



October 30, 2023

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Council  
P.O. Box 622  
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Chad Benson  
Forest Supervisor  
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31374 US 2, Libby, MT 59923

Dear Supervisor Benson,

**RE: Trojan Defense Vegetation and Fuels Management Project**

We are writing on behalf of the Yaak Valley Forest Council and the Center for Biological Diversity to offer scoping comments on the Trojan Defense Vegetation and Fuels Management Project.

The Yaak Valley Forest Council, created in 1997, is a Montana based 501(c)3 nonprofit whose mission focuses on maintaining and restoring the ecological integrity of the Kootenai National Forest, and specifically the Yaak Valley, through conserving and improving habitat for all native species.

The Yaak Valley Forest Council supports fire safe communities and responsible forest management. We understand the concerns of the Troy community related to the risks of wildfire within the Wildland Urban Interface (WUI) and are aware of Troy's designation

as an at-risk community.<sup>1</sup> We support the Firewise Program of “hardening” residences and other buildings against wildfire.

We understand the Trojan Defense Vegetation and Fuels Management Project planning is reliant on an authorized emergency action under the Sec. 40807 of the Infrastructure Investment and Jobs Act. Authorized emergency action must adhere to the wildland urban interface (WUI) definition as set forth in the Healthy Forest Restoration Act. Therefore, the Trojan Defense Vegetation and Fuels Management Project must adhere to the WUI definition of one and a half miles surrounding a community outlined in 16 U.S. Code § 6511.<sup>2</sup>

The letter announcing the Trojan Defense Project sent out by the Three Rivers Ranger District on July 20, 2023, clearly states, “*The project area is entirely within the 2023 Lincoln County Community Wildfire Protection Plan WUI and the Kootenai Complex.*” This indicates the project is being designed and proceeding using the expanded wildland urban interface outlined in the Lincoln County Plan Wildfire Protection Plan.

We brought to your attention in letters dated August 7, 2023, and August 18, 2023, the May 16, 2023 Hannah Flats decision in the United States Court of Appeals for the Ninth Circuit.<sup>3</sup> The Hannah Flats decision clarifies that activities on federal land must adhere to the Congressionally authorized definition of the wildland urban interface as defined in the Healthy Forests Restoration Act and cannot be reliant upon a wildland urban interface definition outside of Congressionally authorized statute.

The Hannah Flats decision makes clear that even actions planned under categorical exclusions, and by extrapolation authorized emergency actions, must follow the Healthy Forests Restoration Act (HFRA) definition of wildland urban interface. Federal actions on federal lands must adhere to federal statute.

The decision states:

*“Put simply, the Forest Service seeks to justify invoking the categorical exclusion solely because the Project fell within the wildland-urban interface designated by the Bonner County community plan. But the community plan’s definition of its wildland-urban interface—on its face— deviates from HFRA and likely results in a covered area beyond*

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<sup>1</sup> *Urban wildland interface communities within the vicinity of federal lands that are at high risk from wildfire.* (2001, January 4). Federal Register. <https://www.federalregister.gov/documents/2001/01/04/01-52/urban-wildland-interface-communities-within-the-vicinity-of-federal-lands-that-are-at-high-risk-from>

<sup>2</sup> *U.S. code § 6511 - Definitions.* (n.d.). LII / Legal Information Institute. <https://www.law.cornell.edu/uscode/text/16/6511#1616>

<sup>3</sup> United States Court of Appeals for the Ninth Circuit. *ALLIANCE FOR THE WILD ROCKIES v. CARL PETRICK, his official capacity as Forest Supervisor for the Idaho Panhandle National Forests; UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agriculture; UNITED STATES FISH AND WILDLIFE SERVICE, an agency of the U.S. Department of Interior.* 16 May 2023

*what Congress authorized. Thus, in this case, the Forest Service cannot properly rely on the Bonner County community plan—alone—to justify the categorical exclusion.”*

The decision goes on to state:

*“...reliance on a plainly overinclusive wildland-urban interface, without more, is the sort of “clear error of judgment” that arbitrary or capricious review is meant to prevent.”<sup>4</sup>*

The Hannah Flats decision emphasizes that the Bonner County community plan, just like the Lincoln County Community Wildfire Protection Plan, uses a definition for the wildland urban interface that is inconsistent with HFRA’s definition and concluded that the *“Project’s location within the Bonner County community plan’s asserted wildland-urban interface is not enough by itself to justify use of HFRA’s categorical exclusion.”<sup>5</sup>*

Outside of the WUI defined in 16 U.S. Code § 6511, the Forest Service should recognize fire as a natural process that operates as an integral part of the ecosystem in which it occurs. Wildfires are a part of nature and play a key role in shaping ecosystems by serving as agents of renewal and change.<sup>6</sup>

Protecting towns from wildfire requires more than cutting the surrounding forest, it requires using fire-savvy construction: ignition-resistant building materials, non-ember-trapping ventilation systems, and defensible space around structures.<sup>7</sup> Within the Trojan Defense Vegetation and Fuels Management Project, forest treatments that lie within the Congressionally designated WUI will lead to ecosystem fragmentation, increased exposure to invasive species, exposed soils leading to soil desiccation, water and air pollution, and loss of wildlife habitat.

