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Re: Supplemental Comments on the East Rim WUI Vegetation Management Project

These comments are submitted on behalf of the Alliance for the Wild Rockies, Native Ecosystems Council, Sage Steppe Wild, WildEarth Guardians, Wyoming Wildlife Advocates, and Yellowstone to Unitas Connection. These organizations submitted comments dated January 3, 2025. These are Substantive Comments that address the concept of Wildland Urban Interface using the definitions provided in the Healthy Forest Restoration Act and the 2001 Federal Register Notice.[1] We also address the lack of justification for a categorical exclusion. These comments are submitted after the comment period due to our need to obtain mapping and other data through FOIA.

Wildland Urban Interface

The Federal Register defines WUI thus:

> Wildland Urban Interface, Intermix and Interface Communities as:
> The urban wildland interface community exists where humans and their development meet or intermix with wildland fuel.

[1] Federal Register. 2001. Urban Wildland Interface Communities Within the Vicinity of Federal Lands That Are at High Risk from Wildfire. Fed. Register Vol 66(3):751-777.

The **Intermix Community** exists where structures are scattered throughout a wildland area. There is no clear line of demarcation; wildland fuels are continuous outside of and within the developed area The development density in the intermix ranges from structures very close together to one structure per 40 acres. Fire protection districts funded by various taxing authorities normally provide life and property fire protection and may also have wildland fire protection responsibilities. An alternate definition of an intermix community emphasizes a population density of 28 - 250 people per square mile.

The **Interface Community** exists where structures directly abut wildland fuels. There is a clear line of demarcation between residential, business, and public structures and wildland fuels. Wildland fuels do not generally continue into the developed area. The development density for an interface community is usually 3 or more structures per acre, with shared municipal services. Fire protection is generally provided by a local government fire department with the responsibility to protect the structure from both an interior fire and an advancing wildland fire An alternative definition of the interface community emphasizes a population density of 250 or more people per square mile.

The Healthy Forest Restoration Act elucidates further in Section 101 by defining (1) At Risk Community as an area:

(A) that is comprised of—

(i) an interface community as defined in the notice entitled ''Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire'' issued by the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat.1009) (66 Fed. Reg. 753, January 4, 2001); or

(ii) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

The key in the HFRA definition above is that the focus is on Interface Communities. It does not address Intermix Communities. Carlson et al (2022) translates this for modeling the WUI. [2]

> WUI is where building density exceeds 6.17 units/km^2 and where land cover is either (1) at least 50% wildland vegetation (intermix) or (2) under 50% wildland vegetation but within 2.4 km (1.5 miles) of a patch of wildland vegetation at least 5 km^2 in area that contains at least 75% vegetation (interface).

The Carlson et al (2022) source for building density was The Microsoft data set (available at https://github.com/microsoft/USBuildingFootprints. The vegetation information was the 2016 National Land Cover Dataset (NLCD), a 30-m resolution satellite image classification (Yang, Jin, et al., 2018). We took a closer look at building density relative to the WUI definition to analyze this on a site-specific basis. The 2018 Roosevelt Fire, which affected over 60,000 acres and is adjacent to the East Rim WUI project area, was not taken into account in the forest cover dataset by Carlson et al (2022) as that fire occurred after the 2016 NLCD data. We mapped the East Rim WUI Vegetation Management project to describe the characteristics of the project and surrounding area and to identify the density of structures for comparison to these definitions.

Community Wildfire Protection Plan

The Sublette County Community Wildfire Protection Plan (SWCC 2022)[3] identifies the Fire Battalion serving various communities. We mapped these communities using Sublette County map data posted on the County Website.[4] (Figure 1). Five communities were identified near the East Rim project area. SWCC 2022 describes that Bondurant Battalion 3 has oversight of these areas, so all have county fire protection. The opportunities and challenges for these five communities to address are described in the SWCC:39. Four of these communities are subdivisions including Sargent, Rim Ranches, Packer/Miner, and Hoback Ranches. The Flying A community is not a subdivision. SWCC 2022 recognizes the responsibility of property owners and subdivisions to plan and implement appropriate measures for their protection. SWCC:39 shows Class A roofs are predominant.

We applied the Carlson et al (2022) model output to arrive at a first approximation to the WUI for these communities. Carlson et al (2022) recommends using the 500-meter WUI output "because changes in WUI area and number of WUI buildings were minimal, and because smaller neighborhoods offer greater precision around building locations. The maps based on the 500-m neighborhood therefore are most ideal for general purposes." Figure 1 illustrates the WUI relative to these communities. The Value = 1 (green) areas are Intermix areas where

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[2] Carlson, Amanda R., David P. Helmers, Todd J. Hawbaker, Miranda H. Mockrin, and Volker C. Radeloff. 2022. "The Wildland–Urban Interface in the United States Based on 125 Million Building Locations." Ecological Applications e2597. https://esajournals.onlinelibrary.wiley.com/doi/10.1002/eap.2597

[3] Sublette County. 2022. Sublette County Community Wildfire Protection Plan. October 4, 2022.

[4] https://greenwoodmap.com/sublette/mapserver/

structures are intermixed with forested areas. Figure 1 also shows these are not Interface communities which removes justification for the East Rim WUI vegetation management under HFRA. The Hoback Ranches, Sargent, Rim Ranches and Flying A are Intermix communities which means the problem is a community issue, not a Forest Service issue although the Forest Service may assist communities in these efforts. Packer/Miner does not map as an Interface or Intermix community.

We further mapped these five communities individually to determine whether they met the density criteria (>1 structure/40 acres) for WUI. Figure 2 shows the area burned in the 2018 Roosevelt Fire, which removed most of the forest cover in the Hoback Ranches and Sargent subdivisions. We also found from the Forest Service FACTS database for Hazardous Fuels Treatment that the area around Sargent was previously treated. The Hoback Ranches and Sargent Subdivisions are also buffered by Highway 189. For these reasons, we focused on the Rim Ranches, Packer /Miner and Flying A communities. Figures 3 – 5 show each of these communities with their parcels and aerial imagery. None meet the density threshold to qualify for WUI. Many of these parcels do not have structures. Table 1 shows the density as if every parcel had a structure. The density based on actual structures would be less than the Table 1 values which show that none of these CWPPs are WUI. We explored this further.

