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May 17, 2023

Objection Reviewing Officer

Intermountain Region USFS

324 25th Street

Ogden, UT 84401

**RE: OBJECTION AGAINST THE BAYHORSE PROJECT V2,
SALMON-CHALLIS NATIONAL FOREST**

1. Name of Objectors:

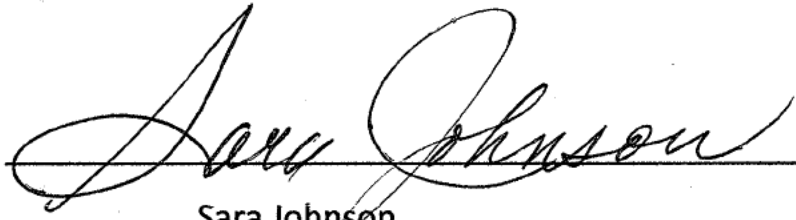
Sara Johnson, Lead Objector, Director, Native Ecosystems Council, [REDACTED]
[REDACTED]

Mike Garrity, Director, Alliance for the Wild Rockies, [REDACTED]
[REDACTED]

Katie Fite, Public Lands Director, Wildland Defense, [REDACTED]
[REDACTED].

Jason Christensen, Director, Yellowstone to Uintas Connection, [REDACTED]
[REDACTED]

Signed for Objectors this 17th day of May, 2023



Sara Johnson

2. Name and Location of the Project being Objected to:

Bayhorse Project V2 on the Challis-Yankee Fork Ranger District of the Salmon-Challis National Forest.

3. Responsible Official:

Heath Perrine, Challis-Yankee Forest District Ranger, 311 N. U.S. Highway 93, Challis, ID 83226.

4. Incorporation by Reference of Previous Public Involvement Activities for the Bayhorse Project:

Objectors are incorporating "by reference" all comments and hard copies of cited literature that have been previously submitted to the Salmon-Challis National Forest in regards to the Bayhorse Project. These include scoping comments submitted on 4/2/20 and 11/12/20, 30-day comments on the draft Environmental Assessment on 3/30/22, and an Objection submitted against the Bayhorse Project on 11/8/21.

5. Attachments

We have included one attachment to this objection. Appendix A contains hard copies of several reports and/or publications that were cited in this Objection.

6. Statement of Connection between Objection and prior Written Comments and Content of the Objection:

On July 8, 2022, Objectors submitted joint scoping comments for the proposed Bayhorse V2 Project. The first concern we emphasized in these scoping comments was the proposed slashing and burning within the Squaw Creek Inventoried Roadless Area (IRA). In spite of this concern about management activities in this IRA, the agency determined that only one action alternative was required because of a lack of any identified public concerns with the project proposal. As a result, we are carrying this concern into our objection, defined as a violation of the National Environmental Policy Act (NEPA) for the agency's failure to include action alternatives that addresses public issues and concerns. There was no action alternative proposed to eliminate management activities within the Squaw Creek IRA.

A second major concern we raised in our scoping comments was the failure of the Salmon-Challis National Forest to demonstrate how slashing and burning within an IRA promotes and/or restores wildlife habitat. This is a fuels reduction project, with severe adverse impacts to wildlife, including vast acres of habitat destruction for North American landbirds, severe long-term disturbances for the proposed wolverine, and vast destruction of a threatened species, the whitebark pine. In addition, the agency has not defined how many acres of sagebrush will be burned, or what wildlife species this will benefit. Also, the agency is proposing to burn over 600 acres of old growth forests. These activities do not represent "habitat restoration," as is claimed by the agency. We are carrying this concern forward into our objection, as a violation of the NEPA for false claims regarding benefits to wildlife, as well as a violation of the Roadless Area Conservation Rule.

Although the treatments in the IRA are claimed to benefit wildlife, to date the agency has failed to complete the development of a wildlife habitat improvement program, required by 1995, on the Challis National Forest (Standard 2n). Without these habitat plans, any habitat management, including within IRAs, is arbitrary as there is no actual definitions of what constitutes habitat improvement.

