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October 13, 2022

To: Objection Review Officer

Intermountain Region

USDA Forest Service

324 25th Street

Ogden, UT 84401

**RE: OBJECTION AGAINST THE EAST PALISADES HAZARDOUS
FUELS REDUCTION PROJECT**

1. Name of Objectors

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

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

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

Signed for Objectors this 13th day of October, 2022


Sara Johnson

2. Name and Location of Proposed Project

East Palisades Hazardous Fuels Reduction Project on the Palisades Ranger District of the Caribou-Targhee National Forest.

3. Name of Responsible Official

Tracy Hollingstead, District Ranger, Palisades Ranger District

4. Attachments

Appendix A is included with this Objection.

5. Connection between Proposed Project and Prior Public Comment and Public Involvement

On June 11, 2015, and on July 7, 2021 and August 1, 2021, NEC Director looked at the proposed treatment units for the East Palisades Hazardous Fuels Reduction Project (hereafter “East Palisades Project”) as accessed along U.S. Highway 26. These observations demonstrated that this proposed project area has a high diversity of wildlife habitat given the many large stands of mixed conifer/aspen stands, apparently due to the significant moisture this landscape receives. Mixed conifer/aspen stands provide some of the highest diversity any forest type in the western U.S. provides for wildlife, including forest raptors, as boreal, flammulated, and great gray owls, and goshawks, as well as neotropical migratory birds. Given the size and apparent age of conifers that occur in these mixed conifer/aspen stands, many of these stands are in late seral condition, as was noted in the agency’s NEPA analysis. This would indicate such stands are up to several hundred years old, and thus existed prior to pre-settlement times. Also, as

noted in the agency's NEPA analysis, aspen stands have a low vulnerability to fire. The fire history in the project area is likely very long as a result of aspen occurrence, which is noted to be almost 30% of this landscape.

On December 8, 2020, Objectors provided joint comments on the proposed East Palisades Project. A large number of issues were raised, which will only be briefly summarized here. These issues included: will valid surveys be done for wildlife, such as the wolverine, goshawk, pine marten, flammulated owl, and grizzly bear; the Targhee National Forest is failing to monitor populations of management indicator species (MIS); high road densities create problems for wildlife; habitat effectiveness is impacted by roads; hiding cover levels need to be adequate for wildlife; noxious weed infestations that are enhanced in treatment areas are a concern; management of old growth forests for wildlife is a concern; management of big game winter range is a concern; management of elk security is a concern; management of moose winter range is a concern; management of Inventoried Roadless Areas is a concern; proper delineation of the Wildland Urban Interface (WUI) is a concern as it affects protections of public lands; livestock grazing is a concern, including impacts on aspen; to date, the Targhee portion of the Caribou-Targhee National Forest has no valid inventory of old growth; how will a 60% snag habitat level be maintained with commercial logging and noncommercial understory thinning; will proposed mitigation measures be effective; and there needs to be a range of action alternatives given the complexity of the designations in the project area.

We are adding new issues to our objection, based on a lack of clarity in the agency's information provided in scoping and the draft Environmental Assessment, as well as a deficient draft Decision Notice, where response to public comments was not provided. If the draft EA had been provided to NEC, we would have possibly noticed the severe lack of information in the EA, including maps defining various special management areas in the project area, a map showing the management area prescriptions as per the Targhee Revised Forest Plan (RFP), maps of the Palisades Inventoried Roadless Area, and maps of the Idaho Roadless Rule, including Backcountry Restoration, and Wildland Recreation themes. Also

the acreage to be treated per MA was never identified. The mile boundary from the Palisades Reservoir where old growth is to be emphasized is not mapped.

6. Remedy

As has already been indicated in part, and will be addressed in more detail in this Objection, the Caribou-Targhee National Forest needs to start over in designing and evaluating the proposed East Palisades Project in order to meet the public involvement and high quality information requirements of the National Environmental Policy Act (NEPA), to meet the collaborative requirements of the Healthy Forest Restoration Act (HFRA), and to the meet the requirements of the National Forest Management Act (NFMA) and HFRA requirements to adhere to Forest Plan direction.