Table 1. Comparison of Community Attributes with 40-Acre WUI Threshold

Community Attributes	Rim Ranches	Packer/Miner	Flying A
No of Parcels	16	12	7
Residential	8	4	2
Residential Vacant	3	5	1
Agricultural	3	2	3
Commercial	1		
BLM	1		1
Forest Service		1	
Total Acreage	935	2,309	988
Acres per Parcel	58.4	193.4	141.1
Acres per Parcel for WUI	>40	>40	>40
Wildland Urban Interface Yes/No	**No**	**No**	**No**

A closer look at these communities is informative. The aerial imagery for Rim Ranches CWPP (Figure 3) shows large unforested open areas with most structures not within dense forest stands and they have defensible space around the structures. The Rim Station, with two structures borders US Hwy 189 and has no forest cover. There is a large reservoir that could serve as a water source for firefighting. There are a few structures that could use some tree removal to create defensible space adjacent to the structures. That is a homeowner and CWPP responsibility.

The Packer/Miner community (Figure 4) contains few structures and most have defensible space. Note that a large area of this CWPP is Forest Service managed land. The Flying A community (Figure 5) has a large amount of open space with defensible space adjacent to some structures with others needing additional attention to create defensible space. There are several large reservoirs that could be used as water sources for firefighting. The focus in all these communities should be creating defensible space around structures, which the CWPP and residents should accomplish.

Figure 1. East Rim WUI Project and Treatment Areas with Adjacent CWPP and Carlson 500m WUI (Intermix)

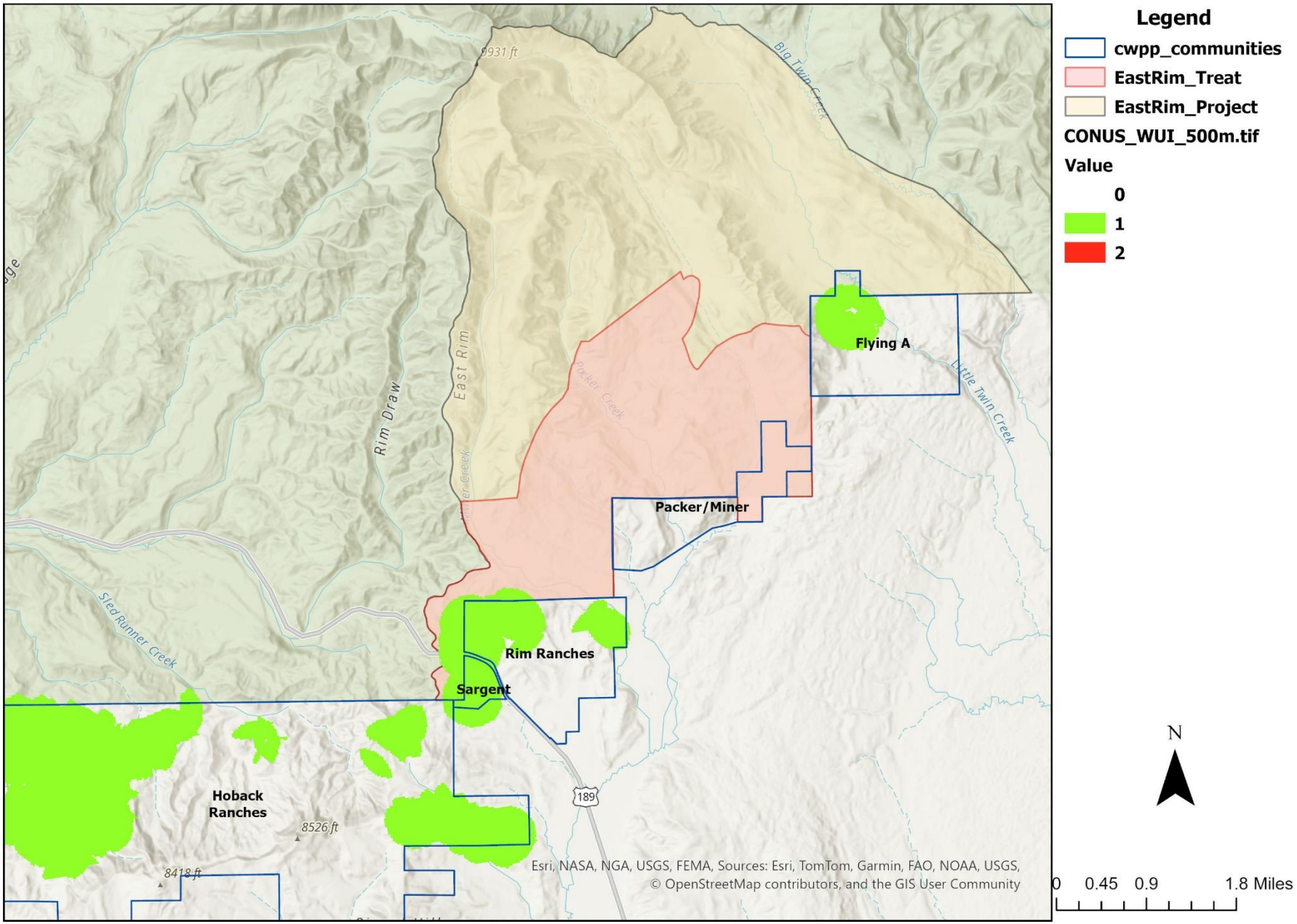


Figure 2. East Rim WUI Project and Treatment Areas with Adjacent CWPP and Roosevelt Fire

