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June 20, 2023

District Ranger

c/o Basin Creek-Butte Watershed Project

Butte Ranger District

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Hello,

Native Ecosystems Council, the Alliance for the Wild Rockies, Council for Wildlife and Fish, and Center for Biological Diversity would like to submit the following comments on the draft Environmental Assessment for the proposed Basin Creek-Butte Watershed Project. Please note that these comments include one appendix, Appendix A, which contains copies of cited literature and/or reports.

- I. The proposed Basin Creek-Butte Watershed Project will trigger violations of the National Forest Management Act (NFMA), the National Environmental Policy Act (NEPA), the Administrative Procedures Act (APA), the Endangered Species Act (ESA), the Migratory Bird Treaty Act (MBTA), the Roadless Area Conservation Rule, and Section 428 of the**

Consolidated Appropriations Act of 2012 and implementing regulations at 36 CFR 218.21.

- A. The Basin Creek-Butte Watershed Project application the Forest Service Emergency Situation Determination (ESD) Process is being illegally used as a means of escaping the agency's requirements to adhere to numerous laws, including the NFMA, the NEPA, the MBTA, the ESA, the APA, and in particular, **the Roadless Area Conservation Rule**.

The Beaverhead-Deerlodge National Forest (BDNF) has indicated in the May 22, 2023 notice of a 30-day comment period, as well as in the draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Basin Creek-Butte Watershed Project that an Emergency Determination Situation (ESD) Process will be used for this project to deny public objections, unless a requested ESD is denied by the Chief of the Forest Service. And the May 22, 2023 notice for comment indicates that this project will be implemented in July of 2023, which means no objections will be allowed. This ESD is to be used for immediate relief from hazards threatening human health and safety, mitigation to threats to natural resources on agency lands, or avoiding the loss of commodity value sufficient to jeopardize the agency's ability to accomplish project objectives directly related to resource protection or restoration. The draft EA and FONSI do not provide the public with any assessment/analysis as to how the ESD analysis will be conducted, including addressing these 3 factors. The draft EA for this project claims that the pine bark beetle infestation of roughly 2000 has now created an immediate emergency risk of crown fire, but the probability of occurrence of this event (criteria for an emergency) is never defined to the public. Since 2000, there have been 30 fires in the project area, none of which created severe crown fire. In addition, 20 of these fires were human-caused. The current information indicates that human activity in the Basin Creek IRA poses the greatest risk of crown fire. Given that both existing roads will be improved for this project, that a motorized trail will be converted to a road of roughly 3.7 miles, and that a new road will be created for roughly another 3.7 miles, given that there are

currently 14.8 miles of unauthorized roads in the project area (Transportation Report Table 4), this project will clearly result in a significant increase of human legal and illegal motorized activity in this IRA and surrounding area. This will in turn increase the potential risk of fire triggered by humans, which is the dominant fire cause in this watershed. Given that there is current science that most fires are caused by humans, and that logging can increase the potential for wildfires due to drying out of habitats and increased wind speeds, the use of an ESD is not supported by any actual evidence. It is clear that the use of an ESD is a false flag to promote logging within IRAs where logging is prohibited.

The fuels analysis for the draft EA does not include any of the current science that identifies many factors, including (a) weather, not fuels, drives forest fires, (b) bark beetle infestations likely reduce, not increase the risk of severe fires, and (c) logged areas have a higher rate of fire spread than unlogged areas. Some of this current science was provided with our scoping comments (DellaSala and Hanson 2015; Hanson 2021; Muir 2022). We also note that the various reports and the draft EA for this project repeatedly claim that there is a high risk of “catastrophic fire,” but the definition of what constitutes a catastrophic fire is never provided to the public. What criteria in the Basin Creek-Butte Watershed Project Area were used to meet the requirements of a potential for catastrophic fire? Why isn’t this information provided to the public?

Given the failure of the NEPA analysis for the Basin Creek-Butte Watershed Project to provide a valid assessment of fire risks in the IRA, including how a catastrophic fire potential is measured, the public has no valid basis for believing an actual fire emergency exists in the Basin Creek IRA. The NEPA requires the agency to provide “high quality” information on management decisions. This has not been done for the proposed emergency logging for the proposed project, including with an Inventoried Roadless Area (IRA).

We note that another aspect that diminishes the credibility of the agency as to the design for emergency logging to protect the Basin Creek reservoirs is that

almost all the proposed logging units in the IRA are downwind from the 2 reservoirs. Down-wind fuel reduction areas will not protect the southern portions of the reservoirs from fire. As well, the reservoirs would certainly meet the definition of a fuel break to stop fires, since the proposed fuel breaks in the Basin Creek IRA are only going to be 400 feet wide. The distance across the 2 reservoirs is much greater than 400 feet. The agency's rationale as per fuel breaks is clearly inconsistent. They are considered effective in some cases, including through the middle of an IRA, but are not considered effective in fuel barriers created by water bodies.

Below we provide various examples of why the ESD for the proposed Basin Creek-Butte Watershed Project is being used to allow the agency to escape numerous legal and/or administrative legal requirements, the most significant is the violation of the Roadless Area Conservation Rule.

1. The proposed Basin Creek-Butte Watershed Project has multiple violations of the Roadless Area Conservation Rule.

There will be 887 acres of commercial logging in units, plus commercial logging in fuel break #1 of 93 acres in the Basin Creek IRA No 1-430, which is 9,190 acres in size (RFP FEIS Appendix C at 4). This is almost 1,000 acres (980 acres) of commercial logging within the Basin Creek IRA. Ground and/or helicopter harvest is planned in IRA units 10, 20, 60, 70, 130, 150, 200, 210, 230, 270, and 280, totaling about 887 acres, plus 93 acres in fuel break 1. In Response to Comments, groups/individuals representing the timber industry repeatedly note this logging project is important to the timber industry.