In our joint scoping comments, we also listed a number of Challis National Forest Forest Plan standards, including a standard for Management Area 10, which is the dominant MA for this project area, to maintain or improve habitat conditions for elk calving, rutting and security areas. Yet the single security area in the project area will be burned, with a reduction in any hiding cover that currently exists. Logging is stated to increase elk forage, yet the limiting factor in this project area is hiding and thermal cover, which is less than 3% of the project area. There was no analysis as to how the Elk Habitat Relationships in Central Idaho (Standard 2q) were being applied to the Bayhorse Project, including providing at least 20% elk security habitat and 40% hiding/thermal cover. Also, standard 2a at IV-13 states that the agency will emphasize improvement of threatened and endangered and sensitive species habitat, as well as socially important species as elk. Yet the wildlife reports note that habitat for 5 sensitive species (great gray owl, boreal owl, flammulated owl, three-toed woodpecker, and northern goshawk) and the management indicator species (pileated woodpecker) will be removed with logging. The effect of burning and slashing throughout the Squaw Creek IRA within the project area was not measured, but the wildlife reports noted likely "short term" losses of habitat for these species, with unspecified long-term benefits (including forest recovery from burning). Although the flammulated owl will supposedly benefit from slashing/burning, no actual references were provided to support this supposition. The three-toed woodpecker depends upon insects and diseases, although a stated purpose of the project is to reduce insects and diseases.

We noted there was a complete lack of any project detail, including location of harvest units, total acres to be slashed/burned, and location of planned burn

blocks. This “condition-based management” is a violation of the NEPA, which requires the agency to provide “high quality” information on proposed actions.

We noted that to date, there have been no wildlife surveys completed for the Bayhorse Project Area, in spite of this project having been planned for quite a few years. The proposed mitigation measures (avoid disturbing nesting sites) are a violation of the NEPA because they cannot actually be implemented due to a lack of wildlife surveys. These “false” mitigation measures were part of the agency’s rationale that the project will not significantly impact sensitive species, including the great gray owl, boreal owl, flammulated owl and northern goshawk. It appears there will actually be no protection of nesting sites, because their location will never be identified.

All of the above issues and concerns are being carried forward into this objection.

7. Remedy

The proposed Bayhorse Project V2 will have highly significant adverse impacts on almost all wildlife species that occur in the project area, as well as the threatened whitebark pine. In addition, a host of Forest Plan standards are not being implemented for this project, standards that are to prevent significant adverse impacts. In spite of claims that wildlife habitat will be managed (improved) within the Squaw Creek IRA, the agency has no habitat criteria for any of the sensitive species that exist on the Salmon-Challis National Forest. All of these factors demonstrate that agency claims that the project will not have significant adverse impacts on wildlife and whitebark pine are invalid. The lack of any actual on-the-ground information as to how this project will be implemented, from both logging to burning, also demonstrates the agency’s inability to actually define, let alone measure environmental impacts. This project is also a NEPA violation: the agency is “disguising” a fuels reduction project as a management intervention activity into an IRA as needed to benefit wildlife.

8. How Environmental Laws, Regulation or Policy will be Violated by the Draft Decision for the Bayhorse Project V2:

- I. **The Forest Service will violate the Migratory Bird Treaty Act (MBTA), the Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the 2001 Roadless Area Conservation Rule (Roadless Rule), and the Administrative Procedures Act (APA) by evaluating and implementing the Bayhorse Project V2.**

A. The agency will violate the MBTA by implementing the Bayhorse Project V2.

Concern over declining continental and local populations of neotropical migratory birds has lead federal agencies to actively address management and conservation of species and habitat. Executive Order 13186 lists several responsibilities of federal agencies to protect migratory birds, among them:

-Support the conservation intent of the migratory bird conventions by integrating bird conservation principles, measures and practices into agency activities and by avoided or minimizing to the extent practical, adverse impacts on migratory bird resources when conducting agency actions.

-Restore and enhance the habitat of migratory birds, as practical;

-Ensure that environmental analyses of federal actions required by the NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern,

-Identify where unintentional take reasonably attributable to agency actions is having or is unlikely to have, a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. With respect to those actions so identified, the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the Service. These principles, standards and practices shall be regularly evaluated and revised to ensure that they are effective in lessening the detrimental effect of agency actions on migratory bird populations. The agency also shall inventory and monitor bird habitat and populations within agency's capabilities and authorities to the extent feasible to facilitate decisions about the need for, and effectiveness of, conservation efforts.

