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February 14, 2025

Aaron Kania, District Ranger
Kawshiwi Ranger District
1393 Highway 169
Ely, MN. 55731

Re: Fernberg Corridor Project

Dear District Ranger Kania,

The following comments come from Wilderness Watch on the Fernberg Corridor Project. Wilderness Watch, as you know, is a national wilderness conservation organization headquartered in Missoula, Montana. Our organization's focus is the protection and proper stewardship of all the units of the National Wilderness Preservation System, including the Boundary Waters Canoe Area Wilderness (BWCAW) in Minnesota. Wilderness Watch works with all four federal agencies that administer Wilderness, and for more than 35 years we have fought to ensure that these agencies comply with the 1964 Wilderness Act.

On a personal note, I have worked to protect the BWCAW for more than 50 years, beginning in 1974 with the first of 10 summers guiding wilderness canoe trips in the area and working to protect the area then. I worked extensively as a volunteer from 1976-1978 to pass the 1978 BWCAW Act, P.L. 95-495. I co-authored the definitive history of that struggle, *Troubled Waters: The Fight for the Boundary Waters Canoe Area Wilderness*, and have written extensively about the Boundary Waters elsewhere as well, including articles in the *Denver University Law Review*, *William Mitchell Environmental Law Journal*, and many others.

I also worked quite closely with the late Dr. Miron L. "Bud" Heinselman and know very well his ground-breaking fire ecology research in the BWCAW. I worked closely with him on passage of the 1978 law, implementation of that law, researching and writing *Troubled Waters*, and on many wilderness stewardship issues related to the BWCAW. I curated his papers for the Minnesota Historical Society, and was asked by the University of Minnesota Press to edit several chapters of his 1996 book, *The Boundary Waters Ecosystem*.

As we understand the Fernberg Corridor Landscape Management Project Draft Environmental Assessment (EA) and the agency's preferred alternative, the Forest Service proposes to conduct manager-ignited prescribed fire on 84,000 acres of wilderness lands inside the BWCAW. The proposed burns would stretch for up to six miles inside the Boundary Waters from the edge of the wilderness boundary, reaching as far as Ima Lake due east and Hudson Lake

to the southeast. This is a massive amount of manipulation of lands that Congress designated to be un-manipulated as Wilderness.

Wilderness Watch therefore supports Alternative 3, the alternative that calls for No Action in the Wilderness, for the following reasons:

1. The proposed massive manipulation of up to 84,000 acres within the Boundary Waters Canoe Area Wilderness (BWCAW) will violate the Wilderness Act's directive to preserve the area's wildness and wilderness character.

The Wilderness Act of 1964 established the National Wilderness Preservation System and imposed legal requirements for federal administration of lands designated as Wilderness. Pub. L. 88-577, 78 Stat. 893-96 (Sept. 3, 1964); 16 U.S.C. § 1131 et seq. The Wilderness Act has an “explicit statutory purpose ‘to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition.’” *Wilderness Soc'y v. U.S. Fish & Wildlife Serv.*, 353 F.3d 1051, 1055 (9th Cir. 2003) (*en banc*) (quoting 16 U.S.C. § 1131(a)).

The Wilderness Act defines “wilderness” in part as “an area where the earth and its community of life are untrammeled by man,” as “retaining its primeval character and influence,” and as “protected and managed so as to preserve its natural conditions.” 16 U.S.C. § 1131(c).

Howard Zahniser, the author of the Wilderness Act, recognized the importance of wildness and the need to protect it. He wrote, “We must remember always that the essential quality of the wilderness is its wildness.”

Although the Wilderness Act recognizes that conservation-related activities can sometimes be appropriate within wilderness areas, see 16 U.S.C. § 1133(b), the statute places paramount its mandate of wilderness preservation, requiring that all activities in designated Wilderness be conducted in a manner that “preserv[es] . . . wilderness character” or its wildness, and “will leave [designated wilderness areas] unimpaired for future use and enjoyment as wilderness.” 16 U.S.C. § 1131(a). Congress expressly prohibited certain activities in designated Wilderness that are defined by the Act to be antithetical to wilderness character preservation. The statute dictates that “there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation” within Wilderness areas. 16 U.S.C. § 1133(c). The only exception that this provision affords is for activities that are “necessary to meet minimum requirements for the administration of the area for the purpose of [the Wilderness Act].” Id.

