

Council on Wildlife and Fish

P.O. Box 4641

Bozeman, Montana 59772

406-920-1381

Crystal Stonesifer, District Ranger; and

Tyler's Kitchen Project Leader

Missoula Ranger District

24 Fort Missoula Road

Missoula, MT 59804

July 23, 2024

RE: Scoping Comments for the Tyler's Kitchen Tyler's Kitchen Fuels Reduction and Forest Health Project (hereinafter, "Project")

Greetings,

Please accept the following scoping comments from Council on Wildlife and Fish, Native Ecosystems Council, the Alliance for the Wild Rockies, for the proposed Tyler's Kitchen Tyler's Kitchen Fuels Reduction and Forest Health Project.

The Forest Service's use and abuse of models and computer technology are pushing a 21st-century manifest destiny into virtual realms that no longer represent real forests, or Nature's reality. This desire to erase the material and replace it with a digital replica (under total militarized control) will not, cannot succeed.

Risk/Risk Assessment

Please provide a document for the record of your "risk assessment," and a layman's explanation of the methodology used to determine the current level of risk.

Have you found the risk to be, more or less, consistent with <1%, which is found in USFS-USDA risk literature (pps. 100-101) linked below.

See: https://www.firelab.org/sites/default/files/2021-05/finney_quantitative_risk_analysis_wildlandfire_FEM_2005.pdf

"Assessing wildfire risk is a crucial component of wildfire management and risk mitigation planning." *A wildfire risk assessment framework for land and resource management*, Scott, Joe

H.; Thompson, Matthew P.; Calkin, David E. (2013) Gen. Tech. Rep. RMRS-GTR-315. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. 83 p. , p.73.
https://www.fs.usda.gov/rm/pubs/rmrs_gtr315.pdf

Please also estimate, and disclose, what the percentage of risk will be reduced to (as expressed in a percentage change/reduction) after the Project has been completed. Since risk is never 0 (zero), this statistical estimate for the Project area should fall in a range somewhere between 0% and 1%. If you do not agree with this estimate, please provide your own calculation, and disclose your findings in the NEPA analysis/disclosure document.

Please disclose your best estimated answer of the following question: Is this proposed Project a “cost-effective” prescription/methodology given what is known in the literature cited above?

Please cite all models/software, and methodology used to answer these risk/cost-effectiveness questions of interest and importance to the public and Congress.

According to the Scoping Notice, the Project area “...lies within one of the 250 identified High Risk Firesheds (#381-Baird).” What exactly does that mean? Please provide the public a reasonable definition of this recently introduced term of art, its origin (source), if known, and the date this term of art was first known to be used in the legal context it is now being presented.

Was the “identification process” open to public participation (NEPA procedures)?

Because the Lolo National Forest has been granted approval from the Secretary to implement the Tyler’s Kitchen project as an *Emergency Action Determination* project, we feel it is critically important to define “emergency” and provide a reasonable explanation as to why neither the Missoula Ranger District, nor the Lolo National Forest, notified the public prior to this scoping solicitation of an “emergency” situation in the Project area.

When was it first determined that the public health, safety, and welfare may be at sufficient risk to warrant reclassifying the Project area “HIGH RISK?”

Have any members of the public, or any public interest group communicated to the District or Forest of a real, or perceived, “emergency” in the Project area before issuing this scoping notice?

Has the Project area been “closed to public use” due to declaring “emergency” status? Is this danger/risk considered “imminent?” Is the public at any greater risk than it has been for the past 10 years, for example? How about 20 years?

Has the Secretary’s “selection process”/granting criteria been through a public participation/NEPA process?

What special expert credential or special scientific or legal knowledge does the Secretary of Agriculture possess to determine whether or not a legitimate emergency exists? See generally: *Chevron*, a recent Supreme Court decision.

Procedures Required *After* Making an Emergency Determination

The Forest Service failed to demonstrate that they have adequately complied with the requirements of §40807(2) of “The Infrastructure Bill.”

Nor has the Forest Service made a credible or legitimate case for the Purpose and Need. The Project fails to conform to the specific list of “...hazards threatening human health and safety or mitigation of threats to natural resources on National Forest System land or adjacent land...”