The proposed Bayhorse Project V2 does not include any conservation efforts for migratory birds. There are no principles, standards or habitat measures being included in this proposed treatment of 9,094 acres of bird habitat. The project will log 737 acres of bird habitat, burn the remaining 4,117 acres of forest habitat (Project Plant BA Table 2), and burn up to 4,195 acres of sagebrush habitats. This is an estimate, because actual proposed burning treatments are not identified as per vegetation types to be burned. In spite of the plan to alter vegetation across potentially the entire 9,094 acre project area, there are no conservation measures currently being implemented for birds. Although the agency claims that sensitive raptors, including the boreal owl, great gray owl, flammulated owl and northern goshawk will be protected from project disturbances, there have been no surveys to identify nesting locales of these sensitive species. Thus this mitigation measure appears to be window dressing at best.

The Bayhorse Project V2 may kill trees on at least 4,854 acres of forest habitat, or all the more dense forest that occurs in the project area (Project Plan BA Table 2). Prescribed burning is noted to include mixed severity fire, which is defined as a broad mix of low, moderate, and high fire severity burn conditions (USDA 2018). High severity fire creates 75% or greater overstory tree mortality; moderate severity fire creates from 35-75% overstory tree mortality; and low severity fire

creates less than 35% overstory tree mortality. These will include spring and fall burns. Tree mortality will depend on the composition, ladder and ground fuels as fire moves through the landscape (Wildlife BE 2). The agency will look at stand structure, age class, density, canopy closure, canopy levels, fuels, natural barriers, and anticipated fire intervals when designing burn blocks (Wildlife BE 3). The burning can occur with or without mechanical thinning, and can be mixed severity. Id. Application of fire will reduce understory fuels and kill some overstory, opening the canopy; these units are already relatively open (Wildlife BE 13). Fire will remove dense conifers, including reducing cover for deer and elk (Wildlife BE 14). Prescribed fire will have varying burn intensity, and will affect remaining live tree structure and patch size; large Douglas-fir should remain, while lodgepole pine is prone to be killed by fire; large dbh trees and stands left after burning will create more open habitat (Wildlife BE 15). Burning will reduce understory vegetation for 10 years, and kill overstory trees (Wildlife BE 17). Fire will increase vegetation diversity; it will increase dead and injured trees; fire will burn out pockets in green tree patches (Wildlife BE 18). Fire will kill a certain amount of trees (Wildlife BE 19). The Project EA at 44 notes that fire will alter the current growth path of forest structure from denser, older to be more representative of a properly functioning landscape with multiple forest species, structures and age classes represented; fire will make forested areas more resilient to insect and disease agents and wildfire; fire will enhance wildlife diversity by creating a diversity of forest structure characteristics and increased diversity of vegetation communities meaning more wildlife habitat is being created.

There is no analysis in the Bayhorse Project V2 NEPA analysis as to specifically why killing trees, burning out forest understory, and killing sagebrush will increase habitat diversity for wildlife. It is unclear why removing vegetation will improve habitat for any bird species. For example, the Project Area may provide habitat for the following forest birds that are Idaho High Priority Bird Species, as per Table 6 in the Project Wildlife Report (dated in 2000, or quite outdated):

Olive-sided Flycatcher	Hammond's Flycatcher
Sharp-shinned Hawk	Lewis Woodpecker
Williamson's Sapsucker	Black-backed Woodpecker
Brown Creeper	Varied Thrush
Townsend's Warbler	Flammulated Owl
Western Tanager	

More current information on the conservation status of forest birds that may occur in the Bayhorse Project Area include the great gray owl, as it was identified as an Idaho Species of Greatest Conservation Need (2015) by the Idaho Department of Fish and Game (2016). This report also identified the Golden Eagle, Lewis Woodpecker, Red Crossbill, and Clark's Nutcracker as other species of greatest conservation need. Also, the State of the Birds Report in 2022 included several other forest birds that are "tipping point" species, where population declines are high and are likely to continue: Williamson's Sapsucker, Rufous Hummingbird, Olive-sided Flycatcher, and Evening Grosbeak. This would be a total of at least 16 bird species of conservation concern that could occur in the Bayhorse project area, where an undisclosed number of overstory trees and understory trees will be killed, with habitat losses possible for these 16 species of conservation concern on roughly 9,000 acres.