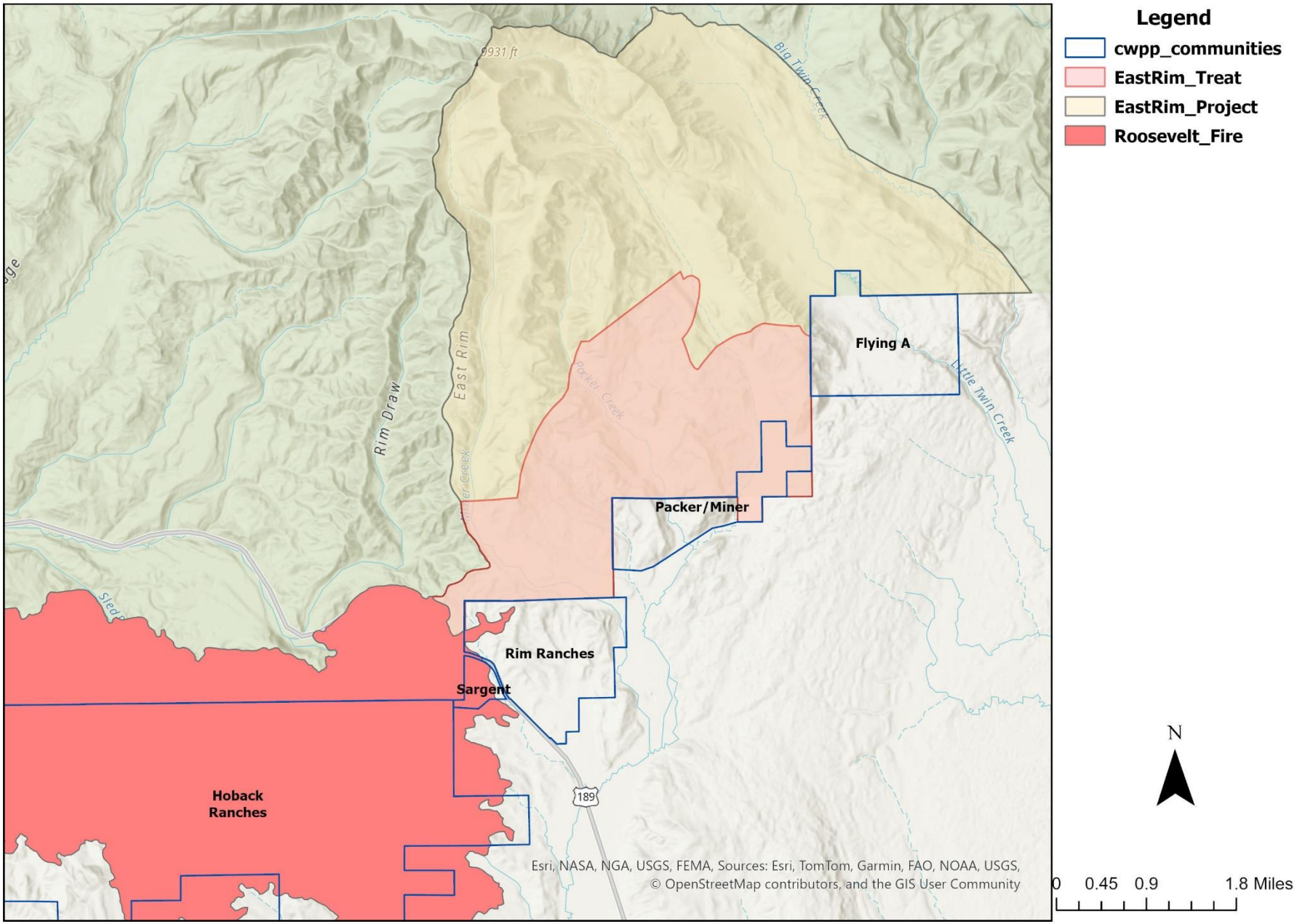


Figure 3. Rim Ranches CWPP Ownership

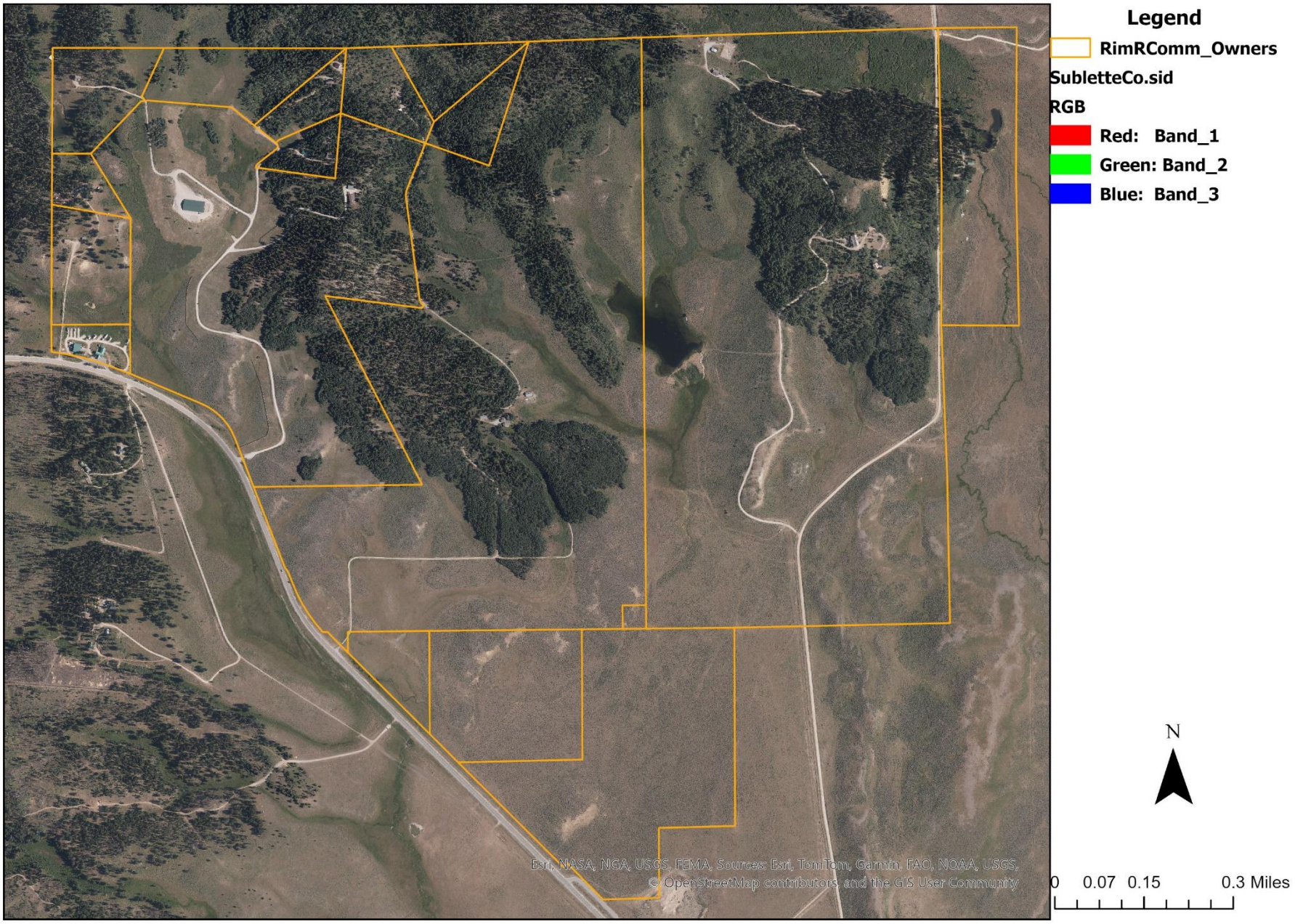