There will be approximately 7 or more miles of new roads constructed within the Bear Creek IRA. This includes reconstruction of the motorized Bear Gulch ATV trail for logging equipment for units 10 and 20, and fuel break #1 and at best, reconstruction of additional portions of the Bear Gulch trail for motorized access

for treatments in fuel break 2 for hand thinning treatments. This is estimated at roughly 3.7 miles based on miles of motorized trails provided in Table 3 of the Project Transportation Report. In addition, approximately another 3.7 miles of new road construction will be done to provide motorized access, and helicopter activity, in fuel break #3. It is not clear why helicopter use would be involved in fuel break #3, which is stated to be a hand thinning treatment. Helicopter use would imply there will be commercial logging in this unit of 128 acres. We had to estimate miles as this information was never provided in the project NEPA analysis.

There will be a continuous 400-foot wide fuel break established and maintained permanently through the heart of the Basin Creek IRA. The total length of fuel breaks 1, 2 and 3 in the IRA are not disclosed, but will dissect the IRA through the entire middle portion of this IRA for an estimated 7.4 miles. This will destroy the natural appearance of this portion of the IRA. It will funnel unauthorized ATV use through the center of this IRA. The project area landscape is noted to have expansive illegal ATV use, with almost 15 miles of unauthorized trails (Transportation Report Table 4).

The proposed logging and fuel breaks in the Basin Creek IRA will destroy a stated purpose/function of this IRA. The IRA values for wildlife defined in RFP FEIS Appendix C state that this IRA provides secure habitat for wildlife enhancing linkages and connectivity across the landscape in between GYA and forests to the west and north; habitat has been mapped for the threatened lynx. Landscape connectivity for grizzly bears would be affected by the projects in the Basin Creek IRA, connecting the GYA and NCDE bear populations. All proposed logging units in the IRA could include helicopter use (887 acres), as well as fuel breaks 1 and 3 (221 acres). The Wildlife Report notes that there are expected helicopter flight paths over the majority of a 1,121 secure area for grizzly bears during aerial activities. The project is noted to potentially displace transient grizzly bears for up to 5 years. Ongoing activity in fuel breaks 2-3 cut through the center of this IRA will also create disturbances to grizzly bears, permanently impacting bears due to permanent maintenance of fuel breaks and illegal ATV motorized use which will

undoubtedly occur on this new motorized trail, and expanded foot traffic across the fuel breaks for 7 or more miles.

The Basin Creek IRA was initially mapped as lynx habitat for the BDNF RFP, but was subsequently “remapped” as non-lynx habitat (without any public involvement in violation of the NEPA), except for about 400 acres. The Basin Creek IRA is now reported to lack lynx habitat as well as lynx use, but no surveys were reported in the Wildlife Report. This report failed to identify a severe impact of the proposed logging project in the Basin Creek IRA on lynx, which is the creation of a travel barrier along a long expanse of the southern edge of the IRA due to a long string of connected harvest units (10, 20, 280, 200, 210, 60, 70, 130, 170, 150). The FEIS for the RFP defines the Basin Creek IRA as an important connectivity/linkage area for wildlife, including the lynx. The creation of a travel barrier for lynx that is over 2 miles in length is a violation of the stated function of this IRA as a result. It is exacerbated by another series of adjacent, continuous harvest units just outside the IRA (units 30, 40, 50, 80, 90, 100, 110, 1230, 140, 250, and 260). There would be almost no possibility of a lynx crossing this huge open land mass of over 2,000 acres in size. In addition, this massive travel barrier would likely remain in effect to lynx for up to 40 or more years (Holbrook et al. 2018). This may actually be a barrier to lynx over a much longer period, as the NEPA analysis for this Basin Creek-Butte Watershed Project notes that repeat treatments to maintain the logged areas/fuel breaks will be required at roughly every 40 years. This means that this massive lynx travel barrier in and adjacent to the Basin Creek IRA is planned to be permanent. This clearly will destroy the identified linkage and connectivity value of this IRA for the lynx.

The Project Wildlife Report states that lynx use of the Basin Creek IRA would be limited to transient animals, which are rarely observed in this landscape. However, the basis for the absence of lynx in this IRA was not cited, including any specific surveys that have been done for lynx, either winter track surveys or camera monitoring, in order to identify “transient” lynx in this IRA.

Previously we noted that human activities, including roads, are a displacement impact on the wolverine (Fisher et al. 2013; Scrafford et al. 2018; Steward et al. 2016), a proposed species for listing under the ESA. Although not disclosed by the Forest Service, the proposed Basin Creek-Butte Watershed Project includes the addition of active logging roads for fuel break #1, expansion of motorized ATV use to regular vehicle access for fuel break #2, and new road construction for fuel Break # 3. Specifically, the new road for fuel break # three essentially will dissect this IRA from east to west. It is intended to be permanent with continued maintenance, and will certainly have continued illegal ATV use permanently, through the heart of this IRA. This proposal thus will without question degrade habitat for this proposed species. The wolverine is also a management indicator species (MIS) for the BDNF. In spite of this designation, the BDNF RFP has no conservation strategy for this proposed species, including motorized activity, other than protecting some denning habitat located at high elevations during the winter. The entire landscape used by wolverine, including low elevation big game winter habitat, is not included for wolverine management. Region 1 management direction for this proposed species includes identifying the importance of low elevation big game winter habitats; areas of abundant ungulate populations and low road densities provide good wolverine habitat; low open road densities were defined as less than one mile per section (USDA 1992). Management of over 1,000 acres of wolverine habitat in the Basin Creek IRA for a minimum of 5 years, including helicopter use, means this IRA will be removed as a refugia for wolverine for that period of time. In addition, as was noted in the Project Wildlife Report, elk populations may abandon this IRA due to disturbances during both the calving period and the fall hunting season. Prey for wolverine will thus be reduced not just during the 5 years the project is planned, but potentially permanently as displaced elk may not return to this landscape in the future (USDA/MFWP 2013).

