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February 14, 2025

Objection Reviewing Officer

USDA Forest Service, Northern Region

26 Fort Missoula Road

Missoula, MT 59804

RE: OBJECTION AGAINST THE GRANITE FUELS PROJECT ON THE IDAHO PANHANDLE NATIONAL FOREST

1. Name of Objectors

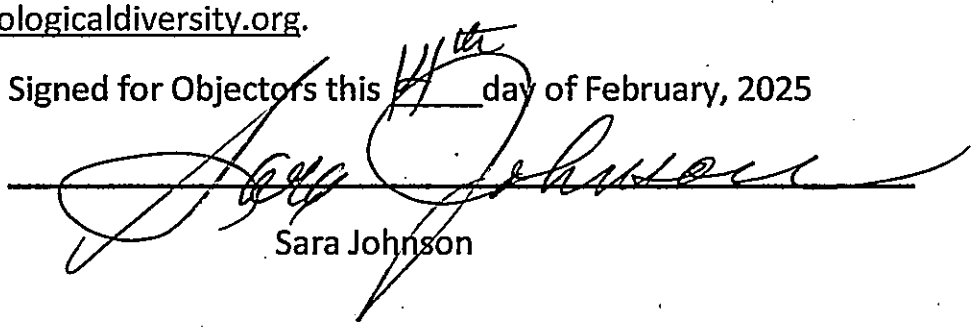
Lead Objector, Sara Johnson, Director Native Ecosystems Council (NEC), PO Box 125, Willow Creek, MT 59760; phone 406-579-3286; sjjohnsonkoka@yahoo.com.

Mike Garrity, Director, Alliance for the Wild Rockies (AWR), PO Box 505, Helena, MT 59624; phone 406-459-95936; wildrockies@gmail.com.

Steve Kelly, Director, Council for Wildlife and Fish (CWF), PO Box 4641, Bozeman, MT 59772; phone 406-920-1381; troutcheeks@gmail.com.

Kristine Akland, Senior Attorney, Center for Biological Diversity (CBD), PO Box 7274, Missoula, MT 59807; phone 406-544-9863; kakland@biologicaldiversity.org.

Signed for Objectors this 11th day of February, 2025



Sara Johnson

2. Name and Location of the Project being Objected to

Granite Fuels Project on the St. Joe Ranger District of the Idaho Panhandle National Forest.

3. Name of the Responsible Official

Ben Johnson, District Ranger, St. Joe Ranger District

4. Attachments

We have included one attachment for this Objection, Attachment #1, which has hard copies of various reports and/or publication cited in the Objection.

5. Issue of Public Notification

It was never clear to NEC Director Sara Johnson that she received notification from the Forest Service regarding the Objection Period for the Granite Fuels

Project. We are recommending that the Forest Service maintain a verifiable data base that will be available to the public when questions about notification arise.

6. Connection between Objection Issues and Concerns and Previous Public Involvement Actions by Objectors

On November 14, 2024, Objectors NEC, AWR, CWF and CBD submitted comments on the draft Environmental Assessment (EA) for the proposed Granite Fuels Project. These comments were addressed in the Response to Comments section of the proposed decision documents. We raised concerns about violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Migratory Bird Treaty Act (MBTA), the Endangered Species Act (ESA), the Roadless Area Conservation Rule as applied to Idaho roadless lands, and as a result, the violations of the Administrative Procedures Act (APA) that are triggered by the noted violations.

We would like to incorporate by reference all of the violations identified in these draft EA comments into this Objection, in order to avoid repetition. In this Objection, we have expanded on these comments for specific issues, including (a) the management of western forest/aridland birds, including migratory species, including evaluating climate change impacts, (b) the management of the threatened tree species, whitebark pine, and (c) the management of roadless lands in the Granite Fuels project area. We have included additional but more limited supporting information on other previous issues and concerns regarding the agency's failure to provide the public both accurate and adequate levels of project information as is required by the NEPA, and the failure to demonstrate Forest Plan direction will be followed, as is required by the NEPA and the NFMA. We would like to note that the significant amount of project information requested by NEC et al. was never provided in the proposed decision documents.

A. The agency has violated the NEPA, the NMFA, the MBTA, and the APA due to the proposed management of forest and aridland birds in the Granite Fuels Project Area.

The analysis of project impacts for the Granite Fuels Project is limited to only a one bird that may occupy terrestrial vegetation the project area the White-headed Woodpecker, because it is identified as a Sensitive Species for Idaho Panhandle National Forest. Then the agency claims this bird is not even present in the project area, so no detailed analysis was thus required, although no actual surveys for this woodpecker have been conducted. The end result is that the agency has not evaluated project impacts on any forest or aridland bird species. It would be impossible to measure the impacts on up to 67 species of western forest birds, or 62 species of aridland birds, without essentially no analysis of any bird that may be present in this landscape. The agency claims that no actual analysis for these birds is required because the IPNA Forest Plan assures that viability of all these bird species is assured through the "coarse filter" approach, where if desired vegetation conditions (DC) are met, so are all the nests for birds. The Forest Plan FEIS does not contain any actual analysis as to why the DCs for vegetation assure viability of all bird species.

At a minimum, the agency was required to evaluate project impacts on 2 eagles, and 5 migratory songbirds as per a letter provided by the USFWS on10/31/24. These include 5 birds that are identified as Birds of Conservation Concern Rangewide: Calliope Hummingbird, Cassin's Finch, Evening Grosbeak, Olive-sided Flycatcher, and Rufous Hummingbird. This letter noted that all BCC of BCR 10, or the Northern Rockies, should be addressed, however, in management of migratory birds. These include those listed in Table 84 of the IPNF Forest Plan at page 378: Calliope Hummingbird, Rufous Hummingbird, Broad-tailed Hummingbird, Flammulated Owl, Long-eared Owl, Lewis's Woodpecker, Williamson's Sapsucker, Olive-sided Flycatcher, Pinyon Jay, Evening Grosbeak, Cassin's Finch, Brewer's Sparrow, Ferruginous Hawk, Peregrine Falcon, Sage Sparrow, Sage Thrasher, Swainson's Hawk, and White-headed Woodpecker. Given

that 5 of these BCC have already been identified as range-wide BCC, this leaves an additional 13 birds included as BCC for BCR 10.