To comply with Executive Order 14072, mature and old growth trees within the Trojan Defense Vegetation and Fuels Management Project, including mature and old growth trees within congressionally defined WUI, should be left standing. Large trees and old and mature forest ecosystems store massive amounts of carbon and are a major driver of carbon cycle dynamics in forests. Carbon sequestration by standing mature and old growth forests mitigates the increase in wildfire by addressing its root cause: climate change. Recent research identifies the heat and drought associated with climate change,

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<sup>4</sup> United States Court of Appeals for the Ninth Circuit. *ALLIANCE FOR THE WILD ROCKIES v. CARL PETRICK, his official capacity as Forest Supervisor for the Idaho Panhandle National Forests; UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agriculture; UNITED STATES FISH AND WILDLIFE SERVICE, an agency of the U.S. Department of Interior.* 16 May 2023. p 31.

<sup>5</sup> *Ibid* p 32.

<sup>6</sup> *Fire effects on the environment | Pacific Northwest research station | PNW.* (n.d.). US Forest Service. <https://www.fs.usda.gov/pnw/page/fire-effects-environment>

<sup>7</sup> Mutch, R. W., Rogers, M. J., Stephens, S. L., & Gill, A. M. (2010). Protecting lives and property in the wildland-urban interface: Communities in Montana and Southern California adopt Australian paradigm. *Fire Technology*, 47(2), 357-377. <https://doi.org/10.1007/s10694-010-0171-z>

not fuel abundance, as the main drivers of increased, uncharacteristic, wildfire, and reveals that wildfire severity tends to be higher in areas with more intense management.<sup>8</sup> A 2021 study<sup>9</sup> supported by NOAA concluded that climate change is the main cause of the increase in fire weather in the western United States.

Given the urgency of keeping additional carbon out of the atmosphere and continuing carbon bioaccumulation from the atmosphere to protect the climate system, we must continue protecting ecosystems with large trees for their carbon stores, biodiversity, proven resistance to drought and fire, and their microclimate buffering ability under future climate scenarios.<sup>10</sup> Our forests are our best large-scale, natural, low-cost carbon sequestering climate solution. Standing forests provide clean water, clean air, wildlife habitat, biodiversity and myriad recreation opportunities.

Warming due to climate change is harming wildlife and is especially difficult for birds, which need shade, cool water, and breezes for thermal regulation. A new study suggests some bird species can get relief from warming due to climate change from old-growth forests and forests that have old-growth characteristics due to the forests being cooler during the breeding season and their superior biological diversity affords greater food availability.<sup>11</sup> In the Pacific Northwest, the largest losses in populations of forest-dwelling birds are in those species that are reliant on mature stands.<sup>12</sup> These population failures are compounded by the negative effect of clearcutting, as it removes all vegetation, including the non-coniferous shrubs serving as habitat and food source.<sup>13</sup> We ask that impacts to these bird species be evaluated.

To minimize impacts to soils, we request any cutting that proceeds take place over snow or on frozen ground to minimize impacts to soils including compaction, rutting, and displacement due to vehicle and heavy equipment traversing within proposed units including areas of skid trails, landings, and temporary roads. Every possible effort must be taken to retain soil organic matter during activities to limit long-term impacts to soils and the mycorrhizal network.

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<sup>8</sup> Bradley, C. M., Hanson, C. T., & DellaSala, D. A. (2016). Does increased forest protection correspond to higher fire severity in frequent-fire forests of the western United States? *Ecosphere*, 7(10).

<https://doi.org/10.1002/ecs2.1492>

<sup>9</sup> Zhuang, Y., Fu, R., Santer, B. D., Dickinson, R. E., & Hall, A. (2021). Quantifying contributions of natural variability and anthropogenic forcings on increased fire weather risk over the western United States. *Proceedings of the National Academy of Sciences*, 118(45). <https://doi.org/10.1073/pnas.2111875118>.

<sup>10</sup> Mildrexler, D. J., Berner, L. T., Law, B. E., Birdsey, R. A., & Moomaw, W. R. (2020). Large trees dominate carbon storage in forests east of the Cascade crest in the United States Pacific Northwest. *Frontiers in Forests and Global Change*, 3. <https://doi.org/10.3389/ffgc.2020.594274>

<sup>11</sup> Kim, H., McComb, B. C., Frey, S. J., Bell, D. M., & Betts, M. G. (2022). Forest microclimate and composition mediate long-term trends of breeding bird populations. *Global Change Biology*, 28(21), 6180-6193.

