

## MINERAL COUNTY BOARD OF COMMISSIONERS

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## SANDERS COUNTY BOARD OF COMMISSIONERS

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April 1, 2024

<https://www.fs.usda.gov/detail/lolo/landmangement/planning/?cid=fseprd993646>

Attn: Amanda Milburn-Lolo Plan Revision  
Lolo National Forest  
24 Fort Missoula Rd.  
Missoula, MT 59804

Dear Amanda,

The Board of County Commissioners for Mineral and Sanders Counties and the citizens of these Counties rely heavily on the resources provided by our National Forest for our economic stability and well-being. We have deep historical, custom, and cultural ties to the development and use of the resources provided by the Lolo National Forest (Forest), and we are deeply concerned about land allocations and resource management direction that will guide the management of the Lolo National Forest (Forest) for the next two decades.

The beneficial use of these natural resources has been the basis for Sanders and Mineral County's "Community Stability"<sup>1</sup> from their historic beginnings. While recreation is growing and an essential part of local economies, mining, timber harvesting, ranching, and farming provide the heritage of our county's residents, a custom and culture that continues today. It is the intent of Mineral and Sanders County Governments to protect these historic customs and cultural uses through a variety of actions. Our policy is to cooperate with the Forest to ensure local governments, plans, expertise, and knowledge are included in the Plan Revision process.

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<sup>1</sup> 36 C.F.R. Section 221.3(a)(1)

The Forest Service is obligated to consider and provide for "community stability"<sup>1</sup> in its decision-making processes. See also S. Rept. No. 105.22; 30 Cong. Rec. 984 (1897); The Use Book at 17.

<sup>1</sup>"Community stability" is defined as a combination of local custom, culture and economic preservation.

**Background:** The Lolo National Forest has proceeded with its forest Plan Revision using numerous cooperating agencies. These include Federal, State, Tribal, and multiple units of Local Government. This process is pursuant to 36 CFR 219, the National Environmental Policy Act, the Soil and Water Conservation Act, The Wild and Scenic Rivers Act, and NFMA and FLPMA.

This allows the Lolo National Forest to utilize the local government's special expertise, knowledge, and information in developing a better forest plan that can be monitored pursuant to 36 CFR 219.7(f). This also provides the Lolo with an easier way to review the proposed forest plan for consistency with local plans and conflicts with local land use planning as provided by 36 CFR Section 219 et seq while finding solutions to any conflict or inconsistency where possible.

This also has facilitated the Lolo National Forest in complying with 40 CFR Section 1506 by moving to “cooperate to the fullest extent possible” with State and local requirements by joint planning, joint environmental research, joint hearings, and joint environmental assessments. Our cooperative effort provides the public with a more sustainable planning document and direction than historically achieved. From our perspective, this appears to be a very progressive planning exercise, and we genuinely appreciate the opportunity to participate.

**At this time, we would like to provide input on the following critical pieces of the Proposed Action we believe will improve the outcome of the final Lolo Plan Revision:**

- **Local Government Involvement and Input**
- **Wildland Urban Interface (WUI)**
- **Inventoried Roadless Areas (IRA)**
- **Recommended Wilderness**
- **Backcountry**
- **Timber Sale Quantity/Forest Restoration**
- **Recreation**
- **Old Growth**
- **Threatened and Endangered Species**
- **Community Stability**

**Local Government Involvement and Input:** While we appreciate the opportunity to participate in the Lolo Plan Revision Process as a cooperating agency along with other Federal, State, Tribe, and local government entities, we believe the lack of local government acknowledgment in many areas throughout the planning documents has reduced the effectiveness of our comments and suggestions. Additionally, without clear direction in the final Plan Revision document to acknowledge local governments, plans, expertise, and knowledge, our ability to participate proactively and meaningfully in future planning and project development will be diminished.

County and local government involvement is essential in our agency lands' Planning and project development. Throughout the Proposed Action, the Forest consistently identifies Federal, State, and Tribal partners that they will collaborate with to achieve management goals and objectives.

