August 22, 2024
Mr. Mel Bolling, Supervisor
Caribou-Targhee National
1405 Hollipark Drive
Idaho Falls, Id 83401

Mr. Robert Mickelsen, Ecosystem Branch Chief
Caribou-Targhee National Forest
1405 Hollipark Drive
Idaho Falls, Id 83401

Re: Objection to the Draft Record of Decision (DROD) June 2024, Final Supplemental Environmental Impact Statement (FSEIS) July 2024, and Forest Plan Amendment – Crow Creek Pipeline Project

Dear Mr. Bolling and Mr. Mickelsen:

This objection is submitted on behalf of Yellowstone to Uintas Connection, Alliance for the Wild Rockies, and Native Ecosystems Council.

The Yellowstone to Uintas Connection (Y2U) is a 501c3 public interest organization whose staff and members have and will continue to work to protect the integrity of habitat for fish and wildlife as well as recreate in this region. We are concerned about the loss of integrity of the Regionally Significant Wildlife Corridor (Corridor) that connects the Greater Yellowstone Ecosystem and Northern Rockies to the Uinta Wilderness and Southern Rockies. Y2U is headquartered in Paris, Idaho with a satellite office in Bondurant, Wyoming.

Alliance for the Wild Rockies (AWR) is a 501c3 public interest organization whose mission is to secure the ecological integrity of the Wild Rockies Bioregion through citizen empowerment and the application of conservation biology, sustainable economic models, and environmental law. Alliance for the Wild Rockies is headquartered in Helena, Montana.

Native Ecosystems Council (NEC) is a 501c3 public interest organization whose staff reviews Forest Service National Environmental Policy Act (NEPA) assessments of Forest Service impacts on wildlife in the Northern Rockies. NEC is headquartered in Willow Creek, Montana.

We have reviewed the FSEIS and DROD and find little change from the prior EIS other than the rerouting of the pipeline to avoid BLM managed lands and Mineral Leasing Act provisions. In our scoping comments, comments on the DEIS, supplemental comments on the DEIS, and our prior objection, we raised a number of points which are summarized in the following section. We hereby incorporate those comments in their entirety along with those raised in our objection to the FEIS and Draft ROD. The objection expanded on the issues raised in our comments and emphasized the failures to meet Forest Plan objectives. In this current objection, we are incorporating in their entirety our comments on the FSEIS. First, we outline the major points from our prior comments.

Prior Comments

Our prior comments and objection are incorporated into this objection as the issues remain unsatisfied by the DROD and FSEIS. These lay out that the CNF RFP (intent, goals, standards and guidelines), NEPA (Hard look and Cumulative Effects), and NFMA (failure to document population trends/viability for special status species and habitat conditions), and ESA (failure to address all listed species and impacts to connectivity. The outlined points below provide a brief guide to the detailed comments referenced.

In our Scoping Comments (February 19, 2018), our concerns included:

1. The pipeline would fragment IRAs, promote OHV use, and soil disturbance along the pipeline route.
2. There will be direct, indirect, and cumulative ecological impacts that need analysis and disclosure.
3. Construction of the pipeline will leave a visible scar due to removal of vegetation, including trees and shrubs along the route.
4. Restoration will be limited to grasses and forbs, which leaves a cleared path that will induce OHVs to use the route, resulting in an unauthorized route.
5. A review of the effects of roads and motorized vehicles on wildland and wildlife, leading to humans accessing remote areas, damaged environmental resources, looted archeological sites, and noise pollution.
6. Effects of motorized use on wildlife, fragmenting habitat to the point it loses its function and begins losing species.
7. Soil disturbance and erosion, sedimentation of water bodies, spread of invasive species.
8. Due to the removal of vegetation and creation of a cleared path, snowmobiles will be attracted to the route. The tracks and trails of these machines can result in negative

impacts to soils, soil temperatures, soil bacteria, seed vernalization, seed dispersal, spring germination and changes in plant species, density, and productivity. They will also create travel routes that affect wildlife travel, habitat use, and populations. Their presence induces increased stress, and displacement from preferred habitats.

9. The project occurs in the Regionally Significant Wildlife Corridor and includes summer and winter ranges for deer and elk. The CNF RFP and its FEIS recognize the value of roadless areas and low road densities for elk security. It stresses the need for migration between summer and winter range.
10. It is important to identify all winter and summer range and how much is affected by direct and indirect effects from the pipeline and how much has been affected by other activities such as roads, timber harvest, OHV use in summer and snowmobile use in winter.
11. We reviewed the benefits of roadless areas, which included increased biodiversity, high level of old growth, essential habitat for species of conservation concern, provide buffers against invasives, provide connectivity and other benefits.
12. We requested analysis of road densities and effects on wildlife, and soil conditions with an integrated analysis of the effects of roads, human use, and habitat fragmentation.
13. We requested disclosure of ongoing soil and water impacts from roads in the project area that may be inadequately maintained. Please disclose the cumulative impacts on soil, water, and wildlife of unauthorized (user created) roads and motorized trails. Please disclose compliance with motorized route restrictions, and if violations exist, perform an analysis of the resultant harm to wildlife habitat, soil, and water.
14. Demonstrate the project would be consistent with all applicable Land management plan direction, including standards, guidelines, and other direction.

Our Comments on the DEIS (November 21, 2018) expressed concerns including:

1. The DEIS set up a straw man that said impacts to wildlife or corridor integrity would be offset because there is habitat elsewhere, but it did nothing to quantify this other habitat and its quality or ability to support wildlife or corridor function.
2. There were insufficient alternatives provided. There should have been consideration of additional storage at the Afton facility, offsetting natural gas usage by increasing the number of LVE customers using alternative energy, and there should have been a wildlife protection alternative that avoids and mitigates impacts to wildlife.
3. Mitigation was not adequate to remove visible impacts due to the cleared path that will need to remain cleared for annual inspections and maintenance. Examples of other pipelines and reseeded areas were provided to show that these cleared paths

remain visible for long periods. OHV and snowmobile issues were raised as this cleared route is an open invitation.

4. The Regionally Significant Wildlife Corridor was not addressed, and the Forest Service should provide an analysis addressing habitat fragmentation and the presence of Core, Corridor, Lynx Analysis Units (including the LAUs proposed, but omitted from the 2003 RFP and an analysis of their condition then and current conditions), security areas, summer and winter range, roadless Areas, wilderness Areas, NRAs, areas closed to livestock grazing, and Goshawk home ranges. There was no road density or noise analysis relative to wildlife needs.
5. While the DEIS described the pipeline crossing six management prescription areas, it did not analyze the current status of these areas already fragmented by mines, timber, transmission corridors, roads and trails, and other surface disturbing activities.
6. While migration corridors were discussed in the FEIS for the CNF RFP, the effects of the proposed project did not address the already high road densities in the Webster/Preuss and Diamond Mountain blocks and how this pipeline will impact security habitat or linkage.
7. Citing the Wildlife Specialists' Report, we indicated the need for ESA Consultation.
8. We raised questions regarding accident statistics, pipeline incidents such as explosions or over pressure. Regarding wildlife collisions, there was a lack of a timeframe in which those occurred, and no analysis of construction impacts or displacement because of construction and operation of the pipeline.
9. Regarding climate change, there were some issues with the analysis including the potential growth-inducing impacts due to increasing fossil fuel use, growth impacts on property values and property taxes. We also described the Forest Service National Roadmap for Responding to Climate Change which stresses connecting habitats, decreasing fragmentation, and removing impediments to migration.
10. Forest Sensitive, MIS and T&E species habitats need analysis to determine suitability and capability of habitats and viability of populations.
11. The Montpelier Ranger District is considered linkage habitat for Canada lynx but there was no analysis of its habitat and how human activities may have degraded that habitat. While the CNF RFP FEIS mentioned 35 lynx observations in the CTNF, there was no analysis of the habitats and conditions in the locations where these observations were made to help understand lynx habitat preference and then evaluate project impacts.
12. We provided analysis and maps of wolverine habitat. A map based on a model by Fish and Wildlife Service indicates habitat potential in SE Idaho. Research by leading researchers pointed out the need for facilitating connectivity between habitat patches.

13. The DEIS analysis for big game was dismissive of project impacts on deer and elk, their summer and winter range, stating that impacts were negligible, "given the amount of habitat available to wildlife outside the proposed disturbance area", but those habitats were not analyzed for their current condition. The RFP prescriptions for winter range emphasized the importance of roadless areas and low road densities for elk security cover.
14. The CNF RFP FEIS describes a process for assessing connectivity, but the DEIS did not address that process in evaluating wildlife impacts.
15. We provided a detailed discussion for sage grouse pointing out the lack of analysis for leks in the project area, that the COT Report described the East-Central Idaho sage grouse population as at "high risk" of loss. We pointed out the value of these populations and their connection to adjacent populations in Wyoming and Utah. The National Technical Team Report analysis and recommendations were cited but have not been included in any analysis. No population trends were provided and those should have been correlated with activities that fragment habitat.
16. The flaws in reliance on Best Management Practices were described and effectiveness monitoring is needed to validate any claims of their benefits.

Our Supplemental Comments on the DEIS (November 23, 2018) raised additional points, including:

1. The NEPA process was flawed due to lack of incorporation of FERC review and Natural Gas Act provisions.
2. The environmental analysis is limited and should be extended to include all of the direct, indirect, and cumulative impacts resulting from FERC approval.
3. The DEIS only covers impacts to Forest Service lands, but wildlife, surface water, groundwater, and air quality on, below, and over private property will also be potentially impacted.
4. A Supplemental EIS is needed depending on the FERC analysis outcome.
5. There was an inadequate range of alternatives.
6. There was not a "hard look" at environmental impacts, including the public safety analysis, pipeline leak analysis, there are no impact zone calculations and no identification of High Consequence Areas, potential for wildfire from a leak or rupture. We cited that interstate pipelines have exploded or caught fire 137 times in the previous 8 years. The role of Pipeline and Hazardous Materials Safety Administration was cited. How is it involved? How often will it inspect the pipeline? The risk county or other road maintenance might pose due to the location within roadways. Many questions were raised regarding LVE's monitoring, maintenance and response to emergencies, and emergency venting.

7. The use of HDPE pipe and joining methods, inspections, worker certification were of concern. Instances of HDPE pipe fracturing that could reduce the expected lifetime and the question was raised as to how the Forest Service, FERC, and LVE will ensure that the pipeline does not experience deterioration and if so, how that would be detected and repaired. What will happen at the end of the service life?
8. The climate analysis is insufficient due to the need to calculate GHG emissions for all alternatives, future population increases in the service area being expanded into Idaho. The analysis should also include methane leaks as social costs. Production and transport from the production sites and end users will be an impact.
9. Impacts to air quality from LVE users burning more natural gas was needed, there was no baseline air quality data included and no description of the locations of monitoring sites, no analysis of the impacts to NOX, CO2, Ozone, and other pollutants.
10. Whether natural gas is to be provided to phosphate operations, or a map showing the pipeline in relation to mining leases was not addressed.
11. Mitigation measures were suggested relating to livestock grazing. These could reduce cumulative impacts, including reducing animal unit months and retiring grazing permits.

We provided in depth comments and analysis on the DSEIS. These were dated October 8, 2023. Our prior comments were incorporated by reference. These remain to be addressed in an analysis worthy of an EIS. Some of the major points contained in these latest comments are summarized below.

1. IRAs are acknowledged by the DSEIS to undergo visible and physical damage. The project would further compromise already degraded IRAs. We provided a description of each affected IRA illustrating the existing damage to roadless character, loss of naturalness, the presence of illegal, user created roads within each, and the failure to address this habitat damage, and the lack of enforcement.
2. We noted that the CIAA did not include the entirety of these IRAs so that analysis could not capture the full extent of the effects from this project.
3. We mapped the IRAs showing habitat fragmentation from existing roads, but did not include non-system roads, transmission lines, timber projects, vegetation treatments, and other physical alterations as we lacked the data. The analysis is not complete without addressing all the past habitat fragmentation.
4. We then noted that the additional noise and fragmentation from this pipeline project needs to be analyzed in terms of security habitat for big game, sage grouse, and Canada lynx linkage.
5. There has been no analysis of these road densities and habitat fragmentation and how they compare to the CNF RFP emphasis on roadless areas, elk security cover

and connectivity. The DSEIS failed to address the CNF own four step assessment of connectivity.