The Project Wildlife Report claims that wolverine rarely use the Basin Creek IRA, but the results of any wolverine surveys conducted in this IRA were not provided or cited. It is not clear how this sparse wolverine use was determined. The current population trend of this MIS for the BDNF on the forest was not provided in the Project Wildlife Report; no monitoring information was provided as to how logging and road construction activities on the BDNF affect wolverine. One would

assume that monitoring of wolverine presence, an MIS for the BDNF, would not be as important within IRAs as other areas of the BDNF where vegetation and fuels treatments are expected. However, if the BDNF intends to begin active management of IRAs, then prior monitoring of potential wolverine use is essential, as these large undisturbed areas provide prime habitat for this proposed species.

Another MIS for the BDNF is elk. The Basin Creek-Butte Watershed Project Wildlife Analysis indicates this project will have significant adverse impacts on elk. These impacts include decreasing 1,032 of summer secure habitat. A total of 3,088 acres of secure habitat for elk will be impacted by this project. Communications with the Montana Fish, Parks and Wildlife indicated elk displacement in the fall is also a concern onto private lands, with potentially permanent displacement effects being triggered (Project Wildlife Report at 19). In fact, the collaborative management recommendations developed between some forests in Region 1 and the MFWP note that elk displacement to private lands may in fact be permanent in some cases, although the overall impact is not clear (USDA/MFWP 2013). This issue of elk displacement to private lands in the fall hunting season is well recognized by the Forest Service (USDA/MFWP 2013), and is preventing elk population levels from meeting MFWP objectives; displacement to private lands results in elk numbers exceeding MFWP population objectives due to the inability of the public to harvest elk on private lands. The elk hunting district that includes the Basin Creek-Butte Watershed Project is 350. This HD is currently above the MFWP population objective (USDA 2018), which is a clear indicator of a lack of security on Forest Service lands in this landscape. This indicator of a lack of security, or elk populations exceeding MFWP objectives, was not identified in the Project Wildlife Report. This ongoing problem may be why the MFWP is concerned about additional losses of security due to the Basin Creek-Butte Watershed Project.

Since elk is an MIS for the BDNF, the lack of security in HD 350 is also a red flag for other species, including the grizzly bear, lynx, and wolverine. All of these species

will be adversely impacted by the proposed Basin Creek-Butte Watershed Project, especially logging and road building in the Basin Creek IRA.

The Project Wildlife Report also noted that elk will be also be adversely impacted by logging and helicopter activities in the calving season, which is typically from May 25 to June 12. This disturbance, including from helicopter logging and management of fuel breaks, may last for up to 5 years, and also may result in some elk abandoning public lands for private lands in the calving season to avoid disturbances.

The Basin Creek-Butte Watershed Project will have negative impacts on various forest wildlife associated with old growth forests because old growth forests will be logged in the Basin Creek IRA. Although the NEPA analysis for this project claims that only one Douglas-fir stand of old growth will be logged, it is clear that almost every acre of lodgepole pine forest to be logged in the IRA, as well as possibly all Douglas-fir stands to be logged in the IRA, are functional old growth, even though the NEPA analysis claims no lodgepole pine old growth occurs in the treatment units. This is clearly false, as is noted in the Vegetation Report which states at page 6 that analysis shows that there are 10.1 trees per acre over 15 inches dbh across the treatment units. The requirement for lodgepole pine old growth is 12 trees per acre over 10 inches dbh (Green et al. 1992, page 35, Old Growth Type Code 6). So the Green et al. (1992) requirements for old growth would like be met in most lodgepole pine units. Also, the Vegetation Report notes that these lodgepole pine stands range in age from 100-130 years in age. The Green et al. (1992) requirement for old growth age is 150 years. However, this document notes that there are no hard and fast rules for defining old growth. And the Forest Service has defined "early seral" lodgepole pine old growth (USDA 1993 by Hamilton). This condition can occur in mature lodgepole pine stands that have been impacted by the mountain pine beetle. In fact, the lodgepole pine stands in the Basin Creek-Butte Watershed Project area were roughly 80-110 years old when the pine beetle epidemic started around 2000. As a result, you can have early seral lodgepole pine stands that are as young as 80 years old due to pine beetle attacks. The complex stands, with high amounts of coarse woody

debris and snags, can provide the structural conditions used by old growth species as the pine marten well below the required age for actual old growth (Chapin et al. 1999).

Even if the lodgepole pine stands in the Basin Creek-Butte Watershed Project Area are not quite 150 years old, or meet the official definition of “old growth trees,” the pine beetle has created functional old growth. This is demonstrated by the cover photo on the project Wildlife Report, the cover photo on the draft EA for this project, and by several photos provided in the Project Fuels Report. These include lodgepole old growth stands in units 60 (Figure 11), unit 30 (Figure 10, unit 12 (Figure 12), and unit 130 (Figure 13).

The BDNF likely provides habitat for the following 25 old growth-associated bird species, based on USDA (2018) and USDA (1990 by Warren), with Montana Species of Concern and/or U.S. Fish and Wildlife Service (USFWS) Birds of Conservation Concern (BCC) identified by (*): Great Gray Owl*, Black-backed Woodpecker*, Boreal Owl, Brown Creeper*, Chestnut-backed Chickadee, Flammulated Owl*, Hairy Woodpecker, Golden-crowned Kinglet, Hermit Thrush, Hammond’s Flycatcher, Lewis’s Woodpecker*, Northern Goshawk*, Pileated Woodpecker*, Northern Pygmy-Owl, Pygmy Nuthatch, Red-breasted Nuthatch, Swainson’s Thrush, Three-toed Woodpecker, Townsend’s Warbler, Williamson’s Sapsucker*, White-breasted Nuthatch, Winter Wren, Red-naped Sapsucker, Northern Saw-whet Owl, and Pine Grosbeak. These include 8 “at risk species” due to identification as Montana SOC or USFWS BCC. One of these species, the Williamson’s Sapsucker, has been identified as having significant population declines beginning in the 1990s (North American Bird Conservation Initiative 2022). There are also 6 mammal species known to be associated with old growth forests including the pine marten, northern flying squirrel, fisher, silver-haired bat, red-backed vole, and lynx.