7. Reasons the Proposed Project Violates Regulations and/or Laws

- I. The East Palisades Hazardous Fuels Reduction Project (hereafter "East Paradise Project") will trigger violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Administrative Procedures Act (APA), the Migratory Bird Treaty Act (MBTA), and the Healthy Forest Restoration Act (HFRA), including for the following reasons:**

- 1. The Caribou-Targhee National Forest is in violation of the NEPA and the HFRA due to failures to adhere to associated legal requirements for a failure to include interested publics in the public involvement processes, a failure to involve interested publics in the collaborative process required by the HFRA, and a**

failure to disclosure of analysis information, and make it available to the public during the various comments periods.

- a. Native Ecosystems Council (NEC) was not provided an opportunity for public involvement in the East Paradise Project. At no time was NEC notified of public involvement opportunities for this project. A similar problem occurred with the proposed Diamond Creek Project. NEC e-mailed the Caribou-Targhee National personnel on 9/29/22 as to why NEC was not notified of the scoping period for this project. As provided in Appendix A of this Objection, NEC was notified on 9/10/22 that we had mistakenly been eliminated from the e-mail list of interested publics for forest activities. This may be why NEC did not receive any notifications for public comment periods for the East Paradise Project. NEC was, however, included as an interested public in the scoping comments submitted for the East Paradise Project by the Alliance for the Wild Rockies on 12/8/20.
- b. There is no record that we could find that the collaborative process required for use of the HFRA was completed for the East Paradise Project. Such a process requires more than just affected land owners who live within or adjacent to the project area. It must also include conservation groups. Although the draft DN claims that conservation groups were included in the collaborative process, none are actually listed. By limiting the collaborative process just to local publics, the agency is purposely limiting the general public's ability to have a say in management of public lands.
- c. Most of the analysis information for the East Paradise Project was not available to the public. Instead, almost all analysis information was provided in reports in the project record, records that were not included on the agency's web page for the East Paradise Project. The Environmental Assessment (EA) only provided conclusions of various analysis topics, so the public was provided no basis as to understand how agency conclusions were derived. The NEPA requires that agencies provide the public "high quality" information as to analysis of proposed projects, instead of only providing conclusions.

d. The agency did not address how the proposed activities are consistent with the Targhee RFP, because first, there was no map of the management areas (Mas) that occur in the project area. There was one map that did show the boundaries of the recommended wilderness (Figure 1 in EA/draft DN Appendix A, page 34), but this was not identified as MA 1.3. The proposed treatment acres per RFP MAs were never identified. Nor could we find any actual correct description of the various MAs that will be impacted by the East Paradise Project. It appears that the locations of project activities include MA 1.3 and 3. 2(d), and what is likely MA 5.1.3(a-b), which is a small slice of Forest Service land along the Forest Service-private property boundary, which is an Urban Interface MA. These MA designations and locations as per the project were not noted by the agency in the EA and draft Decision Notice (DN). We have included in Appendix A of this Objection a color copy of the RFP selected alternative 3-M map of the project area, which although tiny, appears to show the MAs where the East Paradise Project is planned, including the 2 previously mentioned.

Our “estimate” of the treatment acres as per location within MAs is rough, as it is difficult to clearly identify the location of units as per unmapped MAs. It is as follows, as per Figure 1 in the EA/draft DN Appendix A at page 34, and Figure 1 in the EA at page 9:

Logging Units from North to South:

Unit 1: in MA 2.4 or 2.3, MA 3.2(d), and likely a small portion in MA 5.1.3, Interface MA.

Unit 2: in MA 3.2(d) and MA 5.1.3, Interface MA.

Unit 3: in MA 5.1.3, Interface MA

Road/Buffer Units, North to South:

First unit at Big Elk Creek, in MA 3.2(d), some in MA 5.1.3.

Second unit in Dry Canyon: MA 3.2(d) and some in MA 5.1.3.

Third unit in Blowout Canyon: MA 3.2(df), some in MA 5.1.3.

Fourth unit: Roads 404-281: MA 1.3, MA 2.4.

Prescribed Fire Units, North to South:

First unit: MA 1.3, MA 3.2(d), some in MA 5.1.3.

Second unit: Booth Canyon, mostly MA 1.3, some MA 5.1.3

Third unit: Blowout Canyon, MA 3.2(d) and MA 5.1.3.

Fourth unit: Branch Canyon, mostly MA 1.3, some MA 3.2(d) and MA 5.1.3.

The only information provided to the public on location of planned treatment units as per RFP MA was that parts of the project will occur in the Eligible Scenic River MA for Big Elk Creek, or MA 2.4, which includes the first mile of the main stem. However, the project could potentially occur in MA 2.3, Eligible Wild River, which also includes the main stem and the lower 2 miles of each of the three forks within recommended wilderness.