6. The Biological Assessment only considered lynx and wolverine, yet the DSEIS listed three T&E species that could occur in the study area. These are lynx, grizzly bear, yellow-billed cuckoo. The BA did not address Ute Ladies-tresses or whitebark pine which are listed as threatened. The BA did not address lynx critical habitat.
7. There needs to be a detailed analysis of current habitat condition compared to historical and potential habitats and their suitability for special status species.
8. We provided a detailed discussion for sage grouse which are addressed through "design features". Sage grouse have declined across the Southern Conservation area. While they can move 50 miles from breeding to nesting and brood rearing areas, the DSEIS did not address connectivity issues.
9. We pointed out the underlying flaws in determination of "occupied" status for sage grouse. The determinations were made after massive declines in sage grouse lek attendance, leks that are not attended are no longer monitored and dropped, which is a continually shifting baseline that will no doubt lead to the loss of sage grouse in this region.
10. We emphasized this point by plotting the lek attendance at SE Idaho leks in the Phosphate Patch since the 1960's. This shows the huge decline of sage grouse and its demise as surface disturbance and human activity increased.
11. The DSEIS did not analyze the current conditions of habitats in the CIAA for the 6.2 - and 10-mile buffers. It did not address the CNF RFP provisions for monitoring and restoring habitats and providing for special status species. We cited four of those provisions regarding mapping habitats for summer and winter within five miles of each lek; establish and monitor trend plots for breeding birds; site-specific analysis within 10 miles of active sage grouse leks, and 2 miles for sharptail grouse leks; maintaining stands of mature trees, and 30 – 50% of sagebrush habitat in blocks of 320 acres or more.
12. We provided maps showing habitat fragmentation by roads, trails and mine leases to illustrate the near total lack of functional habitat. We pointed out that there are many other activities, past and present, that fragment this habitat and that a full analysis must be done.
13. We outlined the NTT report recommendations which have not been implemented. We cited recent research showing that lek persistence was positively related to continuous sagebrush cover. That paper stated that human disturbance "strongly decreased the probability of a lek persisting" with the strongest effect out to 1 km but that persisted out to 15 km and there was a major negative impact related to road densities. None of the analysis we stated was needed has occurred.
14. There was a long review of Canada lynx issues. We noted the CIAA overlaps critical habitat for lynx but was not analyzed for impacts to critical habitat. The Montpelier

Ranger District was not included in the NRLMD direction because of vegetation factors and was identified as linkage habitat. We noted also that the map in the CNF RFP FEIS shows the Soda Springs RD as a linkage as well.

15. We disagreed with this idea of unsuitable habitat, that the "no effect" conclusion for critical habitat ignored the area wide cumulative and indirect effects, there has been no analysis of lynx habitat requirements and comparisons with SE Idaho that show the habitat is unsuitable. There has been no analysis of the habitat in the Montpelier RD as to its potential and current state, that the claim the sighting of a female and two kittens were transients had no basis, and finally, that using track surveys long after most habitat has been fragmented begs the question whether lynx historically occupied the area.
16. We provided a detailed analysis showing that lynx did previously occupy the project area. While the lack of snowshoe hares is another rationale used to claim lynx did not use the area when there have been no habitat/population studies to support that claim.
17. The Olson et al 2021 study, which the CTNF has adopted as the best available science for determining lynx habitat suitability should be used in an analysis that includes those studies the RFP intended to determine the ability of these habitats to be used or restored. Analysis of disturbance and habitat fragmentation would be part of this.
18. We cited the RFP vegetation and wildlife DFC, goals, standards, objectives and that there has been no analysis of these. For example, the RFP states that biodiversity is maintained or enhanced if plant communities are within HRV and that habitat connectivity must be provided.
19. A thorough review of the science on lynx habitat characteristics needed for recovery and connectivity should be completed and used to compare current conditions in the CNF to those needed for lynx. Both lynx and sage grouse have fallen victim to the use of current data that is collected long after habitats have been fragmented and degraded, populations declined or have become rare. That data is being used to claim that further degradation is minor or insignificant as there is habitat elsewhere but never analyzing that habitat.
20. We provided a detailed review of lynx science and regulation, pointing out that those original documents listed many human intrusions affecting lynx. These included humann access, roads, trapping, ohvs, lack of monitoring of lynx and hares, altering of ecological processes by forest management (logging, treatments, livestock, etc). These factors are still operating on our public lands.
21. We cited the NRLMD which, while it applies to occupied habitat, also provides, "When National Forests are designing management actions in unoccupied mapped lynx habitat they should consider the lynx direction, especially the direction regarding linkage habitat."

22. The lynx Conservation Agreement between the Forest Service and Fish and Wildlife Service stated, "As recommended in the LCAS, appropriate actions, including research, administrative studies, or monitoring, will be taken to verify the effectiveness of the lynx conservation measures." We have seen none of these monitoring or other studies that have addressed effectiveness of lynx conservation measures, while monitoring of lynx and snowshoe hare occurrence and populations in the DPS is lacking.
23. We detailed the false claims that forest roads, mines, packed snow trails, and timber harvest are not detrimental to lynx based on lack of evidence. These arbitrary statements eliminate most analyses of human disturbance as a cause of lynx decline or absence. Yet, there is plenty of evidence that these activities do degrade lynx habitat. We provided some of that showing the explosion of ohvs prior to recent lynx surveys used to claim no occupancy. We showed that the rationale for excluding forest roads was based on a little used road in one study and a recent study showed lynx avoidance of recreation areas such as ski areas. The paper cited noted, "Lynx appear to have an upper threshold of recreation intensity which they can tolerate, and above this level, lynx may be less able to coexist. Managers, then, should keep in mind that developed or dispersed areas with very high use may displace lynx from habitat." Many places today are overrun with ohvs, snowmobiles and in SE Idaho, phosphate mining is the type of 24 hr/day operation that can displace lynx and other wildlife. The Science Report addressed habitat fragmentation thus: "Fragmentation of habitats occupied by lynx (including increased openings, higher road densities, exurban residential development, and wider use of snowmobiles and devices that compact snow in areas with deep, soft snow) is a plausible mechanism for the questionable conservation status of the lynx in the contiguous United States."
24. Citing the Olson et al 2021 paper which the CTNF has adopted as best science, our mapping using that model shows that lynx habitat is present in SE Idaho. So, why is there no lynx here?
25. We then reviewed the 2013 LCAS which noted that there are few conservation measures for non-core areas but that projects "must be consistent with the management direction contained in the forest plan." (p89). This would mean the analysis would be consistent with the CNF RFP and its FEIS. It is not.
26. The 2013 LCAS provided conservation measures for core areas, which we outlined. These illustrate that the absence of these measures in non-core areas leads to loss of lynx habitat function. If they are necessary for core areas to maintain lynx, then they are necessary to recover lynx in its former range.
27. The 2013 LCAS provided a tier of factors to address It also stated, "Federal agencies have amended or revised land management plans across much of the range of the lynx to provide direction to conserve lynx and lynx habitat. Thus, the impacts of

anthropogenic influences have been substantially reduced." The Caribou NF has not demonstrated that its RFP has "conserved lynx and lynx habitat" or reduced "anthropogenic influences" while continuing to propose and approve projects across the CNF, including phosphate mines, timber and prescribed fire, and off-road vehicle trails.

28. The 2013 LCAS further noted, habitat fragmentation, "accentuates the viability risk inherent in a small population and increases its vulnerability to local extirpation. Examples of fragmentation include, "removal of forest cover, development of highways and associated infrastructure, and intensive minerals or energy development…" Vehicle collisions are a factor in mortality. Here, the LCAS admits these activities have inherent risk to viability for small populations. In a direct contradiction to the Remand Notice which used absence of evidence, here "intensive minerals development" is a factor fragmenting habitats, yet this is excluded from any standards in the NRLMD for linkage habitats.
29. More from the 2013 LCAS. Forest/backcountry roads and trails with low vehicular or snowmobile traffic "had little effect on lynx seasonal resource-selection patterns" and lynx traveled on roads "unplowed during winter". "Squires et al (2008) reported that lynx denned farther from all roads compared to random expectation. … occupy dens in early May when many forest roads are still impassable… snowmobiles no longer use the roads because of intermittent and unpredictable availability of sufficient snow." Finally, "fewer roads were located in denning habitat and higher road density occurred along forest edges and in managed stands, which lynx avoided…." But these factors are all dismissed as affecting lynx in the Remand Notice and we find no regulatory standards regarding these activities relating to lynx and lynx habitat in the CNF.
30. We analyzed the historical observations and the lack of acknowledgement of lynx in SE Idaho even though there were reports from the 1940s and later showing they were trapped there. Also, a Forest Service person found them common in the Uinta Mountains, where their historic occupation is discounted by the federal agencies.
31. We cited the Forest Service Manual guidance for T&E species. (1) "Place top priority on conservation and recovery of endangered, threatened, and proposed species and their habitats." (2) "Establish, through the Forest planning process, objectives for habitat management and/or recovery of populations." (4) "Avoid all adverse impacts on threatened and endangered species and their habitats, except when it is possible to compensate adverse effects totally through alternatives identified in a biological opinion." (6) "Identify and prescribe measures to prevent adverse modification or destruction of critical habitat and other habitats essential for the conservation of endangered, threatened, and proposed species. Protect individual organisms or populations from harm or harassment as appropriate." The CNF has done none of this.

32. We laid out the need to define, protect and restore the Regionally Significant Wildlife Corridor through SE Idaho using the Forest Service delineation of that corridor and related studies.
33. We reviewed factors most closely related to lynx habitat needs in these southern population areas such as snowshoe hare presence, alternate prey, forest practices leading to fragmentation, the need for intact forest along with the understatement of that need in the NRLMD.

Additional comments dated October 9, 2023 were submitted on the DSEIS. These are also incorporated by reference. Major points are outlined.

1. The comments outlined the many analyses and descriptions needed to complete the project EIS. These were not addressed.
2. The Forest Service has not demonstrated compliance with the CNF RFP and the 2015 Forest Plan Amendment for sage grouse.
3. The DSEIS has not complied with the CNF RFP for Management Indicator Species. It did not analyze the habitat conditions within 12.4 miles of leks or analyze the level of decline for these leks and is failing to ensure the viability of sage grouse.
4. There was no analysis of woodpecker home ranges.
5. The project violates the Mineral Leasing Act because the higher bar set by the MLA dictates that the agency determine that use of existing rights of way is "impractical".
6. There was no analysis of CNF RFP provisions governing pipeline corridors.
7. Failure to demonstrate compliance with Forest Plan provisions is a violation of NEPA and NFMA.
8. Forest Service actions are a cause of weed infestations and there is no demonstration of long-term control or management. The pipeline is no exception.
9. Because of the current state of whitebark pine, there should have been an analysis of its distribution and status. Consultation with FWS was requested.
10. Compliance with the National Historic Preservation Act is needed.
11. Wolverine presence in the area must result in consultation with Fish and Wildlife Service. Decreased elk security and the effects on wolverines.
12. Disclose surveys for whitebark pine, sage grouse, yellow-billed cuckoo, grizzly bears, wolverines, pine martens, monarch butterflies, northern goshawk, and lynx. Provide a full BA for these.
13. Consult with FWS on grizzly bears.
14. Conference with FWS on monarch butterflies.
15. Disclose if the project is meeting standards for hiding cover, thermal cover, open road density, and habitat effectiveness.
16. The project is in Canada lynx habitat and adjoins critical habitat. All activities must be consistent with the LCAS and requirements for critical habitat. The BA/BE must

address this. Does the project adversely modify critical habitat and if so conference with the FWS.

17. The Programmatic Lynx BA concluded that land management plans, "may affect, and are likely to adversely affect, the subject population of Canada lynx." This indicates that the Forest Plan implementation is a "taking" of lynx making Section 7 consultation on the CTNF RFP mandatory.
18. This "taking" can only be done with an incidental take statement issued as part of a Biological Opinion during Section 7 consultation.
19. Forest Plans have allowed fire suppression, levels of human access increasing risks to lynx, lack guidance for recreation, lack direction for maintaining connectivity, lack coordination with others to assure consistent management across the landscape, lack direction for monitoring of lynx, snowshoe hares and their habitats. Plans continue the process of habitat fragmentation. Plans must incorporate conservation measures to reduce or eliminate adverse effects to lynx.
20. Climate impacts are not adequately considered.

Objection Discussion

The DROD:1-2 stipulates five determinations to be made by the Forest Service. These are outlined below with our brief comments in italics.

A. Whether to issue a Special Use Authorization under the MLA for the construction of the pipeline within a temporary ROW.
   - *This is unnecessary as under the No Action Alternative, LVE would continue to truck LNG to Afton, Wyoming. "The No Action Alternative was identified as the environmental preferred alternative although it does not meet the purpose and need for the project." (DROD:2).*

B. Terms and Conditions to include in the SUA to include the MLA provisions and 36 C.F.R. 251.56(a).
   - *Special Use Authorizations must specify a duration as stated in 36 C.F.R. 251.56(b). There was none specified in the DROD and FSEIS. SUAs also have numerous provisions related to protecting the public interest, siting to cause the least damage to the environment, minimize damage to scenic and esthetic values and fish and wildlife habitat. These are laid out in 36 C.F.R. 251.56 and must be addressed specifically and in detail. This is not done in the DROD and FSEIS. Compliance with 36 C.F.R. 251.56(f)(2) as related to Common Carriers requirements must be thoroughly addressed. What is the source of the natural gas, Federal or private lands, or other? Is the pipeline subject to regulation under*

the Natural Gas Act or by a public utility? Is the pipeline permitted under Section 28 of the MLA?

