

VIA ELECTRONIC SUBMITTAL

RE: NPC National Forests Plan Revision Interested Person Request

To: Leanne Marten
Objection Reviewing Officer
USDA Forest Service
Northern Region
26 Fort Missoula Rd.
Missoula, MT 59804

Electronic Submittal:

<https://cara.fs2c.usda.gov/Public//CommentInput?Project=44089>

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On behalf of the North American Packgoat Association, I hereby timely submit this request for the North American Packgoat Association (NAPgA) to participate in resolution meetings between the objectors and the Forest Service in relation to objections to the revised Nez Perce Clearwater National Forests Land Management Plan, final Environmental Impact Statement and draft Record of Decision. Depending on the dates of resolution meetings as well as whether meetings are held virtually or in person, NAPgA anticipates participation by interested persons including Chris Gifford, NAPgA President, and Curtis King, NAPgA Board of Directors, as well as Nancy Tanner and Theresa Mercer, NAPgA Board of Directors.

NAPgA's undersigned counsel, Andrew Irvine, will also attend resolution meetings. Notices of resolution meetings may be sent to all of the persons above or to Andrew Irvine and Chris Gifford, if easier for coordination purposes.

If you have any questions concerning this request or need further information, you may contact Andrew Irvine or NAPgA (via Chris Gifford) at the emails and phone numbers indicated above.

Date: February 18, 2024

A handwritten signature in black ink, appearing to read "A. Irvine", is centered within a light gray rectangular box.

Andrew A. Irvine
of Andrew A. Irvine, P.C.

Interested Person Request from the North American Packgoat Association

The North American Packgoat Association (“NAPgA”) timely submits this request to be recognized as an interested person to participate in resolution meetings between the objectors and the Forest Service in relation to objections to the revised Nez Perce Clearwater National Forests Land Management Plan, final Environmental Impact Statement and draft Record of Decision.

The North American Packgoat Association, Inc. is an organization established specifically for promoting packing with packgoats. The organization was incorporated in March 2001 as a 501(c)(3) non-profit organization. NAPgA seeks to further the pursuit of goatpacking by sharing the knowledge, ideas and experiences of its members, by promoting the use of packgoats to the public as a means of low impact wilderness transportation and recreation, by serving as an advisory group on local and national land use issues, and by engaging in other activities related to educating the public about goatpacking.

Legal notice of objections was published, along with notice of the opportunity to participate as an interested person on February 8, 2024. The reviewing officers for the objections were indicated as Objection Reviewing Officer Leanne Marten, Regional Forester, and Objection Reviewing Officer Jacqueline Emanuel, Associate Deputy Chief, National Forest System. This request is timely submitted pursuant to Forest Service regulations at 36 C.F.R. § 219.57 and Forest Service policy outlined in the Land Management Planning Handbook (FSH 1909.12 § 51.65).

Following this timely request to participate in an objection by NAPgA and pursuant to Forest Service regulations, 36 C.F.R. § 219.57(a), the reviewing officers “must allow” NAPgA as an interested person to participate in any resolution meetings concerning the objections presented herein.

NAPgA appreciates the opportunity to be recognized as an interested person and to reach resolution of objections as indicated below. NAPgA has in good faith participated in the Nez Perce Clearwater National Forests planning process, attending public meetings and submitting comments and working towards a well-reasoned, science-based Nez Perce Clearwater National Forests Land Management Plan. While recognizing that it is a compromise amongst many and different uses of the Forest, and that the Plan and draft Record of Decision did not address all of NAPgA’s concerns as NAPgA had commented, NAPgA largely supports the Plan and draft Record of Decision and appreciates the Forest Service’s efforts in managing the planning process.

NAPgA is frustrated by the few late objections to the Plan concerning the management of pack goats on the Forest, which attempt to upset the collaborative planning process and robust engagement by the Forest Service with never-before-raised and unsupported issues related to pack goats. These objections do not appear to be filed in line with Forest Service regulations and should not be reviewed. Substantively, the objections are not supported.

I. Substantive Formal Comments Provided by NAPgA during the Planning Process

NAPgA submitted substantive formal comments during the planning process. These include, but are not limited to:

- North American Packgoat Association, Letter Number 11, Theresa Mercer, 12/27/2019, see:
<https://cara.fs2c.usda.gov/Public/Letter/2427190?project=44089>
- North American Packgoat Association, Letters Number 953, 1057, Andrew Irvine, 4/20/2020, see:
<https://cara.fs2c.usda.gov/Public/Letter/2472808?project=44089>

In addition, numerous members of NAPgA submitted substantive formal comments during the planning process, both in writing and at public meetings, supporting responsible goatpacking on the Nez Perce Clearwater National Forests.