Overall, there have been a loss of roughly 3 billion landbirds in North American since the 1970s; of the 67 species of western forest birds, 64% are noted to be in decline (Rosenberg et al. 2019). Since the 1990s, half of 46 western forest birds have declined by nearly 20% since 1990 as per the 2022 State of the Birds report. Killing overstory trees will clearly not promote conservation of these species. As well, killing understory trees will also remove important bird habitat, as well as reduce and/or eliminate future forest recruitment. There is no question that the Bayhorse Project will exacerbate ongoing population declines of neotropical migratory birds, in violation of the MBTA, due to a complete lack of habitat conservation measures for birds being applied to this project.

We note that a claimed benefit to birds from the Bayhorse Project is “restoration” of aspen stands, which includes burning them to trigger re-sprouting. The Project Plant BA notes that if an aspen stand is at risk of being lost due to conifer encroachment radial thinning for at least 75 will be done, or the aspen stand may be burned to create mortality and trigger sprouting. The Project EA notes that treated aspen stands will be evaluated for the need of protective fencing from grazing on a case-by-case basis. This is an acknowledgment that heavy browsing is occurring in aspen habitat, likely from livestock. As such, triggering more sprouting of these beleaguered aspen stands will only promote their demise, as livestock will continue to browse any new shoots. Also, with massive burning in this project area, how much actual monitoring of livestock browsing on aspen stands will be done? This is likely a “false” mitigation measure for this project. And if fencing is needed in the IRA, access will also be problematic. We also note that there is no actual analysis provided to show that removing conifers from aspen stands will benefit forest birds. This is a reduction, not an increase in habitat diversity. The birds that require pure aspen stands instead of mixed conifer stands is not actually provided. Logging aspen stands is an age-old unverified strategy to benefit wildlife, without ever any actual proof that this benefits wildlife. As well, the primary factor destroying aspen are cows, not conifers.

Two High Priority bird species are actually associated with mixed conifer-aspen habitats (Project BE Table 6), including the Williamson’s Sapsucker (Conway and Martin 1993) and the Sharp-shinned Hawk (Joy et al. 1994). t

The same is true for High Priority Bird Species that are associated with sagebrush habitat. The NEPA analysis for the Bayhorse Project is silent on how many acres of sagebrush habitat will be burned across the project area. This could include all potential sagebrush habitat in this project area, which would be all nonforested habitat. Since forest habitat is noted to be 4,854 acres (Project Plan BA Table 2), this could mean nonforested areas contain 4,195 acres of sagebrush. The following High Priority Species that could occur on the Salmon-Challis National

Forest, that are associated with sagebrush habitats are identified in the Wildlife BE Table 6 as follows:

Swainson's Hawk	Sage Thrasher
Brewer's Sparrow	Lark Sparrow
Sage Sparrow	Loggerhead Shrike
Short-eared Owl	

The 2022 State of the Birds report notes that arid-land birds have declined by 26% since the 1970s. These include the Sage Thrasher, which has experienced accelerated rates of decline since 2010. The Sage Thrasher was also identified as an Idaho species in the greatest need of conservation, along with the Sagebrush Sparrow (Idaho Fish and Game Department 2016). These 8 bird species of conservation concern will all experience an undefined amount of habitat loss from burning of sagebrush.

The treatment of riparian habitats in the burning proposal were not clearly defined. However, riparian habitats in the Bayhorse Project Area could include the following 6 High Priority bird species, as per the Wildlife BE Table 6:

Black-chinned Hummingbird	Calliope Hummingbird
Willow Flycatcher	Dusky Flycatcher
Yellow Warbler	MacGillivray's Warbler

In summary, the Bayhorse Project V2 will affect habitat for at least 30 bird species that are identified as of conservation interest or concern. Yet there is not a single habitat conservation strategy for any of these species, in violation of the MBTA.