As discussed in Section FSEIS 2.2.2.1, the "serviceability of the pipeline is expected to exceed 50 years. Once the pipeline capacity no longer meets the demands of its service territory, it would be inactivated or abandoned in place." *This is a general statement, not a specified duration as required in 36 CFR 251.56(a).*

C. Whether the proposed route utilizes ROWs in common as determined by MLA.
    - Prescription 8.1u of the CNF RFP provided utility corridors for the CNF as "concentrated developments". *None of those corridors is present in the CIAA which expressly means that a utility corridor was not deemed necessary even though there are concentrated developments nearby, such as the phosphate mines.*

D. Whether the proposed route is consistent with the CNF RFP and whether there is a reasonable alternative to a route on public lands.
    - *In our past comments outlined above, we have pointed out the numerous failures to comply with the intent of the CNF RFP and its FEIS and the other laws and regulations. The environmentally preferred or No Action Alternative was the most reasonable.*

E. Whether to amend the CNF RFP to establish a 20-foot-wide utility corridor on NFS lands.
    - *In the Federal Register/Vol. 73, No.201 establishing the Idaho Roadless Rule, at 294.28 Scope and Applicability, forest* plan amendments are addressed: *(d) The provisions set forth in this subpart shall take precedence over any inconsistent land management plan component. Land management plan components that are not inconsistent with this subpart will continue to provide guidance for projects and activities within Idaho Roadless Areas; as shall those related to protection of threatened and endangered species. This subpart does not compel the amendment or revision of any land management plan. (e) The prohibitions and permissions set forth in the subpart are not subject to reconsideration, revision, or rescission in subsequent project decisions or land and resource management plan amendments or revisions undertaken pursuant to 36 CFR part 219.*

While the FSEIS:1-9 states there is no road building within IRAs, "Only activities needed to construct the pipeline would occur…No motorized access would be permitted following construction." We consider the pipeline construction and ROW to

be another road, crossing IRAs and other CNF wildlife habitat areas. It will be a road during construction and remain a route for maintenance, illegal ohv traffic, snowmobiles, and become a defined route for hunters to penetrate further into roadless areas, thus also a trail.

To quote Shakespeare, "What's in a name? That which we call a rose by any other name would smell just as sweet." Whether it's called a pipeline ROW, road or trail, vehicles will use it along with hunters and others to penetrate more easily into the IRA and sensitive wildlife habitats. This will result in a further reduction in habitat effectiveness over what is already present. Below, we discuss wildlife security habitat as defined in the CNF RFP FEIS and the dismal state of security areas in the CIAA. This pipeline is just another added element in the already heavily fragmented habitat for lynx, wolverine, elk, deer, sage grouse, goshawk, and other special status wildlife species.

Security Habitat

Volume IV of the FEIS for the 2003 Caribou NF Revised Forest Plan describes security habitat as being areas of cover large enough and far enough away from open roads to provide security.[1] The CNF RFP FEIS further described security areas as being over 0.5 miles from an open route and at least 250 acres in size. There should be a minimum of thirty percent security habitat in a herd's summer and fall range. Mapping showed that existing security areas did not meet the criteria, with one exception reported for the Portneuf Range, which is not in the project area.

For the CIAA, we mapped the open roads and trails and pipeline preferred route, placing a 0.5-mile buffer on each. (Figure 1). Keep in mind that these are only open routes and do not include temporary roads, gated roads, illegal user created roads and trails, timber projects that reduced cover and other disturbances. We lacked mapping information for many of the roads and trails that are not included in the Forest Service database. The map is disturbing in that it reveals most of the CIAA is already heavily impacted by human activity. Note also that the FSEIS:3-11 stated, "Unless otherwise specified, the study area for special status wildlife species is the temporary 50-foot construction ROW for the Proposed Action, plus a 0.5-mile buffer (0.25-miles on both sides of the ROW). It encompasses approximately 20,000 acres." It ignored the impacts of the existing disturbance from roads and trails which Figure 1 shows have a devastating impact on habitat in the CIAA.

[1] USDA Forest Service. 2003. Final Environmental Impact Statement for the Caribou National Forest Revised Forest Plan. Volume IV. Page D-167.

Idaho Fish and Game has produced reports and maps of elk and deer seasonal ranges in Idaho. The state was divided into five study areas for elk modeling that recognized the diversity of habitats in the state.[2] Location data for individuals were used to develop models for these study areas that included Southeast Idaho as a study area. We obtained the geospatial data for mapping from the link on the IDFG website.[3] Similarly, IDFG mapped seasonal range for mule deer.[4] The mapping and model development are described in their report.[5]

The FSEIS:1-8 uses existing RFP prescriptions. However, these prescriptions are not based on the current models produced by IDFG, resulting in likely inconsistencies that need to be resolved. The IDFG seasonal ranges are shown in Figures 2 - 5. The pipeline route passes through the high value summer and winter range for elk, and high value summer range for mule deer. In winter, the pipeline route affects a lower amount of deer winter range.

In our prior comments we mapped buffers around sage grouse leks, illustrated the lynx linkage from the RFP and illustrated the roads and mines affecting the region. Figure 6 shows the current open roads and trails with half mile buffers as well as the pipeline route with a half mile buffer. This shows that in the CIAA, there is little security habitat for these and other species. In fact, FSEIS Table 3.1-3 tabulates 753.7 miles of existing disturbance in the 464.8 square mile CIAA. This is 1.58 miles/square mile and does not include non-system roads and trails, temporary forest roads, closed roads, dispersed camping areas, ohv and snowmobile play areas, timber harvest, and mines.

We note that the CNF RFP FEIS (Volume IV:D-166) states that where summer habitat retains high use, habitat effectiveness should be greater than 70% which equates to an open road density of 0.7 miles/square mile. A goal of 1.0 miles/square mile was set and yet at the time of the RFP was not being met with the one exception being the Portneuf Range. The FSEIS and its supporting documentation have not addressed this major level of habitat fragmentation throughout the CIAA and the impact of that

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[2] Bergen, S., Horne, J., Anderson, K., and Hurley, M.2016. Elk Seasonal Ranges in Idaho. Version 2. Idaho Fish and Game. https://fishandgame.idaho.gov/ifwis/idnhp/cdc_pdf/Elk%20Season%20Range%20in%20Idaho%20Version%202.pdf

[3] https://gisportal-idfg.idaho.gov/hosting/rest/services/Wildlife/Elk_Seasonal_Ranges/MapServer

[4] https://gisportal-idfg.idaho.gov/hosting/rest/services/Wildlife/Mule_Deer_Seasonal_Ranges/MapServer

[5] Bergen, S., Horne, J., Anderson, K., and Hurley, M.2016. Mule Deer Seasonal Ranges in Idaho. Version 2. Idaho Fish and Game. https://fishandgame.idaho.gov/ifwis/idnhp/cdc_pdf/Mule%20Deer%20Seasonal%20Ranges%20in%20Idaho%20v2%202016_lt.pdf

fragmentation on special status wildlife species. In fact, the FSEIS Table 2.4-1 declares that the No Action Alternative has No Impact on Special Status Wildlife.

Thus, the Forest Service accepts all the existing habitat fragmentation and never analyzes how that has affected the habitat and populations of each special status wildlife species. The failure to adequately address the effects of these roads and pipeline on security habitat conflicts with the stated goals of the CNF RFP and its FEIS, the 2015 ARMPA, and the principles outlined in the National Technical Team Report, all of which we have detailed in our prior comments. This forgets the goals of restoration in Forest Service Manuals, ESA and Forest Plan. It is also a failure to fully address (i.e. a hard look under NEPA) the impacts of this level of disturbance on all special status wildlife species, their population numbers and trends, and their habitats. Not addressing the habitat and population trends and viability of these species violates NFMA.

Inventoried Roadless Areas

Figure 6 shows the Six IRAs in the CIAA and roads, trails, preferred route with half mile buffers. There are patches of the IRAs that lie more than one half mile from the roads and trails, but our map does not include non-system roads and trails or other habitat alterations such as timber projects. These IRAs are already fragmented and suffering loss of naturalness as described in the Idaho Roadless Rule Appendix C we have cited in our comments on the SDEIS and summarized above. We have reviewed the Federal Register notice establishing the Final Rule for Idaho IRAs.[6] Pertinent sections are cited with our comments in italics.

294.20 Purpose. Provides state specific direction for conservation of inventoried roadless areas within the State of Idaho and sets forth procedures for management consistent with the MUSYA of 1960. *MUSYA 16U.S.C. 531(a) requires balancing of uses, sustainability, and management "without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output." These IRAs and other habitats shown in our maps have been sacrificed for extractive uses (timber, grazing, recreation) over the watershed and wildlife values that should be present. Our maps clearly illustrate this lack of balance and the FSEIS does not address the habitat alterations in the IRAs and their effects to special status species or plant communities.*

[6] Federal Register Vol 73 ,No 201 October 16, 2008. Part II Department of Agriculture Forest Service 36CFR Part 294 Special Areas: Roadless Area Conservation; Applicability to the National Forests in Idaho; Final Rule

