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May 30, 2023

Forest Service

Idaho-Panhandle National Forest

St. Joe Ranger District

RE: Lacy Lemoosh Project

222 South 7th Street Suite 1

St. Maries, Idaho 83861

RE: SCOPING FOR THE PROPOSED LACY LEMOOSH PROJECT

Hello,

Native Ecosystems Council, the Alliance for the Wild Rockies, Council for Fish and Wildlife, and Center for Biological Diversity would like to submit the following joint scoping comments for the proposed Lacy Lemoosh Project.

1. The Idaho-Panhandle Forest Plan lacks any conservation strategies for a significant number of bird species of concern, in violation of the 2012 Planning Rule; this deficiency needs to be corrected before any further logging projects are implemented on the Idaho-Panhandle National Forest.

Without any conservation plans for any bird species of conservation concern, any logging projects, including the Lacy Lemoosh Project, will have unknown impacts

on these species; without any measures of project impacts, the agency cannot define if impacts will be significant. Since habitat standards are the criteria used to measure impacts to birds, the agency cannot complete a valid National Environmental Policy Act (NEPA) assessment for vegetation projects until this deficiency of the Forest Plan is corrected.

2. The lack of any valid conservation strategies for numerous forest birds that are impacted by vegetation treatments in the Idaho-Panhandle Forest Plan means the agency cannot adhere to the Migratory Bird Treaty Act (MBTA) and associated Memorandum of Understanding (MOU) between the Forest Service and the U. S. Fish and Wildlife Service, or determine if project impacts will be significant, as is required by the NEPA; until the Forest Plan is amended to correct this deficiency, not further logging can be legally completed on this forest.

The MBTA and associated MOU directs the Forest Service to support the conservation intent of the migratory bird conventions by integrating bird conservation principles measures and practices into agency activities and by avoiding or minimizing to the extent practical, adverse impacts to migratory bird resources when conducting agency actions. These directives also require the Forest Service to ensure that environmental analysis of Federal actions required by the NEPA or other established environmental review processes evaluate the effects of action and agency plans on migratory birds, with emphasis on species of concern. The proposed Macy Lemoose Project will impact a large number (50 plus bird species) that are protected by the MBTA. Project impacts on these species is required by the MBTA, as well as the NEPA, in order to measure whether impacts to migratory birds are going to be significant. In addition to evaluating project impacts on 50 or more migratory birds, the agency also needs to identify which measures are going to be implemented that will restore and/or enhance their habitats in the project area. Given that the Idaho-Panhandle Forest Plan lacks any directives and/or management standards/guidelines for migratory birds, this failure needs to be corrected prior to any additional logging projects to ensure that migratory birds are protected during these activities.

3. The Idaho-Panhandle Forest Plan lacks any analysis of how clearcutting, including those over 40 acres, will affect the viability of a large number of western forest birds of varying conservation labels; until this violation of the NEPA is corrected with a forest plan amendment, the viability of a host of forest birds is threatened on the forest, in violation of the National Forest Management Act (NFMA); without any analysis of how clearcutting will impact these birds with identified conservation concerns, the Forest Plan failed to develop any conservation strategies that would protect these birds from severe adverse impacts of clearcutting, so that their viability within given locales where clearcutting occurs is threatened, in violation of the NFMA and MBTA.