B. The agency has not identified or evaluated the number of birds that will be directly killed by the proposed project, the number of birds that will be killed and/or impaired due to the toxicity of smoke, or the long-term reduction in carrying capacity of birds due to removal of their habitat, in violation of the NEPA and the MBTA.

Although there is some “mention” of how birds may be killed by burning of nestlings, there is no actual analysis as to the birds per acre that will be killed from burning and/or logging on up to 9,000 acres in the Bayhorse Project Area. Recent reports demonstrate the high toxicity of smoke to forest birds (Defiance Canyon Raptor Rescue 2022; McGlew 2015). The potential for direct or indirect killing of adult and juvenile birds due to prescribed burning has to be evaluated, and a take permit obtained for this killing. Also, in order to evaluate the significance of this project on birds, the mortality it will create needs to be estimated. This includes the direct killing of birds due to spring burning, and the direct and indirect killing of birds due to smoke toxicity. The indirect reduction in bird carrying capacity due to killing of trees and sagebrush also needs to be estimated, for an overall description of project impacts on birds to be provided to the public as per the NEPA requirement of “high quality information” being provided on resource impacts from management actions.

C. The agency has not estimated the number of all whitebark pine trees that will be killed by the Bayhorse Project V2, and as such, has no basis for claiming that this threatened plant species will not be significantly impacted by the proposed project.

The Bayhorse Project V2 will have a dramatic impact on whitebark pine, a threatened species. The Project Plant BA, Table 2, shows that whitebark pine occurs in 5 vegetation types in the project area, from a mix of other coniferous species (3,476 acres) to mostly whitebark pine (1,379 acres). Logging will impact

whitebark pine in 737 of these forest acres, while slashing and prescribed fire may impact 4,117 acres, for a total impact of 4,854 acres, or essentially most of the whitebark pine in the project area. Figure 4 of this BA maps out these 5 vegetation types.

The agency claims that burning up these forested areas will open up areas for whitebark pine regeneration (Project Plant BA at 14). It is noted that whitbark pine will be directly killed by burning, with what is claimed to be a “limited loss” of whitebark pine, and would be a “minor” impact on the population. Id. This claim that burning will increase whitebark pine regeneration is problematic because burning as well as logging will kill most of the whitebark pine regeneration (seedlings and saplings) that currently exist. As was noted in the Wildlife BE, for all harvest units whitebark pine greater than 3 inches in diameter will be marked for retention; thus trees smaller than 3 inches dbh will not be protected in logging units. This impact is never accounted for. And the destruction of these smaller whitebark pine is a severe, long-term impact on recruitment to this threatened species. As was noted in the 2023 Standing Analysis for whitebark pine (USDI 2023), whitebark pine is a long-lived species, up to and over a thousand years; younger, suppressed whitebark pine can survive in a forested ecosystem for many years (up to 150 years) and then be released for more growth due to some disturbance event. These events include pine beetles, which do not infest smaller, younger whitebark pine trees. When these smaller trees are killed, recruitment is eliminated. This is a significant population effect, as recruitment is essential for persistence of this tree. The Standing Analysis, as a result, noted that pre-project surveys should be conducted to identify whitebark pine individuals of all ages, so that clusters of age classes can be protected.

Burning in whitebark pine stands poses a high mortality risk to all ages of these trees, including mature trees. Whitebark pine has relatively thin bark compared to other conifer species, and it has one of the lowest fire resistance scores of conifers (USDI 2023). In addition to direct killing of whitebark pine trees, thinning effects of other conifers present in a mixed species stand are also potentially detrimental to whitebark pine. Increased growth of whitebark pine could increase

it's risk of mortality to mountain pine beetles (Standing Analysis 2023; Six et al. 2021). This potential effect was not identified in the agency's Plant BA, where instead thinning is claimed to be a benefit to whitebark pine by reducing pine beetle populations (Project Plant BA at 14).