Figure 1

Cumulative Impact Analysis Area, Half Mile Buffer on Roads and Pipeline Route

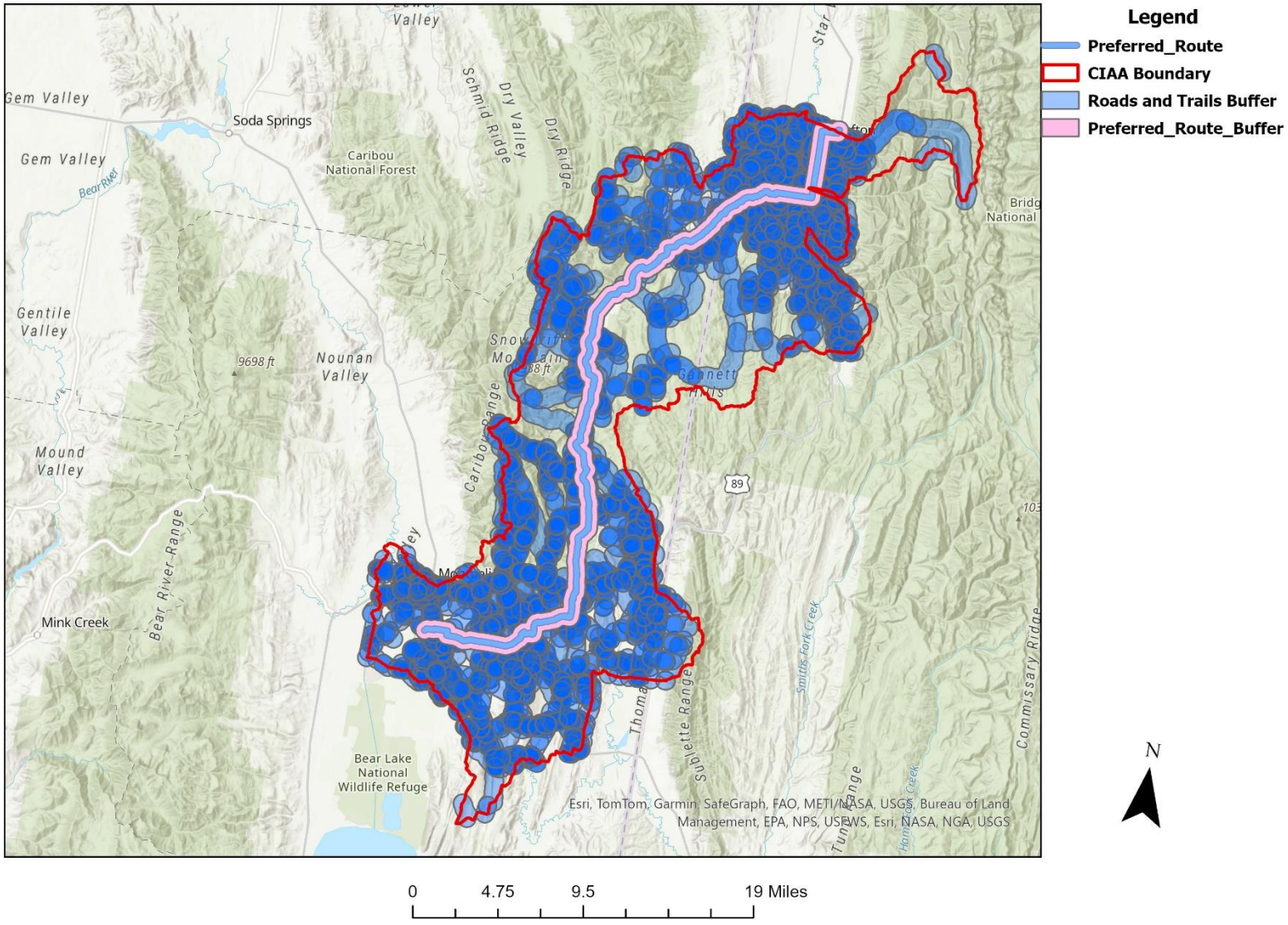


Figure 2

Cumulative Impact Analysis Area, Pipeline Route, and Elk Winter Range

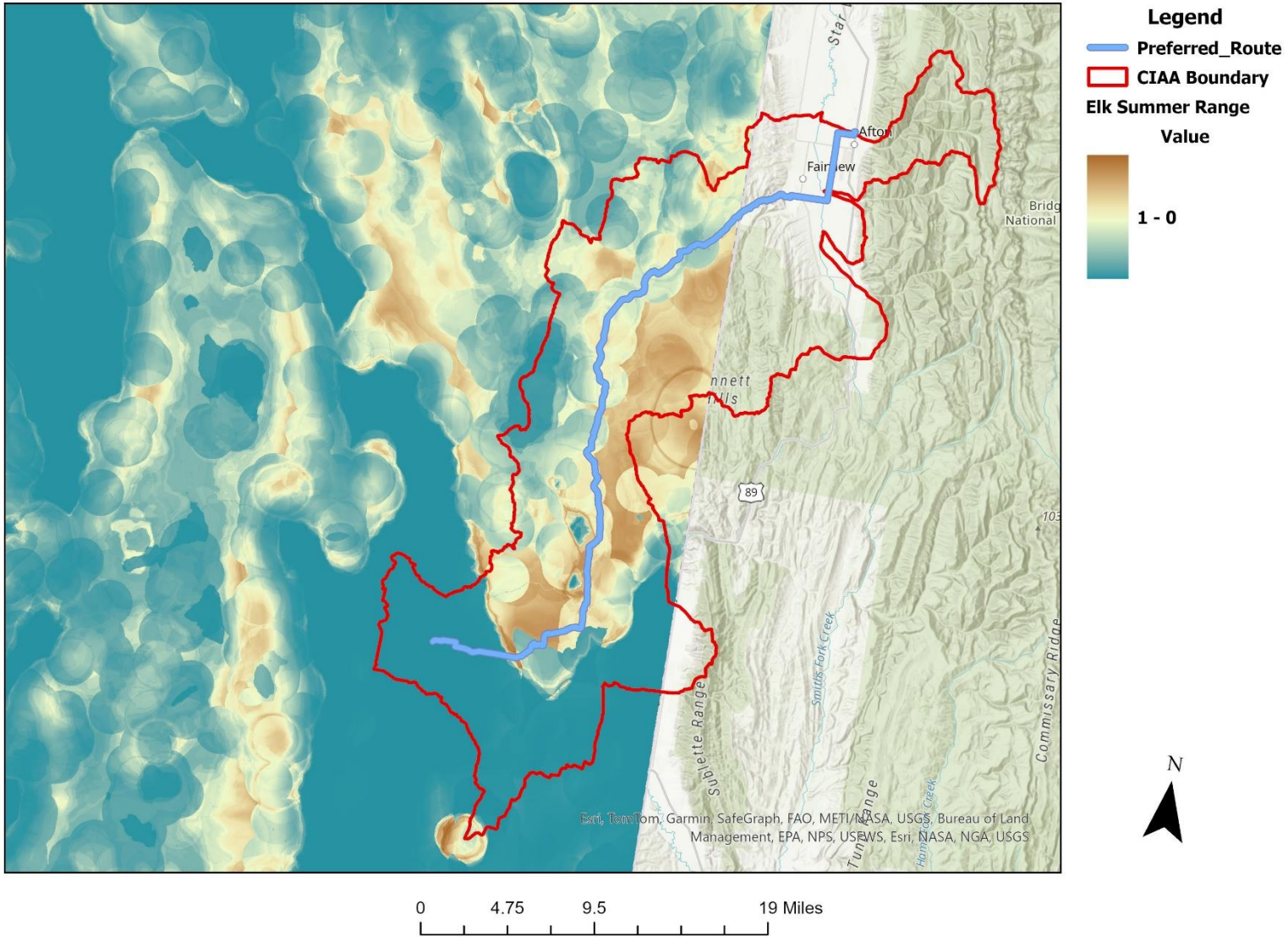


Figure 3

Cumulative Impact Analysis Area, Pipeline Route, and Elk Winter Range

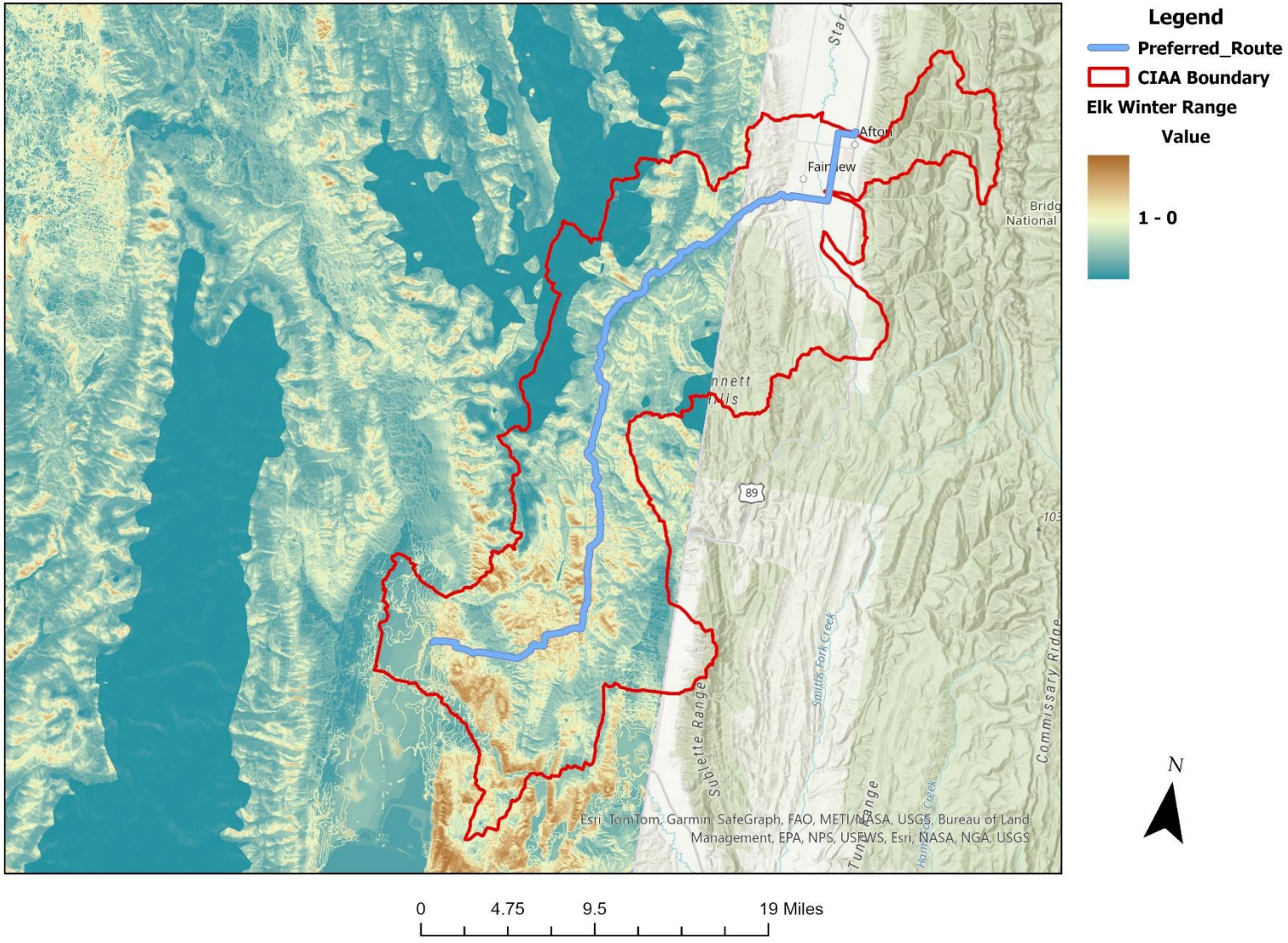


Figure 4

Cumulative Impact Analysis Area, Pipeline Route, and Mule Deer Summer Range

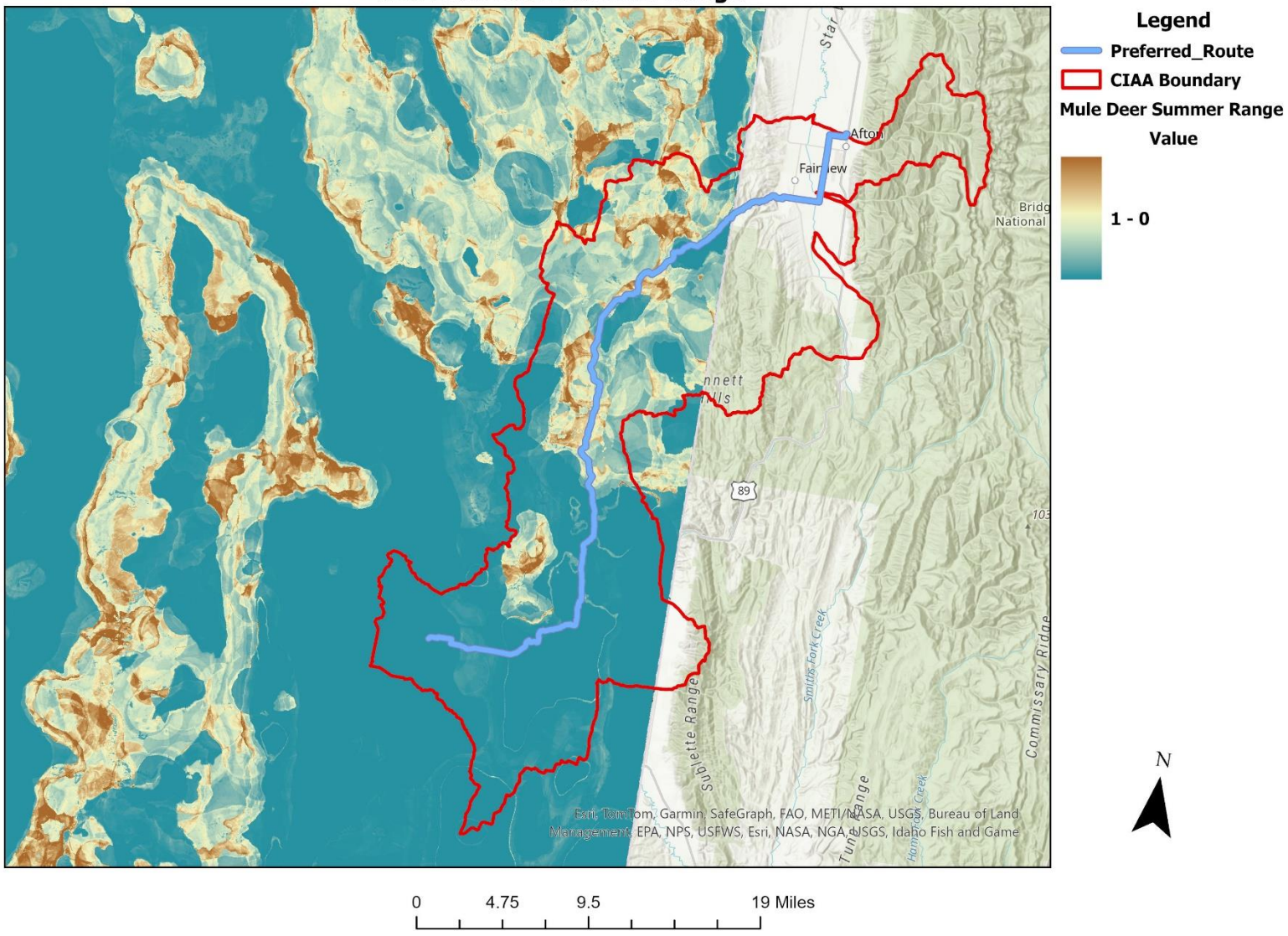


Figure 5

Cumulative Impact Analysis Area, Pipeline Route, and Mule Deer Winter Range

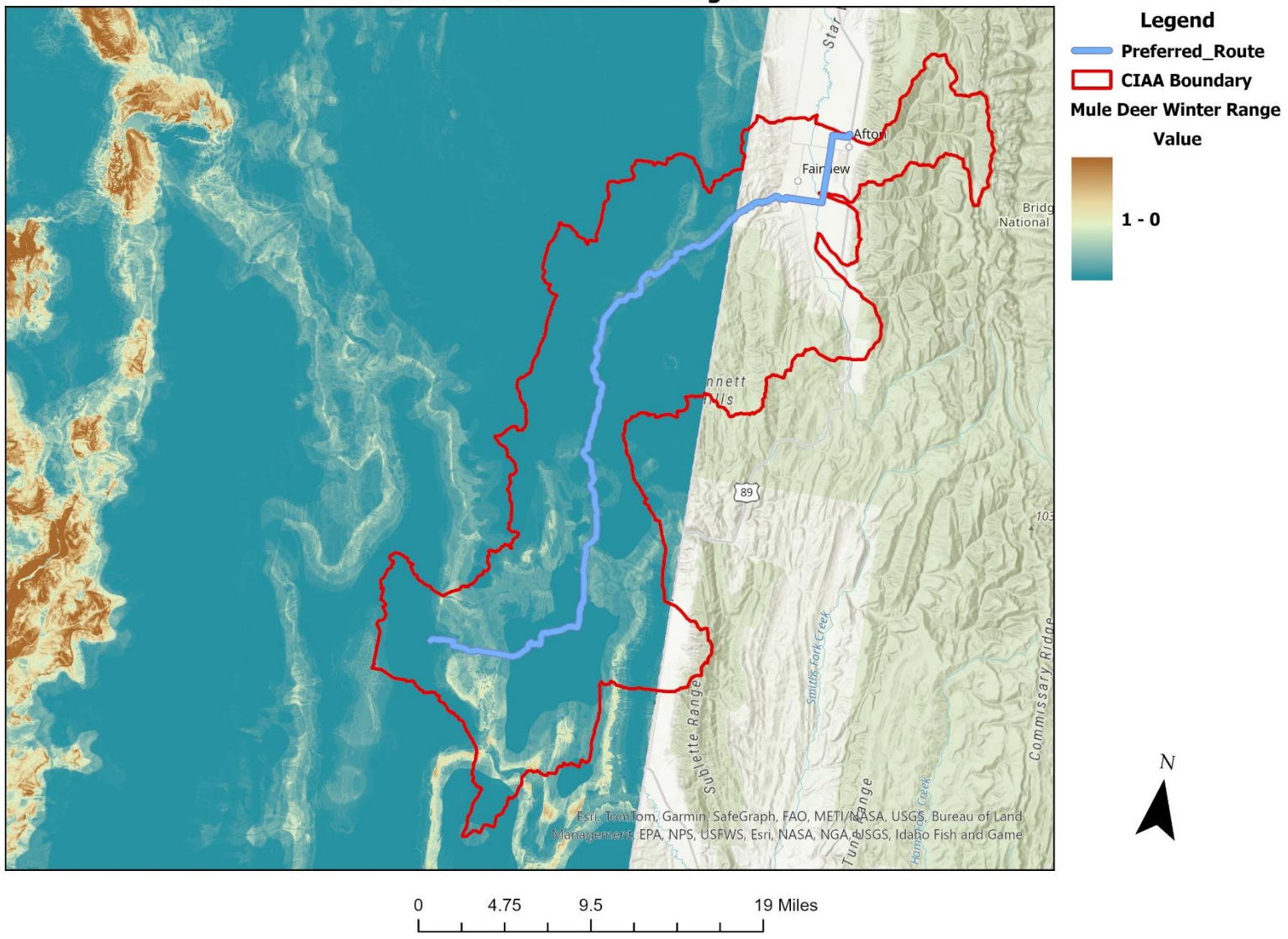
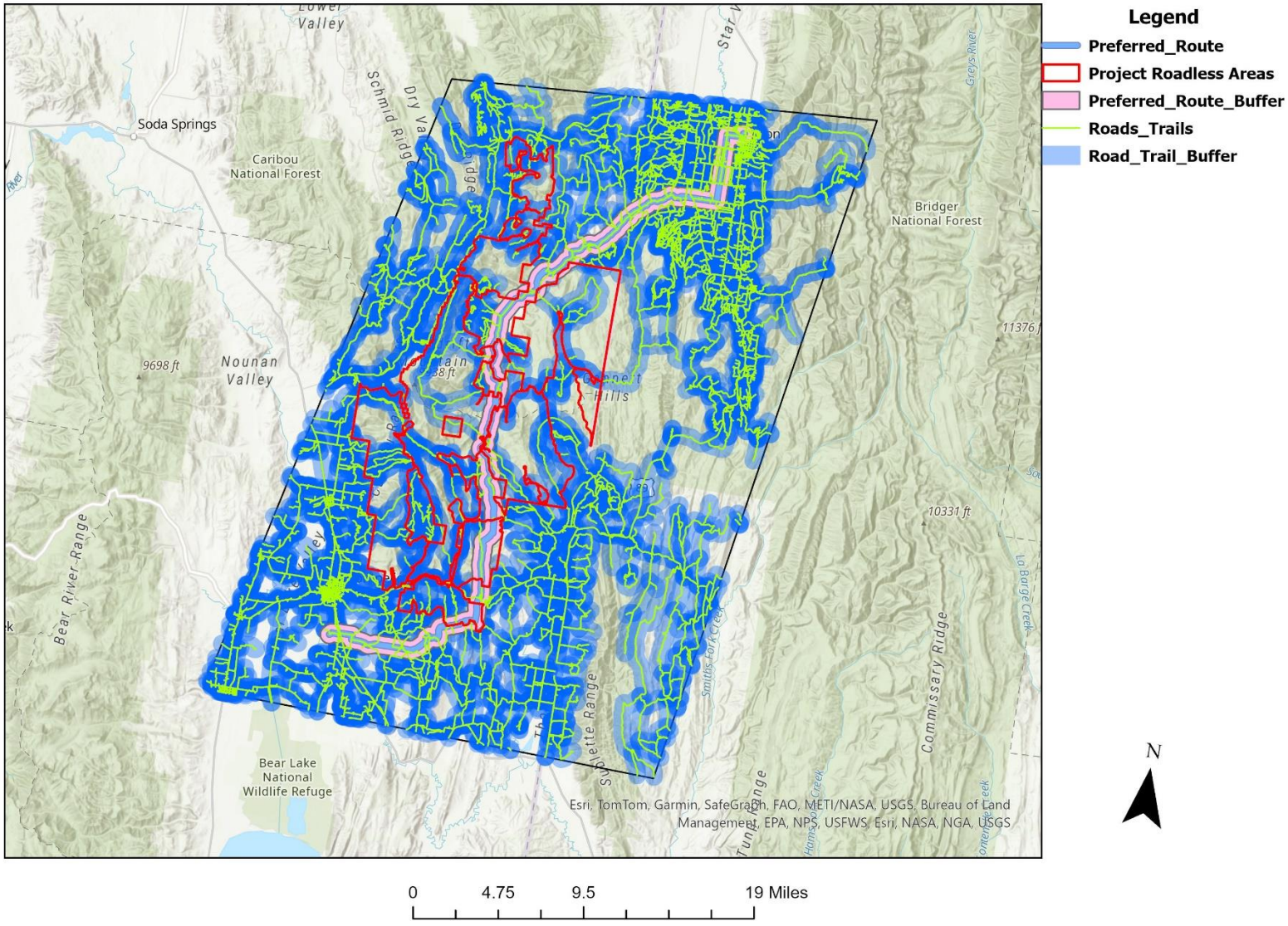


Figure 6

IRAs, Roads and Trails, Pipeline Route - Half Mile Buffers



294.21 Definitions. Substantially altered portion: An area within an Idaho Roadless Area where past road construction, timber cutting, or other uses have materially diminished the area's roadless characteristics. *The FSEIS does not identify the substantially altered portions of the IRAs and the related change in conditions of plant communities, habitats, wildlife and connectivity. It does not address connectivity even though the CNF RFP FEIS laid out a process for doing so.*

294.22 Idaho Roadless Areas. Management classifications. Management classifications for Idaho Roadless Areas express a management continuum. The following management classifications are established: (1) Wild Land Recreation; (2) Special Areas of Historic or Tribal Significance; (3) Primitive; (4) Backcountry/Restoration; and (5) General Forest, Rangeland, and Grassland. *How are each of these attributes affected by past actions and ongoing activities? How will the addition of the pipeline add to this situation? These areas should be identified and mapped, and all alterations identified and quantified, in addition to the same for the various Forest Plan Prescriptions that might be applicable.*

294.23 Road construction and reconstruction in Idaho Roadless Areas. Road construction is prohibited in wildland recreation, special areas of historic or tribal significance, or primitive. *Below we describe the provisions for each category of IRA area. These must be addressed fully as we described above, this pipeline is nothing more than a road to first be cleared and excavated, backfilled and then maintained over time for maintenance and inspection of the pipeline. We believe these road provisions also apply to this pipeline as roads or pipelines are linear features of disturbance. Each of the limitations must be identified. For example, where are the areas of historic or tribal significance? How are they affected by past and present activities? How will the pipeline affect them? What future actions are on the horizon that may further impact, or restore these? In Table 1 below we have taken the designations for each affected IRA from the Federal Register Notice cited above.*

Table 1. Project Area Idaho IRA Classification Categories Applicable

IRA	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
Gannet-Spring Creek		X	X	X		X
Hell Hole				X		X
Meade Peak		X	X	X		X
Red Mountain		X	X			
Sage Creek			X	X		
Telephone Draw			X	X		X

The table shows that 3 IRAs contain primitive designations, five contain backcountry restoration, five general forest and range, and four forest plan special areas. No special areas of historic or tribal significance are designated within these, nor are any designated for wildland recreation. Tribal and their cultural heritage issues must be addressed. However, a historic trail does exist in the CIAA and should be addressed.

Allowed in Backcountry Restoration only if Regional Forester determines it is needed for public safety; CERCLA or other restoration action; pursuant to statute or treaty or other legal duty; road realignment to prevent resource damage if the road is essential; safety improvement, temporary road construction for community protection zone, for hazardous fuel reduction or wildfire risk. *None of these apply to the backcountry restoration category and the pipeline is the opposite of restoration.*

In General Forest Rangeland and Grassland, Forest roads may be constructed or reconstructed unless prohibited in 294.25(e). This prohibits construction or reconstruction after October 16, 2008 except the responsible official may authorize in association with phosphate deposits. Figure 3–20 in section 3.5 Minerals and Energy in the Roadless Area Conservation; National Forest System Lands in Idaho Final Environmental Impact Statement shows the areas associated with phosphate deposits where this is allowed. "The Modified Rule also would prohibit road construction/reconstruction for all types of leasable mineral activities in the GFRG theme, except to access specific phosphate deposits." Figure 3 – 20 shows the Stump Creek, Schmid Peak, Dry Ridge, Sage Creek, Huckleberry Basin and Meade Peak IRAS subject to this provision. *Only Meade Peak and Sage Creek are affected by the phosphate provision. The other four IRAs do not access phosphate leases. Regarding oil and gas, "No new road construction or reconstruction to support oil and gas exploration or development would be allowed under any theme of the Modified Rule." (IRA FEIS:180).*

Temporary roads in GFRG may only be used for the purposes in 294.28(d). "The provisions set forth in this subpart shall take precedence over any inconsistent land management plan component. Land management plan components that are not inconsistent with this subpart will continue to provide guidance for projects and activities within Idaho Roadless Areas; as shall those related to protection of threatened and endangered species. This subpart does not compel the amendment or revision of any land management plan." *Here, the CTNF plans a Forest Plan Amendment to accommodate this pipeline specifically as a utility corridor. It does not protect threatened and endangered species, being in linkage habitat for lynx that connects to critical habitat. Even if the pipeline is considered temporary, it violates the intent of this section and no plan amendment should be allowed.*