The Wilderness Act imposes a legal duty on federal land agencies that administer designated Wilderness to “preserv[e] the wilderness character of the area.” In a designated Wilderness that may also have “other purposes for which it may have been established,” the Wilderness Act expressly requires that administration for those purposes be conducted “as also to preserve its wilderness character,” in other words, its wildness. 16 U.S.C. § 1133(b).

The Wilderness Act charges the U.S. Forest Service with a duty to preserve the wilderness character of the designated Wilderness in the BWCAW. 16 U.S.C. § 1133(b). The Wilderness Act defines Wilderness “in contrast with those areas where man and his own works dominate the landscape,” as “an area where the earth and its community of life are untrammelled by man,” as “retaining its primeval character and influence,” and as “protected and managed so as to preserve its natural conditions.” 16 U.S.C. § 1131(c). Among its provisions to further the protection of wilderness character, the Wilderness Act expressly prohibits the use of motor vehicles, motorized equipment, the landing of aircraft, and mechanical transport, “except as necessary to meet minimum requirements for the administration of the area” as Wilderness. 16 U.S.C. § 1133(c).

The Fernberg Corridor Project would include the authorization of extensive use of motorized and mechanical equipment and aircraft landings within the BWCAW to carry out tree cutting with chainsaws and other equipment and to implement tens of thousands of acres of fire activity. (Draft EA, p. 65.) Such activity would significantly degrade the BWCAW’s wilderness character.

The Forest Service’s approval of 84,000 acres of activity to reengineer the natural landscape into reflecting the wildfire fuel conditions most desired by managers also undermines the goals of the Wilderness Act. The Wilderness Act expressly requires the Forest Service to administer these areas in an “untrammelled” state reflecting the free flow of natural processes, their “primeval character and influence,” to minimize the “imprint of man’s work.” 16 U.S.C. § 1131(c). The Forest Service would directly contravene this mandate through its approval of the Fernberg Corridor Project in the quick pursuit of more desirable forest conditions to reduce the risk of unwanted natural wildfire effects.

In short, the manager-ignited fire portions of the Fernberg Corridor Project encompass exactly the kind of manipulation and trammeling that the Wilderness Act seeks to prevent. We fully understand that the Wilderness Act authorizes the Secretary to take actions to “control” fire, subject to a test of necessity, but the proposed plan isn’t about suppressing or controlling fires, but rather to remake the BWCAW landscape into something of the manager’s choosing. That is the antithesis of wilderness stewardship and draws into question whether the agency has any fidelity to the spirit and intent of the law.

It would be an extreme perversion of the Wilderness Act to imply or suggest that the BWCAW’s wildness will be preserved under the proposed action of massive manipulation.

2. Rather than the massive wilderness manipulation promoted in the proposed alternative, the Forest Service should instead allow natural lightning-caused fires to play their role in the BWCAW.

We certainly understand the fire ecology research of Dr. Heinselman, and agree with the need to restore fire to the BWCAW ecosystem. A far better, wilderness-compatible alternative to the proposed action in the draft EA would be to allow natural lightning-caused fires to play their

ecological role in the BWCAW without the massive manipulation and damage to Wilderness contained in the proposed alternative. As the draft EA states, “Lightning wildfires are typically suppressed under most conditions.” (p. 52). We ask, why?

With few exceptions, the Forest Service has suppressed most lightning fires in the BWCAW for decades. While we recognize the potential danger from allowing lightning fires to burn, this course of action is far preferable from a wilderness standpoint. Natural fires enhance wilderness character in a fire-dependent ecosystem like the BWCAW; manager-ignited fire degrades it.