Moreover, the Lolo N.F. failed to demonstrate that the Project substantially conforms to the provisions of the Lolo Forest Plan.

§40807(2):

(2) AUTHORIZED EMERGENCY ACTIONS.

After making an emergency situation determination with respect to National Forest System land, the Secretary may carry out authorized emergency actions on that National Forest System land in order to achieve reliefs from hazards threatening human health and safety or mitigation of threats to natural resources on National Forest System land or adjacent land, including through—

- (A) the salvage of dead or dying trees;*
- (B) the harvest of trees damaged by wind or ice;*
- (C) the commercial and noncommercial sanitation harvest of trees to control insects or disease, including trees already infested with insects or disease;*
- (D) the reforestation or replanting of fire-impacted areas through planting, control of competing vegetation, or other activities that enhance natural regeneration and restore forest species;*
- (E) the removal of hazardous trees in close proximity to roads and trails;*
- (F) the removal of hazardous fuels;*
- (G) the restoration of water sources or infrastructure; (H) the reconstruction of existing utility lines; and (I) the replacement of underground cables.*

(3) RELATION TO LAND AND RESOURCE MANAGEMENT PLANS.

Any authorized emergency action carried out under paragraph (2) on National Forest System land shall be conducted consistent with the applicable land and resource management plan.

Project Area Description

The Project area encompasses 33,440 acres of forested lands, southeast of the confluence of Rock Creek and the Clark Fork River.

According to the text provided in the Scoping Notice, “the Project would implement 1,933 acres of intermediate harvest, 1,193 acres of clearcuts, 863 acres of precommercial thinning, 13,373 acres of prescribed burning, and 487 acres of fuels treatments. The total treatment acres would be 17,849 acres, or 45% of the project area.” However, these numbers do not seem to agree with the numbers in Table #1, also reported in the Scoping Notice. This is confusing, contradictory information of little or no use to the public trying to make sense of, and comment on the proposed Project.

Since this appears to be the *only* opportunity for the public to engage in meaningful participation and comment, the Scoping Notice must be reissued with clear, accurate information an average person might likely comprehend.

Table 1.	Acres
Proposed vegetation treatments	
Treatment Type	
Acquired Land	3,002
Treatments	
Intermediate Harvest	3,397
Prescribed Fire	7,496
Regeneration Harvest	2,300
Shaded Fuel Break	228
Small Tree Commercial Thinning	400
Non-Commercial Thinning	2741
Grand Total	18,566

Clearcut (“regeneration harvest”) units larger than the 40-acre maximum (NFMA) all seem to be conceived without legitimate cause. The purpose and need can be easily performed without these obscene intrusions into what seems to be a forest functioning well within the Natural

Range of Variability (NRV). Just so we are clear, I use the term as defined by the following statement:

The natural range of variability (NRV) is the range of ecosystem processes and structures that occur over a long period of time before major human changes.

This begs the question: Which, if any, lands in the Project area can reasonably be considered as *outside* the NRV? There is no reference to NRV in the Scoping Notice. It seems reasonable, and prudent, to have an in-depth discussion, analysis and public disclosure pertaining to NRV *before* jumping to conclusions about the current site-specific condition(s) on the ground in the Project area, and in turn declaring the area a “High Risk Fireshed,” or arbitrarily assigning the category of *Emergency Action Determination* to the Project area. The Project as noticed violates the NEPA, NFMA and APA.

Please withdraw and redo the Scoping Notice to include the NRV procedures.

Please provide notifications of additional changes or amendments that may warrant supplemental public involvement opportunities to each of the individuals signed on to these comments, as is required by the National Environmental Policy Act (NEPA).

Wilderness Characteristics/Roadless Rule

The Project area includes Inventoried Roadless Areas (IRAs).

Grizzly bears are present in the Project area and are known to be reproducing there.

Whitebark pine is present in the Project area and in the roadless area being targeted for burning.

Wolverine habitat is present in this roadless area.