294.24 Timber cutting, sale or removal in Idaho Roadless Areas. Harvest is prohibited in WLR. It is also prohibited with exceptions in Special Areas of Historic or Tribal Significance and Primitive, and only using existing roads or aerial harvest. There are provisions to improve roadless characteristics and habitat for T&E species. It is allowed in BCR to reduce hazardous fuels or in an area where harvest and road construction occurred before October 16, 2008. There are provisions to improve roadless characteristics, retention of large trees, T&E species habitats. *There has been no analysis of past timber harvest, fuel treatments, or other forest manipulations and how these have affected habitats for special status species, retain large trees, improve roadless characteristics.*

294.25 Mineral Activities in Idaho Roadless Areas. No restrictions on leases prior to October 16, 2008. "For mineral leases, contracts, permits, and other associated activities authorized after the effective date of this subpart the Forest Service will not recommend, authorize, or consent to road construction, road reconstruction, or surface occupancy associated with mineral leases in Idaho Roadless Areas designated as Wild Land Recreation, Special Areas of Historic or Tribal Significance, or Primitive themes." *Two of these categories are not found in the IRAs at issue here according to the Federal Register. However, the Forest Service must validate this is the case. The pipeline constitutes surface occupancy.*

"For mineral leases, contracts, permits, and other associated activities authorized after the effective date of this subpart, the Forest Service will not recommend, authorize, or consent to road construction or road reconstruction associated with mineral leases in Idaho Roadless Areas designated as Backcountry/Restoration. Surface use or occupancy without road construction or reconstruction is permissible for all mineral leasing unless prohibited in the applicable land management plan." *It has been intimated that this pipeline might provide natural gas to one or more phosphate mines. This possibility must be evaluated in context of the date limitation and that the leases do not occur within the IRAs at issue. There is no provision allowing for natural gas pipelines crossing these IRAs. As the review here shows, roads are de-emphasized and/or not allowed depending on the area classification. There has been no analysis or justification under the rule that a pipeline is allowed and the closest category to a pipeline is a road, so the pipeline must follow the rule as regards roads.*

Energy Corridors (IRA FEIS:189) " Recognizing the fundamental importance of the delivery of energy supplies to the Nation's economic well-being, Congress passed Section 368 of the Energy Policy Act of 2005 to require certain Federal Agencies to designate major energy corridors on Federal lands in 11 Western states, including Idaho, and to coordinate with each other to create a cooperative, efficient process for applicants to apply for rights-of-way in such corridors. Congress stated in Section

368 that the Agencies should incorporate the designated corridors into their respective land use or resource management plans. Congress also directed the Agencies to conduct environmental reviews that are required to designate corridors and add the designated corridors to the plans." *Energy corridors were designated in the CNF RFP prescription 8.1u. None of these occur within the project, or CIAA. To now propose a Forest Plan Amendment post RFP as a matter of convenience or an afterthought has compromised the public involvement that was given as input to the RFP and does not rise to the level of analysis needed for a Forest Plan. For example, there is no consideration of the societal effects of accelerated growth in the area served by the pipeline and its reverberations on the plant and animal communities affected. Will the gas be available to private landowners along its path? Rezoning from agriculture to commercial or recreational development, land speculation, rising property taxes, might be made possible by the mere presence of this pipeline.*

"None of the Idaho corridors being addressed in the programmatic EIS would affect Idaho Roadless Areas; therefore, no effects on roadless areas due to these designated energy corridors are anticipated. In addition, there would be no associated effects to these energy corridors from any of the alternatives." *Here, the public relied on this as the final word on energy corridors and was left believing there would be no further effects for those IRAs not impacted by the corridor designations in the RFP.*

"The impacts from creating new energy corridors within Idaho Roadless Areas under each of the alternatives would depend on whether or not road construction or reconstruction is needed for the project and what activities are permissible under the involved management theme. New energy corridor projects needing roads would likely occur only in those Idaho Roadless Areas where road construction or reconstruction is allowed or is permissible." *This was discussed above in the context that a utility corridor is considered concentrated development and amounts to a road in its initial construction and follow-on maintenance.*

For these reasons and the added cumulative effects on wildlife habitats and wildlife, the construction of this pipeline through six IRAs violates the Idaho Roadless Rule.