<https://doi.org/10.1111/gcb.16353>

<sup>12</sup> Northrup, J. M., Rivers, J. W., Yang, Z., Betts, M. G., 2019. Synergistic Effects Of Climate And Land-use change influence broad-scale avian population declines. *Global change biology* 25, 1561-1575.

<sup>13</sup> Hagar, J. C., 2007. Wildlife species associated with non-coniferous vegetation in Pacific Northwest conifer forests: A review. *Forest Ecology and Management* 246, 108-122.

Specifically, we would like to see:

- Adherence to the definition of Wildland Urban Interface (WUI) outlined in the Healthy Forests Restoration Act.
- The Project must stay within the federally defined WUI in the Kootenai Complex Fireshed.
- Preservation of mature and old growth trees and stands, particularly in the Callahan Creek drainage.
  - Old growth characteristics cannot and will not be enhanced or protected by logging activities as described in the scoping document.
- Retention of the scenic viewshed integrity for the adjacent Historical Callahan Trail by canceling the proposed burns and logging along the side of the trail.
  - Proposed Harvest Fuels Units 13
  - Proposed Non-harvest Fuels Units 8, 9
- No clearcutting within the Callahan drainage and canyon. Clearcuts here will dewater the landscape by acting as aridifying heat and wind vectors.
- Limitation of ground disturbance resulting from mechanized extraction methods.
  - Ground disturbance within Proposed Harvest Fuels Units 14, 15, 16, and 18 will be significant. With 30-40° slope, the yarding timber will leave ground conditions like atop Yaak Mountain-ground disturbance visible from town (miles away).
- Mitigation to prevent the spread of noxious weeds from already infested roads into proposed management units.
- Documentation of the effectiveness of the proposed “wildfire mitigation,” i.e., studies showing that reduction in tree density leads to reduction in wildfire intensity and frequency over time.
- Planning that demonstrates preservation of elk migration and wintering habitat. Reduction in deer and elk winter range = greater predation, stress, and disease.
- Assessment of the cumulative Impacts to wildlife habitat of this project and previous projects implemented in the area including the Starry Goat project (90,776 acres) and Sparring Bulls Project (135,000).

- How have the neighboring/surrounding Stimson Lumber Co treatments along Preacher Mtn and McConnel Mtn contributed to meeting community wildfire safety needs?
- Evaluation of timber harvest strategies proposed in the Trojan Defense Project to ensure that treatment proposals take into consideration all sensitive species present. This evaluation should consider Best Available Science and additions to use of RHCAs (Riparian Habitat Conservation Areas) in addressing movement corridors for aquatic-dependent terrestrial species.
- Evaluation of timber harvest strategies proposed in the Trojan Defense Project to ensure retention of mature and old growth forest and trees.
- Adherence to the 2015 Forest Plan related to 40+ acre forest openings in the project area. No opening should exceed 40 acres.
- Creation of an old growth forest inventory map and data set within the Trojan Defense Project boundary and exclusion of these units from any treatment plan that will not retain mature and old growth trees.
- Minimal use of Clearcut, Clearcut w/Reserves, Seed tree, and Shelterwood w/Reserves treatments.
- No Clearcuts, Clearcut w/Reserves, and Shelterwood w/Reserves treatments near open roads.
- Work with private landowners to co-manage private lands within the Congressionally defined WUI.
- Winter logging on snow or on frozen ground to minimize impacts including compaction, rutting, and displacement of soils resulting from vehicle and heavy equipment traversing within proposed units.
- Retention of organic matter essential for long term soil mycorrhizal health.
- Intentional corridor connectivity between “skips” to facilitate free and concealed movement of both predator and prey species.
- Reforestation of all temporary access/staging/log-deck locations.
- Completion of a sediment and stability report for tributaries within the project area.

- Completion of a water yield analysis.
- Construction of a new section of trail between Troy and Libby. This will create recreation opportunities between the two towns, while avoiding Grizzly Core Habitat.
- Retention and expansion of critical habitat to support grizzly bear movement in connectivity corridors.
- Closure/obliteration of newly created and administratively closed roads to reduce human-caused ignitions and damage to aquatic resources

**The proposed Trojan Defense Project must NOT:**

- Add to the road inventory of the Kootenai National Forest. KNF needs to take a hard look at the agency's inability to manage the road system currently on the forest.
- Affect the recreational value of local nature trails accessible to the community of Troy.
- Make illegal public lands management decisions based solely on a Lincoln County Commissioners resolution.

We appreciate your consideration and the time you will take to adhere to your legal obligations as the land manager and abide by Congressionally authorized statute as this project moves forward.

Respectfully,



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