timber will be used as a cutting method on National Forest System lands only where—

(i)

for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate, to meet the objectives and requirements of the relevant land management plan;

(ii)

the interdisciplinary review as determined by the Secretary has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each advertised sale area have been assessed, as well as the consistency of the sale with the multiple use of the general area;

(iii)

cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

(iv)

there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be cut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: Provided, That such limits shall not apply to the size of areas

harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

(v)

such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource.

(h) SCIENTIFIC COMMITTEE TO AID IN PROMULGATION OF REGULATIONS; TERMINATION; REVISION COMMITTEES; CLERICAL AND TECHNICAL ASSISTANCE; COMPENSATION OF COMMITTEE MEMBERS

(1)

In carrying out the purposes of subsection (g) of this section, the Secretary shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

21st Century Plunder/ Agenda 2030

Did the FS ever mention the Greater Yellowstone Ecosystem or the Continental Divide being one of the poorest growing sites in the continental United States? No one - and certainly no corporation needing to show a profit stream to their shareholders -- in their right mind -- would invest in timber futures at this site. This wouldn't even qualify as a half-descent "timber-mining" (corporate liquidation) project.

"The Physiology of Plunder:" Frédéric Bastiat (1801-1850) believed that the era of theocratic plunder provided a case study of how trickery and sophistic arguments could be used to ensure compliance with the demands of the plundering class. He argued that the rule of the Church in European history was one which he believed had practiced plunder and deception "on a grand scale".

A recurring theme in many Bastiat essays in the *Economic Sophisms* is that of plunder (la spoliation) by one group of people of another group. People were being deceived as wholesale plundering was going on around them under the guise of subsidies to industry…

What are the impacts of geoengineering, GMO trees, and other bio-tech applications on the lifeforms that currently occupy lands in the SPLAT?

Artificial intelligence engineers imagine that they can 'do a better job than God.' At bottom this is a religious war. So, whereas, the narrative in the SPLAT and from above has to do with Nature in all her aspects, being the source of all energy, life, and matter, we must ask: What happens to Nature in the time of the new, 4th Industrial Revolution?

It happens that Nature in her form as matter and life is being systematically dismantled down to its cellular, molecular and even atomic structure, and recombined afterwards to a new "creation," but a creation beyond all its natural forms, limits, evolution and evolutionary boundaries (Chargaff, 1988). This "new alchemy" in which the complete dissolution of all matter and its "mortification", becomes the precondition of a new "creation", an Opus Magnum beyond Nature as we know it. (See: Werlhof 2020, Bizarri 2012).

Resilience is a common thread across the three United Nations pillars of development, human rights, and peace and security– and is reflected in many important global policy agendas and frameworks that acknowledge that risks and their manifestation can hinder the implementation of the 2030 Agenda for Sustainable Development and the Sustaining Peace Agenda. The United Nations' **17 Sustainable Development Goals (SDGs)** are integrated—they recognize that action in one area will affect outcomes in others, and that development must balance social, economic and **environmental sustainability**. The UN is now a full partner with the World Economic Forum (WEF.) Whether the Forest Service is aware of this push for global, one-world government or not, it is implementing, by definition, extra-legal, global goals and planning, Agenda 2030. Emphasis added.

This revolution may be the most decisive ever. Global capitalists are investing heavily in the invention of a completely new world, a mixture of life and machine, different life forms and matter as such, unseen to the present day. But this revolution has nothing to do with Nature, life, and even human life within the natural order on Earth anymore.

On the contrary, it wants to supersede and despiritualized (to deprive of spiritual character or influence) Nature in all its appearances, ties, and bonds. The same is true for Mother Earth. "Hacking the planet" by military geoengineering means taking control of its energies and life support systems and recombining them in the form of a global system of weaponized, giant machinery. South Plateau is being de-spiritualized.

***Johnson v. M'Intosh (1823)*/Domination/Dominion**

Logic and reason cannot begin to explain the historical, moral and legal foundation for the truly abstract, cognitive model this bizarre project represents. The illegitimacy of the United States' claim to ultimate (absolute) title to these lands – originally (First) possessed by indigenous nations – must be raised here and now.

Please disclose in the Final ROD all documents that give the U.S. government the right to absolute land title to these lands. Please disclose when absolute title and possession to these lands in the project area were legitimately transferred from indigenous stewards to the U.S. government.

Absolute title to these U.S. government lands have been assigned and reassigned over centuries, all under the divine powers granted by Pope Alexander VI (papal bulls of 1493), which is the source and foundation of the Doctrine of (Christian) Discovery." This is 21st-century, Christian colonialism and American imperialism ***dominating*** (*Genesis 1:28*) all of God's creatures in the South Plateau project (SPLAT). See: *Johnson v. M'Intosh (1823)* for the full legal story and background.