The IPNF Forest Plan FEIS also identifies priority bird species present on the forest, woodland and shrubland vegetation types in Table 85 at page 378. These include the Black-chinned Hummingbird, Calliope Hummingbird, Rufous Hummingbird, Dusky Flycatcher, Sharp-shinned Hawk, Northern Goshawk, Lewis's Woodpecker, Williamson's Sapsucker, Black-backed Woodpecker, Brown Creeper, Varied Thrush, Townsend's Solitaire, Western Tanager, Swainson's Hawk, Sage Grouse, Short-eared Owl, Loggerhead Shrike, Rock Wren, Sage Thrasher, Brewer's Sparrow, Lark Sparrow, Sage Sparrow, Olive-sided Flycatcher, Hammond's Flycatcher, Sharp-tailed Grouse, Ruffed Grouse, Flammulated Owl, White-headed Woodpecker, Golden Eagle, Prairie Falcon, Vaux's Swift, Gray Flycatcher, Plumbeous Vireo, Pinyon Jay, Virginia's Warbler, and Black-throated Gray Warbler.

The IPNF Forest Plan FEIS at pages 376-377, Table 83, also identified species of continental importance identified for the Intermountain West Avifaunal Biome in the Partners in Flight North American Landbird Conservation Plan, including the Sage Grouse, Bendire's Thrasher, Spotted Owl, Brewer's Sparrow, Pinyon Jay, Lewis's Woodpecker, Cassin's Finch, Rufous Hummingbird, Olive-sided Flycatcher, Swainson's Hawk, Grace's Warbler, Sage Thrasher, Gray Flycatcher, Calliope Hummingbird, Red-naped Sapsucker, Williamson's Sapsucker, Green-tailed Towhee, Clark's Nutcracker, Dusky Flycatcher, Sage Sparrow, Mountain Bluebird, Gray Vireo, Virginia's Warbler, Flammulated Owl, and White-headed Woodpecker.

The above lists of migratory birds that have an identified conservation interest/priority include 18 BCC, 35 Priority Species, and 25 birds of continental importance for conservation measures. Given that there is overlap between these 3 categories of birds of various conservation concerns, this comes to 52 migratory

birds or other birds that have been identified as a conservation priority, with all these birds potentially occurring in the Granite Fuels Project Area.

These birds identified for priority conservation include 11 raptors. The IPNF design criteria WLD-1 states at page 64: protect known confirmed raptor nests per guidance for Federal agencies in Executive Order 13186 during implementation to prevent disruption of reproductive success; protective measures may include timing restrictions, no-treatment buffers, or modification of planned prescriptions. There are guidelines developed for timing restrictions and buffer requirements for the 11 forest raptors that may be affected by the Granite Fuels Project, as per Ronnin and Muck 2002, U. S. Fish and Wildlife Service, Utah Field Office. These include the following:

Golden Eagle; buffer distance 0.5 miles; nesting 1/1-8/31

Bald Eagle: buffer distance 1.0 mile; nesting 1/1-8/31

Peregrine Falcon: buffer distance 1.0 miles; nesting 2/1-8/31

Prairie Falcon: buffer 0.25 miles; nesting 4/1-8/31

Northern Goshawk: buffer 0.5 miles, nesting 3/1-8/15

Sharp-shinned Hawk: buffer 0.5 miles; nesting 3/15-8/31

Swainson's Hawk: buffer 0.5 miles; nesting 3/1-8/31

Long-eared Owl: buffer 0.25 miles; nesting 2/1-8/15

Short-eared Owl: buffer 0.25 miles; nesting 3/1-8/1

Flammulated Owl: buffer 0.25 miles; nesting 4/1-9/30

Ferruginous Hawk: buffer 0.5 miles; nesting 3/1-8/1

The IPNF Forest Plan requires the agency as per FW-GDL-WL-20 directs the forest: **management activities on NFS lands should avoid/minimize disturbance at known active nesting, including owls; timing restrictions and distance buffers**

should be based on the best available information, as well as site-specific factors.

The NEPA documents for the Granite Fuels project "suggest" that nesting areas for the Bald Eagle, Golden Eagle and Northern Goshawk will be protected, if locations are known. This means that there is no planned protection of the remaining 8 raptors that may occur in the project area. IN fact, in response to comments at page 36, it is stated that no targeted surveys are planned in the project area; instead the agency is using an in-house data base that is maintained, based on observation data; it would be cost prohibitive to attempt to conduct raptor surveys within such a large unroaded area on an annual basis; if "known" raptor nests are located, the agency will apply WLD 1,2 ad 5-7.

It is not clear how "known" raptor nests will be identified without surveys. These comments seem to demonstrate that the agency has no intention of identifying raptor nests in a project area with surveys. Since surveys are not actually required, the Forest Plan FEIS did not evaluate the impacts vegetation activities will have on 11 raptor species, in violation of the NEPA. The percentage of raptor nests that have "known" locations is never identified/estimated, or why the failure to protect nests whose locations were currently unknown will impact population trends of these raptors. Since there is no Forest Plan estimate of the expected loss of raptor nests due to vegetation management activities across the IPNF, the Granite Fuels project has to complete this assessment for this project, as there is no current analysis to tier project impacts to.

The agency also needs to amend the Forest PLan guideline for protecting raptor nests on the IPNF to clarify that no surveys are required for this management direction; if current information is available to some raptor nesting locations, these locations will have the Forest Plan guideline applied. The estimated impact on raptor populations based on a lack of surveys also needs to be estimated as required by the NEPA for forest raptor populations. Such an amendment also

needs to be clarified to the public "if" actual raptor surveys are required in areas where vegetation treatments are planned.