Defining to the public in a NEPA document as to the location of planned activities as per the RFP is important public information that needs to be provided in the NEPA process, so that the agency's stated purpose and need for the project is consistent with Forest Plan direction, which is a contract with the public as to how public lands will be managed. In addition, compliance with the HFRA requires adherence to existing Forest Plan direction. This compliance cannot be assessed by the public if the agency does not identify forest plan prescriptions for project activities.

2. The Forest Service is violating the NFMA and the HFRA by implementing vegetation treatment activities that are inconsistent with the Targhee RFP.

- a. The direction for MA 1.3, Recommended Wilderness, will be violated with the East Paradise Project. As noted above, many undefined acres of the

proposed treatments fall within MA 1.3, which is recommended wilderness. The Targhee RFP direction for MA 1.3 is provided on pages III-74 through III-79. MA direction actually includes 2 different MAs, as much of the direction for MA 1.3 is the same as for 1.2, Wilderness Study Areas. Overall, the requirements for MA 1.3 include: a goal to protect and perpetuate wilderness character; in the Palisades, the Idaho portion is open to snowmobiles, but closed to all other forms of motorized use; insects and disease epidemics caused by exotic pests may be controlled; prescribed fire may occur when it meets the objectives of the Wilderness Study Area; allow wildlife habitat manipulation only if the condition needing change is a result of abnormal human influence, will create no serious or lasting damage to wilderness characteristics, and there is reasonable assurance that the project will accomplish the desired objectives; roads are allowed only to the extent they already exist; trees may be cut only for valid mining claims under specific conditions, when emergency conditions such as fire, insect and disease arise, for protecting public safety, or when administrative use make it necessary.

The proposed cutting of trees will degrade wilderness values, and thus violate RFP direction for MA 1.3, by leaving tree stumps of various sizes. Treatment of buffers along roads in recommended wilderness will make the presence of roads more noticeable, degrading wilderness characteristics. Motorized activity using chainsaws and masticator equipment will degrade wilderness characteristics by creating management disturbances that are not expected by the public in recommended wilderness. Since the objective is to reduce fuels, repeated treatments will be required every 20 or so years, as vegetation grows back. Thus the proposed project is setting up this recommended wilderness area for long-term active management, which requires a RFP amendment to change the MA direction from natural to active management. The claim that forests need treatment to restore historical conditions lost due to exclusion of fire were not supported with any documentation that wildlife habitat in the proposed treatment areas is degraded and will improve with treatment. The use of motorized equipment in MA 1.3, such as masticators and ATVs,

is not allowed. The agency claim that removing conifers from aspen via logging and burning will improve and restore wildlife habitat was not demonstrated to be actual science, since mixed conifer/aspen stands have the highest diversity of any forest type for wildlife. In addition, killing aspen trees with fire eliminates a significant wildlife value, or live trees for nesting cavities. The claim that aspen stands need to be rejuvenated by fire is arbitrary and unsubstantiated because livestock grazing occurs in the project area, and livestock are a known severe factor in destruction of aspen regeneration. A valid objective to improve aspen would be to remove livestock, since burning will not eliminate the ongoing browsing of aspen shoots by livestock. As was noted in the EA at 44, there are four livestock allotments in the project area, including the Jack Branch, Spring Run, and Bottom cattle allotments, and the Blowout sheep allotment.

- b. The RFP direction for MA 2.3, Eligible Wild River, and/or 2.4, Eligible Scenic River, will be violated with the East Palisades Project. The RFP direction for these areas includes to maintain and protect the free-flowing character and the outstandingly remarkable values which qualify the river to be considered eligible as a Scenic River. The area is managed to provide a waterway and associated shorelines where activities are not visually evident to the casual observer. No scheduled timber harvesting is allowed. No cross-country motorized use is allowed. Active fuels management is not identified as a management activity. No new roads may be constructed or road improvement made that would change or modify the classification for which the river was designated. Personal use wood cutting is allowed with restrictions to protect the outstanding remarkable values. Wildlife habitat will exist/evolve with natural ecological processes. Wildlife habitat manipulation can only occur if the condition needing change is a result of abnormal human influence.