Design Features

FSEIS 2.2.2.6 describes "design features/applicant committed Environmental Protection Measures…". In our comments on the DEIS, we pointed out that there are flaws in reliance on these BMPs or EMPs and effectiveness monitoring is needed to validate any claims of their benefits. One example is the Stormwater Pollution Prevention Plan that would be "fully developed after final approval for the Project and implemented prior

to and during construction activities." The problem here is that no monitoring is proposed and that the preparation of the plan after the project is approved means the public has no opportunity to address the plan or monitoring. This violates the NEPA provisions on public notice and participation.

Another major problem with this is typified by the statement (FSEIS:2-11) "If any active nests of Partner's in Flight (PIF) priority species, United States Fish and Wildlife Service (USFWS) birds of Greatest Conservation Concern, or active raptors are discovered during Project baseline and pre-construction surveys of these species suitable habitat or during Project implementation and would be disturbed, a USFS biologist would be contacted to determine the appropriate course of action to avoid impacting the active nest which may include project delays, reroutes, and/or nest buffers until the nest is fledged."

For these and other special status wildlife species, surveys are not done prior to development of the NEPA documents to fully characterize the habitats and population status and trends so the public has an opportunity to address it during the NEPA process. Then it is left to the project proponent and likely tight construction schedules to comply with the "design feature". How do we know they won't just look the other way and continue digging and building? The bullet points on FSEIS:2-11ff are another case in point. Who monitors compliance? Is there reporting of the inspections?

The failure to conduct timely surveys of special status wildlife species habitats, population trends, and viability in advance of the NEPA process and leaving those to what we would term "incidental discoveries" during construction denies an accurate description of the environmental baseline and how species habitats and populations have been impacted by the existing disturbances. This is clearly a violation of NFMA viability as well as NEPA hard look and cumulative effects.

These design features, like Condition Based Management, circumvents NEPA by postponing site-specific analysis until project implementation, thus excluding the public from site-specific decisions, reduces transparency, and removes incentives for the agency to avoid harming localized resources.[7]

[7] Cliburn, A., Quackenbush, P., Prokott, M., Murphy, J., and Overstreet, M. 2021. The U.S. Forest Service's Expanding Use of Condition-Based Management: Functional and Legal Problems from Short-Circuiting the Project Planning and Environmental Impact Statement Process. American Bar Association.

Cumulative Effects or Impacts

FSEIS 3.3.4.4 describes how "in many cases, surveys for special status wildlife species are required in potential or known habitats and these surveys help determine the presence of any special status wildlife species or the extent of potential habitat, and protective measures would be taken to avoid or minimize direct disturbance in these species and their habitat." Where are the data from these surveys? Fisheries? Wildlife? The public is presented little information to understand the potential and current status of the species, whether their populations are declining or viable.

Then FSEIS:3-42 describes the existing disturbance within habitats, including lynx critical habitat, grizzly bear habitat, northern goshawk territories, greater sage grouse habitat in terms of the footprint of these disturbances, but not the actual effects area such as a half mile buffer zone for security habitat, or the amount and locations of secure habitat remaining after all these existing disturbances are counted. We calculated above that the road density for the CIAA in its entirety as provided in the FSEIS is 1.59 miles/square mile.

From FSEIS:3-42, " Impacts to special status wildlife species within the CIAA include loss of habitat; displacement; and fragmentation as a result of wildfires, mining and exploration, timber harvesting, roads, private land development, livestock grazing, ranching, other agriculture, and recreation. Other impacts that are not quantified include the effects of noise on special status wildlife species, habitat fragmentation, and displacement from mining and exploration, roads, and recreational activities. Additionally, small, less mobile special status wildlife species that cannot relocate outside of disturbance areas are subject to direct mortality and localized population reductions from ground-disturbing activities."

The FSEIS admits these factors affect wildlife but does not address them in the context of populations, loss of habitat, loss of security and puts all of these into the background and then analyzes the pipeline route as if it is the only factor. For example, FSEIS 3.3.4.2:3-31 notes that "On a landscape scale, fragmentation of shrub steppe habitat in the Intermountain West has been linked to range-wide declines in several bird species." Then makes this statement, "The habitats within the study area are naturally patchy, therefore, the effects from additional anthropogenic fragmentation resulting from the Proposed Action are anticipated to be minor." Small patches that exist naturally may support small, isolated populations that are at risk of extirpation if further fragmented. For example, in discussing yellow-billed cuckoo, the FSEIS:3-19 points out the patch size for cuckoos as 12 acres. Is the FSEIS then saying it is fine to cut these in half since

they are already small patches? It clearly admits that fragmentation has occurred but doesn't account for it within the populations.

In our prior comments and objection, we have consistently pointed out the lack of characterization or analysis of the current and potential state of habitats for species such as lynx or sage grouse. We have called for an explanation of the severe decline of sage grouse in SE Idaho and the absence of Canada lynx from an area where they formerly were found and models have identified as suitable habitat. An example for sage grouse is our comments on the DSEIS that point out the Forest Plan provisions:

- "Within five years of signing the ROD, map functional and degraded sage grouse nesting and winter habitat within 5 miles of known leks. Identify opportunities to increase quality or quantity of that habitat." (RFP:3-25).
- "Within five years of signing the ROD, establish breeding bird trend plots to monitor changes in breeding birds in relation to structure or shrub riparian habitats. Once established, reread plots every three years." (RFP:3-25).

As we illustrated in Figure 1, the entire CIAA is heavily fragmented by roads. But we have seen no identification of the functional and degraded habitats and the causes for that degradation. We have seen no results of breeding bird surveys to show trends and habitat conditions.

All this is to say that the Forest Service has failed to take the required NEPA "hard look" in addressing cumulative effects, which then cascades into loss of species viability and violates NFMA. Much of this failure results from not carrying out the provisions of the CNF RFP which are outlined below.

Caribou NF Revised Forest Plan Goals, Standards and Guidelines

CNF RFP:2-13 states, "The National Forest Management Act (NFMA) regulations require National Forests to provide habitat in order "to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. Conservation of management indicator, sensitive and listed species is addressed with Forest-wide standards and guidelines and maintain viability of wildlife species as required by NFMA."

The stated standard for MIS (CNF RFP:3-25) is, "In project analyses affecting the habitats listed below, assess impacts to habitat and populations for the following management indicator species:

- Grassland and open canopy sagebrush habitats--Columbian Sharp-tailed Grouse
- Sagebrush habitats--Sage Grouse
- Mature and old forest habitats--Northern Goshawk

The Guideline for Sensitive Species (CNF RFP:3-25) is, "Survey for the presence of sensitive species if suitable habitats are found within a project area a minimum of once prior to or during project development." We have pointed out that surveys are inadequate and may left to the construction period, not pre-project so the public has an opportunity to see how Forest Service management has affected the public's wildlife before a decision is made.

CNF RFP:3-24ff. Outlines Desired Future Conditions (DFCs), Goals, and Objectives. These are excerpted here to emphasize those most applicable to this project which remain unaddressed. Failure to analyze these for the MIS and Sensitive Species constitute violations of the CNF RFP and therefore, NFMA. The FSEIS and DROD do not address these for special status wildlife species. We have made brief notes in italics.

DFCs

- The Forest provides habitat that contributes to state wildlife management plans.
- Forest management contributes to the recovery of federally listed threatened, endangered, and proposed species and provides for conditions which help preclude sensitive species from being proposed for federal listing.

There is no analysis as to how management is contributing to recovery of listed species or precluding listing. This violates the ESA and NFMA via the Forest Plan.

Goals

- Vegetation composition and structure is adequate to sustain wildlife species occurring in the Forest.
- Wildlife biodiversity is maintained or enhanced by managing for vegetation and plant communities within their historical range of variability.
- Maintain multiple vegetation layers in woody riparian habitats, that are stable or increasing with all age classes (seedlings, young plants, mature and decadent) represented to support native bird communities and other wildlife (Idaho Partners in Flight, 2000).

- Migratory landbird habitat improvement efforts focus on priority habitat associations. In Idaho these have been identified as riparian, non-riverine wetland, and sagebrush shrublands (IPIF, 2000).
- Maintain, and where necessary and feasible, provide for habitat connectivity across forested and non-forested landscapes.

There is a wholesale lack of characterizing these attributes with data, maps and analysis to explain the current and potential status of plant communities, fish, and wildlife. This is a failure to provide a hard look under NEPA and maintain species viability under NFMA.

Objectives

- Wolverine Habitat - Within two years of signing the ROD, complete a GIS analysis to identify potential wolverine natal den sites. Within four years of the ROD, survey potential wolverine natal den sites to document wolverine presence and assess suitability as natal denning habitat.
- Harlequin Duck Habitat - Within five years of signing the ROD, complete surveys of McCoy Creek and in other likely habitats to document Harlequin duck presence.
- Spotted Bat and Western-Big-eared Bat Habitat - Within five years of signing the ROD, develop management plans for any caves, underground mine openings, and other suitable habitats where these bat species are known to be present.
- Canada Lynx Habitat - Within three years of signing the ROD, complete surveys on the Soda Springs and Montpelier Ranger Districts.
- Pygmy Rabbit - Within ten years of signing the ROD, work with Idaho Fish and Game to resurvey known historic pygmy rabbit ranges on or adjacent to the Forest to determine whether they are still present and/or the habitat is still suitable.
- Bald Eagle - Within three years of the signing the ROD, develop nest management plans for existing known territories. Plans will be developed for new territories within three years of discovery.
- Sage Grouse - Within five years of signing the ROD, map functional and degraded sage grouse nesting and winter habitat within 5 miles of known leks. Identify opportunities to increase quality or quantity of that habitat.
- Migratory Landbirds - Within five years of signing the ROD, establish breeding bird trend plots to monitor changes in breeding birds in relation to structure or shrub riparian habitats. Once established, reread plots every three years.
- Amphibians - Repeat amphibian surveys at 10 year intervals to determine habitat and population trends. Survey potential habitat.

These need to be addressed for each special status wildlife species and the FSEIS has only provided limited discussion for a few of these.

There are additional standards and guidelines to be met. These are cited, but not repeated here. It is the responsibility of the CNF to ensure these are addressed in the analysis. Page numbers are provided. These are:

- Snag/Cavity Nesting Habitat (3-26)
- Bald Eagle Habitat Occupied Nesting Zone (3-27)
- Bald Eagle Habitat Home Range (3-28)
- Bald Eagle Habitat Winter Foraging (3-28)
- Canada lynx (3-28)
- Goshawk Habitat (3-30)
    - Open roads in goshawk territories shall be given priority for closure to meet management prescription road density standards. First priority shall be to close roads in nest areas; second priority in post-fledging family areas; third priority in foraging areas. Where possible, open road density should be zero in the nest areas and the post-fledging family areas.
- Boreal Owl Habitat (3-31)
    - Within a 3,600-acre area around all known boreal owl nest sites, maintain over 40% of the forested acres in mature and old age classes.
- Great Gray Owl Habitat (3-31)
    - Within a 1,600-acre area around all known great gray owl nest sites, maintain over 40% of the forested acres in mature and old age classes.
- Harlequin Duck Habitat (3-31)
    - Avoid establishing new trails, roads, or facilities within 300 feet (on each side) of any stream reach with documented harlequin duck breeding activity.
- Big Game (3-31, 32)
    - Provide vegetation buffers of at least one sight distance around big game concentration areas
    - Provide security or travel corridors near created openings
- Sage Grouse and Columbian Sharp-tailed Grouse (3-32)
    - Standard - Cooperate with other state and federal agencies and private landowners to survey, inventory, and manage habitats for sage grouse and Columbian sharp-tailed grouse.
- Amphibians (3-32)

    - Guideline – Ensure habitats in toad breeding locations are managed to maintain or improve the existing population and distribution of western toads.
    - Guideline – Ensure habitats in northern leopard frog breeding locations are managed to maintain or improve the existing population of the frogs.
    - Guideline – Maintain amphibian habitats when developing and modifying springs and wetlands.
- Landbirds (3-33)
    - Guideline – Stands of mature trees (including snags and dead-topped trees)should be maintained next to wet meadows.
    - Guideline - Where feasible, maintain 30 to 50 percent of the sagebrush habitat in a 5th code HUC in contiguous blocks greater than 320 acres to support sagebrush obligate species.