There are many western forest birds that have an identified conservation concern, but have no habitat management protections in the Idaho-Panhandle Forest Plan as per clearcutting. There are no limitations to the amount or size of clearcuts that can be created in habitat for these birds, either across the forest or within a given locale. All of these bird species are therefore threatened with local extirpations due to clearcutting, with unknown cumulative effects across a broader landscape. Examples of these birds include sensitive species identified for the Idaho-Panhandle National Forest, including the Flammulated Owl, Black-backed Woodpecker, and Pygmy Nuthatch. The Forest Plan Final Environmental Impact Statement (FEIS) identifies other bird species, including those listed as Partners in Flight Priority Species associated with low-elevation mixed conifer forests, including the Sharp-shinned Hawk, Northern Goshawk, Lewis's Woodpecker, Williamson's Sapsucker, Black-backed Woodpecker, Brown Creeper, and Townsend's Warbler, as well as bird associated with high elevation mixed conifer forests, including the Olive-sided Flycatcher and Hammond's Flycatcher; birds associated with ponderosa pine forests included the Flammulated Owl and White-headed Woodpecker. This FEIS also identified U.S. Fish and Wildlife Birds of Conservation Concern for the Northern Rockies Bioregion associated with coniferous forests, including the Cassin's Finch, Flammulated Owl, Lewis's Woodpecker, Olive-sided Flycatcher, and Williamson's Sapsucker. The FEIS also identifies Species of Continental Importance for the Intermountain West Avifaunal Biome, including the Lewis's Woodpecker, Cassin's Finch, Olive-sided

Flycatcher, Red-naped Sapsucker, Williamson's Sapsucker, Clark's Nutcracker, and Flammulated Owl.

In addition to the above bird species with identified management needs, the 2022 State of the Birds Report identified the following birds as "tipping point" species with continued significant population declines expected: Olive-sided Flycatcher, Evening Grosbeak, and Rufous Hummingbirds; the Williamson's Sapsucker was also noted to have experienced ongoing declines since the 1990s. The Idaho Department of Fish and Game also identified the following western forest birds as Species of Greatest Conservation Need (2015): Great Gray Owl, Red Crossbill, Lewis's Woodpecker, and Olive-sided Flycatcher.

The above 19 bird species that use coniferous forests as their habitat, that have identified as in need of management, will all have their habitat completely removed by clearcutting, likely for up to 100 years until a mature forest with larger trees again grows back. There will be 50 clearcuts, 21 over 40 acres in size, ranging from 53 to 690 acres in size; clearcuts over 40 acres in size constitute 92% of the planned clearcuts, showing that this is now a standard practice for the Idaho-Panhandle National Forest, in spite of a lack of any analysis in the associated Forest Plan and FEIS. How can a clearcut that removes forest habitat over an entire section of forest be a desired condition for wildlife? Without an analysis in the Forest Plan FEIS to identify impacts and then develop management measures for these 19 bird species to ensure that clearcutting will not create local extirpations, the agency cannot legally implement any more clearcutting on this forest. Due to the lack of any sideboards in the Forest Plan for clearcutting, the Lacy Lemoose Project will clearcut 27% of this landscape, with what will clearly be severe losses of forest habitat for at least 19 bird species with habitat conservation needs. The only stated need for clearcutting in this Lacy Lemoose Project is to get rid of diseased trees and highly susceptible tree species, and replace them with "appropriate" tree species. Why diseased trees and existing tree species need to be removed for wildlife habitat management is not identified.

4. The Idaho-Panhandle Forest Plan and associated FEIS fails to evaluate the impact of clearcutting on many sensitive/vulnerable forest mammals, and as a result, allows unlimited clearcutting in their habitats that could create local extirpations; these adverse impacts are not prevented with any valid conservation measures for these forest mammal, in violation of the NFMA; nor are the adverse impacts of clearcutting on these forest mammals disclosed to the public, in violation of the NEPA; in addition, the failure to evaluate the impact of clearcutting on forest mammals in the Forest Plan FEIS means that no conservation measures were developed to prevent local extirpations of these forest mammals due to clearcutting.

There are a number of sensitive forest mammals to clearcutting, including the threatened lynx, and sensitive fisher, and old growth associated pine marten, as well as important prey species for forest mammals, as the snowshoe hare and red squirrel. The Forest Plan has no restrictions on the amount of a local landscape that can be clearcut, and thus remove habitat for all these species. The Forest Plan allows 30% of a given landscape to be clearcut in lynx habitat, even though the current best science for both lynx and fisher limit clearcutting to no more than 5% of a home range. Within locale areas of pine marten habitat, clearcutting needs to be limited to no more than 25% of a roughly 2000-acres home range. Due to lack of any limits on the amount of clearcutting that can occur in any given locale on the Idaho-Panhandle National Forest, these forest mammals can be extirpated from any amounts of habitat across the forest, in violation of the NFMA. This potential for extirpation in given locales also was never identified to the public in the Forest Plan FEIS, in violation of the NEPA.