The Forest Service is not implementing any of the recommended protection measures identified by the USFWS for eagles and migratory birds as per their letter of 10/31/24 (USFWS 2024, available on agency web page). Since these recommendations are not being implemented, the planned incidental take of eagles and migratory birds is a violation of the MBTA and associated MOU.

The Forest Service has not obtained a "take" allowance for the eagles and migratory birds that will be incidentally killed by the Granite Fuels Project, including birds that will be killed due to the lack of recommended protective measures by the USFWS (beneficial practices). This project is thus in violation of the MBTA and associated MOU with the USFWS.

The agency is not implementing recommendations provided or referenced by the U.S. Fish and Wildlife Service (USFWS) for the Granite Fuels Project, as per the USFWS letter of 10/31/24 (USFWS 2024, available on agency web page). This letter indicated that buffer zones need to be used on all Bald and Golden Eagle nests. These nests are not identified for the Granite Fuels Project Area. Since these nests are not identified, the agency cannot state that they will be protected, as is recommended/required by the Bald and Golden Eagle Protection Act of 1940. These recommendations would mitigate any project impacts on these 2 eagle species, and prevent significant adverse impacts. Since these recommendations are not being implemented, there will likely be significant adverse impacts on these 2 eagle species in the Granite Fuels project area.

The agency is also not implementing the recommendations for migratory birds. Guidance for avoiding or minimizing impacts to migratory birds, tailoring and scheduling project activities as per "Supplemental Information on Migratory Birds and Eagles" was not applied to the Granite Fuels project, although identified as a

recommendation by the USFWS in their 10/31/24 (USFWS 2024, available on agency web pgae) correspondence on the Granite Fuels Project. These recommendations would apply to the 5 BCC-rangewide migratory birds expected to be in the Granite Fuels project area, including the Calliope Hummingbird, Cassin's Finch, Evening Grosbeak, Olive-sided Flycatcher, and Rufous Hummingbird, but as well, to other BCC that have local conservation concerns within the Bird Conservation Region (BCR 10) Northern Rockies. As we noted previously, these include 18 BCC for BCR 10, as per the IPNF Forest Plan FEIS Table 84, at 378.

We have included the reference "Supplemental information on migratory birds and eagles" identified by the USFWS for management recommendations for migratory birds (USFWS 2024a). Recommendations include minimizing or avoiding impacts to migratory birds on the BCC list within the affected BCR. Recommendations include minimizing incidental take of migratory birds by identifying locations of any active nests and avoiding their destruction.

This document (USFWS 2024a) recommends implementing the measures identified in another document "Nationwide Avoidance of Minimization Measures for Birds" to assist in management recommendations for BCC birds (USFWS 2024b). We have attached a copy of this report to this objection. Recommendations include scheduling all vegetation treatments and burning outside of the peak bird breeding season to the maximum extent possible. When project activities cannot occur outside the peak bird nesting season, conduct surveys prior to schedule activity to determine if active nests are present within the area of impact and buffer any nesting locations found during surveys. Generally surveys should be conducted no more than 5 days prior to scheduled activity. If active nests are detected during these surveys, no vegetation removal activities should occur until nestlings have fledged, the nest fails, or breeding behaviors are no longer observed. If the activity must occur, establish a buffer zone around the nest and prohibit all activities within the buffer zone until nestlings have fledged and left the nest area. When establishing a buffer zone, a qualified biologist should be present during project activities to ensure no take of

migratory birds occurs. Any associated project activities that are inconsistent with the applicable avoidance and minimization measures will be immediately halted and reported to appropriate FWS office within 24 hours. If establishing a buffer is not feasible, contact FWS for guidance to minimize impacts to migratory birds associated with the proposed project.

These guidelines also recommend that the agency prepare a vegetation maintenance plan that outlines vegetation maintenance activities and schedules so that direct bird impacts do not occur. Measure 4 of fire stressors includes "schedule prescribed fire outside the peak of the bird breeding season to the maximum extent possible.

We have attached a copy of Director's Order No. 225 (USFWS 2021) that provides information on the management of migratory birds. This Order identifies incidental take as the taking or killing of migratory birds that results from but is not the purpose of an activity. This Order also defines "beneficial -practice." This is an action implemented in an effort to avoid and minimize the incidental take of migratory birds (also identified as conservation measures, best management practices). This order notes that incidental take is not legal if the proponent fails to implement known beneficial practices to avoid or minimize incidental take. Incidental take is identified as a violation when beneficial practices are not implemented. Activities that may trigger illegal incidental take of birds include vegetation clearing and management, and controlled burns; if an activity may trigger incidental take of migratory birds, the Service must develop and implement beneficial practices to avoid or minimize impacts to migratory birds.

We have included another document (USFWS 2020) that specifically defines what beneficial practices are to minimize/avoid impacts to migratory birds during ground-disturbing activities, including habitat removal, clearing or cutting of vegetation, burning, etc. The optimum beneficial practice is to complete all project activities outside the maximum migratory bird nesting season (December to August). If this is not feasible, they recommend complete the project outside

of the minimum nesting period for migratory birds, which is April 1 to July 15. If the project needs to occur during the migratory bird nesting season, impacts can be avoided or minimized by completing all vegetation treatment projects in the fall and winter prior to the nesting season when the project will begin. If a project cannot be completed outside the migratory bird nesting season, they recommend surveying impacted portions of the project area to determine if migratory birds are present and nesting. Surveys should emphasize detecting USFWS BCC, take place during the nesting season the year before the project is schedule, and should document the presence of migratory birds at least throughout the entire minimum migratory bird nesting season (April 1 through July 15). Nest surveys should be conducted by qualified biologists using accepted survey protocols. Another measure includes hazing birds from areas that will be disturbed during the nesting season. If a project must be scheduled during the maximum nesting bird season, they recommend performing site-specific surveys for nesting birds no more than 7 days prior to ground-disturbing activities, and nests located have a spatial buffer established to be protected during the remainder of the nesting season; project activities within these buffers should be postponed until after birds have fledged from the nest.