These comments concerned all matters related to goatpacking and the management of pack goats on the Nez Perce Clearwater National Forests, including, but not limited to: the science on disease transmission from domestic goats, including pack goats; the risk of disease transmission from pack goats to bighorn sheep; the differences between pack goats and herd domestic goats and sheep; disease prevention; best management practices; epidemiological modeling; and proper use of scientific information.

II. Names of Objectors Whose Objections NAPgA has an Interest In

NAPgA has an interest in the objections from the following objectors. This includes an interest in the management of pack goats on the Forest. Although NAPgA searched the public reading room for any additional objections concerning management of pack goats on the Forest, it found none. But, to the extent other such objections exist, NAPgA has an interest in them too as they related to management of pack goats on the Forest.

- Ninemile Wildlife Workgroup, Pat Sweeney, 1/24/2024, see:
<https://cara.fs2c.usda.gov/Public/Letter/4518599?project=44089>
- Idaho Governor's Office of Species Concern, Jace Hogg, 1/24/2024, see:
<https://cara.fs2c.usda.gov/Public/Letter/4519721?project=44089>
- Nez Perce Tribe, Shannon Wheeler, 1/29/2024, see:
<https://cara.fs2c.usda.gov/Public/Letter/4522808?project=44089>
- Mike Schlegel, 1/29/2024, see:
<https://cara.fs2c.usda.gov/Public/DownloadCommentFile?letterid=4521139&project=44089>

III. The Reviewing Officer Must Set Aside and May Not Review the Objections from Mr. Schlegel, Mr. Hogg and Mr. Sweeney

Forest Service regulations, 36 C.F.R. § 219.53, limit who may file an objection to a plan revision. Only those “[i]ndividuals or entities who have submitted formal comments related to a ... plan revision during the opportunities for public comment ... may file an objection.” 36 C.F.R. § 219.53(a). Furthermore, “[o]bjections must be based on previously submitted substantive formal comments attributed to the objector” and “[t]he burden is on the objector to demonstrate compliance with the requirements for objection.” *Id.* The regulations state: “[o]bjections that do not meet the requirements ... may not be accepted.” *Id.*

In addition, Forest Service regulations, 36 C.F.R. § 219.54, require that at a minimum objections must include: 1) the objector's name and address, along with a telephone number or email address; 2) signature or other verification; 3) identification of the lead objector; 4) the name of the plan revision being objected to and the name and title of the responsible official; 5) a statement of the issues and/or parts of the plan revision to which the objection applies; 6) a concise statement explaining the objection and suggesting how the proposed plan decision may be improved; and 7) a statement that demonstrates the link between the prior substantive formal comments attributed to the objector and the content of the objection. 36 C.F.R. § 219.54(c).

Pursuant to 36 C.F.R. § 219.55, the reviewing officer "shall set aside and not review an objection" when one or more of the following applies: the individual or entity did not submit formal comments during opportunities for public comment on the proposed decision; none of the issues included in the objection is based on previously submitted substantive formal comment; and/or the objection does not provide sufficient information as required by 36 C.F.R. § 219.54(c). 36 C.F.R. § 219.55(a). When an objection includes an issue that is not based on previously submitted substantive formal comments, that issue will be set aside and not reviewed. *Id.* § 219.55 (b).

A. Mr. Schlegel's Objection

The Reviewing Officer may not accept the objection submitted by Mr. Mike Schlegel on January 29, 2024. Acceptance of the objection would result in a clear violation of Forest Service regulations.

Mr. Schlegel does not appear to satisfy the minimum requirements at 36 C.F.R. § 219.54(c) for submitting an objection. The objection does not appear to have an address, telephone number or email or a signature or other verification. The objection further does not name the plan revision being objected to or the name and title of the responsible official. It also does not demonstrate a link between prior substantive comments attributed to the objector.

Indeed, there is no apparent record that Mr. Schlegel submitted substantive formal comments to the plan revision during the opportunities for public comment, as required under 36 C.F.R. § 219.53(a) to submit an objection. A search of the public reading room as well as the Nez Perce Clearwater National Forest's response to comments did not indicate any prior substantive formal comments from Mr. Schlegel or the entity, Idaho Wild Sheep Foundation, which he indicates that he represents. It was Mr. Schlegel's burden to demonstrate compliance with the requirements for objection, which has not been done.

As a result, the Nez Perce Clearwater National Forest may not review Mr. Schlegel's objection, particularly as it relates to management of pack goats on the Forest.

B. Mr. Hogg's Objection

Likewise, the Nez Perce Clearwater National Forest may not accept the objection submitted by Ms. Jace Hogg on behalf of the Idaho Governor's Office of Species Conservation on January 24, 2024. Acceptance of the objection would also result in a violation of Forest Service regulations.