Although the Project Wildlife Report claims that logging will benefit three out of 25 of these old growth-associated species, the Flammulated Owl, Lewis’s

Woodpecker, and Williamson's Sapsucker, no published science or monitoring on the BDNF was cited as a basis for claiming that this severe thinning of old growth forests will improve habitat for these species. The BDNR RFP and associated FEIS do not include any habitat conservation measures for any of these 3 species, so habitat requirements are not identified on this forest. Thus Forest claims that logging will benefit these 3 species are mere conjecture. In particular, these species depend upon specific woodpecker populations to create nesting cavities (Horowitz 2023), and these woodpeckers depend upon more dense, older forests, including forests affected by insects and disease, for habitat. One such species, the Black-backed Woodpecker, is noted in the BDNF RFP FEIS BE at 8 that mature and old-growth coniferous forests with decadent trees, snags and fallen logs are important to provide heart-rot in trees and snags for nests, diseased trees for roost, and beetle-infested trees for foraging; dead trees 8-12 inches dbh were preferred. Snag retention in harvest units is identified as an important mitigation measure for this sensitive species. However, no actual snags are required in logging units by the BDNF RFP, so this mitigation measure is meaningless. This mitigation measure claimed to benefit the Flammulated Owl in logging areas would also be meaningless. The BDNF RFP has no assessment of logging impacts on the Lewis's Woodpecker or Williamson's Sapsucker. However, both of these species depend upon damaged/dead trees for nesting cavities, including those created by other woodpeckers. Since no snags are required in any harvest units in the Basin Creek IRA, claims that open forests created from logging will benefit these 3 at-risk species are unfounded. We also note that claims that these species will benefit from logged lodgepole pine are not tied to actual densities of larger trees. Do a dozen or more larger lodgepole pine trees provide habitat for these forest species? And what are the chances that these few lodgepole pine trees retained during logging will not blow over in some severe weather event? Basically, all the Project Wildlife Report concluded was that logging will benefit these 3 species without providing any specifics, as is required by the NEPA.

In addition to the complete loss of not just woodpeckers but any existing as well as future snags in logging units, the claimed logging benefits to the Flammulated Owl, Lewis's Woodpecker and Williamson's Sapsucker are highly questionable given a huge landscape area that will have essentially all hiding cover from

predators removed, and essentially all thermal cover removed that provides protection from high heat levels that will occur in logged forest stands, or from severe weather events that are more frequent with climate change. Nor was the impact of what will be essentially a complete loss of current and future nesting cavities these 3 species in logging units addressed. Why would this severe loss of nesting sites result in habitat improvement? The BDNF does not actually require any snag within any acre of logged forests, given the endless “loopholes” allowed where green trees can substitute for snags, if these are even available. And in fact, the Project Wildlife Report acknowledges as much, by stating that there will be plenty of snag habitat in “adjacent” untreated areas. The NEPA analysis for this project did not define how many snags, and their sizes, will actually be retained in any logging unit. Even if by chance some snags are left in logging units and fuel breaks, it is unclear how long they will stand. It was noted that 50-75% of snags created by the bark beetle infestation have fallen; this would be a 50-75% loss rate over roughly 20 years.

In summary in regards to the logging of old growth forests in the Basin Creek IRA, the agency claims in the Inventoried Roadless Area report at page 3 that this logging is allowed as it will “maintain or “restore” the characteristics of ecosystem composition and structure. The actual total impact on old growth in the IRA is not clear, but includes logging of 502 acres of Douglas-fir old growth, 392 acres of lodgepole pine old growth; the acres of lodgepole pine to be impacted in fuel break is unknown, including if the minimum number of large trees will be retained. There was no information provided as to why 25 species of old-growth associated bird species are not part of the affected ecosystem, so that removing their habitat is not a relevant factor in maintaining or restoring ecosystem functions in this IRA.

A purpose of logging the Basin Creek IRA is to remove the large quantities of snags and downed logs created from the 2000s bark beetle infestations, along with many of the larger green trees that have commercial value. A Forest Service publication, Bull et al. (1997) noted that roughly 25% of western forest birds use snags for nesting and foraging. Snag-associated bird species that likely occur in

the Basin Creek IRA include the following 26 species, including 7 Montana SOC and/or USFWS BCC, as per USDA (2018) and Horowitz (2023): American Kestrel, Black-backed Woodpecker*, Boreal Owl, Brown Creeper*, Chestnut-backed Chickadee, Downy Woodpecker, Flammulated Owl*, Hairy Woodpecker, House Wren, Lewis's Woodpecker*, Mountain Bluebird, Mountain Chickadee, Northern Flicker, Pileated Woodpecker*, Pygmy Nuthatch, Northern Pygmy-Owl, Red-breasted Nuthatch, Red-naped Sapsucker, Northern Saw-whet Owl, Three-toed Woodpecker, Tree Swallow, Violet-green Swallow, Western Screech Owl, White-breasted Nuthatch, Williamson's Sapsucker*, and Great Gray Owl*.

The Basin Creek IRA logging/fuels break project will thus remove nesting habitat for 26 western forest bird species, including 7 that are at-risk species. As noted previously, the BDNF RFP does not require that any snags actually be left in any harvest unit, due to endless "loopholes" (e.g., see Project Vegetation Report at 6). The 26 snag-associated species will thus have essentially all nesting habitat removed on at least 894 acres of this IRA, due to logging of 392 acres of lodgepole pine and 502 acres of Douglas-fir forests in the IRA. The effect of fuels treatments in fuels breaks is unknown. However, with an average of 14 snags per acre at least 10 inches or larger in size in treatment units (Project Wildlife Report Table 3 at page 12), loss of snags on 894 acres comes to a loss of 12,516 snags for associated wildlife, including 7 at-risk species. In spite of this planned removal of thousands of snags in the IRA, the Roadless Area report for the Basin Creek-Butte Watershed Project at page 3 states that this logging project will "maintain or restore the characteristics of ecosystem composition and structure." Apparently according to the Forest Service, birds are not part of the forest ecosystem, and thus removing their habitat can still count as "ecosystem restoration."