Nesting periods for the Bald Eagle would be 1/1-8/31 and Golden Eagle (USFWS 2024a); nesting period for the Calliope Hummingbird is 5/1-8/15; nesting period for the Cassin's Finch is 5/15-7/15; nesting period for the Evening Grosbeak is 5/15-8/10; nesting period for the Olive-sided Flycatcher is 5/20-8/31; nesting period for the Rufous Hummingbird is 4/15-7/15. Based on this limited information provided to the Forest Service for the Granite Fuels project, **the peak breeding season for these 5 migratory bird species would include 4/15-8/31, or the period when prescribed burning activities should not occur as a "beneficial practice" for migratory birds.**

This report (USFWS 2020) recommends that agencies use the buffer distances established for raptors by Romin and Muck (2002) for protecting raptor nests. We have included a copy of this report with this objection. The recommended buffer distances for 11 raptor BCCs have already been noted in this objection.

These various recommendations developed by the USFWS to avoid and/or minimize adverse impacts to migratory birds were not employed for the Granite Fuels Project. As per the response to comments at page 36, the agency clearly notes that no raptor surveys will be conducted, including for 11 BCC raptors potentially occurring in the project area; existing information on eagles and the goshawk will be use to address "known" nest locations. No surveys will be done for other migratory birds in treatment units, which could include 18 BCC bird species. The "updated" Wildlife Report at 17 notes that no actual surveys have been done for migratory birds on the 70,876 acres proposed for burning. The Wildlife Report at 49 states that prescribed fire may destroy existing nests and temporarily eliminate foraging habitat; it is noted that "activities would be limited in time and spatial extent" but what this requires on 70,876 acres to be burned is never defined. The "updated" Wildlife Report goes on to state that burning "is expected" to be implemented outside the primary breeding period so that potential for direct mortality from fire would be minimized, although not completely eliminated. The "primary nesting season" is not defined as per USFWS definitions, or any definition. The project EA at page 66 under design features identifies the breeding season as February 1 through August 31, which is somewhat consistent with the maximum breeding period identified by the USFWS (2020) as from approximately December through August. The acres out of the 70,876 total to be burned that will be burned outside the primary nesting season identified by the Granite Fuels NEPA documents, or from September 1 through January 31, is not defined; how many acres will this be? What is the rationale for killing birds via treatments, when treatments could be planned outside the primary breeding season?

We have included a document by the USFWS (2024c) that discusses when a take permit is required for incidental take of migratory birds. Given that the Forest Service is not employing any beneficial practice to reduce incidental take of migratory birds, this take is illegal. We believe this requires the agency to acquire a take permit for the 71,000 birds that will be killed directly by the project. The

Granite Fuels NEPA documents do not address any requirements for a take permit, in violation of the NEPA.

The project design features (Granite Fuels EA at 64-65) are inconsistent with the updated Wildlife Report. These design features include WLD-1, which states that nests of migratory birds will be protected from disturbance during activities with site-specific protective measures, to be determined by a wildlife biologist; these protective measures could include timing restrictions, no-treatment buffers, or modifications of planned prescriptions; development of protective measures will be coordinated with appropriate resource staff. The only protective measure actually described for migratory bird nests is burning in a "mosaic." This means that no all of a habitat patch will be burned, so that some bird nests and/or fledgling are not killed. The percentage of a unit that will not be burned as a part of this "mosaic burning" is never defined. So the level of reduced mortality for nesting birds is unknown, and certainly cannot be used to provide a measure of reduced mortality from burning.

The project EA at 77-78 identifies mitigation measures for wildlife from burning 70,876 acres. These include when burning during the spring season, the fuels specialist will coordinate with the wildlife biologist to "consider" steps to minimize prescribed fire impacts to nesting migratory birds during the breeding season; **nesting seasons for a majority of avian species would be considered to be avoided**; coordination of nest site buffers and activity restrictions specific to the site and bird species; general buffer guidelines for "identified" nest sites are determined by a wildlife biologist; buffer distances are only defined for 3 birds, the Bald and Golden Eagle, and the Northern Goshawk. These "suggestions" that protections of nests of migratory birds "may occur," along with the lack of any actual requirements, is consistent with the Response to Comments by the agency at page 36 that no actual bird surveys are planned. As such, no protective buffers can be implemented.

In essence, the Forest Service will fail to implement any valid "beneficial practices" to reduce incidental take for migratory birds, in violation of the MBTA and associated MOU. This is also a NEPA violation, as the agency claims not only will there be any measurable impacts to migratory birds, but in fact, even in the absence of any beneficial practices being required for this project, migratory birds will in large be benefited by this project, which of course would include an undisclosed level of mortality.

There was no analysis in the Granite Fuels NEPA documents as to what the estimated level of mortality will be to migratory birds, including forest raptors, from the proposed treatments on approximately 71,000 acres. With a general estimate of one bird death per acre of treatment (including the potential for destruction of eggs, destruction of nestlings, destruction of newly-fledged birds from burning; the mortality of nestlings and fledglings from abandonment by parent birds due to nest disturbances; direct killing of nestling and fledgling from smoke toxicity (Defiance Raptor Rescue 2022); and indirect killing of all ages of birds due to the debilitating effects of smoke toxicity, the estimated bird mortality from this project could be at least 71,000 birds. This is a high level of incidental take of birds, and the population impacts on migratory birds is not addressed. These high mortality impacts will be cumulative to ongoing declines of western forest birds and western aridland birds (Rosenberg et al. 2019; North American Bird Conservation Initiative 2022).