While Mr. Hogg appears to satisfy many of the minimum requirements at 36 C.F.R. § 219.54(c) for submitting an objection, his objection does not appear to demonstrate a link between the objection and prior substantive comments attributed to the objector. There is no apparent record that Mr. Hogg submitted substantive formal comments to the plan revision during the opportunities for public comment, as required under 36 C.F.R. § 219.53(a) to submit an objection.

A search of the public reading room as well as the Nez Perce Clearwater National Forest's response to comments did not indicate any prior substantive formal comments from Mr. Hogg or the entity, Idaho Department of Fish and Game (IDFG), which he indicates that he represents. While Mr. Hogg's objection indicates a possible previous, relevant comment from IDFG, when that comment was made and where it appears in the public record is not stated and remains unclear. No reference is provided. It was Mr. Hogg's burden to demonstrate compliance with the requirements for objection, which has not been done.

As a result, the Nez Perce Clearwater National Forest may not review Mr. Hogg's objection, particularly as it relates to management of pack goats on the Forest.

C. Mr. Sweeney's Objection

Further, the Nez Perce Clearwater National Forest may not accept the objection submitted by Mr. Pat Sweeney on behalf of the Ninemile Wildlife Workgroup on January 24, 2024. Acceptance of the objection would also result in a violation of Forest Service regulations.

While Mr. Sweeney appears to satisfy many of the minimum requirements at 36 C.F.R. § 219.54(c) for submitting an objection, his objection does not appear to demonstrate a link between the objection and prior substantive comments attributed to the objector. There is no apparent record that Mr. Sweeney submitted substantive formal comments to the plan revision during the opportunities for public comment, as required under 36 C.F.R. § 219.53(a) to submit an objection.

A search of the public reading room as well as the Nez Perce Clearwater National Forest's response to comments did not indicate any prior substantive formal comments from Mr. Sweeney or the entity, Ninemile Wildlife Workgroup, which he indicates that he represents. While Mr. Sweeney's objection indicates possible comments from Ninemile Wildlife Workgroup, those comments appear to have been made well before the Draft Environmental Impact Statement was even released. He does not reference any comments made on the Draft Environmental Impact Statement or in relation to Nez Perce Clearwater National Forests Land Management Plan. It was Mr. Sweeney's burden to demonstrate compliance with the requirements for objection, which has not been done.

As a result, the Nez Perce Clearwater National Forest may not review Mr. Sweeney's objection, particularly as it relates to management of pack goats on the Forest.

D. Ms. Wheeler's Objection

Finally, the Nez Perce Clearwater National Forest may not accept the objection submitted by Ms. Shannon Wheeler on behalf of the Nez Perce Tribe on January 29, 2024. Acceptance of the objection would also result in a violation of Forest Service regulations.

While Ms. Wheeler appears to satisfy many of the minimum requirements at 36 C.F.R. § 219.54(c) for submitting an objection, her objection does not appear to demonstrate a link between the objection and prior substantive comments attributed to the objector. The two objections from Ms. Wheeler related to pack goats provide an “objection” and “proposed resolution,” but do not provide any reference or other statement that demonstrates the required link between the prior substantive formal comments attributed to the objector and the content of the objection. 36 C.F.R. § 219.54(c). It is unclear when and where in the public record that Ms. Wheeler substantively comments on management of pack goats on the Forest. It was Ms. Wheeler’s burden to demonstrate compliance with the requirements for objection, which has not been done.

As a result, the Nez Perce Clearwater National Forest may not review Ms. Wheeler’s objection as it relates to management of pack goats on the Forest.

IV. NAPgA’s Specific Concerns and Support/Opposition for Objections

A. Mr. Sweeney’s Objection

Mr. Sweeney argues that standards FW-STD-WL-02 and FW-STD-WL-03 should be expanded to include mountain goats. However, he provides no scientific or other basis concerning the risk or possibility of disease transmission from domestic sheep and goats, and particularly pack goats, to mountain goats on the Forest. NAPgA opposes Mr. Sweeney’s objection as it is unsupported and contradicts the Forest Service’s science-based decision making in the draft Record of Decision.

B. Mr. Hogg’s Objection

Mr. Hogg argues that standard FW-STD-WL-02 should include some sort of IDFG coordinated monitoring and management of diseases in bighorn sheep and mountain goats. The standard referenced, however, concerns the authorization of domestic sheep and goat grazing in or within bighorn sheep occupied core herd home ranges. The objection lacks relevance. NAPgA opposes Mr. Hogg’s objection to the extent it attempts to change FW-STD-WL-02 as it relates to pack goats.