The impact of logging and burning on whitebark pine trees in conifer stands of the Bayhorse Project Area may be high. As was noted previously, suppressed whitebark pine trees will be destroyed in logging areas. Design features (Project Plant BA at 14) include contract requirements to not cut whitebark pine, although some mortality is expected from harvest; where whitebark pine is determined to be the dominant species and the site can be reasonably accessed, protect mature seed-producing trees by thinning competing conifers, piling cut material for subsequent prescribed burning and pulling away concentrations of natural fuels that pose an immediate fire hazard to mature trees.

The Project Plant BA also states that if whitebark pine is determined to not be the dominant tree species and is intermixed with subalpine fir and lodgepole pine, prescribed fire treatments may proceed without mechanical pretreatment. This means that there will be no protections for any whitebark pine, potentially on 3,476 acres of forest (Project Plant BA Table 2). As was noted in this BA at 15, prescribed fire is not a precise tool nor selective and tree mortality is dependent upon composition, ladder and ground fuels as the fire moves through. The Wildlife BE at 3 and 15 notes that prescribed fire will be a mixed severity with varying intensities; this means a fire can vary from low (less than 35% overstory mortality) to moderate (35-75% overstory mortality) to high severity (killing over 75% of the tree overstory). So the amount of all age classes of whitebark pine in prescribed fire areas that will be killed by fire can easily be massive, and cannot actually be determined since burning will be a random event. This activity clearly threatens the whitebark pine population in the Bayhorse Project Area, which is a significant adverse impact. The actual level of mortality expected for this population needs to be measured to measure project impacts as well as to provide high quality information to the public, as is required by the NEPA.

D. The proposed destruction of massive numbers (unmeasured) whitebark pine trees of all ages is a violation of the Endangered Species Act (ESA) for a failure to promote conservation of a threatened species; as well, the agency cannot define how many whitebark pine trees will be killed by the project to the U.S. Fish and Wildlife Service, information required to obtain a “take permit,” due to a lack of inventory of whitebark pine as well as due to the wide range of fire intensities, and thus mortality, that will occur in whitebark pine habitat.

The Bayhorse Project will clearly destroy massive numbers of whitebark pine of all age classes and sizes, as fire is randomly inflicted on thousands of acres of forests that contain whitebark pine populations. This is a violation of the ESA, as it fails to promote the conservation of a listed species. The ESA also requires that high quality information be applied to determine project impacts. The Forest Service has not completed any inventories of whitebark pine populations across the Bayhorse Project Area, including what appears to be all forest stands that contain some level of whitebark pine. Nor has the agency estimated the number of whitebark pine trees of all age classes that will on average be killed in each of the fire intensities that may occur across the project area; what is the average number of whitebark pine trees per forest type, what is the expected acreage of low, moderate and high burn severities that will occur in whitebark pine occupied areas, and what is the expected mortality level of whitebark pine in each of the fire intensity burns. Since the number of whitebark pine trees that will be killed due to project implementation is unknown, the level of “take” of whitebark pine can also not be measured, in violation of the ESA whereby a take statement is required to allow destruction of a threatened species. This take must be reasonably measured, something which the agency has thus far failed to do, so that the expected mortality can be measured against the total whitebark population in the Bayhorse Project Area. The expected population reduction is important to local persistence of this threatened species, and local persistence is a requirement of the ESA, since it contributes to landscape persistence as well.

E. The Salmon-Challis National Forest will violate the Roadless Area Conservation Rule as defined by the Idaho Roadless Rule, and will violate the NEPA by disguising a fuels management program as wildlife enhancement.