The agency also did not define why the potential incidental take of migratory birds of a potential 71,000 birds, or possibly higher, is consistent with the MBTA and associated MOU, whereby the agency agrees to strive to reduce incidental take of migratory birds. The agency did not provide any rationale as to why burning large acreages of the project area is required per year even though this will result in huge mortality impacts on migratory birds.

The mortality impact on migratory birds (a potential initial impact of 71,000 birds, with additional mortality possible with maintenance treatments) was not

compared between the Action and No Action alternatives. As such, the agency has violated the NEPA by failing to provide an actual no action alternative, which is needed to provide a "baseline" of conditions and ongoing impacts with the proposed action. Without actually addressing the mortality impact on migratory birds that will result from the Granite Fuels project, the agency did not provide any comparisons between bird mortality from existing conditions and those that will occur with the proposed action.

The agency did not provide any analysis of how the Granite Fuels project will impact habitat conditions from migratory and other birds that may occur in the project area. It is not clear if the current levels of old growth forests are sufficient to meet the habitat requirements recommended for birds, from 20=25% for birds (Montana Partners in Flight; Reynolds et al. 1992). There are potentially 24 bird species in the project area that depend upon old growth forests, including the Black-backed Woodpecker, Boreal Owl, Brown Creeper, Chestnut-backed Chickadee, Flammulated Owl, Golden-crowned Kinglet, Hairy Woodpecker, Hammond's Flycatcher, Hermit Thrush, Lewis's Woodpecker, Northern Goshawk, Pileated Woodpecker, Pine Grosbeak, Pygmy Nuthatch, Red-breasted Nuthatch, Swainson's Thrush, Three-toed Woodpecker, Townsend's Warbler, Varied Thrush, Vaux's Swift, White-breasted Nuthatch, Great Gray Owl, Williamson's Sapsucker and Winter Wren (USDA 2018; USDA 1990). The old growth habitats that occur in this project area are not mapped, so the agency has not demonstrated that these old growth stands will not be included in any burning units. As well, there are no plans to increase old growth up to recommended levels, by protecting recruitment old growth. This project will clearly have adverse impacts on these 22 of these old growth species as a result.

There are at least 30 bird species associated with snag habitat that may occur in the Granite Fuels Project Area (USDA 2018; USDA 1990). These include the American Kestrel, Barred Owl, Black-backed Woodpecker, Black-capped Chickadee, Boreal Chickadee, Brown Creeper, Downy Woodpecker, Chestnut-backed Chickadee, Flammulated Owl, Hairy Woodpecker, House Finch, House Sparrow, House Wren, Lewis's Woodpecker, Mountain Bluebird, Mountain

Chickadee, Norther Flicker, Northern Hawk Owl, Pileated Woodpecker, Pygmy Nuthatch, Northern Pygmy Owl, Red-breasted Nuthatch, Red-naped Sapsucker, Northern Saw-whet Owl, Three-toed Woodpecker, Tree Swallow, Violet-green Swallow, Western Bluebird, White-breasted Nuthatch, and Williamson's Sapsucker. The Wildlife Report notes that many areas of the project area have few to no snags. The agency claims that burning may destroy snags, but will create snags as well. No actual monitoring data was provided to address what the actual impact of this project will be on snags, including snag sizes. IN addition, there was no analysis as to if the project area currently meets the PNFA Forest Plan snag recommendations. These are identified in the Forest Plan in Table 4 at page 20, which include various ranges of snag sizes per vegetation type. These range from 2-6 per acre over 15 inches dbh. Given that this project will burn up an undisclosed number of snags, snags that up to 30 or more bird species depend upon as breeding sites, the agency has failed to take a "hard look" at project impacts on these 30 bird species, in violation of the NEPA and the MBTA.

There are at least 33 migratory bird species, including some nonmigratory bird species that may occur in the Granite Fuels project area that feed on conifer seeds for survival (Smith and Aldous 1 947; Smith and Balda 1970). These include the Hairy Woodpecker, Pinyon Jay, Clark's Nutcracker, Stellar's Jay, Black-billed Magpie, Mountain Chickadee, Scrub Jay, Red-breasted Nuthatch, White-breasted Nuthatch, Pygmy Nuthatch, Crossbills, Pine Siskins, Lewis's Woodpecker, Northern Flicker, Gray Jay, Winter Wren, American Robin, English Sparrow, Evening Grosbeak, Slate-collared Junco, Oregon Junco, Chipping Sparrow, Common Crow, Mourning Dove, Band-tailed Pigeon, Blue Grouse, Purple Finch, Pine Grosbeak, and Towhee. And as was noted in the Granite Fuels Wildlife Report, the sensitive species White-headed Woodpecker is highly dependent upon conifer seeds for winter survival. The agency failed to evaluate how the reduction of current levels of seed-producing conifer trees, along with elimination of vast amounts of conifer regeneration, that will prevent the development of new conifer seed resources in the future for birds, was not addressed for the Granite Fuels Project, in violation of the NEPA.

The failure of the agency to take a hard look at the multiple impacts that the Granite Fuels Project will create on migratory birds and other bird species means that the proposed action was developed essentially in a vacuum for the management of forest and aridland birds.

Added to this analysis failure is another one even more severe, which is the failure to address the cumulative impacts of killing up to and over 71,000 birds, the reduction of snag habitat, recruitment old growth, and conifer seed supplies for wildlife, in conjunction with the local climatic changes that this project will create, impacts that will further degrade habitats for birds, along with likely triggering increased mortality events on birds. One such example was reported by D'Ammassa (2022) and the USGS (2022) where due to severe weather, hundreds to potentially millions of migrating song birds were killed over a several day period in New Mexico. These severe weather events are known to create severe mortality to birds. In addition, the Granite Fuels project will result in increased temperatures in the project area, along with more adverse effects of winds and local severe precipitation events, where both adult and nestling birds would be readily killed. The agency did not discuss how this Granite Fuels project will create more adverse weather/temperature conditions for birds, thereby also reducing their ability to forage for themselves or nestlings, in order to avoid heat stress or severe weather. There is ample documentation that removal of vegetation will increase the local temperatures on the landscape (e.g., Knoss 2016; Lawrence et al. 2022; Millman 2024).