The proposed disturbances that are planned within MAs 2.3 and/or 2.4 will not maintain the remarkable natural qualities for which Big Elk Creek was designated for. Disturbances include prohibited commercial logging, as well as improvements of existing access. Tree stumps will degrade the natural

appearance of the river corridor, as will the increased visibility of existing roads.

- c. The RFP direction for MA 3.2(a-b) will be violated with the proposed project. MA direction includes allowing insects and disease to play their natural role in ecological processes. Management-ignited fire will be managed to maintain fire's ecological role and enhance wildlife habitat. The emphasis will be on prescribed natural fire whenever conditions permit.

Snags will be maintained at 60% potential for woodpeckers. No cross-country travel of motorized vehicles over 50 inches in width is allowed. The snow-free season density of open motorized road and trail density is less than one mile per square mile. Generally no new roads will be constructed. These areas are removed from the suitable timber base. Timber management is allowed for such products as camp firewood, home use firewood, posts and poles for fencing on Forest, Christmas trees, wildlife habitat, administrative use, etc.

The agency did not define how the proposed treatments in MA 3.2 (a-b) will meet RFP direction. The stated purpose of the project is fuels reduction, which is not proposed in the RFP direction for MA 3.2. Reducing insects and disease in forests is not wildlife habitat enhancement. Construction of new roads in this MA is unknown, but could occur, and is not wildlife enhancement. One would assume that if new roads are constructed, these would be needed to achieve MA goals and objectives. Timber harvest is not allowed, unless for example, it addresses wildlife habitat. There was no science or Forest Plan monitoring noted in the agency NEPA analysis available to the public for the East Palisades Project that demonstrates the proposed logging and burning will improve wildlife habitat, including for boreal owls, flammulated owls, great gray owls, northern goshawks and three-toed woodpeckers. The claim that no adverse impacts to nesting of these forest raptors was not substantiated with any documentation that all nesting areas have been located in the treatment areas, and thus will be protected from disturbance in the nesting season.

No survey results were provided to demonstrate these areas are known and will thus be protected.

- d. The RFP direction for emphasizing old growth within one mile of Palisades Reservoir will be violated. The RFP at III-58-61 requires a management emphasis on Douglas-fir, spruce and cottonwood old growth habitats on agency lands within one mile of the Palisades Reservoir. The agency did not define how many areas of proposed treatment fall within this one-mile designation, or for those areas that do, why the proposed management emphasizes old growth. Removal of understory vegetation below a 6 inch dbh, as well as overstory thinning, was not shown to maintain habitat for forest sensitive species, which the Targhee RFP clearly identifies require protected old growth forests for nesting, such as various owls (flamulated, boreal and great gray), as well as the goshawk. Also, reductions on insects and disease processes in old growth due to treatment would not maintain habitat for the three-toed woodpecker. These areas need to be defined and protected from management actions unless the agency can provide monitoring and scientific reports that support such treatments improve habitat for species identified as old growth-associates in the Targhee RFP.
- e. The Idaho Roadless Area rule designations have to be consistent with the governing Forest Plan. Thus the allowance of treatment of fuels in roadless lands as per the Idaho Roadless Rule for proposed wilderness, or MA 1.3, is not consistent with the Targhee RFP direction for fuels, where active fuels management is not allowed as a major activity. By emphasizing fuels reduction activities in MA 1.3, the agency is violating the Idaho Roadless Area Rule, since the Targhee RFP direction does not emphasize fuels reduction in MA 1.3.

3. The agency is violating the NEPA by failing to provide information required to define the project to the public.

There is no map in the EA as to where the Palisades Inventoried Roadless Area is located, even though it is mentioned in the EA at 23 and 29. There is no readable map as to the layout of the Targhee RFP MAs. There is no information identifying the acres of planned treatments per MA. There is no information as to how the project treatments comply with the Targhee RFP. There is no map of the Idaho Roadless Area designations (294.24(a)(2), including Backcountry Restoration and Wildland Recreation themes. There is no map of the mile buffer along the Palisades Reservoir where old growth habitat is to be emphasized. There is no description as to whether new roads will be constructed, or where they will be located. As previously noted, most of the analysis information for the project is located in the project file, unavailable to the public for review and comment. This naturally limits the ability of the public to comment on the effects of the proposed vegetation activities. Informed public participation in reviewing environmental impacts is essential to proper functioning of the NEPA.

4. The agency is violating the NEPA and the HRFA by failing to provide a response to public comments in the draft DN for the project.