In nearly every case, Tribes, Federal and State Agencies are included in the list of partners, while Counties are excluded about half of the time. **Please review the Proposed Action and ensure counties are included with other partners throughout the document to ensure counties are provided equal opportunity to participate fully in this and future planning and project development on the Forest.**

**Wildland Urban Interface (WUI):** As discussed in the WUI section of the Mineral County Resource Use Plan (copy attached), in 2000, Congress directed the Secretary of Agriculture and the Secretary of the Interior to identify communities within the vicinity of Federal lands that are at high risk from wildfire and publish a list of these communities in the Federal Register. This notice also provided the Federal government's definition of the Wildland Urban Interface (Copy Attached). At the request of the Secretary of Agriculture and Secretary of Interior, State Governors compiled and provided the list of communities, which was then published in the Federal Register. The burden and cost of developing a Community Wildfire Protection Plan (CWPP) that identified the boundaries of the land to be included in the WUI was put on local county governments and collaboratives. This process included input from local Forest Service Districts, Montana DNRC, First Responders, and other citizens within each respective County. We believe this process that brought Congress together with Federal and State Agencies, Local Governments, and local communities demonstrates the vision and need for us to come together in a cooperative and coordinated effort to identify management needs in the WUI and expedite vegetation treatments to improve forest health and reduce the threats to human life and property. Additional emphasis has been placed on managing the resources in the WUI with the President's Wildfire Crisis Strategy, the Montana Forest Action Plan, and the Priority Landscapes and Emergency Action Determination (EAD). To ensure these and other preemptive programs continue to be emphasized in future management strategies in the WUI, the Proposed Action and, ultimately, the final Plan Revision must include management direction that will improve forest health, reduce wildfire risk, and improve public safety, health, and welfare in perpetuity.

Approximately 1.3 million acres are identified as WUI on the Forest, more than any other Management Area (MA) designated on the Forest. Approximately 670,000 acres (52%) are within Sanders and Mineral Counties. Additionally, 12 of the original 18 communities identified within the high-risk vicinity of the Forest are within Mineral and Sanders Counties. These communities are at high risk to life and property, as seen in last year's Camp Fire that threatened the town of Paradise (one of the communities listed in Sanders County) and destroyed several residences and numerous other structures.

The WUI section of the Mineral County Resource Use Plan discusses in detail how we intend to be involved through an Integrated Forest Management process that provides us with the opportunity to utilize local knowledge and expertise to assist with management prescriptions and mitigation strategies that will best meet the needs of our forest resources while providing for community stability and reducing the risks to life and property.

**The WUI should be designated with its own MA or provided a unique “area plan” per 16 USC 3455<sup>2</sup> to provide for more active management of lands within the WUI. This will allow us to address better other issues identified herein with wildlife, T&E species, connective corridors, access, timber, or resource production issues. The particular area WUI plan would be given the same management emphasis provided for all other resources in the Forest including Priority Water Sheds, Scenery Management, Vegetation Classification, Wild and Scenic Rivers, Wilderness, Grizzly Bears, Lynx, and others that have extensive information about what they are, where they came from, why they are essential and how they will be managed into the future with detailed information regarding desired conditions, goals, objectives, standards, and guidelines, and detailed maps included in the map section.**

**Inventoried Roadless Areas (IRA):** The Inventoried Roadless Area (IRA) section of the Proposed Action page 84 states, “All the inventoried roadless areas in the LNF are included in MA 3, Backcountry, in the proposed action.” We do not support this type of sweeping action that potentially overlooks existing laws and guidelines and disregards potential adverse social and economic effects on local community stability and well-being.