5. The Idaho-Panhandle Forest Plan does not ensure the viability of western forest birds that require old growth forests at some point of their life cycle, in violation of the NFMA and the MBTA; this Forest Plan is also in violation of the NEPA by purporting that logging old growth does not change its value to wildlife, which is not only false, but fails to evaluate the impact of logging old growth on wildlife in the Forest Plan FEIS; until the Forest Plan is amended to include a valid conservation strategy for old growth and

associated wildlife, the agency cannot legally log any more mature forest habitat, which is either old growth, early phase old growth, or recruitment old growth which is needed to address the paucity of old growth on this forest for forest birds.

Even though there are many western forest birds associated with old growth forests at some phase of their life cycle, the Idaho-Panhandle Forest Plan does not protect any actual old growth, or as well, recruitment old growth. All existing and recruitment old growth can be logged down to several big old trees per acre, as defined as the minimum old growth criteria from Green et al. (1992). There has never been any documentation, however, in the associated FEIS that this logging will maintain values for wildlife associated with old growth. As such, the Forest Plan management strategy for old growth is a violation of the NEPA, the NFMA and the MBTA, as well as the Administrative Procedures Act (APA), as the science on wildlife habitat use of old growth and claims logging maintains these values are in direct conflict with each other. The Forest Plan direction is also in conflict with the stated desired condition for old growth, that it will increase over time in the warm-dry and warm-moist forest types. All old growth will decline as per the Forest Plan, not increase. Until the Idaho-Panhandle Forest Plan is revised to implement a valid conservation strategy for what is likely over 20 forest birds species dependent upon old growth and older, undisturbed forests, this Forest Plan is in violation of the NFMA and the MBTA, as well as the NEPA for providing false assumptions to the public.

The desired level of old growth on the Idaho-Panhandle National Forest is to maintain the existing level, or possibly increase it. The Forest Plan states that there is 12% old growth on this forest, which is below the level recommended for wildlife at 20-25%, or below historical levels of 20-50%. The Lacy Lemoose Project Area contains only apparently 400 acres of old growth, which in the 116,116 acres project area, is only 2.4% old growth. The inventory of old growth in the project area was not identified, and may not have been done. The FEIS for the Forest Plan does not evaluate how the current level of old growth on the forest affects associated wildlife species, in violation of the NEPA and the NFMA, and MBTA. For

the Lacy Lemoose Project, the agency needs to quantify and map where the old growth stands will be retained, along with recruitment old growth.

6. The Lacy Lemoose Project has a desired condition that is not based on any wildlife requirements; so these desired conditions are a violation of the NEPA and the NFMA, as well as the MBTA, as they are not identified as important to wildlife viability; this is also a violation of the APA, as the agency purports that management of vegetation for timber ensures that wildlife habitat conditions will be met as well, without any actual analysis as to how this can be achieved, including with massive clearcutting; on its face, it is illogical to claim that logging and clearcutting meets the needs of both timber production and wildlife habitat management.

The Scoping Notice states that the desired conditions for the project area, as identified in the Idaho-Panhandle Forest Plan, are to reduce the number of medium and large trees, and increase the acreage of seedlings and small trees. There are also supposedly too many grand fir, cedar, and hemlock tree species in this landscape. What is never addressed is how these desired conditions address wildlife habitat needs. For example, it is highly unlikely that there are too many medium and large trees in this landscape for western forest birds. If so, the basis for this is not identified. The agency is clearly violating the NFMA and MBTA by establishing arbitrary desired conditions in the Forest Plan that actually require the loss of wildlife habitat, including 4,400 acres of clearcutting. It is difficult to understand how 4,400 acres of large clearcuts will meet the desired conditions for wildlife. The scoping notice does not mention the desired conditions for wildlife, or how these will be met with this project. The agency needs to address both vegetation and wildlife habitat conditions in a proposed action, instead of just addressing vegetation management, as this is a violation of the APA. This approach assumes that there are no desired conditions for wildlife. Even though the Forest Plan does not identify any desired conditions for wildlife, wildlife clearly have habitat requirements that will be affected by clearcutting.