There was also no analysis, even though NEC requested such, of the foliage volume that will be reduced per acre of the proposed project, and how this will impact the availability of nesting sites, hiding cover, and thermal cover for birds. With the proposed project, all 3 of these habitats will be removed, but the degree that this foliage volume will be removed per acre remains unknown. The agency failed to provide this information, or as a result, to define why the proposed reduction in foliage volume per acre for wildlife will not significantly reduce bird populations.

As we noted previously, the agency's assessment that the Granite Fuels Project will not significantly (measurably) impact birds, including migratory birds, is because the project will be based on achieving the Desired Conditions for vegetation in the IPNF Forest Plan. This is in effect saying that essentially any vegetation project can be claimed to have no significant impact on birds because vegetation removal is working towards Forest Plan vegetation DCs. Never mind that the Granite Fuels project does not actually define how this project is working towards Forest Plan DCs for vegetation. Using these vegetation DCs as a rationale for vegetation treatments is nothing more than a smoke screen for various activities, as the agency failed to even demonstrate why and where current DCs for vegetation are not being met, or specifically, why burning will move these conditions to the DCs in the Forest Plan. In addition, there currently remains no actual analysis as to why Forest Plan vegetation DCs ensure viability of forest and aridland birds. There is also no such analysis, including on any migratory or other birds, as to why moving towards vegetation DCs will maintain their populations, which as we previously noted, triggers violations of the NEPA, NFMA, MBTA and associated MOU with the USFWS.

A. The agency is violating the ESA, the NFMA and the NEPA due to the proposed undefined yet clearly significant mortality in whitebark pine trees in the project area.

First, the agency failed to define how many whitebark pine seedlings, saplings and mature trees will be killed by the Granite Fuels Project. This is a NEPA requirement, since project impacts are to be identified to the public. We have provided an example of another project meeting this requirement. The Green Onion project on the Shoshone National Forest provided this key information as to how many whitebark pine seedlings, saplings and mature trees will be killed by the project in Tables 5-6 of the project EA. We note that Table 5 also defines the size of each proposed treatment unit, and the acres of whitebark habitat that occurs in each treatment unit. This the basic required information that is needed

not just for public disclosure, but also as the basis for agency determinations of project impacts on whitebark pine population persistence in the project area.

The agency's failure to define the number of whitebark pine seedlings, saplings and mature trees that will be killed by the project per unit, and in total, means that the impact of this project on population persistence for whitebark pine is unknown, but likely severe. Seedlings and saplings (ages up to 40 years) will generally be devasted by any burning. As was claimed by Keane et al. (2022), **HOPEFULLY** when burning understories of whitebark pine stands, the little whitebark pine seedlings will not be killed while other seedlings and saplings of other tree species are killed. At present, no restoration projects for whitebark pine have managed to demonstrate how seedlings/saplings of whitebark pine will not be killed with prescribed burning. As noted by the Standing Analysis for whitebark pine (USFWS 2023), these seedlings and saplings will range in ages at least up to 40 years, and comprise the entire 40-year recruitment pool for a given stand of whitebark pine. Somehow, the public is supposed to believe that eliminating the entire recruitment population of whitebark pine in a given stand that is to be burned somehow promotes restoration of this stand. As well, this killing of all current recruitment will result in the elimination of 40 years of genetic diversity that is being provided by these seedlings and saplings. Again, this will be a severe impact on the ability of these stands to persist due to the elimination of a vast pool of genetic diversity. This diversity will be especially key in the ongoing climate change effects.

The proposed thinning out of other conifers in whitebark pine stands was noted by the USFWS's 2023 standing analysis that this may harm instead of help whitebark pine by increasing their growth rate, which will increase their likelihood of being attacked by mountain pine beetles. This thinning is potentially a death sentence for affected mature trees. This assessment in the Standing Analysis is based on research projects where such thinning was identified as a potential risk to mature whitebark pine trees, including articles by Six et al. 2021 and Copper et al. 2018.

The agency's false claims that burning whitebark pine stands to improve recruitment (even though all existing recruitment will be eliminated) is not based on any current findings that whitebark pine recruitment responds quickly to these burning program. Keane and Parsons (2010) reported that even after 40 years of these types of treatments, whitebark pine recruitment was almost nonexistent. This may in part be due to the fallacy that creating openings in whitebark pine stands (as demonstrated in Keane et al. 2022) will create sites where Clark Nutcrackers will bury whitebark pine seeds. In this same article, Keane et al. (2022) notes that whitebark pine stands may accumulate up to 50 feet of snow in the winter. Yet somehow Clark's Nutcrackers will still be able to "dig out" the whitebark pine nuts they have stored in these openings! The USFWS Standing Analysis (2023) on whitebark pine clearly noted that Clark's Nutcrackers do not bury pine seeds in areas other than windswept ridges where there will be no snow accumulation. But it was also noted that the major storage areas for pine nuts by this nutcracker is in trees, adjacent to the trunk. This storage of nuts in trees, instead of on the ground (under deep snow levels) was previously noted by Wells (2011). This article actually has a photo of a Clark's Nutcracker storing a pine seed in a tree. This brings up a question of why other tree species are being removed from whitebark pine stands. It is likely that pine storage by nutcrackers occurs in a variety of tree species, so that reducing trees will reduce the ability of pine storage sites. It may be that whitebark pine recruitment in some manner depends upon the failure of nutcrackers to fully recover stored nuts in trees, so these uncollected nuts will have an opportunity to regenerate the following spring when they fall off of tree storage sites.