The massive prescribed burning program planned within all 7,716 acres of the Squaw Creek Inventoried Roadless Area (IRA) clearly violates the management requirements of this IRA, including as defined by the Idaho Roadless Rule. Treatments in the IRA are 85% of the Bayhorse Project Area. Although the agency claims there will be many benefit for this burning program, no actual documentation or inventory was ever provided. For example, the project EA claims that this slashing/burning in the IRA is needed to restore and improve the vegetation; this burning is designed to move vegetation conditions towards the natural range of variation which will improve and preserve roadless characters over time. The EA at 33 also claims that the project would have minimal impacts on roadless are characteristics; fire is restorative as it mimics natural disturbance regimes and historical landscape conditions; this provides overall benefits to the soil, water, diversity of plant and animal communities, and habitat for threatened and endangered species that depend on large, healthy undisturbed areas of land. We note that what constitutes a “healthy” landscape was not defined. Positive benefits of slashing and burning are described as maintaining and improving IRA characteristics, although these characteristics are never defined, including for wildlife. This project includes tree cutting, with mechanical treatments across the IRA (slashing prior to burning)(Project Plant BA 15).The Project EA at 44 also claims that the burning will enhance wildlife diversity, by creating a diversity of forest structure characteristics and increased diversity of vegetation communities means more kinds of wildlife habitat is being created. Since changing the vegetation means eliminating existing vegetation, the agency did not define why existing vegetation in the IRA is bad for wildlife and killing trees and sagebrush over thousands of acres will restore wildlife habitat.

The burning program will occur for 10 years or more, over thousands of acres, which will create long-term disturbances to the wolverine, a species that requires large tracts of undisturbed habitat for persistence. Burning will require extensive aerial activity, which may disturb wolverine, as well as extensive use of motorized vehicles to create firelines and access burning units. The project will require an undefined mileage of fire lines, where tree and brush will have to be cut.

Management of these firelines is defined in the Project Plant BA at 7. Not only will these firelines have to be created, but they will have to be rehabilitated after burning is done, requiring repeated disturbances to wolverine and other wildlife. Fireline rehabilitation may require filling in deep and wide firelines and trenches, and obliteration of berms; berm material will be spread back into the fireline or re-contoured to the fireline. Changes in drainage will be required by removing fill or dams, to reestablish crossings and return to natural configurations. Waterbars will be required only where necessary to prevent erosion or use woody material to act as sediment dams. Waterbars should only be used on steep slopes and only when necessary. Inappropriate placement of waterbars can create excessive erosion. Where feasible, cut stumps closest to the ground. Discourage the use of newly created firelines and trails by blocking with brush, limbs, poles and logs in a naturally appearing arrangement. All off-road heavy equipment, possibly masticators, will be free of significant fuel or oil leaks prior to entering the project area. The use of motorized vehicles and mechanical machines by the agency to burn the IRA was never defined, but will likely be extensive. The trails created by agency motorized use will require obliteration to prevent continued use by the public in this IRA. Pre-treatment and post-treatment monitoring of weed populations is required, although no evidence of pre-treatment weed surveys was provided in the EA or Plant BA. Monitoring of weed populations across the project area is to occur for 5 years, but the person-power that will be required to complete this monitoring and treatment over the 10-year project was not identified. Although the agency claims that sensitive species surveys will be done for the flammulated owl, boreal owl, great gray owl, and northern goshawk to avoid disturbances of nesting activity, to date no surveys have been completed. It seems likely that their nesting activity in the IRA will be disturbed as a result. There are no habitat standards for any wildlife for the IRA, so vegetation management is not being done for wildlife, including 16 bird species that are an identified conservation concern.

We also note the proposed intervention into the Squaw Creek IRA requires a violation of the Challis Forest Plan direction for elk, including further reducing the very limited hiding cover far below the recommended level of 40%, and further reducing elk security to an unknown level (possibly zero), but well below the minimum recommended level by the Challis Forest Plan of 20%. This is clearly an inconsistency of the Bayhorse NEPA analysis: improvement of wildlife habitat in the IRA that is supposedly needed will require Forest Plan violations for elk.

It is clear that the proposed activities in the Squaw Creek IRA are nothing more than a fuels reduction project, which will require massive disturbances and massive habitat losses for wildlife over the 10 years or longer period the project will require. Actually, the burning project will most likely require many more than 10 years, as suitable burning conditions are sporadic. This claim that a fuels reduction program is actually a restoration project for vegetation in the Squaw Creek IRA is a violation of the NEPA as well as the Roadless Rule, since the agency is providing the public a false rationale for the project. Without a single habitat plan identified for a single wildlife species that may occur in this IRA, there is no basis for any management intervention to promote habitat for wildlife, which is also a violation of the NEPA. Basically, the agency failed to define why killing trees and sagebrush is needed for wildlife in the Squaw Creek IRA. We note that the Challis Forest Plan required habitat plans to be developed for wildlife by 1995. This Forest Plan violation leaves the agency without any habitat plans to define why management intervention into an IRA is needed.