Figure 4. Packer/Miner CWPP Ownership

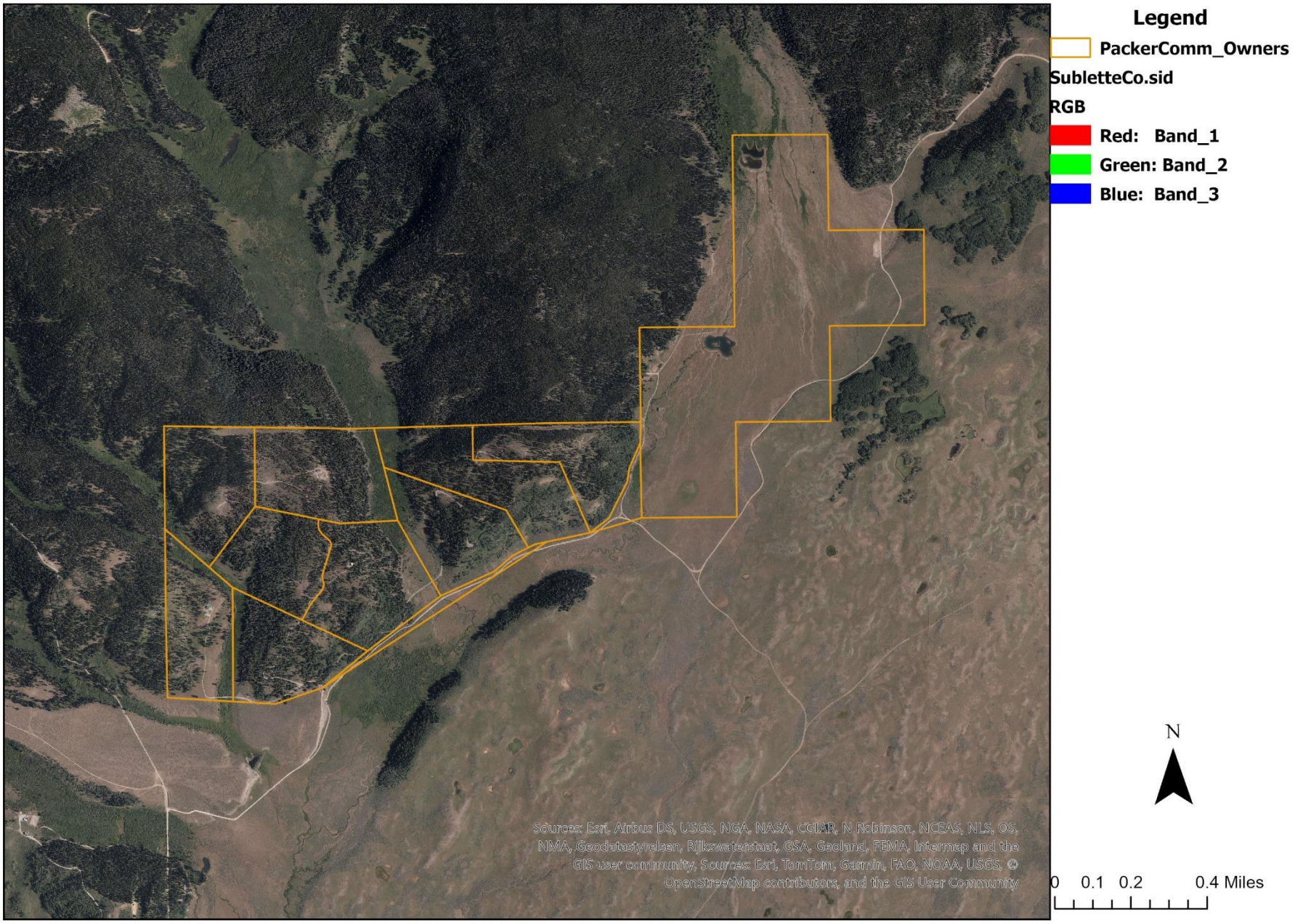
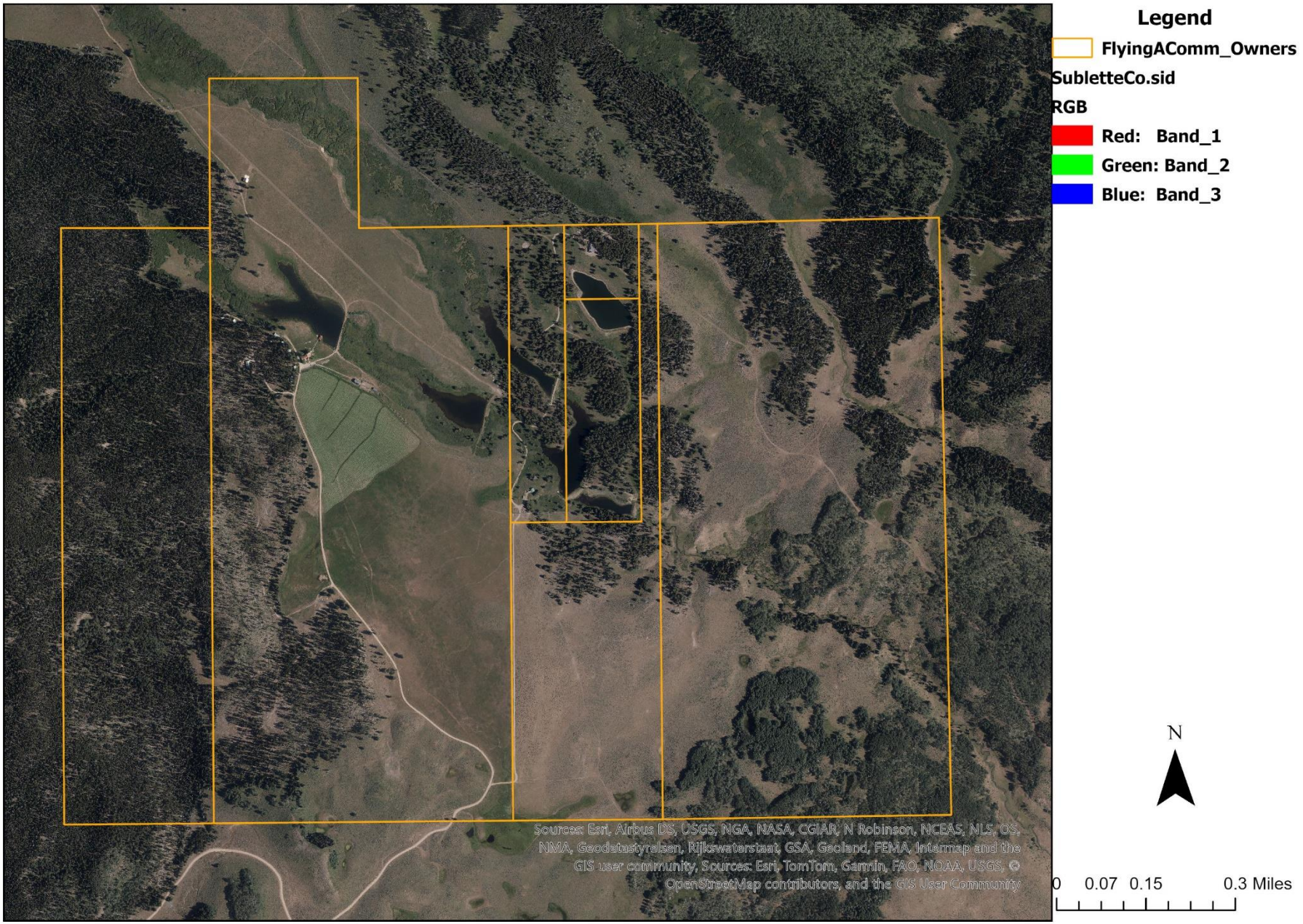