In addition to the failure of the NEPA analysis/reports for the Basin Creek-Butte Watershed Project to define why birds associated with old growth forests and snags are not a part of the forest ecosystem, and thus do not require maintenance or restoration of their habitat in the IRA, the Forest Service also failed to verify that their second rationale for exempting this IRA from the logging restrictions of the Roadless Area Conservation Rule is that logging is needed to

reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period. The agency makes repeated claims that this IRA needs emergency logging to reduce fuels to prevent “catastrophic” or “uncharacteristic” fire: e.g., draft EA at pages 8, 16, 40, 47, 56; initial scoping announcement at 1, 2 and 5; Project Wildlife Report at 20; Project fuels report at 2, twice at page 3. In spite of this justification for logging this IRA as an exemption, the agency did not ever define what constitutes an uncharacteristic fire. As well, the agency did not define why if there is a fire, that it will be outside the historical range of variation.

Apparently there is some level of high burn severity within a fire that results in an uncharacteristic wildfire, but this is never identified. The Project Fuels Report at 9 identifies 3 levels of burn severity, including low (with less than 25% tree mortality), medium (25-75% tree mortality), and high (over 75% tree mortality). The level of each of these 3 categories required to result in an “uncharacteristic” fire is never defined, although it could be. It seems likely that no actual definition based on levels of burn severity exists. Also, the agency did not define how the 3 burn severity levels could be predicted for a potential fire, including one that could occur in the Basin Creek IRA. This is an essential part of agency claims that a fire is going to be uncharacteristic if one starts.

The various NEPA reports for the Basin Creek-Butte Watershed Project also did not define where “uncharacteristic” fires have been verified elsewhere on the BDNF. In particular, the response to comments section regarding public scoping comments, at page 16, letter 26, noted that in 2021, the Haystack Fire burned 11,000 acres within a close distance of the Basin Creek IRA, with similar habitat conditions. Yet the project NEPA reports do not provide any information on the burn severity levels in this fire. Apparently that recent fire close to the Basin Creek IRA did not burn “uncharacteristically.” Given the claim of uncharacteristic fire is being used to dismiss the many requirements of the Roadless Area Conservation Rule, including no commercial logging and no road construction, it is essential that the Forest Service provide a solid, scientific basis for claiming that emergency logging and road building is needed to prevent an uncharacteristic fire from occurring at almost any time. This requirement has not been met by this agency.

One of the factors the agency apparently is using to claim that fires in the Basin Creek IRA will be uncharacteristic, and outside the natural range of variation, is that the bark beetle infestation that started in the early 2000s has created unnatural fuel conditions that require emergency management. The overall inference, particularly in the Project Fuels Report, is that prior to the 1850s settlement of the west by white humans, there never were any pine beetle epidemics because low severity fires that occurred ever 35-40 years prevented lodgepole pine forests from ever becoming dense enough to support pine beetles or crown fires. As such, there were no high levels of standing dead and downed trees to create fuels for crown fires. However, this assumption that mountain pine beetle infestations are only a recent occurrence in western forests (the last 150 years) was never substantiated with any actual science. If in fact that pine beetle epidemics have occurred during the last 10,000 years since the end of the last ice age, as seems highly probable, fuels created from these epidemics would be a natural rather than an uncharacteristic ecosystem process, along with the 26 bird species that use snags for nesting. And intervention of this natural ecosystem process would be in violation of the Roadless Area Conservation Rule. Documentation that pine beetle epidemics are an unnatural ecosystem process that requires management intervention was never demonstrated.

There were never any comparisons provided in the various NEPA document/reports for the Basin Creek-Butte Watershed Project that compared actual, not modeled, historic and current levels of standing and downed dead trees in lodgepole pine forests. This information was needed to support agency claims that current levels of standing dead and downed trees are outside any historic levels (never occurred prior to the 1850s) and thus require management intervention to restore ecosystem characteristics and structure. The characteristics that need to be restored are an absence of standing dead and downed trees, and an absence of the 26 bird species that use snags as nesting habitat. In effect, the agency is claiming that maintaining natural conditions in the Basin Creek IRA requires removal of 25% of the forest birds that normally occur there. The current level of larger snags (10 inches and greater dbh) is reported to

be roughly up to 14 trees/acre (Project Wildlife Report Table 3). This report also notes that 50-75% of the snags have fallen since the pine beetle epidemic began in the early 2000s. Assuming that at least half of the snags have fallen since the beetle epidemic began, this would indicate that initially the beetle epidemic created an average of 28 larger snags per acre. This high level of snags is a wildlife bonanza for both nesting and foraging habitat. The average number of snags per acre in the 11 Landscape Areas of the BDNF is 6.4 per acre from 10-19 inches dbh (Bush et al. 2006). On the other hand, reducing the number of snags to zero will be 6.4 snags per acre under the natural range of variation for snags, and could not represent restoration of the natural level of snags across this forest.

2. The Proposed Basin Creek-Butte Watershed Project will trigger multiple violations in addition to the Roadless Area Conservation Rule; these will include violations of the NEPA, the NFMA, the APA, the ESA, and the MBTA.

- a. The Proposed Basin Creek-Butte Watershed Project will trigger a violation of the BDNF RFP requirement to maintain the minimum number of large old trees in old growth forests. This would include Code 6 Lodgepole Pine old growth (Green et al.1992); this is a NFMA violation of the BDNF RFP; however, claims that no lodgepole pine old growth occurs in logging units is also a NEPA violation for providing false information to the public in a NEPA document.