From the Wilderness Section of the Mineral County Resource Use Plan;

“The agency not only has a responsibility to prevent degradation of Roadless Area wilderness qualities but must ensure that all the existing values of the Roadless Area are not degraded so that Congress can use its prerogative to release the area for other uses. Therefore, existing roads, trails, and ways must be maintained to protect Congress' prerogative to adequately assess whether a Roadless Area should be designated as Wilderness or released for other uses. Congress' prerogative (authority) to decide to release the area for different uses is as essential as its prerogative (authority) to designate the area as Wilderness. The agency lacks authority to jeopardize Congress' prerogative by manipulating the existing values of a Roadless Area by closing historic existing routes

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<sup>2</sup> 16 U.S.C. Section 3455

“In carrying out the provisions of this subtitle, the Secretary [of Agriculture] may. (2) cooperate with other departments and agencies of the federal government, state, and local units of government and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans....“

16 U.S.C. Section 3456 (a)(4)

The Secretary of Agriculture may provide technical and financial assistance only if “the works of improvement provided for in the area plan are consistent with any current comprehensive plan for such area.”

present at the time of designation of the area as a Roadless Area. Actions taken in this plan that jeopardize Congress' prerogative are arbitrary and capricious and in violation of the Wilderness Act.[1]

Therefore, the agency must maintain all existing routes, uses, buildings, and roads present at the time of designation of the area as a Roadless or Wilderness Area.

[1] 16 U.S.C. §1131. See also, *Parker v. U.S.*, 307 F. Supp. 685 (1969) and *Parker v. U.S.*, 309 F. Supp. 593 at 597 (1970)."

Regardless of what actions are taken regarding IRAs within the plan revision process, the IRA rule remains in place until Congress decides on appropriate management. Overlaying IRAs with a Backcountry MA is counterproductive, and we believe it violates the Wilderness Act of 1964 by suggesting a different management strategy other than an IRA is more appropriate.

Additionally, the last sentence of the first paragraph on page 84 states; "Plan components in this section are designed to support and augment the roadless rule." and **02** under desired conditions on page 85 suggests changes to "recreational opportunities for motorized and non-motorized users consistent with desired recreational opportunity spectrum of primitive, semi-primitive non-motorized, and semi-primitive motorized settings" both violate the Wilderness Act by suggesting changes to existing guidelines and allowed uses in the Roadless Rule. Please see additional information and comments in **Backcountry** below.

**IRAs should remain designated as IRAs and managed under the guidelines outlined in the Roadless Rule until Congress uses its prerogative to make a final decision for managing IRAs in the future.**

**Recommended Wilderness:** While we continue to support the four recommended wilderness areas that were proposed in the 1986 Forest plan, Great Burn, Bob Marshal Wilderness Addition, Sliderock, and Selway-Bitterroot Addition, with a total combined acreage of approximately 224 thousand acres, we also continue to include one potential exception to the Great Burn. In addition to being listed as a recommended wilderness, the Great Burn area is also overlaid with an IRA designation, which has allowed some historic summer and winter motorized use. The signed Record of decision (subject to appeal) for Nez-Perce Clearwater Forest Plan Revision recognized this past historical use and adjusted the boundaries and management direction of the Great Burn to continue to allow these activities. **To provide cross-boundary consistency (edge matching) between Montana and Idaho and the Lolo and Nez-Clear Forest boundaries, the Lolo should make some boundary adjustments to the Montana side of the Great Burn to provide opportunities for winter motorized use. Cross-boundary considerations have been discussed throughout the planning process, specifically with the Great Burn.**

**Backcountry:** In addition to the proposed use and management of IRAs discussed in the IRA section above, an additional 52,578 acres that do not overlap with IRAs are also proposed for Backcountry designation and management in the Proposed Action. In general, with nearly 1.3 million acres of the Forest currently designated as wilderness, recommended wilderness, and



IRAs that provide minimal opportunities for multiple-use and ample opportunities for quiet recreation, solitude, and self-reliance, we do not support any additional land designations that restrict multiple use opportunities without sound justification to back the decision. Having found nothing in the Proposed action document or the backcountry maps that seemed to justify these additional acres, **we suggest that they are better suited to be included in the general forest MA, with management decisions left in the able hands of local district Forest personnel.**

If there is a valid justification for overlaying all IRAs with the management of any of these areas that cannot be handled by local district Forest personnel, we would appreciate having that information made available.

