

August 26, 2023

Coyote Divide Vegetation Project

Ranger Helen Smith

White Sulphur Ranger District

PO Box A

White Sulphur Springs, MT 59645

Please acknowledge receipt of this email.

Dear Ranger Smith,

Thank you for this opportunity to comment. Please accept these additional comments from me on behalf of the Alliance for the Wild Rockies, Center for Biological Diversity, Council on Wildlife and Fish, and Native Ecosystems Council on the proposed Coyote Divide Vegetation Project.

The preliminary environmental assessment that the Forest Service in the preliminary EA failed to take a “hard look” at the carbon and climate impacts of removing hundreds of thousands of trees from the Forest (including hundreds of acres of old and mature trees). Trees, particularly large and old trees, are champions of carbon storage, yet the Forest Service dismissed the impacts of logging these forests on carbon storage as “infinitesimal” based on a years-old cut-and-paste “Carbon Report” that ignored years of science and agency guidance, and failed to address the climate pollution caused by cutting, hauling, and processing timber.

The project area is part of a complex ecosystems with forests in general, and roadless areas, old growth and mature forests in particular, are important tools in combating climate change because they can store significant volumes of carbon.

To evaluate the Coyote Divide’s Project’s impacts on climate change, including on carbon storage and sequestration, the Forest Service relied on a “Carbon Report” that ignored the last six years of climate science, and that dismissed the project’s impacts on carbon storage as “infinitesimal,” without attempting to quantify those impacts. The Forest Service also declined to quantify or otherwise analyze the greenhouse gas pollution emitted to implement the Project itself.

Climate impacts are among the impacts NEPA requires agencies to consider and disclose. See, e.g., *Center for Biological Diversity v. NHTSA*, 538 F.3d 1172 (9th Cir. 2008); *Mont. Env’tl. Info. Ctr. v. United States Office of Surface Mining*,

274 F. Supp. 3d 1074 (D. Mont. 2017) (vacating and setting aside mine plan modification in part due to agency's failure to quantify coal mine climate pollution).

The Coyote Divide preliminary EA fails to disclose adequately the climate change impacts of the Coyote Divide Project. Specifically, the preliminary EA fails to disclose the impacts of the proposed action alternatives on carbon storage compared to the no action alternative. Further, the preliminary EA fails to disclose the climate pollution impacts of project implementation – the use of fossil fuel engines to build roads, cut trees, and remove and transport cut logs to mills – compared to the no action alternative. The EA thus failed to take a “hard look” at the Coyote Divide Project’s climate pollution impacts, in violation of NEPA.

The project involves logging old growth forests and roadless areas and clearcutting all of which release large amounts of carbon.

The Forest Service’s failure to take the required “hard look” at the Project’s direct, indirect, and cumulative impacts and the agency’s failure to accurately disclose the baseline conditions violates NEPA. Relying on the defective EA, the Forest Service’s preliminary EA is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

Page one of the roadless report states:

Based on the 2021 Helena-Lewis and Clark Forest Plan Record of Decision and Final Environmental Impact Statement, it is unlikely that either Calf Creek or Pilgrim Creek inventoried roadless areas would be considered for future wilderness designation.

S. 1531, currently in the U.S. Senate would designate the Calf Creek and Pilgrim Creek inventoried roadless areas as wilderness. Since only Congress can designate wilderness, not the Forest Service, the EA needs to analyze the impact of the project on potential wilderness.

The preliminary EA does not adequately explain why the project is not in violation of the roadless rule.

For example, page 5 of the roadless report states a reason that allows the project to violate the roadless rule is:

Wildland Urban Interface

- ***Reduce threat of catastrophic wildfire by reducing hazardous fuel loads in the Wildland Urban Interface, prioritizing the Belt Park Road area and the Monarch to Neihart Highway corridor.***

But the preliminary EA does not demonstrate that the roadless areas are in the Wildland Urban Interface as defined by the Healthy Forest Act.

The preliminary EA also states on page 5:

- ***Life Safety***
 - ***Improve conditions for public and firefighter safety across the landscape in the event of a wildfire, as every wildland fire requires an appropriate management response based on management direction.***

This is not a valid reason to violate the roadless rule.

The preliminary EA also states:

Forested Resiliency, Diversity, and Restoration

- ***Develop and maintain forest and rangeland conditions across the landscape.***
- ***Improve the components of forest health to promote resiliency to disturbances including insects, disease, fire, and drought through maintaining existing seral species and increasing or restoring their overall representation across the landscape.***

Maintain and Enhance Ecological Integrity of Terrestrial Vegetation
- ***Promote natural openings and fire-resistant tree species within open-grown forested stands that can be maintained in a low fire hazard condition.***

The exemption to the roadless rule is for forests that are outside the normal range of variability. The preliminary EA does not demonstrate that the roadless areas are outside the normal range of variability.

Are the roadless areas in the project area currently within the natural historic range of variability?

Is the project area within natural range for wildfire conditions?

Will this prescribed Fire Project substantially alter the Roadless characteristics in the inventoried roadless areas within the project area?

Use of an EA for this project is also invalid because the proposed vegetation treatments would occur within Inventoried Roadless Areas (IRA). This qualifies as an extraordinary circumstance that invalidates use of a EA. It is the existence of a cause- effect relationship between a proposed action and the potential effects on these resource conditions and if such a relationship exists, the degree of the potential effects of a proposed action on these resource conditions that determine whether extraordinary circumstances exist (36 CFR 220.g(b)).

Page 7 of the roadless report states:

Small diameter timber would be cut (hand cutting with chainsaws and mechanically rearranging fuels or by hand) to maintain or improve the Calf Creek Inventoried Roadless Area characteristics.

In relevant part, regarding the prohibition on tree cutting, the Roadless Rule mandates:

Prohibition on timber cutting, sale, or removal in inventoried roadless areas.

(a) Timber may not be cut, sold, or removed in inventoried roadless areas of the National Forest System, except as provided in paragraph (b) of this section.

(b) Notwithstanding the prohibition in paragraph (a) of this section, timber may be cut, sold, or removed in inventoried roadless areas if the Responsible Official determines that one of the following circumstances exists. The cutting, sale, or removal of timber in these areas is expected to be infrequent.

(1) The cutting, sale, or removal of generally small diameter timber is needed for one of the following purposes and will maintain or improve one or more of the roadless area characteristics as defined in § 294.11.

(i) To improve threatened, endangered, proposed, or sensitive species habitat; or

(ii) To maintain or restore the characteristics of ecosystem composition and structure, such as 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;

(2) The cutting, sale, or removal of timber is incidental to the implementation of a management activity not otherwise prohibited by this subpart;
36 C.F.R. §294.13 (2005).

The Roadless Rule further explains the meaning of the phrase “incidental to” in subsection (b)(2) above as follows:

Paragraph (b)(2) allows timber cutting, sale, or removal in inventoried roadless areas when incidental to implementation of a management activity not otherwise prohibited by this rule. Examples of these activities include, but are not limited to trail construction or maintenance; removal of hazard trees adjacent to classified road for public health and safety reasons; fire line construction for wildland fire suppression or control of prescribed fire; survey and maintenance of property boundaries; other authorized activities such as ski runs and utility corridors; or for road construction and reconstruction where allowed by this rule.

The preliminary EA does not adequately demonstrate that the project will 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.

Thank you for your attention to these concerns.

Sincerely yours, Mike Garrity

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