BEFORE THE OFFICE OF THE REGIONAL FORESTER

REGION ONE – USDA FOREST SERVICE

Objection Reviewing Officer

FRIENDS OF THE WILD SWAN )

Objector )

) NOTICE OF ) OBJECTION

v. ) PURSUANT TO

) 36 CFR 218

TAMARA MACKENZIE )

FLATHEAD NATIONAL FOREST ACTING SUPERVISOR ) Responsible Official )

OBJECTION DECISION:

Draft Decision Notice and Finding of No Significant Impact (DN) for the Dry Riverside Project. Tamara MacKenzie, Flathead National Forest Acting Supervisor, responsible official.

OBJECTOR:



Arlene Montgomery

Lead Objector

Program Director

Friends of the Wild Swan

PO Box 103

Bigfork, MT 59911

406-886-2011

December 20, 2023

STANDING:

Members of Friends of the Wild Swan recreate in and otherwise visit the Project Area. We submitted comments for scoping on December 19, 2022 and the Environmental Assessment on October 2, 2023. We incorporate by reference the objection submitted by Swan View Coalition.

• OBJECTION STATEMENT

The Forest Service needs to prepare an Environmental Impact Statement for the Dry Riverside Project.

We raised this issue in our scoping and Environmental Assessment comments.

OBJECTION

Pursuant to National Environmental Policy Act (NEPA), the Forest Service must prepare an Environmental Impact Statement (EIS) for projects that “may” result in significant impacts. “Significantly” as used in NEPA requires considerations of both context (the setting of the proposed action) and intensity (the severity of the impact).

The Dry Riverside project may result in “significant” impacts as defined and understood by NEPA’s implementing regulations. The logging will take place in lynx critical habitat, habitat for grizzly bears and wolverine, bull trout foraging habitat, roadless areas, and proposed wilderness. The project will also result in high uncertain impacts to listed and sensitive species and critical habitat, involves highly controversial impacts, and violates a number of laws. The Forest Service concedes that the project is likely to adversely affect grizzly bears, Canada lynx, Canada lynx critical habitat and whitebark pine. [Note that wolverine is now a threatened species but there is no ESA determination for it in the EA. Also the whitebark pine biological opinion was not posted to the project's website.]

The project EA tiers to the Forest Plan EIS for its analysis. Forest Plans are "aspirational". The Forest Service powerpoint on Forest Plans asks "How is a Forest Plan Used? The plan is a general framework to guide forest staff when they propose, analyze, and decide upon projects and activities." It goes on to state that "these projections need to be realistic and consistent with the aspirational nature of forest plans." [Foundations of Forest Planning]

The broad analysis done for the Forest Plan must serve as a guide for projects. Projects must have site-specific analysis of impacts to wildlife, fish, water quality, scenic values, etc. This EA does not.

REMEDY

Develop an Environmental Impact Statement.

• OBJECTION STATEMENT

The Dry Riverside Project Environmental Assessment fails to analyze the impacts to old-growth forest habitat and old-growth associated species in violation of the National Forest Management Act, National Environmental Policy Act and Administrative Procedures Act.

We raised this issue in our scoping and Environmental Assessment comments.

OBJECTION

The Environmental Assessment fails to analyze the impacts of twelve regeneration units, a number of other treatment units and two burn units adjacent to, and six roads through, old-growth forest habitat on:

Old-growth associated wildlife

Weed spread

Connectivity between old-growth stands

[See Updated EA at page 31. However, there is an inconsistency between the narrative in the Updated EA and the table of units in the draft decision notice because three units (24, 163 and 164) are not listed.]

The old growth patch sizes are already small at an average of 64 acres. Seedtree and shelterwood logging on 143 acres adjacent to these small old growth patches diminishes their function as habitat for old growth dependent wildlife. Six roads through old growth are basically dismissed for impacts because they are on existing templates, however, they have grown in and currently function as part of the old growth stands. This project proposes to bulldoze them open to spread weeds and further fragment these stands. [Note that the updated EA still says there are seven roads through old growth but the Draft DN says that one has been dropped.]

Forest Plan Guideline FW-GDL-TE&V 07: To maintain connectivity and avoid adverse impacts to old-growth forest, new road construction or reconstruction should not be located within old-growth forest.

While there is a caveat that exceptions may occur, such as when there are no feasible alternative road locations; however, there is so little old growth habitat that fragmenting these stands further by reconstructing roads should not occur six times in one project. And especially without analysis of the impacts to wildlife.

Furthermore, in response to comments regarding weed infestations the Flathead states that "most weed infestations in the project area occur along road corridors". This is precisely why reconstructing roads in old growth will spread weeds and disrupt the native vegetation.

Forest Plan Guideline FW-GDL-TE&V 06: To increase the patch size of old-growth forest in the future, if managing vegetation within **300 feet of existing old-growth forest**, treatment prescriptions that would promote the development of old-growth forest in the future should be considered. At a minimum, the following structural and composition components associated with old-growth forest should be retained if present within at least 300 feet of the old-growth forest patch:

• larger live trees (e.g., greater than 17 inches d.b.h.) of species and condition that will persist over time (such as western larch, ponderosa pine, Douglas-fir) and not cause unacceptable impacts to future stand conditions (e.g., dwarf mistletoe infection or potential dysgenic seed source);

• large downed wood (greater than 9 inches diameter); and/or

• snags and decayed, decadent trees greater than 15 inches d.b.h.

Exceptions to this guideline may occur to protect human health and safety and within portions of the wildland-urban interface where decreased fuels are determined necessary to protect values at risk.

1. There are either nine or twelve regeneration units adjacent to old growth in addition to a number of other units. There is no mention or analysis of impacts to old growth or old growth dependent wildlife from these adjacent units.