Figure 5. Flying A CWPP Ownership



Project and Treatment Areas

We took a closer look at the East Rim WUI project and treatment areas to clarify their characteristics and history. Using Forest Service databases for Timber Harvest, Hazardous Fuels Treatments, Region 4 Vegetation data (2018 update)[5], and the East Rim Project and Treatment areas (obtained via FOIA), we mapped these. (Figure 6). The Region 4 Vegetation data show whitebark pine stands are present north of the East Rim Treatment Area, but none are mapped in the Treatment Area.

A close look at the Sublette County 2022 Aerial Imagery (6") shows scattered low density dead trees within the Treatment Area. Whether these are whitebark pine or other conifers is uncertain, but they are a small percentage of the trees present. These are not the "high levels of tree mortality resulting from insect infestation" contemplated in HFRA Section 401.

A past Hazardous Fuels project of 1,000 acres is mapped. The Hazardous Fuels Treatments database indicates it was a wildfire, yet it does not show in the Forest Service MTBS database for wildfire areas. Whether it was a wildfire, clearcut, or salvage logged, it appears as a clearcut with no habitat. Many smaller areas appear to have been logged (Timber Harvest database). This indicates a need for an accurate analysis and depiction of the status of whitebark pine, old growth and mature trees, and the other vegetation types, and their history of manipulation that has resulted in the composition seen today.

In our January 3, 2025 scoping comments, we laid out concerns regarding specific wildlife species occurring within the project area. This included that this is in critical habitat for Canada lynx. HFRA, in Section 2. Purposes, stresses recovery of threatened and endangered species. We noted in those comments that Squires and Oakleaf (2005) mapped collared Canada lynx making multiple movements through the project area. We have requested that data, but the Bridger-Teton NF was unable to provide it. We approximated the path from the map in the Squires and Oakleaf (2005) paper. (Figure 7).

The Project is likely to adversely affect whitebark pine, a species listed under the Endangered Species Act. Commercial activities are proposed on up to 3,000 acres of habitat that could contain whitebark pine. Commercial treatments could damage or destroy some whitebark pine and whitebark pine trees could be cut due to misidentification. Prescribed fire could also destroy whitebark pine trees.

Project activities would decrease hiding cover for wildlife on 3,000 acres through a combination of timber harvest, non-commercial thinning and/or prescribed burning. These are all factors that argue against a categorical exclusion. We addressed the extraordinary circumstances in our January 3, 2025 scoping comments.

[5] Bridger Teton National Forest, Geospatial Technology and Applications Center, R4 – Intermountain Region Office.