**Timber Sale Quantity/Forest Restoration:** Throughout the planning process, we advocated for more flexibility in the plan to allow our professional land managers at the Forest and district levels to define the appropriate level of management needed based on existing forest conditions in real time. To improve forest health, reduce the risk of catastrophic wildfires, and improve public and firefighter safety and health, we must recognize the need to maximize the number of acres we treat annually. The volume of timber harvested annually results in a predictable number of acres treated to accomplish forest restoration work. While the Forest retains some flexibility to increase the volume established in the Projected Timber Sale Quantity (PTSQ), any increase will undoubtedly be met with objections and litigation determined in the courts. **Rather than setting a number for the PTSQ, we suggest a range of 44 million board feet to 80 million board feet. Having a range provides land managers the flexibility to manage forests based on current conditions and needs with less conflict.**

**Recreation:** Recreation and tourism are an essential part of rural community economics. With the loss of the sawmill in St. Regis and the recent closure announcements from other forest products industries in Seeley Lake and Missoula, recreation is becoming more critical over a broader landscape. The greatest threat to recreation in Sanders and Mineral Counties is the loss of access, primarily due to concerns about grizzly bear connectivity and resource damage. While motorized recreation is the fastest growing recreational use on our public lands and tends to contribute more to local economies, nonmotorized recreationists, also very important to our counties, are also heavy users of open motorized access as they travel to and from trailheads and other popular access points.

While we do not fully understand the numbers provided in Table 12, page 60 of the Proposed Action, a considerable discrepancy exists between areas designated for motorized versus non-motorized recreational use. Excluding rural and urban areas, 58 percent of the forest is defined as nonmotorized summer use, and 34 percent allows motorized summer use. Winter is 79 percent nonmotorized and 21 percent motorized. We understand there are some mapping errors here, but to what extent, how, and if those errors are or are not affecting these numbers is unknown. **If we can maintain and build on our recreation and tourism business, we need to increase, not decrease, motorized access for summer and winter activities.**

Designated and recommended wilderness areas represent 371,799 acres designated as primitive, which we continue to support. Table 12 indicates that 482,594 acres are designated as primitive for summer recreation, an increase of 110,795 acres. Winter recreation in Table 12 increases primitive acres by 267,529 acres. Without more information, we cannot support the acres shown in Table 12. **We respectfully request the opportunity to discuss the numbers proposed in Table 12 in detail.**

**Old Growth:** We understand the Forest has been directed to include language provided by the Washington Office regarding Old Growth. However, we believe that direction was premature without completing the public comment and review process and having created a consistent, coordinated approach to cooperating agency relationships in the NEPA analysis. Until the Forest Service and the National Association of Counties have developed a memorandum of understanding that establishes cooperating agency status with local governments to work together in the development of the National Old Growth Amendment, **the Forest should continue to manage old growth in accordance with Green et al.**

**Threatened and Endangered Species:** We believe it is important to note that the Forest is responsible for managing habitat for all species, not just Threatened or Endangered species, and the U.S. Fish and Wildlife Service (Service) is responsible for managing the species. It is also important to note that while the Forest is responsible for consulting with the Service under Section 7 of the ESA, once that has occurred, the Forest is free to make the final determination.<sup>3</sup> Four threatened wildlife species affect management decisions in Mineral and Sanders Counties: grizzly bear, bull trout, lynx, and wolverine. These species can be affected in various ways by the amount of snow pack we get, how long it carries over into the spring, and the amount of cold-water runoff we have. The Forest does a good job of managing and improving the habitat for these species, primarily as part of forest restoration projects that include timber harvest and providing funds through timber receipts to accomplish some of the work. However, ongoing conditions are out of their control and hamper, in some cases, the ability of these species to recover and occupy their historic range.