These standards and guidelines must be specifically addressed by identifying the location and extent of potential habitats, species presence, viability and the current conditions from existing disturbances. The effects of the pipeline construction, maintenance and human presence over the life of the pipeline (hunters, snowmobiles, ohvs) that will further fragment habitats needs analysis.

A note on Northern goshawks. Like Canada lynx and wolverine, Northern goshawks also depend on mammals and birds for prey. Reynolds et al (1992)[8] provided specific recommendations that livestock grazing utilization will average no more than 20% in goshawk home range of approximately 6,000 acres, which also includes nesting and post-fledging areas. They also specify forest stand structure needed for goshawk across its home range and the protection of mycorrhizal fungi in the forest floor to aid in nutrient cycling. The direct and indirect effects of livestock forage utilization, trampling and losses in plant community structure, species, production have not been addressed. Addressing the current degradation by livestock and the loss of forage species for bears, small mammals leads to a reduced prey base for lynx and goshawks.

[8] Reynolds, R.T., R.T. Graham, M.H. Reiser, R.L. Bassett, P.L. Kennedy, D.A. Boyce, Jr., G. Goodwin, R. Smith, and E.L. Fisher. 1992. Management Recommendations for the Northern Goshawk in the Southwestern United States. Gen. Tech. Rep. GTR-RM-217, Fort Collins, Colorado. U.S. Department of Agriculture, Rocky Mountain Forest and Range Experiment Station. 90p.

We reviewed the Forest Service Manual regarding special status wildlife species such as Management Indicator and Sensitive Species. Sensitive species are defined by the Regional Forester as those plant and animal species for which population viability is a concern, as evidenced by a (1) significant current, or predicted, downward trend in population numbers or density; or (2) significant current or predicted, downward trend in habitat capability that would reduce a species' existing distribution (FSM 2670.5). The Forest Service objective (FSM 2670.22) for sensitive species management is to 1) develop and implement management practices to ensure that species do not become threatened or endangered because of Forest Service actions; 2) maintain viable populations of all native and desired nonnative wildlife, fish, and plant species in habitats distributed throughout their geographic range on National Forest System lands; and 3) develop and implement management objectives for populations and/or habitat of sensitive species.

Management indicator species are any species, group of species, or species habitat element selected to focus management attention for the purpose of resource production, population recovery, maintenance of population viability, or ecosystem diversity (FSM 2605). Thus, population changes of management indicator species are believed to indicate the effects of management activities (36 CFR 219.19).

The lack of surveys and defined habitat characterizations (structure, cover, function) related to the fish and wildlife species they shelter has led a situation where there is no ability to manage for these because there is no on-ground documentation of habitat extent and fragmentation and no population trends.

Canada Lynx

In our prior comments and objection, we have gone into great detail on the failures in analysis for Canada lynx. Some of those include discounting reliable lynx observations and historical accounts, lack of regulatory protection in that the NRLMD has little accountability, and its measures have not been proven effective, that the National Lynx Survey was done well past when massive habitat fragmentation had already occurred and other points which are outlined in our summary above.

The FSEIS:3-16 notes that "It was jointly decided by CTNF and USFWS personnel that primary vegetation types on the CNF were too patchy and disjunct to provide suitable Canada lynx habitat. A patch size analysis conducted for the CNF found that in the watersheds reviewed, the average patch sizes for mixed conifer stands ranged from 14 to 27 acres, and 20 to 44 acres for lodgepole pine. During that meeting, it was agreed that the CNF portion of the CTNF would be dropped as suitable lynx habitat, and no

lynx analysis units would be delineated on the CNF (USFS 2002)." There is no information about that study as to which watersheds were studied, whether patch size was determined by habitat fragmentation by roads, timber harvest or other degrading actions.

This was an internal decision that haunts SE Idaho and Canada lynx today. As we have pointed out, the CTNF has designated the Olson et al (2021) model as the best available science. We have provided maps of that model in our prior comments and have also provided it here in Figure 7. In our prior maps we have also shown the linkage through the Soda Springs and Montpelier Ranger Districts. Figure 7 shows that high suitability habitat exists in the Bear River Range and that the pipeline passes through moderately suitable habitat in the CIAA, habitat that could be preferred if the level of existing disturbance was reduced. Olson et al (2021) also noted that the lower category value areas (value = 1) are considered connections. Figure 1 above showed the lack of secure habitat in the CIAA.

What the FSEIS has failed to do is analyze the habitat fragmentation in SE Idaho and in particular the linkage areas in the Montpelier Ranger District. We consistently see statements like, "noise and light pollution would influence Canada lynx to travel around the periphery of the study area….Furthermore, if disturbance did displace Canada lynx into adjacent habitat, suitable habitat is available in the Project vicinity." We have seen this in other CTNF NEPA projects, but in no case has the Forest Service even characterized the structure and vegetative characteristics, hare populations, road density, areas closed to snowmobiles, other disturbances that would qualify or disqualify a particular area for lynx use.

We believe the federal agencies have manipulated the lynx history of the area to minimize any area of potential significance to lynx as not being historically occupied. This was described in detail in our prior comments. An example we also see is that the female lynx and two kittens seen in August 2005 at the Blackfoot River Narrows were transients from Colorado. (FSEIS:3-16). This is claimed without any tracking data to clearly show they were from Colorado but provides a convenient way of discounting any habitat value or rationale for their presence in the area where they were observed.

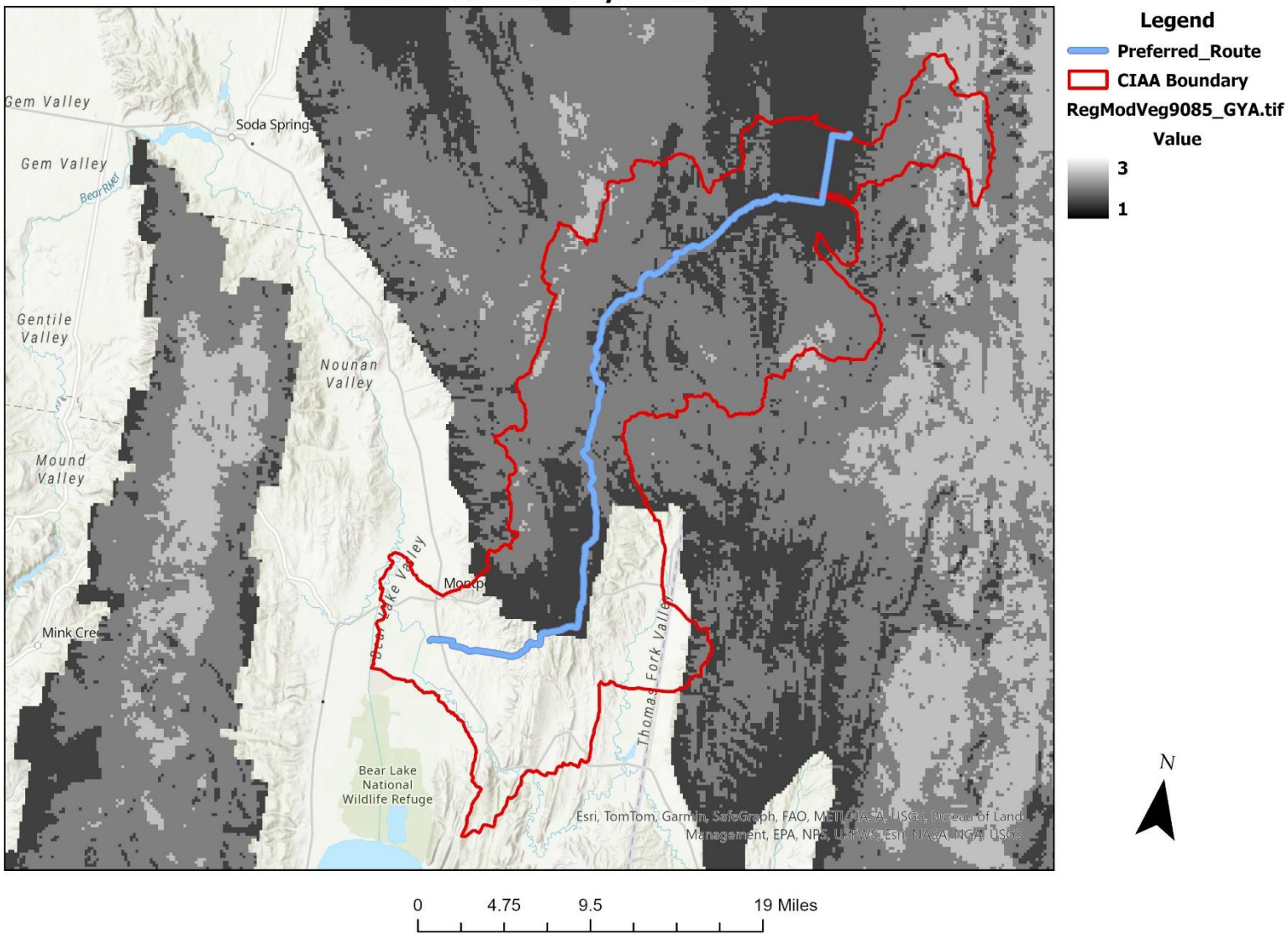
We have also pointed out in prior comments that the NRLMD has yet to be validated. However, the NRLMD did note: "When National Forests are designing management actions in unoccupied mapped lynx habitat they should consider the lynx direction, especially the direction regarding linkage habitat." The CTNF has not analyzed the linkage habitat and worked as it should to identify, and where needed, restore its

integrity. This would be consistent with the ESA and our previously cited Forest Service Manual provisions.

This appears to be a violation of the Forest Plan via the Lynx Amendment for the Northern Rockies. It is also a violation of NEPA for not taking the requisite hard look and not evaluating the cumulative effects on historical lynx habitat and comparing that to today. It also violates the Forest Plan goal of restoring habitat for listed species cited above.

Figure 7

Cumulative Impact Analysis Area, Pipeline Route, and Olson Model Lynx Habitat



Wolverine

FSEIS:3-18 describes the threatened status of wolverine and that "current and increasing impacts of climate change and associated habitat degradation and fragmentation" are the primary listing rationale. FSEIS:3-19 notes that scattered occurrences have been reported in SE Idaho and there have been multiple recent observations including one eight miles north of the study area. A model by the Forest Service in 2018 indicated no denning habitat occurs in the study area. An earlier model by Forest Service research identified areas with persistent snow cover as the number of years out of seven when snow persisted through May 15 corresponding to the end of the denning period.[9] We downloaded the GIS files and mapped this model output in the region of the CIAA. (Figure 8).

The CIAA as indicated by the FSEIS, does not contain persistent snow cover in most years with the area on the northwest having up to three years out of seven as potential denning habitat. What is critical, however, is the evaluation of habitat fragmentation in the CIAA and identifying a pathway that can connect the denning areas in the Wyoming Range to the east with the Bear River Range in the West, where snow persistence in the higher elevations is amenable to denning. Emigration Summit lies at 7390 feet and snow persists until mid-June in most years.[10] (Figure 9). The Paris Peak area lies at even higher elevations and contains talus and areas that might also be suitable for wolverine denning. This analysis has not been done.

Experts estimate the total wolverine population within the 48 contiguous states to be only about 300, living in scattered small pockets in the remotest and highest habitats, mostly in Washington, Idaho, Montana, and Wyoming. In lieu of large contiguous populations, the more small isolated populations there are, the less likely the species is to go extinct so long as there is genetic exchange among the populations as we have pointed out in our prior comments, citing the Fish and Wildlife Service.