Figure 6. East Rim Project and Treatment Areas
Whitebark Pine, Past Harvest and Hazardous Fuels Shown

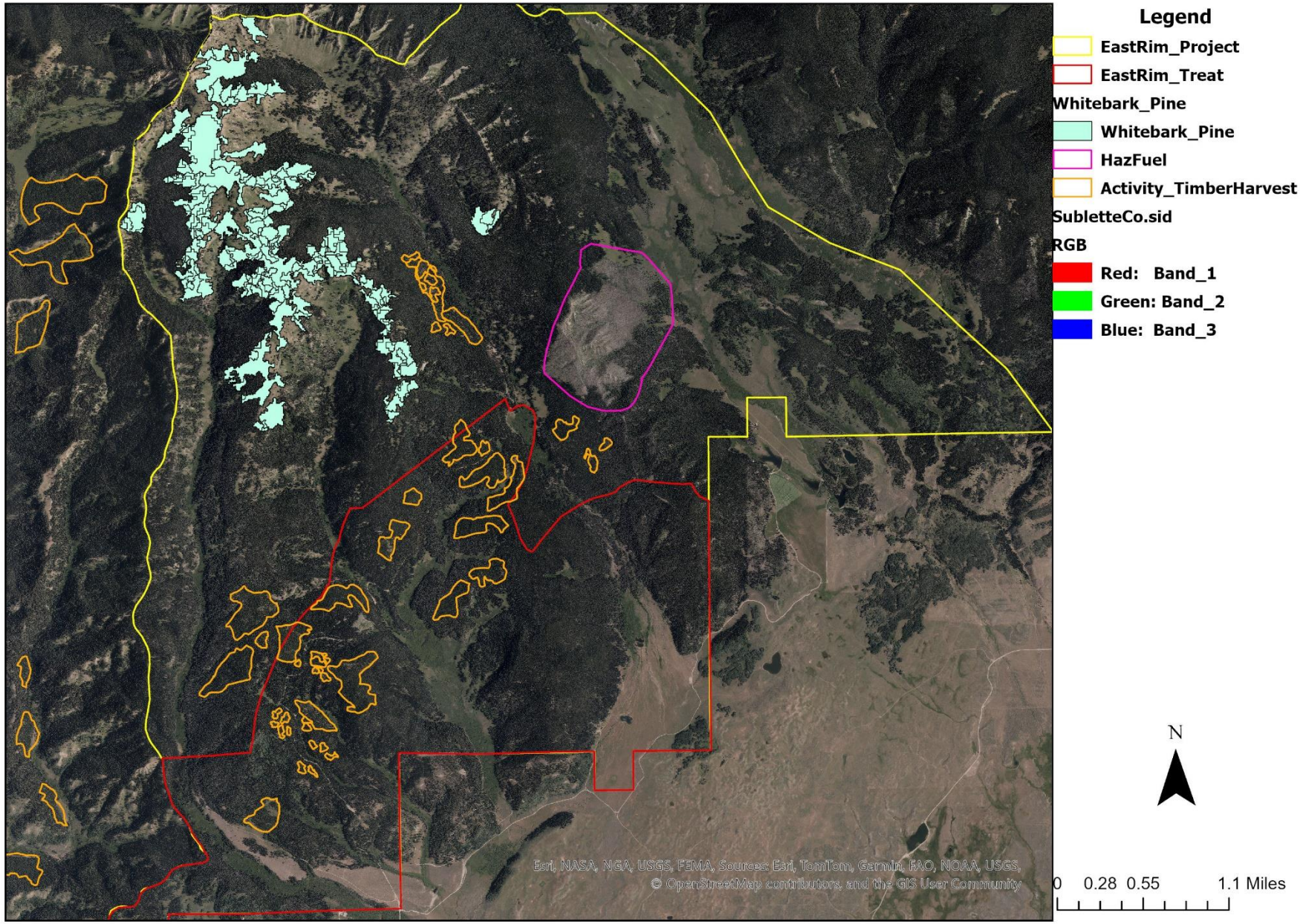
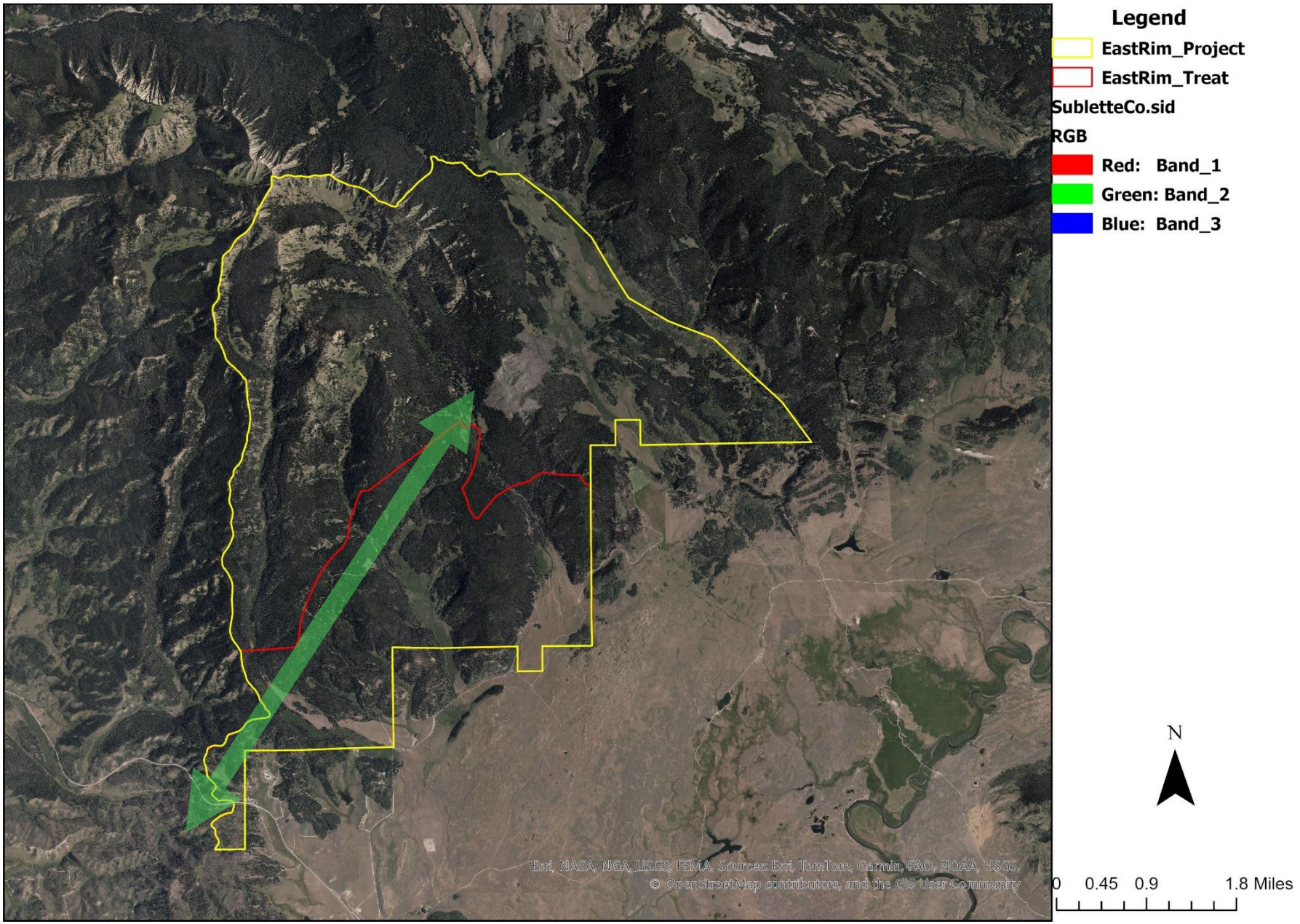