The United States, then, have unequivocally acceded to the great and broad rule (of discovery) by which its civilized inhabitants now hold this country. They …maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise." (*Johnson* at 587)

In his ruling, Chief Justice John Marshall suggested that by the Treaty of Paris (1783), Great Britain had transferred its assertion of ultimate dominion to the United States. Subsequently, the United States took its newly assigned claim, and asserted its assigned right of possession over Indian lands. It is time to overturn Supreme Court precedent established in *Johnson.* The CRS report below demonstrates how precedent can, and routinely is, overturned.
https://crsreports.congress.gov/product/pdf/R/R45319

The Roman Church in 15th century Europe practiced plunder and deception on a global scale. The South Plateau project is a 21st century version of church and state (theocracy) working in tandem at the centuries-old practice and rule of colonial plunder and deception for power, riches and dominion over man, especially indigenous nations, and all of Creation.

Let this project begin a new awareness of the wrongs that need righting. It is time for the U.S. government to formally repudiate and fully renounce the Doctrine of Christian Discovery as racist, genocidal, scientifically indefensible,

legally invalid, morally despicable and socially unjust before the United Nations general assembly.

Only the Vatican can formally rescind the Doctrine of Christian Discovery, which is made up of a "body of papal bulls," collectively known as the "Doctrine of Discovery."

In the United States, plunder and domination will always mean "winning the war," against non-Christians, "heathens" and Nature. No matter what happens in this centuries-old perpetual war, even when their self-destructive loss is indisputable, that will be unimportant – the U.S. will certainly be in the middle of winning a new war against indigenous nations and all of Creation (Mother Earth) to further "American imperium." South Plateau is just another outpost of American dominion and imperium.

Absolute Land Title (God's mandate of possession for his "chosen people")

Objection:

Pursuant to the Property Clause of the United States Constitution (Article 4, section 3, clause 2), federal lands are claimed as lands of the United States owned by the federal government.

Congress has the power to retain, buy, sell, and regulate federal lands. The current situation is limited by competing "unitary truths" that cannot be "proven," which represents a huge obstacle which prevents us from examining the deeper layers of cultural beliefs and traditions -- the foundation of U.S. law, unseen by most -- that unconsciously control day-to-day "reality" for the categories of humans unable to see beyond "the way it's always been."

The forward in Steven Newcomb's book (*Pagans in the Promised Land)* summarizes nicely the "invisible foundation" of United States "Indian law" and property law. This is what we -- and buffalo -- are facing if plunder, domestication and destruction of all of Creation continues.

Only a new paradigm shift will overcome these sedimented layers of cultural obstacles. We (our small group) can do this, lead this "fundamentalist" mindset out of the rut we're in, and onto a new path that builds upon the ancient wisdom centered on self-examination and respect and dignity for All Creation and our shared humanity.

All land titles and treaties can be traced back to *Johnson v. M'intosh (1823)* and U.S. Supreme Court law that was totally fabricated (imagined; made up) to benefit
American Empire, not "citizens" or "the people," The Republic or the U.S. Constitution. It's all foolishness.

The SCOTUS decision seized all Indian nations' claims of legal title (possession) to all lands previously controlled by Indian peoples -- the entire continent. It was fraud, and anyone
today who cites "treaty rights" as a basis for adjudicating land-use issues (hunting, etc.) is consciously, or unconsciously, supporting the mindset "The Doctrine of Christian Discovery" and Conquest (genocide). *Johnson v. M'Intosh* remains, to this day, the supreme man-made law of the land. Treaties and USFS-USDA programs and projects are the "poison fruit" of
the *Johnson* decision.

American Empire, then or today, has any legitimate right to dominion/absolute control and exclusive land title to anything seized in that clever, but diabolical, Supreme Court decision.
And when did the American Empire (agreement incapable) ever honor its treaties?

See: Pagans in the Promised Land, Steven Newcomb (2008)

It is foolish to think that the U.S. government will ever volunteer to do anything different than it has always done: control/possess as "property" and exploit indigenous peoples and the land on which they exist today as free nations and peoples, occupied (illegitimately) militarily by a foreign, imperialist nation.

Possible remedies: Reexamine and overturn *Johnson v. M'Intosh (1823).*

Thank you for your effort, time and consideration of our objection.

Sincerely yours,

/s/ Steve Kelly, Council on Wildlife and Fish, PO Box 4641, Bozeman, MT 59772; Phone 406-920-1381;

and for Michael Garrity, Director, Alliance for the Wild Rockies (Alliance), PO Box 505 Helena, MT 59624; Phone 406-459-5936;

and for Sara Johnson, Native Ecosystems Council PO Box 125, Willow Creek, MT 59760.