In conclusion, the agency's claim that burning whitebark pine stands will increase the persistence of affected stands is clearly false, and thus a violation of the NEPA due to a failed analysis of project impacts (including the provision of any actual measures of trees to be killed) and providing false information to the public. It is also a violation of the ESA, as the agency is taking direct actions to impede the recovery of the threatened whitebark pine populations in the Granite Fuels project area.

B. The agency is violating the Roadless Area Conservation Rule, as defined by the Idaho Roadless Rule.

The severe ecological impacts being proposed for the affected roadless lands, including proposed wilderness, are being misrepresented (masked) by the agency as ecosystem benefits. None of these specific ecosystem benefits are actually identified, other than reducing the risk of "catastrophic fire," a term that has never been defined by the agency as to how it is being measured, or what specific vegetation conditions will trigger this catastrophic fire. These specific vegetation conditions in thousands and thousands of roadless lands that need fuel reduction in order to eliminate these catastrophic conditions are never defined. Simply saying vegetation is "departed" from historical conditions is not an analysis of why current fuel levels (wildlife habitat) require emergency reduction in order to prevent catastrophic fire. One general reference to catastrophic or uncharacteristic fire is that it is termed "stand replacement fire" that will have these severe adverse impacts on ecosystems. There was no analysis as to why stand replacement fire in roadless lands presents an ecological catastrophe for wildlife. Certainly the catastrophe does not apply to humans, as these are unroaded lands where human activity and structures are very limited. In fact, stand replacement fire is an essential ecosystem process for many wildlife species. Hutto (1995) reported that stand replacement fire area had 15 bird species that were more abundant in burned forests than green forests; nearly 2/3rds of 31 bird species inventoried had nesting sites in burned forests. He noted in particular that the Black-backed Woodpecker, a priority species for Idaho (IPNF Forest Plan FEIS) is almost completely dependent upon stand replacement fire for persistence. Hutto and Patterson (2016) also noted that the Olive-sided Flycatcher is highly dependent upon mixed severity fires to create it's essential nesting habitat of borders between burned and unburned forests. The Olive-sided Flycatcher has been identified by the North American Bird Conservation Initiative (2022) as a "tipping point species, where past losses of up to 50% of the population are expected to continue with another potential loss of another 50% of the population). This Initiate also noted that the Williamson's Sucker is experiencing declining population trends. This species was also noted by Hutto

and Patterson (2016) that requires edge habitat between burned and unburned mixed severity fires as nesting habitat.

Research by Hutto (1995) also noted that 15 birds species were generally more abundant within than outside burned forests. And Hutto and Patterson (2016) reported that when assessing fire effects on 50 bird species, a majority of species (60%) were detected significantly more frequently inside than outside burned forests. The effects of fire varied for different species over time, as measured during their 11-year study; these fire effects were very complex with various benefits occurring to different bird species at different times post-fire.

These studies clearly demonstrate that fuel reduction projects designed to reduce undefined "catastrophic fire" will have severe adverse impacts to many forest bird species, including at least 3 of conservation concern (Black-backed Woodpecker, Olive-sided Flycatcher, and Williamson's Sapsucker). These fires will also help mitigate the ongoing and likely severe deficiency of snag habitat across the IPNF due to logging. Even the Granite Fuels project area is noted to be deficient in snags. As we noted previously, at least 30 species of forest birds use snags as nesting habitat. All these species will benefit from the creation of snags by mixed severity fire. In fact, the availability of nesting snags for these birds within roadless lands may be the only portions of the larger landscape that can maintain populations of these birds by sporadically creating snags from fire, but as well, creating ongoing recruitment of snags from insects and disease "forest pests." These " insect pests" are also directly providing forage for birds, including the mountain pine beetle, western spruce budworm beetles and larvae, various Ips beetles, Douglas-fir beetles, and fir engraver beetles, for example. Mistletoe brooms also provide nesting sites for birds.

As we noted previously, burning within roadless lands will have devastating impacts to the threatened whitebark pine. Burning within roadless lands will result in massive mortality of forest and aridland birds, including 52 that have some definition of a conservation concern. This burning will also create an

undisclosed by likely highly significant loss of migratory bird habitat due to destruction of vegetation and trees that provide nesting sites, hiding cover from predator, thermal cover (including from severe weather events such a heavy precipitation and high winds), and forage as conifer seeds and "insect pests." Burning will also destroy and undisclosed percentage large snags essential to over 20 bird species for suitable nesting cavities. These lost nesting cavities will not be easily replaced over time, due to fewer "insect pests" that kill trees, and a reduction of larger trees needed for cavity trees due to being killed by burning. And as we noted, the severe reduction in vegetation and shade associated with such vegetation will exacerbate ongoing impacts of climate change. The increases in temperature extremes and weather events that will be triggered by the Granite Fuels project cannot possibly be defined as ecosystem restoration, or a benefit to any wildlife species. In spite of the inevitable increases of temperatures and more severe weather that will occur in the Granite Fuels project area due to vegetation removal on 71,000 acres, the agency did not provide any measures of what these inevitable increases will pose for wildlife, including birds. At a minimum, the agency needs to estimate how the reduction in time that birds will able to complete essential activities for survival, including feeding their young, due to the inevitable increases in temperatures (to avoid heat stress) and bad weather (to avoid dying from exposure) will affect migratory birds, and how these affects will affect population viability.

One such species that will have potentially severe population impacts from increased temperatures and weather extremes is the Western Bumblebee. It has been demonstrated that heat reduces the ability of this bee to locate flowers (Tomma 2024). Also, this bee has to travel large distances across a landscape to forage for pollen (Trent 2024). Local increases in temperatures and wind, along with severe precipitation events, will certainly reduce foraging ability of this species, especially if bees are killed during severe storms. And as was noted by Trent (2024) bumble bee nests could be directly destroyed by burning, since this bee nests underground. So this bee is one more example of why burning in roadless lands is not beneficial to local ecosystems, as is being falsely claimed by the agency.