Elk winter range supports grizzlies and wolverine who depend upon winter carrion for survival and recovery.

Proposed prescribed burns will kill (take) an undisclosed number of healthy whitebark pine. This is opposed to the legal obligation to avoid/minimize take and recover the species.

Burning and logging in now secure roadless habitat will reduce winter and summer thermal cover, increase wind driven snow drifting, and displace/drive elk and other big game out of the roadless area onto adjacent private land. Analyze that and disclose your findings.

To proceed as planned requires a biological assessment (BA) and consultation – i.e., a Biological Opinion, conducted by the U.S. Fish and Wildlife Service for all listed species “that may be present” in the Project area.

Old Growth/Old Growth Habitat

The project will violate the NEPA if there are no valid site-specific surveys for old growth habitat within the Project area.

Old growth types need to be defined and quantified by habitat types (See: Pfister et al., 1977), such as lodgepole pine, Douglas-fir, mixed conifer, spruce, subalpine fir, and limber pine.

The Forest Service's failure to use the Forest Plan definition of old growth, and consequent failures to demonstrate compliance with Forest Plan old growth standards for retention and viability, violates NFMA, NEPA, the Lolo Forest Plan, the ESA, and the APA.

The Forest Plan has no old growth standards or definition for lodgepole pine. This is allowing the Forest Service to log old growth in violation of NEPA, NFMA and the APA.

The Scoping Notice does not utter the phrase: "old-growth habitat." Nor is there a single mention of quantitative considerations relating to old growth characteristics, old growth stands and old growth status, or old growth associated species, and what clearcutting huge new openings over 40 acres in size will do to fragment the landscape as it now exists. This landscape currently functions as a cooperative, connected whole, with plants and animals interacting without man's egoic fantasies interfering – until now. Shame!

The Scoping Notice talks only of some vague, hallucinatory notion that "prescribed burns" will insulate old growth from systemic risks (natural ecosystem functions like wildfire, insects, etc.) in the future.

Please state clearly for the record what old growth definition and disclose the source of all data used to make ecologically sound decisions about old growth and old-growth habitat.

Please discuss, analyze and disclose the relationship between old-growth habitat quantity, quality and connectivity as it relates to NFMA's statutory requirement to protect and maintain *biological diversity*. Remember always, no old growth produces (reproduces) no old growth associated species, a clear violation of the letter and intent of Congress to pass the NFMA of 1973.

What old growth procedural guide are you claiming to be following? Is it the Forest Plan definition?

The following quote explains the "ecologically based classification" methodology. The following quote comes from Green et al. (April, 1992):

*Within the Northern Rockies various attempts at old growth definition were made during the Forest planning process. Unfortunately, these efforts continued to follow the definitions being developed in Oregon and Washington or emphasized structural characteristics related to old growth- associated wildlife species. Pfister (1987) conducted the first quantitative analysis based on ecological data for the Northern Rockies. This effort concentrated on the Kootenai and Nez Perce National Forests and provided a structure for the analysis presented in this paper. The analysis provided a basic review of concepts and provided an ecologically based classification of old growth based on numbers of large trees, snags, and down logs and described associated attributes of layers, canopy cover, age, and basal area. Pfister (1987) provided eight recommendations for further analysis, some of which have been **crucial** in conducting the regional level analysis. Emphasis added.*

“FIA Limitations for Old-Growth and Mature Inventory FIA is a national-level and regional-level strategic inventory that provides unbiased estimates of forest attributes over large areas by sampling forests systematically (approximately one plot per 6,000 acres). While the FIA design effectively samples variation in forest composition and structure regionally, rare vegetation types are captured less precisely. Classification error decreases with increasing plot size and increasing density of the attribute being estimated (Azuma and Monleon 2011). Classification errors of old-growth or mature forest for this national-scale inventory have not been tested.