I have been urging the Fire Working group in the BWCAW Collaborative to explore and examine this option for the BWCAW, but the bias in the group seems to be to ignore that option and push only for manager-ignited fire within the BWCAW.

3. The draft EA totally fails to analyze whether, when, or how the Forest Service will allow natural fires to burn in the BWCAW if the proposed action proceeds.

The Superior National Forest has been promising since the 1980s that natural lightning fires would be allowed to burn and play their natural role in the BWCAW. The Draft EA for the Fernberg Corridor Project repeats this broken promise (p. 7).

Unfortunately these Forest Service’s pledges over the past 40 years have been nothing but hollow promises.

In the late 1980s, plans to allow lightning fires to burn were abruptly put on hold because of the Yellowstone fires of 1988. There is always some reason that prevents the Forest Service from getting really serious about allowing lightning fires to burn. In one recent example, a couple of summers ago, a fire started on Spice Lake near Ogishkemuncie Lake in the heart of the BWCAW, just west of where the Cavity Lake fire had burned, yet the Forest Service suppressed that one, too.

The Draft EA contains no analysis of how the proposed action will allow lightning fires to once again play their roles in the BWCAW. When will the Forest Service allow lightning fires to burn? How will the Forest Service allow this? At what point will the agency allow natural wilderness fires to burn?

The Final EA must have a detailed analysis on whether, when, where, and how the Forest Service will allow lightning fires to burn inside the BWCAW.

4. KIW2 is fatally flawed and should not be used.

The Superior National Forest utilizes the *Keeping It Wild2* (KIW2) framework by Peter Landres et al. for analyzing the impacts on wilderness character from the Fernberg Corridor Project. As I mentioned recently in the BWCAW Collaborative, the KIW2 framework is fatally flawed and should be discarded.

Aside from the fact it is not legal, logical, or based upon the best available science, there are two other problems with this approach illustrated in the points below that relate directly to the Landres et al. reference.

A. The Origins and Consequences of Defining Wilderness Character through Fragmenting The Eloquent Whole of the Wilderness Act

Landres and others identified their various attributes of wilderness character by dissecting the Wilderness Act. It was an exercise in reductionism. From our communications with Landres, the main purpose behind this exercise was to be able to objectively monitor changes in wilderness character in the National Wilderness Preservation System. Hence, the protocol titled *Keeping it Wild* and *Keeping it Wild 2*. While this process to define wilderness character was undoubtedly a well-intended effort, as time has passed, it is clear it has serious negative unintended consequences for Wilderness. Other wilderness specialists and researchers recognize these failings in their pointed critique (see Cole et al. 2015). A prime example of a negative consequence is the erroneous idea that managers could trade off various components of wilderness character against each other, thereby reducing the Wilderness Act into a procedural process via an MRDG, rather than a substantive law. This management mindset, which effectively repeals and rewrites the Wilderness Act, is a recent development. It is doubtful even those wilderness specialists who defined wilderness character in a reductionist manner would now concur. That leads to the second point below.

B. The Monitoring Protocol Itself Does Not Offer Support for the Manipulation Proposed for the Boundary Waters Canoe Area Wilderness

In *Keeping It Wild 2: An Updated Interagency Strategy to Monitor Trends in Wilderness Character Across the National Wilderness Preservation System*, Landres et al. 2015. RMRS-GTR-340¹ has this to say about untrammeled:

To preserve the Untrammeled Quality of wilderness, managers need to exercise restraint when authorizing actions that manipulate any aspect of the wilderness—in general actions that trammel should be avoided as an essential principle of wilderness stewardship unless it can be shown that these actions are necessary to preserve wilderness character as a whole (Kaye 2014).

Landres et al. 2015 at 34.