As we previously noted, most, if not all, of the proposed lodgepole pine logging units are old growth. The BDNF RFP requires that there are at least 12 trees per acre over 10 inches dbh as per the minimum criteria for old growth (which are not actually valid old growth requirements for wildlife). The Project Vegetation Report at 6 states that on average, there are 10 live trees per acre over 15 inches dbh in treatment units. The requirement for the project area is eastern lodgepole pine old growth. The agency claims there is no lodgepole pine old growth in any of the proposed units, which is clearly false. Logging this lodgepole pine old growth

requires an amendment to the BDNF RFP. However, this would not likely address this RFP violation, because it is highly likely that any larger lodgepole pine that are left in thinned stands would quickly blow over when severe wind events occurred.

- b. The agency is violating the NEPA by claiming that there will be no new roads constructed in the Basin Creek IRA.

The agency falsely claims that the new access required for fuels break treatments 1-3, as well as units 10 and 20, do not involve any new temporary road construction. This is very misleading, as a motorized trail will be reconstructed and widened to provide access for logging machinery in and surrounding fuel break #1. . Fuels break 2 may include reconstruction of a motorized trail so that mechanical equipment can access this fuel break. Fuel break 3 will require new road construction, as there is no existing motorized trail that exists to provide motorized access to treat this 128 acres of a shaded fuel break by hand. At a minimum, this trail will qualify as a new motorized trail, or new motorized access which will not only be used for the IRA project, but will likely be used permanently by illegal ATV use. Access to fuel breaks will require permanent trail/road use, not only for the current 40-year estimated effectiveness of these fuel breaks, but for repeat treatments that are indicated to be required every 40 years.

- c. The agency is violating the BDNF RFP by failing to complete wildlife surveys prior to planned fuel and logging treatments; no Forest Plan amendment has been completed to allow this violation; the agency is also violating the NEPA by failing to provide important wildlife survey information to the public, and also by potentially providing false claims to the public that wildlife surveys will be done for at-risk bird species.

The BDNF RFP standard 8 for wildlife includes the following: Mitigate, through avoidance or minimization, management actions around known active nest sites of threatened, endangered, proposed candidate, and sensitive bird species, if

those actions would disrupt reproductive success during the nesting period; during project planning consider applicable science regarding species needs (such as nesting periods and buffers) and site-specific considerations; this standard also applies to Great Gray Owls and Northern Goshawk(s).

This standard states that surveys will be done DURING PROJECT PLANNING. Although the agency hopes to immediately implement this project, there apparently have been no surveys completed for 2 sensitive species, the Flammulated Owl and Back-backed Woodpecker, or the other two species that require surveys, the Great Gray Owl and Northern Goshawk. Surveys done during project planning will also meet the requirements of the NEPA to provide high quality information to the public, which includes survey results, as well as identified mitigation measures. The public has not been provided any of this information. The number of nesting owls, goshawks and woodpeckers that will be impacted in their nesting areas are unknown. The mitigation measures that have been applied to protect these nesting areas from disturbance are not identified to the public as well. And the agency has not identified the expected effectiveness of either survey methods or mitigation measures, as is required by the NEPA.

The maps showing the proposed logging and fuel breaks do not include any identified nesting areas for forest owls, woodpeckers and goshawks. These maps do not identify any nesting buffers that have been designed to protect nesting areas for forest owls, woodpeckers and goshawks from logging and fuel break activities, both inside and outside of the Basin Creek IRA, on over 2000 acres of planned logging. The required protocols that were used to survey these 4 forest birds were not identified, along with their reliability as per probability of detection. As well, how will the public be provided with the information on the location of nesting areas for forest owls, woodpeckers and goshawks if these are not provided prior to a decision? This in itself is a NEPA violation, as important wildlife information is never made available to the public prior to a decision being made.

Although surveys for 4 bird species, as is required by the BDNF RFP, have not yet been done, the agency has determined that this project, which requires logging on 1,861 acres and fuels treatments on 489 acres for a total disturbance of 2,350 acres of forest habitat, that there will be no significant adverse impacts to these 4 at-risk bird species. Assumptions that surveys will protect all nesting habitat for these species do not constitute a valid measure of logging/fuel treatment impacts as per the NEPA. Currently, there are no identified nesting buffers for any of these 4 at-risk forest birds. The presumption that these nesting buffers will be identified for all 4 species on 2,350 affected acres is not a NEPA analysis; it is just an assumption.

The agency is also violating the NEPA by failing to demonstrate to the public how the presence of nesting at-risk forest birds is being protected from disturbance during activities on 2,350 acres. Claiming that these at-risk species will be protected from nest disturbances by implementing nest buffers in all treatment units does not demonstrate to the public how survey results were used to protect nesting areas of at-risk species. The public is not provided key information on the management of these at-risk species for this project. The high quality information required by the NEPA is thus not being met.

There is also a potential NEPA violation if the agency is providing false information to the public. At this time, the agency has not demonstrated wildlife surveys for at-risk forest birds will be done to prevent nesting disturbances. What if these surveys are never completed, or only completed for specific units? What if the agency does not have the personnel required to surveys at-risk forest birds on 2,350 acres? These surveys are quite labor-intensive, as well as time consuming. It will take a considerable level of wildlife expertise as well as time to complete these surveys. Is the necessary funding and personnel available to complete this requirement? If surveys are to be done at some time in the future, the agency needs to provide a minimum amount of information to the public to demonstrate such surveys are actually planned. The NEPA analysis for the Basin Creek-Butte Watershed Project does not include any information of costs and personnel required for surveys, or the required protocol for such surveys. This lack of

information on implementation of wildlife surveys for this project leaves some question as to whether the agency is actually intending to complete valid surveys for at-risk forest birds. Without any actual information provided to the public in regards to costs and completion of these surveys, it is not clear these surveys are actually planned. If not, this is a clear NEPA violation with the agency misrepresenting management activities to the public.