The scoping notice also does not address where past logging, including clearcuts, has occurred in the project area. It is noted that 20% of this area has been previously logged. The public needs to know how this past logging and proposed logging are being coordinated for wildlife habitat needs, including old growth and snags.

7. The scoping notice for the Lacy Lemoose Project notes that this project has been in the planning phases with data collection since 2019, or roughly 4 years; however, there is no information provided as to what wildlife surveys have been done to coordinate their habitat needs with the proposed timber management; the agency needs to define to the public, as per the NEPA, and to adhere to the NFMA for diversity requirements, to disclose what wildlife surveys have been done for this project in order to design clearcutting units to avoid nesting habitat for forest hawks and owls.

The Forest Plan has a goal to avoid or minimize disturbances to sensitive wildlife species and manage their habitats to promote their persistence into the future. Idaho-Panhandle sensitive species include the fisher, Black-backed Woodpecker, Flammulated owl, and Pygmy Nuthatch. The Forest Plan has a desired condition for wildlife that sensitive species nest/den sites are relatively free of human disturbance when they are active. The Forest Plan has a guideline (20) that the agency should avoid or minimize disturbance at known raptor nesting sites, including owls; timing restrictions and distance buffers would be established. Guideline 25 states that the agency should avoid and/or minimize disturbances at known active nests of sensitive species not covered under other forest-wide guidelines.

Raptor species that may occur on the Idaho-Panhandle Forest include the Great Gray Owl, Flammulated Owl, Northern Pygmy-Owl, Northern Saw-whet Owl, Northern Hawk Owl, Boreal Owl, Northern Goshawk, Cooper's Hawk, Sharp-shinned Hawk, American Kestrel, and Red-tailed Hawk. We would like the agency to demonstrate that valid surveys have been done for these 11 raptor species in

the Lacy Lemoose Project Area, within the 4,400 acres proposed for clearcutting. If these surveys have not been done, the agency needs to complete a Forest Plan amendment to allow this violation. The agency also needs to complete an Environmental Impact Statement (EIS) to identify to the public that the project will remove an unknown amount of nesting habitat for these 11 forest raptors due to a lack of any valid surveys during project planning.

8. The agency needs to define to the public how the 4,400 acres of planned clearcutting has been done without any surveys to locate habitat occupied by 11 forest raptors.

The project design is complete, yet there is no evidence that any surveys have been done for 11 forest raptors that may occur in the project area. The agency needs to define specifically how 4,400 acres of clearcutting were designed without knowing the location of any of the 11 raptor species that may occur in the project area, including the sensitive species the Flammulated Owl. This process is clearly a violation of the NFMA, as there is no apparent habitat planning for any wildlife species in this project. The assumption that 4,400 acres of clearcutting can occur without any conservation strategies or wildlife surveys being completed during project design is also a violation of the APA, as this assumes that clearcutting will have no impact on any wildlife species, so habitat planning is not required.

9. The agency is violating the NEPA by implying that wildlife surveys will be done after a decision has been made on the Lacy Lemoose Project; first, the public will not be provided the results of surveys, or the required buffer zones established; second, there is no actual assurance that any valid wildlife surveys will be done; without documentation of completed surveys prior to a project decision, the agency is providing a false finding of no significant impacts; protection of raptor nesting sites during breeding is not actually guaranteed and thus this stated mitigation measure may not

actually occur; mortality levels that may occur due to a lack of surveys also need to be provided as per the NEPA

As appears to be the case for the proposed Lacy Lemoose Project, wildlife surveys for forest raptors are a "hypothetical" mitigation measure. These surveys are required during project planning, as well as prior to project decisions. Without these surveys during project planning and prior to a decision, the agency is merely providing "assumptions" that 11 species of raptor nests will be protected with project implementation. The NEPA requires valid documentation of expected actions, not mere assumptions.