It is hard to conceive of trammeling actions that would be necessary for this purpose. The Strategy cited above and its associated *Monitoring Selected Conditions Related to Wilderness Character: A National Framework*. Landres, et al. 2005. RMRS-GTR-151 cite two of the Forest Service's preeminent wilderness researchers in describing how the

¹ Again we have serious concerns with this protocol, see attached critique (Cole et al. 2015). Nonetheless, it does recognize that trammeling negatively affects Wilderness. Our comments expand upon this concern.

untrammeled quality of Wilderness affects management. Cole (2000) in Framework states that untrammeled “suggests more about the *process* of management than it does about the *outcomes* of management.” (Emphasis added). The Strategy paper states,

Lucas (1973, p. 151) stated, “If ecological processes operate essentially uncontrolled within the Wilderness frame of reference, the results, whatever they might be, are desirable by definition. The object is not to stop change, nor to recreate conditions as of some arbitrary historical date, nor to strive for favorable change in big game populations or in scenic vistas. The object is to let nature ‘roll the dice’ and accept the results with interest and scientific curiosity.”

Landres et al. 2015 at 33. The proposed actions in the Boundary Waters Canoe Area Wilderness are not consistent with this guidance.

In other words, the fragmentation of the Wilderness Act into separate and oft times competing directives is wrong. That violates the laws of statutory construction. Regardless, the monitoring protocol is not to be used as a decision-making tool as is being done in this case.

KIW2 defines wilderness character as “a holistic concept based on the interaction of (1) biophysical environments primarily free from modern human manipulation and impact, (2) personal experiences in natural environments relatively free from the encumbrances and signs of modern society, and (3) symbolic meanings of humility, restraint, and interdependence that inspire human connection with nature.” We have little problem with this. However, this conceptual definition is not used either in the KIW2 monitoring framework or as a guide to making wilderness stewardship decisions. Instead, to give practical meaning to wilderness character, KIW2 states that wilderness character should be defined as five separate qualities: untrammeled, undeveloped, natural, outstanding opportunities for solitude or a primitive and unconfined type of recreation, and other features of scientific, educational, scenic, or historical value. These five qualities include all the attributes mentioned in the Sec. 2(c) definition of wilderness in the Wilderness Act. They are considered to be equal in importance and often in conflict with each other, making the concept of wilderness character internally contradictory rather than a single coherent stewardship goal.

That’s where KIW2 goes off the rails. The purpose of the mandate to protect wilderness character above all else is to focus the attention of wilderness stewards on preserving the “essence” of wilderness—those qualities that are most unique and distinctive about wilderness and make it “a contrast with those areas where man and his own works dominate the landscape”. It is about differentiating the most important things to protect from the many other things that ideally might be protected in wilderness. For this purpose, wilderness character must be defined as a coherent whole, in a manner that is not internally contradictory. It cannot be broken down into separate qualities.

We believe that wilderness character is fundamentally about wildness and that it should be defined as the degree to which wilderness is free from deliberate human modification, control, and manipulation of a character and scope that hampers the free play of natural ecological processes.

The five-quality KIW2 definition confuses wilderness character with a list of all the things we value in wilderness and would like to protect and preserve. By making all wilderness values a part of wilderness character, and treating all those values as equal in importance, this definition negates the intended purpose and meaning of wilderness character. Most onerously, it undervalues the importance of protecting wildness. Wilderness character cannot be protected above other wilderness attributes and values if all attributes and values are included in the definition of wilderness character and wildness cannot be emphasized when it is just one of many values that managers might protect.

I will attach a paper written by Dr. David Cole of the Aldo Leopold Wilderness Research Institute and other national wilderness experts that more fully explains the fatal flaws of KIW2.

Even though KIW2 is fatally flawed, it should be noted that the analysis in the Fernberg Corridor Project Draft EA states that Alternative 2 (the proposed action) will have adverse effects on three of the wilderness qualities directly through management actions (p. 73). Even this fatally flawed KIW2 framework tells us that the proposed action should not proceed.

For all of these reasons, please choose Alternative 3, No Action in the BWCAW, for the Fernberg Corridor Project. Please keep Wilderness Watch informed of further actions on this project. If the Forest Service wishes to choose Alternative 2 for the Final EA, we request that a full environmental Impact Statement (EIS) be conducted to fully analyze an adequate range of alternatives and the impacts on the BWCAW's wildness.

Sincerely,


Kevin Proescholdt
Conservation Director