There is no information provided in the draft DN as to public comments on the proposed project. It's possible that this is because the limited scope of public involvement meant that few to no comments were actually obtained. However, response to public comments is an important part of the public involvement process, as it informs the general public as to concerns and issues that other interested parties have with the proposed project. It does not appear that any conservation groups were involved in this project, as none were listed as collaborator in the EA/draft DN.

5. The agency is violating the NEPA by providing false and/or unsubstantiated claims of mitigation for wildlife; the NEPA

requires that mitigation measures be effective in eliminating adverse impacts.

The EA at 30 claims that design features will minimize the likelihood of disturbance to nesting birds and active nests. The EA at 38 claims that the agency will conduct nest searches prior to treatment, although areas where this will actually occur is not identified; it may actually not include any of the project area, given that the location of survey areas was never identified. Based on surveys, active nests will have nest buffers established until nesting is complete. It is unclear what these claims mean, or how they could possibly be implemented. There are roughly 67 species of western forest birds. It would be basically impossible to locate all active nests on thousands of acres prior to treatment. How can these surveys actually be done? It appears that these unsubstantiated claims of protecting migratory birds is simply a means of dismissing unavoidable project impacts to these birds. The agency needs to provide an estimate of how many birds/nestlings are expected to be killed from the various treatments, and why this is not a violating of Targhee RFP direction.

The agency also claims that Targhee RFP direction for protection of owls (flamulated, great gray and boreal owls) and the goshawk will be met. This requires that protected old growth blocks up to 40 acres will be provided around active nests. It is noted that there is an active goshawk nest in the project area (R04F15D54T12), but it's location is not identified. It is unknown where the nesting and post-fledging areas are, or what the current distribution of structural stages are in this territory. So it is also unknown if the RFP requirements for this territory will be met with the East Palisades Project. The lack of survey information in the agency's NEPA documents is a NEPA failure, as the public has no idea as to how wildlife protections have been incorporated into the project design. The agency claims these measures will be done later. However, this prevents the public from seeing specifically how wildlife needs have been addressed in the project design, in violation of the NEPA. Survey data needs to be provided to the public, and demonstrations as to how this survey data was incorporated into treatment designs provided. Without this survey data, the

agency is avoiding an important part of the NEPA, which is demonstrating how the project will provide for wildlife, including as is required in the affected Targhee RFP MAs.

6. The agency is violating the HFRA by providing an invalid Wildland Urban Interface (WUI) area; claims that all proposed activities will occur in the WUI, as is required by the HFRA, are false, in violation of the NEPA.

The agency's defined WUI is incorrect, and as such, is a violation of both the NEPA and the HFRA. The NEPA is violated by the provision of misleading information and incorrect mapping of the WUI. The EA claims that areas to be in the WUI to be all acres within 1.5 mile of the Forest Service boundary (see EA Figure 3). This is an arbitrary definition that is not defined by federal law. A WUI is an interface or intermix community or a group of home and other structures (one or more structures every 40 acres) with basic infrastructure and services within or adjacent to federal lands. Interface communities have 250 or more people per square mile, and intermix communities have from 28-250 people per square mile. The WUI definition was defined in the Northern Rockies Lynx Management Direction (NRLMD) as the zone within a mile of where people live, measured as 28 people per square mile. The county does not have to define WUIs by federal definitions. For the East Palisades Project, the Bonneville County Wildfire Protection Plan, (see Figure 2, Project EA at 12) defines a huge WUI for the East Palisades landscape, extending far up to the forest ridgelines in the Recommended Wilderness (MA 1.3). This WUI includes somewhat up to or over 7,000 acres in the project area landscape. The county is not required to define WUIs by federal definitions. However, the Forest Service could not use the county definition of WUI, such as in the East Palisades Project Area, that violate the federal requirements. This would allow vast acres of public lands to be removed from any protections, such as for the lynx as per the NRLMD.

It is not clear where the WUI is for the East Palisades Project, since the density of structures and/or people is not identified. Instead, the agency's WUI definition is

simply a 0.5 and/or 1.5 mile buffer along the Forest Service boundary, which is not a legal delineation. The actual location of proposed treatment units in the WUI is thus unknown, which means the requirement of the HFRA to limit vegetation treatments to the WUI is not clear. It is essential for the agency to define the WUI correctly, and map all proposed treatment units correctly as per location within the WUI.