As per the NEPA, the agency is also required to estimate the number of forest raptors that will have their nesting habitat removed in clearcuts, effects that will directly kill nestlings and possibly fledglings, and will eliminate current and future nesting habitat as well, which means that long-term productivity will also be severely impacted. The estimated density of these 11 forest raptors on the Idaho-Panhandle Forest can be used to predict the number of raptor nests that will be destroyed if surveys are not done. The number of estimated mortalities due to logging of active nest sites also needs to be addressed as to what level of potential mortality results in significant impacts to these species.

Also, the cumulative impacts of a loss of raptor nest sites during logging also is required as per the NEPA as per the 20% of the forests in this landscape that have already been logged. Were any wildlife surveys done for that logging, and if not, what is the expected mortality level and loss of nesting habitat for forest raptors from those past logging activities?

10. The agency needs to estimate how the project will comply with the MBTA in regards to number of migratory birds that will be killed during clearcutting and other management activities, and why this level of mortality is consistent with the conservation requirements of the MBTA.

Please provide an estimate of the likely number of migratory birds (including loss of nests, lost of nestlings, loss of newly-fledged birds) from the clearcutting of 4,400 acres. This would be intentional take, since the agency is not required to clearcut forests during the nesting season. Please evaluate why this killing of birds will not create significant adverse impacts to western forest birds that are neotropical migrants, as well, as per the requirements of the MBTA to promote the conservation of birds.

11. The scoping notice did not address how the Forest Plan snag requirements as per guideline 04 has been met in the 20% of the forests that have been already logged; please provide an inventory of all snag densities and sizes in these past harvest units; this is essential in order for the agency to claim that snag management in the current proposal provides some of the of wildlife mitigation.

The Forest Plan states that harvest units will maintain 2-4 snags per acre over 15 inches dbh in the warm-dry forest types, and 4.5-6.5 snags per acre over 15 inches in the warm-moist types, with only 1-2.5 per acre to be retained in lodgepole pine. What is the current snag level and size in past harvest units? Are these guidelines being met on the 20% of the forest that has already been logged? If not, how can the agency claim that leaving snags for a few forest birds that will nest in clearcuts actually be mitigation? Mitigation must be shown to be effective as per the NEPA. The agency thus has to demonstrate that past snag management practices in this project area have retained nesting habitat for wildlife that will use harvest units for nesting.

12. The Forest Plan and associated FEIS have never demonstrates why leaving a few snags in harvest units mitigates the habitat loss from clearcutting for wildlife; this is a violation of both the NEPA and the NFMA, since the agency has never shown this will maintain viable populations of forest birds, which is a requirement of a Forest Plan; the current Forest Plan is severely

deficient for maintaining forest birds that require forested snags for their habitat; the Forest Plan needs to be amended to develop and implement valid strategies for forest birds that require snags within a forest; until this is done, the agency cannot legally do any clearcutting.

The strategy of leaving a few snags in clearcuts, snags that likely blow over within 5-10 years, to maintain wildlife associated with forested snag habitat has been shown to be invalid for roughly 30 years. Yet the Forest Service continues to claim this is adequate mitigation for wildlife, including in clearcuts. The agency also failed to demonstrate that this "carry over" of previous forest plan direction was justified based on monitoring of effectiveness for forest birds. The carry over of this outdated snag strategy is a violation of the NEPA and the NFMA and MBTA, but as well, the APA, as there is no science that supports this invalid strategy. This strategy is simply a means of promoting timber harvest at the great expense to wildlife. At a minimum, the FEIS for the Forest Plan needs identify the huge costs to forest birds that results from this invalid, outdated snag strategy. And in order to meet the requirements of the NFMA and the 2012 Planning Rule, the Forest Plan needs to be amended so that a valid conservation strategy is developed and implemented for all snag-dependent forest birds, including many that are noted to need a conservation emphasis.

13. Please define how the Forest Plan wildlife guideline 13 to maintain or improve elk security can be met with the proposed 4,400 acres of clearcuts, including those over a square mile in size.