2. The Updated EA on page 31 states that blowdown risk is increased within old growth edge which is defined as 110' per project file exhibit O-6. But the Forest Plan requires 300 feet of structural and composition components associated with old growth be retained.

The Flathead contends that it does not have to analyze impacts to old-growth associated wildlife because they are not logging within old growth stands. But what is the point of determining edge in old growth stands unless you are also looking at the impacts to the species that rely on old growth forest. The attributes that may be undesirable to a forester but are essential for wildlife such as mistletoe brooms, broken top trees, decadence, and other old growth features warrant a thorough analysis.

NEPA requires that the Forest Service analyze direct, indirect and cumulative impacts. This was not done. The Flathead can't arbitrarily declare that it doesn't have to analyze wildlife impacts.

The EA is deficient in its analysis in violation of the Forest Plan, National Forest Management Act, National Environmental Policy Act and Administrative Procedures Act.

REMEDY

Complete an Environmental Impact Statement that fully analyzes the impacts to old growth forests and associated wildlife.

• OBJECTION STATEMENT

The Forest Service did not take a hard look at how climate change affects and is affected by this project.

We raised this issue in our scoping and Environmental Assessment comments.

Published scientific reports indicate that climate change will be exacerbated by logging, and that climate change will lead to increased wildfire severity (including drier and warmer conditions that may render obsolete the proposed effects of the project). The former indicates that the Dry Riverside Project may have a significant adverse effect on the environment, and the latter undermines a central underlying purpose of the Project. Therefore, the Forest Service must candidly disclose, consider, and fully analyze the published scientific papers addressing climate change in these two contexts.

The Dry Riverside Project purports to replicate past conditions created by fire by using logging; however, the effects of climate change were not adequately analyzed on a site-specific basis. These stands that are seedtree and shelterwood logged may not regrow due to increased temperatures drying out the understory and the soil's michorizal fungi which facilitates root growth. The Forest Service cannot use the past as a desired future condition because the future is uncertain due to climate change.

Challenges in predicting responses of individual tree species to climate are a result of “species competing under a never-before-seen climate regime – one forests may not have experienced before either.”  Achievable future conditions as a framework for guiding forest conservation and management*, Forest Ecology and Management* 360 (2016) 80–96, S.W. Golladay et al.

NFMA requires restocking in five years. Forest managers must analyze and disclose the fact that the current conditions make old assumptions about natural regeneration obsolete. The Forest Service can no longer “insure that timber will be harvested from the National Forest system lands only where…there is assurance that such lands can be restocked within five years of harvest.” (NFMA§6(g)(3)(E)(ii)).

Assuming clearcuts and heavily thinned stands will regenerate is no longer automatically consistent with NFMA’s “adequate restocking” requirement. Scientific research can no longer be ignored.

*At dry sites across our study region, seasonal to annual climate conditions over the past 20 years have crossed these thresholds, such that conditions have become increasingly unsuitable for regeneration. High fire severity and low seed availability further reduced the probability of postfire regeneration. Together, our results demonstrate that climate change combined with high severity fire is leading to increasingly fewer opportunities for seedlings to establish after wildfires and may lead to ecosystem transitions in low-elevation ponderosa pine and Douglas-fir forests across the western United States.* Wildfires and climate change push low-elevation forests across a critical climate threshold for tree regeneration*, PNAS* (2018)*,* Kimberley T. Davis, et al.

The Forest Plan has no strategy for carbon reduction and this project will increase carbon emissions from log trucks driving to access the remote project area and from removing stored carbon from the forest.

The Dry Riverside EA did not analyze the impacts to fish from rising stream temperatures, less water and increased peak flows due to climate change.

REMEDY

Complete an Environmental Impact Statement.

Develop a forest-wide strategy for carbon reduction that fully accounts for the impacts of removing carbon being stored in trees.

• OBJECTION STATEMENT

The Dry Riverside Environmental Assessment failed to analyze the impacts to wildlife.

We raised this issue in our scoping and Environmental Assessment comments.

OBJECTION

The EA contains no analysis of the impacts to fisher or other Region 1 sensitive wildlife.

The project cannot meet the purpose and need to *Improve the diversity and resilience of vegetative communities and associated wildlife habitat* if the EA does not analyze the impacts to wildlife.

The EA did not provide any survey results for sensitive species including the goshawk, flammulated owl and black backed woodpecker, even though there will be extensive and intensive vegetation treatment activity that could displace them from important habitat. In fact, the EA didn't even analyze the impacts to most wildlife species.

The Dry Riverside project coupled with the previous Betty Baptiste project, that logging has not been completed on, will result in at least 15 years of perpetual industrial activity and wildlife displacement. Yet the impacts to wildlife are virtually non-existent except for wolverine, lynx, grizzly bears and big game -- and even that analysis does not meet the hard look required by the National Environmental Policy Act.

The impact of this project cannot claim to be "no significant impact" if there will be no protection for any of these species. Unless complete valid wildlife surveys are done for species, the agency cannot claim that no significant impacts will result from this project.

The EA is therefore a violation of the National Environmental Policy Act.

REMEDY

Include a thorough analysis of the impacts to wildlife in an Environmental Impact Statement.

• OBJECTION STATEMENT

The EA fails to consider a reasonable range of alternatives in violation of the National Environmental Policy Act.

We raised this issue in our EA comments.

OBJECTION

There is no range of alternatives, it's either all logging or none. There is no alternative that would not reconstruct roads through old growth. There is no alternative that would not log adjacent to old growth. There is no alternative that does not build roads.

REMEDY

Include a range of alternatives in an Environmental Impact Statement.