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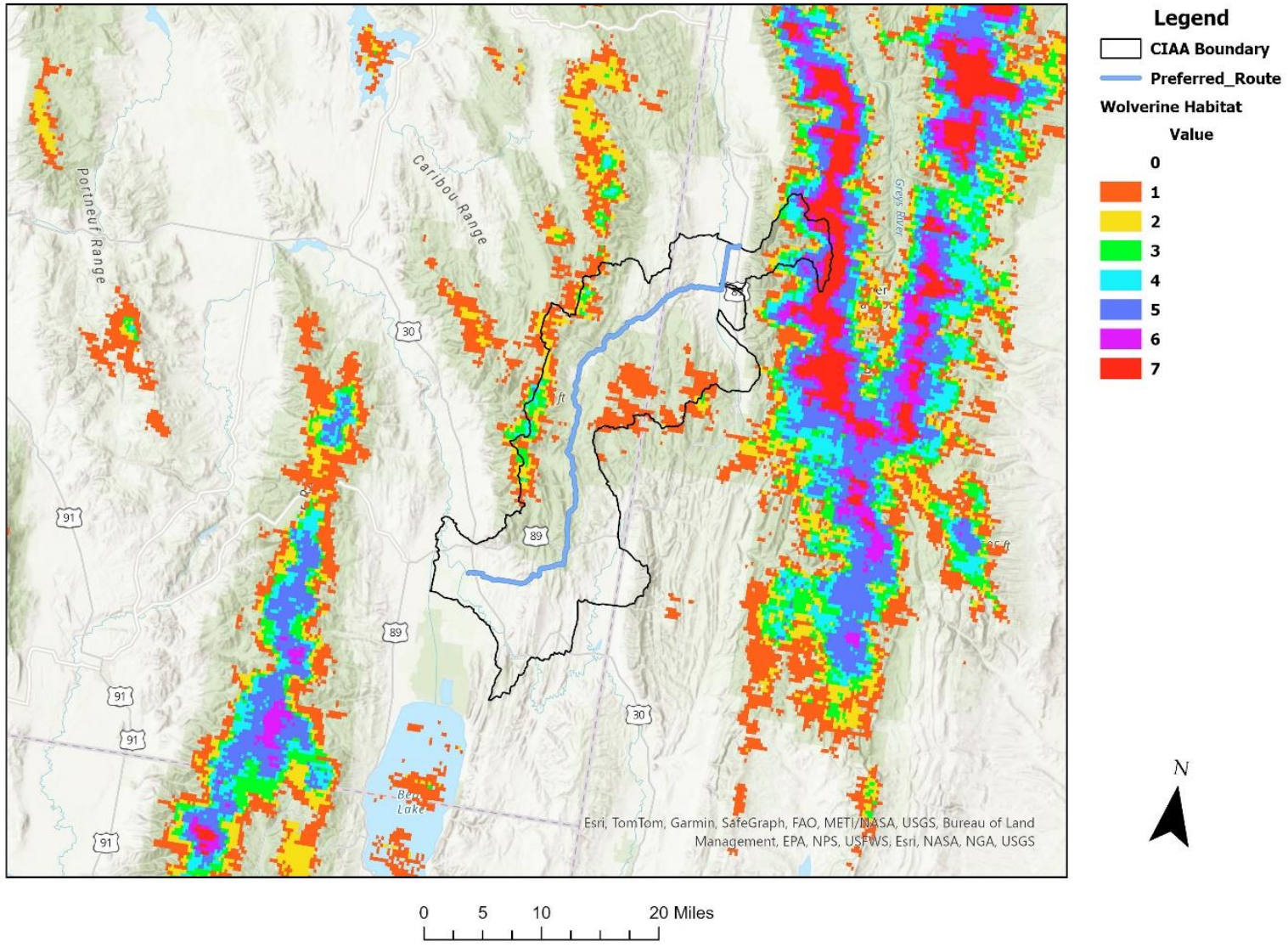
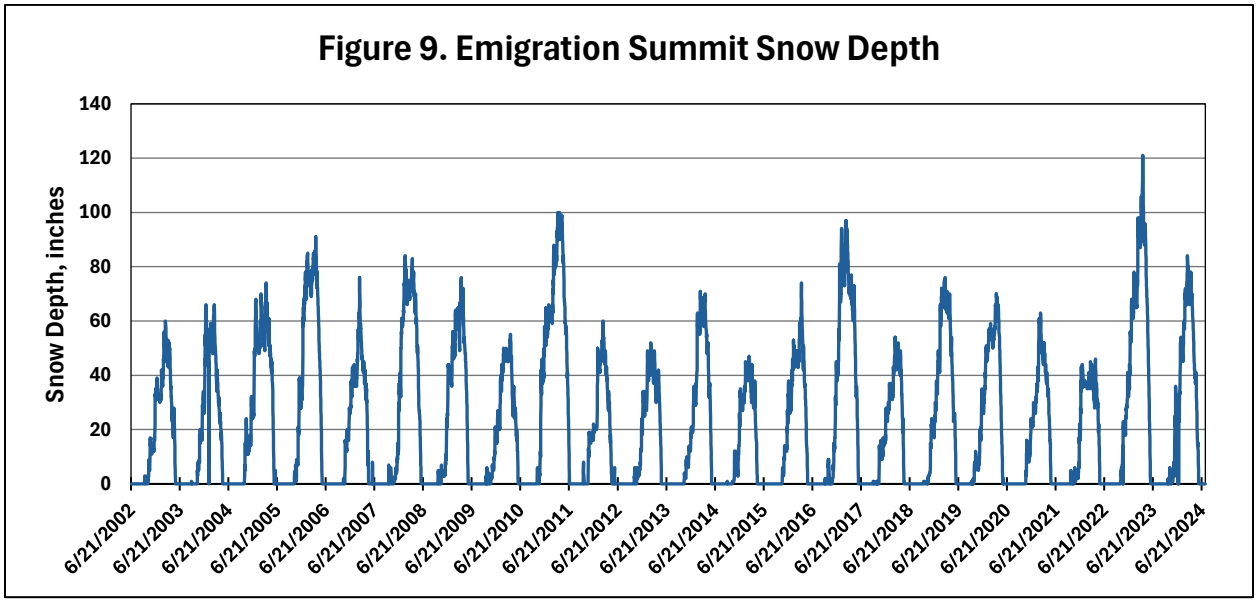
[9] Copeland, Jeffrey P. McKelvey, Kevin S.; Aubry, Keith B.; Landa, Arild M.; Persson, Jens; Inman, Robert M.; Krebs, John A.; Lofroth, Eric C.; Golden, Howard N.; Squires, John R.; Magoun, Audrey J.; Schwartz, Michael K.; Wilmot, Jason L.; Copeland, Cheryl L.; Yates, Richard E.; Kojola, Ilpo; May, Roel F. 2024. A worldwide wolverine distribution model based on late-spring snow cover from 2000-2006. Fort Collins, CO: Forest Service Research Data Archive. https://doi.org/10.2737/RDS-2024-0046

[10] Utah State University Climate Center. 2024. https://climate.usu.edu/swco/

Figure 8

Pipeline, CIAA and Wolverine Modeled Habitat





Wolverines have shown an ability to travel tremendous distances in search of mates and suitable habitat. A wolverine was killed by a vehicle near Laketown, Utah (south end of Bear Lake) 10-12 years ago. Another was photographed high on Elizabeth Ridge in the Uinta Mountains by a trail camera a few years later; and one was captured a little over a year ago not far from Echo Junction (where I-84 diverges from I-80 near Henefer, UT. It was translocated to the north slope of the Uintas and released. Subsequently its radio collar quit working and its whereabouts are now unknown.

The analysis is inadequate without consideration of the travel corridors for wolverine as well as lynx and others such as grizzly bears and specific data and studies for possible denning habitat for wolverine and lynx in the higher elevations in the CNF.

Grizzly Bear

The FSEIS:3-16 notes that the grizzly bear is threatened and that the "closest bear ecosystem to the study area is the Greater Yellowstone Ecosystem". We note that the study area is also part of the Greater Yellowstone Ecosystem and that grizzly bears formerly occurred here. The FSEIS:3-17 notes that the GYE population includes the nearby Wyoming Range, and the nearest observation was 12 miles to the east of the study area. "The study area (and the CNF in general) provides suitable habitat for grizzly bear. In addition, there is connectivity between the study area and known grizzly bear occurrences to the north and east of the study area. As a result, it is

possible that grizzly bears may be present in the study area at some point during the life of the Project." Where is this suitable habitat and the connectivity described? Without identifying where these occur, there is no ability to either define the habitat and evaluate the current state of disturbance and its impact on grizzly bears.

The FSEIS:3-34 states that impacts to grizzly bears are not anticipated since the species is not likely to occur in the study area during construction. But the bears are observed in the Wyoming Range and near the project area and might occur but for the cumulative effects on bear suitable habitat by the existing disturbances. There was no map or analysis of what constitutes suitable habitat and where that occurs or what its current condition is.

Livestock grazing reduces a basic Grizzly bear food source—herbaceous vegetation. The bears compete with livestock for that forage. *"Forbs, roots, tubers, grasses, berries and other vegetation, and insects comprise most of the bear's diet."*[11] Livestock graze throughout the CIAA. As we illustrated, the CIAA is heavily disturbed and has high road density. Roads facilitate human access, which results in habitat disturbance and avoidance, and increases hunter-caused mortalities. The project must adhere to the principles in the Forest Plan Amendment for the Grizzly Bear Habitat Conservation for the Greater Yellowstone Area National Forests FEIS and Record of Decision.[12] This specifically applies to the Caribou Targhee NF. All goals, standards and guidelines must be analyzed in the context of the habitat conditions in the CIAA.

We are familiar with grizzly bear habitat as we live and work in that habitat in Wyoming and Montana as well as our long history in SE Idaho and NE Utah where Old Ephraim died. In our work we have had cause to engage in projects in the Bridger-Teton NF which includes the lynx critical habitat occurring adjacent to the project study area and the sighting of the grizzly bear noted above. The Upper Green River Area Rangeland Project Final Environmental Impact Statement (UGFEIS) provides a good description of grizzly bear habitat along the Green River.[13] The LVE pipeline occupies a position along Crow Creek and its riparian habitats, so this description is relevant.

The UGFEIS:315-316 notes that "The project area provides abundant and widely distributed food and cover for grizzly bears during the late spring, summer, and fall.

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[11] USFWS. 2003. What do grizzly bears eat? Mountain Prairie Region, Fish and Wildlife Service bulletin.
[12] USDA Forest Service. 2006. Forest Plan Amendment for Grizzly Bear Habitat Conservation for the Greater Yellowstone Area National Forests.
[13] USDA Forest Service. 2017. Upper Green River Area Rangeland Project Final Environmental Impact Statement. Bridger-Teton National Forest. P315-316.

Offspring of elk, moose, mule deer, and pronghorn are preyed upon. When present (June to October), cattle and sheep (adjacent allotments) are taken and provide carrion as well. Ants and roots and tubers of yampa and biscuitroot are other important foods (Interagency Grizzly Bear Study Team 2013). The Green River and the lower reaches of its tributaries flow through open valleys and support well-developed willow riparian communities with abundant herbaceous vegetation (forbs, grasses, sedges) eaten by bears. The bottomlands in the project area also support dense patches of conifers available as bedding and security habitat." Note the reference to "patches".

UGFEIS:315-316 notes, "The availability of habitat that is secure from human disturbance (> 500 m from a physically-passable forest system or user-created routes, and other caveats) is an important factor affecting grizzly bear survival in the Yellowstone Ecosystem (Schwartz et al. 2010)."[14] The UGFEIS went on to describe the analysis for grizzlies and shows the Bridger-Teton NF did such an analysis.

"An analysis of grizzly secure habitat in the 2014 Section 7 (Endangered Species Act) consultation area (project allotments and nearby domestic sheep and cattle allotments) based on new road mapping was required by conservation measure # 17 in the 2014 biological assessment for grizzly bears (U.S. Forest Service 2014). During 2013 and 2014 forest staff mapped all system roads, gates, and (illegal) user-created routes on the forest. Grizzly bear secure habitat was calculated and mapped for the consultation area. This area included the project area, 4 adjacent domestic sheep allotments, and 2 cattle allotments to the southeast.

Two scenarios of motorized access were evaluated: (1) use of only Forest System roads by all travelers, with no access by Forest personnel behind gated roads for administrative access, and no use of non-system (illegal) user-created routes; and (2) use of all known (mapped) routes, including system roads open to the public, system roads closed to the public (but used by Forest staff), and user-created routes. These two scenarios provided for the least motorized use of roads (scenario 1; maximum secure habitat) and the maximum possible use of routes, both legal and illegal (scenario 2; least secure habitat). The road analysis tool and procedures developed by the Greater Yellowstone Grizzly Bear Habitat Modelling Team (2014) were used for tracking changes in grizzly bear secure habitat. As expected, the percent of secure habitat available to grizzly bears in the consultation area declined from scenario 1 to scenario 2 because the linear distance of roads available for motorized use increased."

[14] Schwartz, C. C., M. A. Haroldson and G. C. White. 2010. Hazards Affecting Grizzly Bear Survival in the Greater Yellowstone Ecosystem. Journal of Wildlife Management 74(4):654-667.

This Bridger-Teton NF analysis at least mapped all the disturbances including the non-system roads and trails. This is what the CTNF should have done here. Instead, they are not addressed at all, thus there is no plan to reclaim or reduce density of these. As we pointed out, even the IRAs are heavily fragmented and instead of being secure habitat, their naturalness has been compromised. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) requires that the Forest Service will seek to conserve endangered and threatened species. The Forest Service is directed to manage habitats for threatened and endangered species to achieve recovery objectives so that protections provided under the Endangered Species Act are no longer necessary (FSM 2670.21)

The Forest Service Manual FSM 2676.16j Habitat Connectivity states: "Through management of NFS lands and transportation systems, and through coordination with other federal, state, and local agencies, and with private landowners, maintain movement opportunities for grizzly bears within and between ecosystems."

The FSEIS and DROD have failed in this and have violated NEPA, NFMA, ESA for all special status wildlife species.

Respectfully,

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