F. The agency has provided false mitigation measures in violation of the NEPA; ineffective mitigation measures will not prevent significant adverse impacts.

The agency claims that nesting sites for sensitive species, including the flammulated owl, boreal owl, great gray owl, and northern goshawk will be protected from disturbance during project activities. The Wildlife Report notes that all these species “are likely” present in the project area, but no surveys have

been done for any species, in spite of this project having been planned for several years. In order to assure the public that these surveys will be done, this needs to be done as a part of project planning. Otherwise, these are "hypothetical" surveys that may or may not be done. In addition, the actual distribution of these sensitive species in the project area is important information to the public by providing baseline information to the public. The results of these sensitive species surveys should have been used to design this project. Claiming uncompleted wildlife surveys will mitigate project impacts (prevent significant adverse impacts) is a violation of the NEPA because the public has no assurance that surveys will actually be done, and nesting activities for these species protected from disturbance as a result. We note that surveying about 9,000 acres for 4 sensitive raptors would require a considerable effort by biologists, and would seem to require increases in personnel, something that was not noted in the project EA.

The agency is also violating the NEPA by claiming that uncompleted weed surveys will be done for the project, and pretreatment completed prior to project implementation. Again, there is no actual assurance that this mitigation measure will be implemented to prevent significant adverse increase in noxious weeds and invasive annuals due to the massive prescribed burning program. In turn, does the agency even have the personnel to complete the large acreages of weed surveys across the 9,000-acre project area?

G. The agency is violating the NEPA by failing to include action alternatives that address public issues and concerns.

As was noted in the EA and draft Decision for the Bayhorse Project, the responsible official determined that the proposed massive burning in the Squaw Creek IRA did not have to be addressed with varying alternatives because no public concern was expressed on this IRA intervention. This is clearly not correct, as Objectors raised concerns about IRA intervention. There should be an alternative that eliminates any proposed intervention into this IRA, as we believe it is a violation of the Idaho Roadless Rule.

H. The Bayhorse Project V2 is a violation of the NEPA as it is a “condition-based management proposal,” which does not provide the public with any actual information as to how the project will be implemented; the project is too large for the agency to provide high quality information to the public regarding project designs and project impacts on resources.

The agency did not define the proposed treatment units, both for logging and slashing/burning, for the Bayhorse Project Area. The public does not actually know how many acres of the Squaw Creek IRA will be slashed and burned, or where these burn blocks and their sizes would occur. The public does not know where wildlife habitat exists in the project area, such as elk security areas, or the nesting sites of sensitive forest raptors. The public does not know how many whitebark pine trees of all ages will be killed. The public does not know what the expected mortality rate for neotropical migratory birds will be from logging, burning, and smoke toxicity. The public does not know how long the project will last. Projects that last over 5 years are outside the timeliness scope of the NEPA, where new science must be considered. The public does not know the location of any existing weed infestations in the Bayhorse Project Area. This lack of project information robs the public of any ability to provide effective and informed reviews and comments on the project, making public involvement meaningless.

We note that any project designed by the agency needs to be completed within a 5-year time frame, to comply with the timeliness requirement of the NEPA. The size of a project also needs to be consistent with the ability of the agency to complete the required wildlife surveys DURING project planning, to ensure that wildlife habitat needs were included in the project design, including where and when wildlife mitigation measures are going to be applied, and where weed treatments will be completed prior to project implementation.

I. The Bayhorse Project is a violation of the NFMA due to a failure of the agency to complete the required Forest Plan amendments for numerous planned Forest Plan violations.

Objectors identified numerous violations of the Challis Forest Plan, particularly in past public involvement opportunities (scoping, objections) and scoping for this current Bayhorse Proposal. In order to implement these numerous Forest Plan violations for the Bayhorse Project, the agency needs to complete site-specific Forest Plan amendments to comply with the NFMA.