Mr. Hogg’s objection does not appear to be an objection to FW-STD-WL-02, rather it appears to be an additional request for IDFG and the Forest Service to coordinate regarding management of wildlife on the Forest. Such request does not appear appropriate for a standard in the Nez Perce Clearwater National Forests Land Management Plan. If the IDFG and Forest Service want to coordinate regarding management of wildlife on the Forest, which is hopefully already happening, they may do so without changing standard FW-STD-WL-02. Indeed, FW-GL-WL-02 already clearly states that the Nez Perce Clearwater cooperates and collaborates with state agencies on conservation strategies, recovery plans, habitat management, and ecological conditions on National Forest System lands. Thus, IDFG and Forest Service coordination is already provided for in the Nez Perce Clearwater National Forests Land Management Plan.

Mr. Hogg further argues that FW-STD-WL-03 (noted as guideline) should apply to all domestic goat packing on the Forest and suggests that recreationalists utilizing pack goats should be required to test their pack goats and be “MOVI-free.” NAPgA strongly opposes Mr. Hogg’s objection in this regard.

There has never been a documented case of disease transmission from a pack goat to bighorn sheep on the Forest, so requiring onerous and potentially costly MOVI testing would seem overly burdensome and unnecessary. The best available science does not indicate significant risk to require such testing. Further, there is no apparent or indicated risk of pack goat contact with bighorn sheep on the Forest, to result in potential disease transmission even in the unlikely event that a pack goat was to carry MOVI. The best available science does not support required MOVI testing, nor indicate likely risk of disease transmission from pack goats. Further, goal FW-GL-WL-03 can be utilized to educate recreationalists utilizing pack goats to use best management practices for avoiding contact with and further reducing the already extremely low risk of disease transmission to bighorn sheep.

C. Ms. Wheeler's Objection

Ms. Wheeler argues that standard FW-STD-WL-02 should be revised to apply to pack goats, both with and without a special use permit, in or within 16 miles of bighorn sheep occupied core herd home ranges. NAPgA strongly opposes Ms. Wheeler's objection in this regard.

Ms. Wheeler's objection would effectively close the majority of the Forest to goatpacking. Such a drastic measure resulting in removal of a recreational use of the Forest is not supported by best available science. Indeed, there has never been a documented case of disease transmission from a pack goat to bighorn sheep on the Forest. The best available science does not indicate significant risk to require removal of goatpacking from the Forest. The idea that a 16-mile buffer is needed to reduce risk is completely unsupported considering the use of pack goats on the Forest and the already improbable contact between a pack goat and bighorn sheep on the Forest.

Ms. Wheeler further argues that goal FW-GL-WL-03 could be met simply through the existence of a website with such information (on educational materials including best management practices for avoiding contact with and reducing the risk of disease transmission to bighorn sheep). It is unclear how this is an objection. NAPgA supports the goal but opposes Ms. Wheeler's objection to the extent it creates further requirements for recreationalists utilizing pack goats on the Forest than those already provided. Revising FW-GL-WL-03 into a standard would act to create an authorization/permitting system where none is required or needed for recreationalists utilizing pack goats.

Instead, NAPgA supports the indicated goal FW-GL-WL-03 for "[r]ecreationalists utilizing pack goats have access to educational materials including best management practices for avoiding contact with and reducing the risk of disease transmission to bighorn sheep." NAPgA supports access to educational materials, including best management practices, for all recreationalists utilizing pack goats on the Forest. Indeed, NAPgA has created best management practices for avoiding contact with and reducing the risk of disease transmission to bighorn sheep. These are available here: <https://napga.org/resources/helpful-documents/best-management-practices/>. As has been and remains the case, NAPgA is committed to working with the Forest Service and other Forest users and recreationalists to maintain and promote goatpacking as a responsible recreational use of the Forest.

D. Mr. Schlegel's Objection

It is unclear what Mr. Schlegel is arguing in his objection. He appears to argue for the reversal of a decision to allow recreationalists to utilize pack goats on the Nez Perce Clearwater National Forests. NAPgA strongly opposes Mr. Schlegel's objection in this regard.

The Nez Perce Clearwater National Forest has adequately considered the risk of disease transmission from domestic sheep and goats, and pack goats, to bighorn sheep on the Forest. Indeed, Mr. Schlegel does not provide any new or additional science or risk analysis or other information not already considered by the Forest Service in its Final Environmental Impact Statement and draft Record of Decision. He just provides an unsupported position statement that lacks suggestions for revising any goals or standards in the Nez Perce Clearwater National Forests Land Management Plan. The risk of disease transmission from pack goats is negligible or non-existent, as supported by best available science and considering the use of pack goats on the Forest.