- d. The agency is violating both the NEPA and the NFMA by failing to clearly disclose to the public that the Basin Creek-Butte Watershed Project is part of a desired fuels management program to treat 20-40% of the landscape as a fuels management program; this fuels management program is not included as BDNF RFP direction; nor is there any NEPA analysis of the cumulative effects on wildlife from the “connected actions” of planned cumulative treatments on 30% of the affected watershed; in fact the proposed percentage of the watershed is almost 53%, not 30%, as was falsely claimed by the agency, in violation of the NEPA; implementing a 20-40% fuels treatment program within IRAs is a violation of the Roadless Area Conservation Rule.

The Basin Creek-Butte Watershed Project, including with the Basin Creek IRA, is a fuels management project (e.g., Response to Comments Section of the Project EA at pages 7, 8 and 9; Fuels Report at 3, 4, and 6; Wildlife Report at 8, 9, 38). The primary objective to reduce fuels is more specifically noted in the the Basin Creek-Butte Watershed Project Fuels Report; this report at 26 notes that the proposed project will align with a desire to manage 20-40% of the landscape in fuels management programs to reduce wildfire hazard. As well, the Project Vegetation Report at 17 states that past activities in the project area are part of and helping to meet the landscape desired condition of having 20 to 40 percent of the area within the watershed treated; with past and planned actions for this current project, there will be 30% of the watershed being treated, which should substantially affect the behavior of any wildfire within the watershed as cited by Finney et al. 2007, and Jane et al. 2021. This Vegetation Report at 19 also summarizes BDNF RFP direction; there is no desired condition to treat 20-40% of

a watershed to reduce wildfire hazard. This program is being implemented outside of the BDNF RFP, and as well, outside the both the NFMA and the NEPA. There has been no public involvement in this planned management regime, nor has there been any analysis of impacts on wildlife in the BDNF RFP FEIS if 20-40% of a watershed is treated with fuels management to reduce wildfire risk. The impacts of this program, which is outside the BDNF RFP, are unknown for wildlife.

Implementing a 20-40% landscape fuels management program within IRAs, as is planned with the Basin Creek-Butte Watershed Project, is not only a violation of the NEPA and the NFMA, but is also a violation of the Roadless Area Conservation Rule, where the sole function of an IRA would be fuels reduction.

The past treatments in the Basin Creek-Butte Watershed Project Area are extensive. The Basin Creek Hazardous Fuels Reduction Project was implemented in the mid to late 2000s in response to the pine beetle epidemic; 2,600 acres of hazardous fuels were planned to be treated on the east shoulder of the project area (Project Fuels Report at 10). This project, based on a decision made in 2002, was to treat these 2,600 acres with a half mile to two miles of the reservoirs (Id. at 1). This is the extent of the information provided on this project in the Basin Creek-Butte Watershed NEPA analyses. There was no map provided on the location of these units, including in relation to the currently planned units. In addition, there has been 1,438 acres of thinning under a roadside salvage program between 2000 and 2010 (Fuels Report at 26). There has also been 279 acres of aspen thinned under the Basin Creek Aspen project, with another 292 acres of planned thinning yet to occur (Id.). Finally, there is 1,009 acres of maintenance broadcast burning proposed under the Butte Habitat Improvement Project (Id.). And Butte Silver Bow County has 119 acres of thinning planned and ongoing (Id.). None of these past and ongoing projects are mapped for the Basin Creek-Butte Watershed Project.

As per cumulative effects, somewhere around 5,618 additional acres in the Basin Creek-Butte Watershed project area have already undergone or have ongoing fuel

treatments made in previous NEPA decisions. Thus the total fuels treatments to achieve treatment would be roughly 8,000 acres of the Basin Creek-Butte Watershed Project Area is 15,178 acres. So the actual planned percentage of this project area for fuels treatments would be 8,000 divided by 15,178 acres, or almost 53%, instead of the claimed achievement of treatment of 30% of this watershed (e.g., Project Vegetation Report at 17, Project Fuels Report at 26). This is a NEPA violation to provide false information to the public on agency management activities.

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- e. The BDNF is violating the NEPA by failing to complete an Environmental Impact Statement (EIS) for the Basin Creek-Butte Watershed Proposed Project.
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The agency has released a draft Environmental Assessment for the Basin Creek-Butte Watershed Project, claiming that there will be no significant cumulative effects to any resources, including wildlife (e.g., Project Wildlife Report, Project Finding of No Significant Impacts). This project will result in treatment of roughly 8,000 acres in this project area of 15,178 acres, which is roughly 53% of this project area. A prior project, the Basin Creek Hazardous Fuels Treatment Project on which a decision was made in the early 2000s, was completed as an EIS, due to projected significant impacts on resources, including wildlife (Basin Creek-Butte Watershed Project Fuels Report page 1). That project involved 2600 acres of treatment (Id.), while the Basin Creek-Butte Watershed Project include 2,350 acres of treatment. In addition, there are a number of other “connected” fuels treatment projects in the Basin Creek-Butte Watershed project area, which have added to the 2,600 acres of the Basin Creek Hazardous Fuels Treatment Project. If treatment of 2,600 acres in this watershed required an EIS in the early 2000s, it is not now clear why adding 2,350 acres to existing cumulative treatment acres of 5,518 acres (including the Basin Creek Hazardous Fuels Treatment Project) will not have significant cumulative effects on wildlife, including those associated with old growth forests, snag forests, and undisturbed older forest habitat as the grizzly bear, lynx and wolverine.

- f. The BDNF needs to define a correct Wildland Urban Interface for the Basin Creek-Butte Watershed Project Area; also, until public involvement is completed on lynx habitat for the BDNF, the Basin Creek IRA remains as mapped lynx habitat, and as such, no exceptions for the Northern Rockies Lynx Management Direction (NRLMD) for logging multi-story lynx habitat are allowed outside the WUI; this requires the WUI to be correctly mapped.