Although guideline 13 states that elk security "should" be maintained, as well as improved for medium and high elk security areas, it is not clear how this can occur with the proposed clearcutting of 4,400 acres within a 16,116 acre project area. If this guideline is supposed to be "optional," then the agency has misrepresented application of the Forest Plan to the public. The Forest Plan FEIS indicates that security requires timbered habitat, and a 30% minimum is also identified as an objective. The size of security areas is also required to be 250

acres in size. The agency needs to define how this guideline will be met in the Lacy Lemoose Project Area. Where are the current elk security areas, where will they be after the project is implemented, with a loss of 4,400 acres of timber stands. Currently, the scoping notice claims there are 2000 acres of elk security in the project area, which would be 12.4% security. It is not clear where these areas are, or their sizes, or cover qualities, however. A valid measure of security is required, including that identified by Hillis et al. 1991, or the more recent Lowrey et al. (2019) (references provided on scoping comments for the Chloride Gold project proposal). If the guideline will not be met, the agency needs to define why other management requirements are more important than managing for elk security, including claims that elk are currently limited by forage. This is a questionable claim, given that the current level of security is noted to be deficient in the project area, while no information is provided to indicate why forage has been identified as a limiting factor for elk. How was this determined?

14. Please define the habitat effectiveness for elk that will occur during project implementation, including the criteria to be used to measure significant impacts.

The scoping notice provided a confusing array of road/trail effects of the project. Please provide a more easily understood summary of all existing and new roads that are required for this project, so that the total motorized route density during logging can be understood by the public. The habitat effectiveness level is a documented measure for displacement effects to elk, and this information needs to not only be provided to the public as required by the NEPA, but needs to be assessed by the agency to determine if the project will have significant displacement impacts on elk during the summer. Please evaluate habitat effectiveness by the current best science, where any motorized vehicle activity of 2 trips per 12 hours is known to displace elk.

15. Please provide a description of the Forest Plan direction for management areas and elk management units.

The management of elk security is based on management area prescription and elk management units. These need to be identified and mapped for the Macy LeMoose Project.

16. The Idaho-Panhandle Forest Plan lacks a valid conservation strategy for the threatened lynx; please provide the correspondence from the USFWS that lynx do not occur in the Macy Lemoose Project Area.

The Northern Rockies Lynx Management Direction is severely outdated as per the current best science. As such, it is not a valid conservation strategy for the threatened lynx. Until this strategy is updated to include the current best science on lynx conservation, it cannot be used as a measure of project impacts on lynx.

Although the agency claims that the USFWS stated that lynx are not present in the Macy Lemoose Project Area, distribution of occupied lynx habitat as per Figure 5 in the NRLMD show much of the Idaho-Panhandle Forest to be occupied lynx habitat.

17. The definition of the Wildland Urban Interface (WUI) for the Macy Lemoose Project does not appear to be based on the requirements of the HFRA; this affects the exceptions allowed for clearcutting lynx habitat.

From the scoping notice, it appears that the WUI is being defined by 2 county wildfire protection plans, instead of the definition identified in the Healthy Forest Restoration Act. This is an important factor to adhere to, since it affects whether or not exemptions for lynx habitat can occur, which is clearly relevant for the Macy LeMoose Project. Please define the WUI by required legal standards.

18. Please provide documentation in regards to grizzly bear presence in the project area and how the project will promote movements and dispersal of grizzly bears between recovery areas.

Please identify where the secure areas are for grizzly bears to promote movements between the recovery areas located in Idaho and Montana. Please provide the consultation documentation that there are no grizzly bears in the project area.

19. Please provide a summary of the acres of whitebark pine seedling, saplings and mature trees that will be killed by the proposed project, and the criteria use to determine that significant adverse impacts will not result. It is clear that this landscape may have grizzly bears, as it is located between several grizzly bear recovery areas.

Please provide documentation that there is no known grizzly bear use of this landscape, so that the provision of large secure areas to promote connectivity is not required to promote genetic health of the Montana-Idaho-Wyoming grizzly bear populations.

Regards,



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