C. The Granite Fuels Project will trigger multiple violations of the NEPA, NFMA, MBTA, ESA and APA, for example:

1. The agency will violate the NEPA by failing to provide any important information on how the project will be implemented. For example, the treatment units are not identified to the public. The size of the treatment units are not identified to the public. The location of old growth stands are not identified to the public, ensuring they will be protected from burning. The period when units will be burned is not identified, so the public does not know how much burning will impact migratory songbirds. Any known nest locations of forest raptors and owls are not identified, nor the protective buffers mapped and protection periods identified to ensure these will be protected during project implementation. The location of units in whitebark pine stands are not identified. The number of seedlings, saplings and mature trees that will be killed with burning are not identified. The migratory birds that occur in the project area have not been identified with surveys. The estimated number of migratory birds that will be killed directly by fire, or directly and indirectly by smoke toxicity is not evaluated. The estimated reduction of foliage volume for birds, including nesting sites, thermal cover, hiding cover, and forage is not evaluated, so the overall impact on migratory birds is unknown to the public as well as the agency. The overall impact of the project on migratory bird population trends on the IPNF is not provided, based on known ongoing declines of many species. The impact of the project on snag habitat for wildlife is not evaluated. The impact of attempting to reduce mixed severity fire on wildlife is not evaluated. The complete lack of baseline information for migratory birds means that cumulative impacts of the project cannot be determined. Because there is a complete lack of baseline information on migratory birds, there are actually no valid alternatives developed for this project. The agency failed to demonstrate how public concerns for migratory birds was addressed in the action alternative, which means there was actually only one alternative provided for this project, the no action alternative. The public was not informed as to why mixed severity fire is detrimental to wildlife.

2. The agency will violate the NFMA by failing to demonstrate to the public how Forest Plan standards and guidelines will be implemented in the project area. Simply saying that plan direction will be implemented without any actual demonstration as to how this will be done, is also sort of a NEPA violation, as the public is not being provided supporting documentation for agency claims regarding implementation of a project. The agency's unstated rationale for doing large projects like Granite Fuels, in addition to the above noted means of "escaping the NEPA," is also a means of escaping the Forest Plan requirements. This failure to demonstrate Forest Plan compliance is also a NEPA violation as well because adhering to Forest Plan direction is required to avoid significant impacts. Without any actual demonstration that plan direction is actually going to be implemented the agency has no basis for determining project impacts will not have significant adverse impacts. There are multiple standards/guidelines required to be implemented for the Granite Fuels Project that may not actually be implemented. For example, the agency has not demonstrated that design feature WLD-5 for goshawks will actually be implemented. This direction requires that post-fledgling areas (PFAs) for goshawks are not disturbed from April 1 through August 15. These PFAs are not mapped for the project area. Nor has the agency demonstrated that WLD-6 and 7 for goshawks will be implemented. These design features calls for identifying nest stands around an active nest site, and ensure that any treatments maintain the function of such. They require identification of post-fledging areas around active nests, and also ensure that PFA quality is not degraded with vegetation treatments. Yet the agency did not even identify any such nest stands or PFAs, or define what type, if any, treatments will occur in them, and how this is known to maintain the function of these nest sites for goshawks. Elk and deer fawning and calving areas are not mapped for the project area, and as a result, how treatments will be scheduled in these protected areas from May 1 through June 30, as is required by the Forest Plan. Nor are time periods for treatments on big game winter ranges defined for this project, to demonstrate big game species will generally not be disturbed between December 1 and April 30. There is also no demonstration as to how Forest Plan direction for big game security areas will be met with this project. There was no information provided as to how the Forest Plan direction for snag habitat will be maintained with this project.

7. Remedy

As a summary for the above section C, the agency did not justify the lack of project information, or any actual demonstration that Forest Plan direction will be adhered to, as is legally required that is based on planning massive vegetation treatment projects that far outlast the timeliness of the NEPA. This practice in essence also removes agency requirements for forest plan monitoring, as monitoring results will not affect project decisions during Forest Plan implementation given the time periods for large projects, including Granite Fuels. The time period for this project may extend well beyond what agency projections are, due to the vagueness of project descriptions. This project clearly could exceed the general time period identified for forest plans, as well as include 3 times or more years as per the 5 year timeliness of the NEPA. Given that forest plan monitoring may provide new information on the impacts of vegetation management, and new science may indicate some management practices need to be adjusted to prevent significant resource damage, including for wildlife, the timeline for the Granite Fuels project essentially requires violation of both the NEPA and the NFMA. The new process whereby the agency is no longer adhering to the NEPA and the NFMA in management programs was never justified to the public, other than claims that a crisis exists for wildfire, including for wildlife within roadless lands. We believe that condition-based management, including that proposed for the Granite Fuels project, is patently illegal, and as such, requires that this proposal be dropped. In order to adhere to the legal requirements of the NFMA and the NEPA, the agency must limit the size of projects where baseline information can be provided to the public, including wildlife surveys (in response to comments, the agency admitted that wildlife surveys for the Granite Fuels project would be **"cost prohibitive"**), and where a full, complete demonstration can be provided as specifically how forest plan direction and monitoring results will be applied for the entire period of the project, which as per the timeliness requirements of the NEPA, should be planned for no more than 5 years.

Attachment #1 for the Objection filed by NEC et al. on February 14, 2025 for Granite Fuels Project on the Idaho Panhandle National Forest.

Attachment #1 contains relative portions of reports and/or publications cited in comments provided by NEC et al as follows:

Cooper, L., C. Reed, and A. Ballantyne. 2018. Mountain pine beetle attack faster growing lodgepole pine at low elevation in western Montana, USA. Forest Ecology and Management 427:2000-207.

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Smith, C. and R. Balda. 1979. Competition among insects, birds and mammals for conifer seeds. American Zoologist 19:1065-1083.

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Trent, S. 2024. Get to know western bumblebee. High Country News, September 2024, pages 18-19.

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