Furthermore, our use of FIA stand age is imperfect; stand age is straight- forward for young, even-aged forests; for older stands with multiple cohorts or uneven-aged stands, stand age may not correspond to the time since the last major disturbance (Stevens et al. 2016). Old-growth and mature forests are known to contain trees of varying ages. ”

FS-1215a Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management Fulfillment of Executive Order 14072, Section 2(b) (April 2023) p. 25

Simulation vs. Real Forests

1 plot per 6,000 acres (9.375 sq. miles), and NO "habitat types" (Pfister et al., 1977) make this project-level forest *simulation* of very limited biological/ecological value. The presumptions (need for cultivation, domestication, management and control) are baked into the FIA Inventory system. No matter what the data and analysis may reveal the system functions the same.

Real forests have been replaced with virtual, computer-generated "twins." The twins' data can, and will be, manipulated to create new, "emerging markets" in "ecosystem services" and other abstract "commodities" banks, hedge funds and the like can bet on. Companies dealing in these synthetic financial instruments are already listed on the various financial exchanges.

This is new era "forestry," not some genuine interest in old growth, or forests, or life in general. This is "virtual forestry" managing "virtual forests" with no public legitimate (meaningful) participation, no public consent, and no NEPA analysis and disclosure.

Ecological Stratification for the Northern Region/ Habitat type/Pfister

To classify old growth forests, it was decided, how, where, and when, and by whom, exactly? This decision remains undisclosed and remains unknown to the interested public. The Scoping Notice offers no clues.

The most applicable system for stratification of site potential would be groups of habitat types. See: **The habitat type classification systems used for this grouping are the "Forest Habitat Types of Northern Idaho: A Second Approximation" (Cooper and others 1991) and "Forest Habitat Types of Montana" (Pfister and others 1977).** Emphasis added.

The "groupings" apparently being used in the Project analysis, presumably implementing the Lolo NF Plan, seems to be using an undisclosed scheme delineating "cover type" and/or "vegetative type," which do not have the same definition or meaning, and lack the qualitative ecological elements and resolution necessary to conduct proper "fine-filter" project-level (site-specific) analysis.

This is a violation of the NEPA, NFMA and the APA. NEPA requires understandable procedures and methods. Neither the Forest Plan, nor the Project Scoping Notice explain how we got from Pfister's "habitat typing" to the computer models (simulations) that aggregate/make arbitrary "vegetative groupings" now being employed in Region 1, on the Lolo NF, and for the Project.

To remedy this insufficient handling of old growth and old-growth habitat analysis and disclosure. Please analyze and disclosed the following:

- 1) Historic levels of mature and old growth forest and old-growth habitat quality in the Project area.
- 2) Present amount of old growth forest, and the range of patch sizes, in the Project area. Please categorize according to habitat type.
- 3) The amount of habitat for old growth forest associated and dependent species in the Project area
- 4) The percentage of mature and old growth forest required to maintain minimum viable populations of associated and dependent wildlife species; and maintain historic biodiversity in the Project area.
5. The amount of mature and old growth forest, and the amount of old-growth habitat for associated and dependent species that will remain after Project implementation.

6. What method(s) were used to model/simulate old growth and mature forest dependent wildlife habitat acreages, patch size and connectivity. What is the predicted margin of error.
7. A map and quantitative summary of all (habitat) types of old growth in the Project area.
8. How will logging, especially outsized clearcuts, in old growth forests in the Project area protect and maintain present and historical levels of biodiversity?

Old growth (over 20 known) species may be present in the Project area. The Forest Plan and Project both fail to adequately meet the inventory and quantitative data requirements of 36 CFR§219.26.

The Project violates the NFMA, §6(g)(3)(B) and 36 CFR §219.26.

Thank you for the opportunity to comment before a Decision is made.

Sincerely,

Steve Kelly, President
Council on Wildlife and Fish, PO Box 4641, Bozeman, MT 59772.
Phone 406-920-1381/ troutcheeks@gmail.com.

Sara Johnson, Director
Native Ecosystems Council, PO Box 125, Willow Creek, MT 59760
phone 406-579-3286/ [sjjohnsonkoa@yahoo.com](mailto:sjohnsonkoa@yahoo.com).

Mike Garrity, Director
Alliance for the Wild Rockies, PO Box 595, Helena, MT 59624
phone 406-459-5936/ wildrockies@gmail.com.