The only information provided on the WUI for the Basin Creek-Butte Watershed Project that we noted was in the Project Fuels Report at page 1. The project area is stated to be in the Butte-Silver Bow County Community Wildfire Protection Plan (CWPP), which is any area including and extending four miles from the HFRA defined WUI boundary; additionally one mile on each side of any major powerline and or primary egress and ingress route is also defined as WUI in this CWPP; based on this definition, the entire Basin Creek-Butte Municipal Watershed is within the WUI boundary. This is an incorrect definition of the WUI as per the HFRA. This is also a NEPA violation as it provides incorrect information to the public and impacts management of the threatened lynx.

The Basin Creek-Butte Watershed Project Wildlife Report at 7 notes that lynx habitat was “remapped” in 2019, with a resulting elimination of lynx habitat across many areas of the BDNF. This included almost of the Basin Creek IRA, which is clearly suitable habitat for the lynx. The Wildlife Report claims that the updated lynx habitat map underwent a “rigorous” review process as required by the NRLMD and was accepted and utilized by the Western Lynx Biology Team. However, there was no public involvement in this remapping effort, making it a violation of the NEPA. It is thus currently not a valid lynx habitat map. A NEPA analysis, which includes public involvement, is required before the BDNF can legally implement the new lynx habitat map, which deletes extensive areas of the BDNF as lynx habitat. This issue is also relevant of management of the WUI on the BDNF, as it affects whether the area is mapped as lynx habitat or excluded as lynx habitat. Mapped lynx habitat is protected outside, but not inside a WUI, so the WUI location is key to management of lynx. By first providing a false definition of

the WUI, then deleting lynx habitat without any NEPA, the proposed project will have illegal adverse impacts on the lynx.

- g. The BDNF needs to complete an amendment to the BDNF RFP to obtain public involvement and an analysis of how implementing a desired condition of treating 20-40% of a landscape for fuels reduction will impact other resources, and to log unsuitable timberlands.

As we previously noted, the Basin Creek-Butte Watershed Project is part of a new program being implemented by the BDNF to have a desired condition of 20-40% of a watershed being treated and thus maintained as low fuels to reduce the potential for wildfires. To date, there has been no public involvement for this programmatic activity, even though this program is being implemented, as per the Basin Creek-Butte Watershed Project. The impact on other resources, including wildlife, with 20-40% of each watershed across the BDNF, has never been evaluated as per the current BDNF RFP FEIS. In addition, the RFP does not define to the public that this desired condition of fuels treatments on 20-40% of the landscape may include any and all IRAs, as is currently proposed for the Basin Creek IRA.

- h. The BDNF is violating the NEPA and the NFMA by failing to include public involvement in the “remapping” of lynx habitat on the forest, including within the Basin Creek IRA.

As is noted in the Basin Creek-Butte Watershed Project Wildlife Report at page 7, the initial mapping of the Basin Creek IRA as lynx habitat was changed without any public involvement. This was a forest-wide remapping for a forest-wide program of managing habitat for the threatened lynx. This required public involvement, which was not done, making the current map invalid for implementation on the BDNF. Public involvement is required to meet the requirements of the NEPA on this remapping of lynx habitat.

dated around 2000. This project record is not provided either on past projects or in the project archives. This project occurred in the Basin Creek-Butte Watershed Project Area, and is a connected action for fuels management. NEC also requested information on the habitat types in each treatment unit, and what the length of the 9 fuel break treatments were. Finally, NEC requested the mileage of the Bear Gulch Trail in the project area, which may also have been named Trail UR4. This information was important for the joint comments on the Basin Creek-Butte Watershed Project. This is also important project information that should be provided to any publics in the project record. The failure of the agency to provide this information is consistent with the lack of this information in the NEPA documents provided to the public. The failure of the agency to provide this information to the public serves to conceal important factors of this project, including how many miles of new roads and/or motorized trails are being constructed in the Basin Creek IRA. The agency is concealing actions that are violations of the Roadless Aear Conservation Rule.

Regards,



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- i. The BDNF needs to complete a Forest Plan amendment to allow extensive commercial logging of unsuitable timber lands in the Basin Creek-Butte Watershed Project.

The Basin Creek-Butte Watershed Vegetation Report at 24 notes that all of the proposed logging units are unsuitable timber as per the BDNF RFP. It also claims that all treatments are being implemented to protect multiple values. And it notes that logging of unsuitable timber in this project will meet desired conditions, which have been previously defined as treatment of 20-40% of the watershed. However, as we noted previously this project will result in treatment of 53% of this project area, exceeding the desired conditions which in turn have never been not incorporated in any manner into the BDNF RFP, or obtained any public involvement. In turn, logging unsuitable timber requires a reasonable level of analysis of how multiple use values will be affected, something that was not done for the Basin Creek-Butte Watershed Project. And the stated fuels objective of treating 20-40 percent of a watershed, which is not part of the BDNF RFP desired conditions, clearly identifies logging of unsuitable timber a fuels project. Fuels is not a multiple use value. Clearly, this is a fuels project which will have severe impacts on wildlife associated with old growth and snag forests, elk calving and security habitat, and habitat connectivity for the threatened grizzly bear and lynx, and the proposed wolverine. The adverse impacts of logging unsuitable timber is in direct conflict with maintaining these values for wildlife.

- j. The BDNF has violated the NEPA by failing to provide information on the Basin Creek-Butte Watershed Project that was requested by the public, including violations of the Roadless Area Conservation Rule.

On June 10, 2023, NEC Director Sara Johnson sent an e-mail to Michele Peterson of the BDNF requesting additional information on the Basin Creek-Butte Watershed Project. As of June 20, 2023 at 2:00 p.m., NEC did not receive any response to this information request. This request is included as Johnson 2023 in Appendix A for cited literature. This information request include an electronic copy of the Basin Creek Hazardous Fuels Project Record of Decision, which was