- **Idaho cloud seeding:** Idaho has an active cloud seeding program that has been operating for decades, from October 15th to May 1st each year, to increase water yields in Idaho. The chemicals they use for this process are silver iodide, potassium iodide, dry ice, and,

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<sup>3</sup> ***National Wildlife Federation v. Coleman, 529 F.2d 359 (1976) cert. denied 429 U.S. 979 (1977)***

Pursuant to the Endangered Species Act, the Fish and Wildlife Service is responsible for species listing, the designation of critical habitat and the development of protective regulations and recovery plans. Once a species is listed, federal agencies have the responsibility to consult with the Fish and Wildlife Service under Section 7 of the ESA. However, once consultation has occurred, the agency is then free to make the final determination. The Fish and Wildlife Service does not have veto power over federal agency actions.

in some cases, silver nitrate, some of which are toxic. While the actual effects this is having on snowfall and precipitation (not to mention potential health issues) in Montana is unknown or at least unacknowledged, there can be no doubt it is reducing the snowpack and water we get in Montana. Each of the four threatened species listed above is affected in some manner or degree by the amount of snow and precipitation we receive in Montana. **The Service, at the very least, must acknowledge the cloud seeding activity and the potential effects it is having on habitat and the species' ability to recover.**

- **Invasive Species:** Bull trout recovery cannot be accomplished simply by managing the habitat and regulating fishing activities. The more significant problem is the presence of invasive species, brown trout, rainbow trout, and brook trout, which were introduced by agencies decades ago. The Forest Service has acknowledged this fact, and now the **Service must also recognize it and either provide a recovery plan for the survival of the species or delist them.**<sup>4</sup>
- **Wildlife corridors and connectivity:** Elk, deer, and a few other large animal species do have some predictable corridors they use, but grizzlies do not so much, at least not in Mineral and Sanders counties. There is no typical grizzly when they decide to take a walk about. The bears navigate and cross increasingly busy State, County, and Federal highways and railroad tracks. They swim across lakes and rivers and navigate busy residential and industrial areas with no specific destination. They are simply exploring new territory. Once they have navigated these busy highways and residential areas, their trek through our national forests is guided primarily by the landscape and food availability. While the “best available science” indicates that bears avoid even closed roads, local knowledge and information tell a different story. Reported grizzly sightings nearly exclusively occur while traveling forest roads for work and recreation. Grizzlies and grizzly signs are commonly seen on the roads, as they use roads to navigate the steep terrain in the Bitterroot Mountains. They seem drawn to areas where past vegetation management has provided roads and better food sources. **It is time we apply some common sense to the relationship between roads and grizzlies and develop a new standard for road densities.**

**Community Stability:** We strongly support the Multiple Use Sustained Yield Act of 1960. An Act to authorize and direct that the National Forests be managed under the principles of multiple uses and to produce a sustainable yield of products and services for other purposes.

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<sup>4</sup> 16 U.S.C. Section 1533(f)(1)

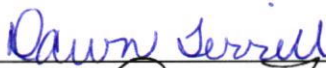
The Fish and Wildlife Service shall develop and implement recovery plans for the survival of endangered species unless it finds that such a plan will not provide for conservation of the species.

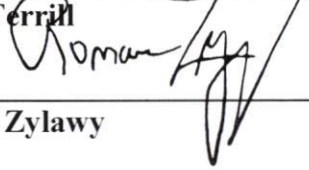



- *Multiple Use is defined as* – the management of all the various renewable surface resources of the National Forests so that they are utilized in the combination that will best meet the needs of the American people.
- *Sustained Yield is defined as* – the achievement and maintenance in perpetuity of a high-level annual or regular period output of various renewable resources of the National Forest without impairment of the productivity of the land.

Forest planning guidelines call for resource use that contributes to current community economic needs at a meaningful level and provides opportunities for future growth. As commissioners, it is our specified and inherent duty to operate the governments of Sanders and Mineral Counties in the best interests of all our citizens, a responsibility we take very seriously. We rely heavily on the timber and recreational resources our National Forests provide to help maintain our existing forest products and recreational businesses and provide opportunities for future growth. We intend to protect these interests to the best of our ability.


#### MINERAL COUNTY COMMISSIONERS

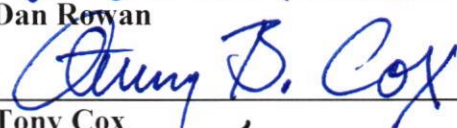
  
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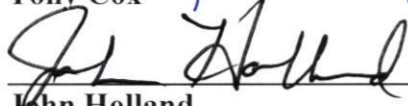
  
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