Figure 7. Approximate Canada Lynx Migration Path
Squires and Oakleaf 2005



HFRA Questions

Section 603. The Scoping Letter indicates this project will occur under Section 603 of HFRA, thereby being categorically excluded from NEPA review. The Scoping Notice states that, "Section 603 can be used for qualifying insect and disease or hazardous fuels reduction projects in areas designated by the Secretary under Section 602 on National Forest System lands. Landscape scale areas may be designated by the Secretary if they meet at least one of the criteria found in HFRA, sections 602(c)(1)(2) & (3)." Section 602 states that these landscape scale areas must be (1) experiencing declining forest health, based on annual forest health surveys conducted by the Secretary; (2) at risk of experiencing substantially increased tree mortality over the next 15 years due to insect or disease infestation, based on the most recent National Insect and Disease Risk Map published by the Forest Service; or (3) in an area in which the risk of hazard trees poses an imminent risk to public infrastructure, health, or safety.

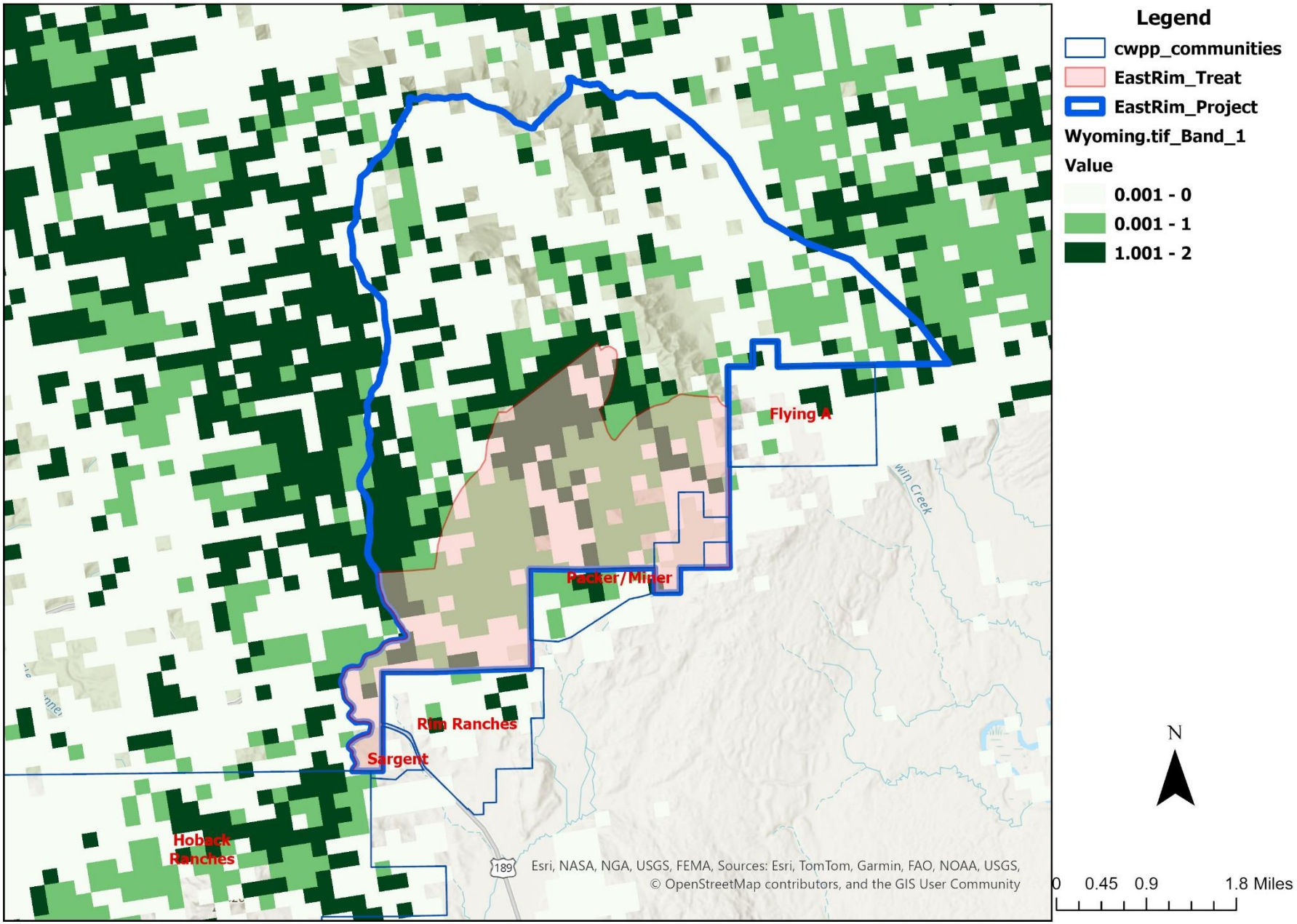
The Bridger-Teton NF has not produced these "annual surveys" or documented those conditions in the project area at risk of substantially increased tree mortality. There has been no identification of structures or infrastructure within the treatment or project area where "hazard trees" pose a risk. The National Insect and Disease Rick Map has not been shown or analyzed. We downloaded the Wyoming data and viewed the project area and vicinity. (Figure 8). Within the CWPPs, most of the area is low risk. Within the project area, the whitebark pine areas we mapped in Figure 6 are showing as low risk. Most of the area within the project area and outside the treatment area is low to moderate risk. Within the treatment area, low and moderate risk is dominant. According to the metadata for the NIDRM:

> "Value = 0 Treed areas, but not modeled as "At Risk" in the National Insect & Disease Risk Map (NIDRM) 2012 composite risk dataset. Value = 1 Pixels considered at risk in the NIDRM_2012 risk assessment, but where recent forest mortality data indicates that these areas are likely no longer at risk of significant further (post-2018) mortality through 2027. Value = 3 NIDRM 2012 composite risk pixels that remain at hazard for mortality losses exceeding 25% of their 2012 basal area over the remaining 15-year, 2013-2027 time frame. "

Our interpretation of the NIDRM is that Value = 1 and 2 categories are dominant, indicating the risk does not meet the HFRA criteria. While the metadata did not exactly correspond to the map values (pixel values), the scale range clearly shows dominance by the lower risk categories. Finally, the Value = 3 category is near the end of the predicted 15-year interval, which ends in 2027. It didn't burn yet and the forest is dominated by live trees.

Section 603 (d)(2) states that "Any project under paragraph (1) for which a public notice to initiate scoping is issued on or before September 30,2023 may be carried out in accordance with subsections (b), (c), and (d) of section 102, and sections 104, 105, and 106." The Scoping Notice is dated December 18, 2024. Please clarify whether and how this project is eligible under this provision.

Figure 8. East Rim WUI Project and Treatment Areas with the National Insect and Disease Risk Map



The Scoping Notice also notes a limitation of the project to be primarily in the WUI or public drinking water source area. As we have shown, the project is not primarily in a legally defined WUI, and the Bridger-Teton NF has not delineated this as a public drinking water source area. It has not presented an analysis as to how the area meets the specified condition classes with high wildfire hazard, nor how this project is in a "designated treatment area". The Scoping Notice claims high mortality of lodgepole pine and spruce accompanied by mortality of whitebark pine and limber pine. Yet, our inspection of the high-resolution imagery for the treatment area reveals scattered dead trees, also valuable for birds. The Scoping Notice statement does not match the evidence we have seen. In any event, insects and disease are natural occurrences in forests. We provided a review of facets of this issue in our January 3, 2025 scoping comments.

Section 102. Allows hazardous fuel reduction projects in: (1) WUI; (2) condition class 3 Federal land in proximity to "a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event"; (3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime 3 with the same watershed issues, (4) Federal land with windthrow, blowdown, existence of an epidemic of disease or insects; (5) Other Federal lands that contain threatened or endangered species habitat if a natural fire regime important in a species recovery plan or wildfire or hazardous fuels project will provide enhanced protection from catastrophic wildfires.

Section 102 also has a 20-million-acre limitation on hazardous fuel treatments. The Activity_HazFuelTrt_PL data we downloaded from the USDA Forest Service National Data Set database shows 71,826,365 acres treated. Section 102 also provides conditions related to Old Growth stands and maximizes retention of large diameter trees. Section 102 has Monitoring and reporting requirements. These are elements of the project that need analysis and public review. A scoping notice is inadequate to fulfill this need. A CE will not fulfil this need. A full NEPA analysis is required.

Section 103. Prioritizes projects on Federal and Non-Federal land. Priority on non-Federal land is to fund projects in communities with CWPPs that have taken proactive measures to encourage willing property owners to reduce fire risk on private property. We pointed out above that the SWCC plan addresses the community-specific needs and that a handful of properties have not addressed the need for better buffers. This could be resolved through the County SWCC or assistance from the Forest Service rather than a major hazardous fuel project on Federal land.

Section 104. Requires NEPA EA or EIS. If a proposed project is in an WUI, HFRA only requires proposed agency action and one action alternative be evaluated; if within no further than 1.5 miles from the boundary of an at-risk community, no alternative to the proposed

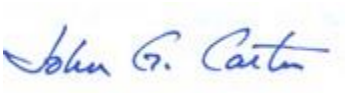
action is needed; if the at-risk community has a CWPP, the agency shall evaluate the recommendations in the CWPP as an alternative to the proposed action. The Scoping Notice did not do this and a full NEPA is needed.

Section 401. Findings include that, "high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in— (A) increased fire risk; (B) loss of old trees and old growth; (C) loss of threatened and endangered species; (D) loss of species diversity; (E) degraded watershed conditions; (F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and (G) decreased timber values".

The Scoping Notice is inadequate to address these factors and a full analysis under NEPA must occur. For example, does old growth occur within the project area? Where and to what extent? Mature trees? What about old-growth dependent species of wildlife? How are these to be protected? If stands are thinned, what are the risks of windthrow and blowdown to these trees?

Our January 3, 2025 scoping comments addressed the categorical exclusion issue and the extraordinary circumstances applying to this project. An agency satisfies NEPA if it applies its categorical exclusions and determines that neither an EA nor an EIS is required, so long as the application of the exclusions to the facts of the particular action is not arbitrary and capricious." Bicycle Trails Council of Marin v. Babbitt, 82 F.3d 1445, 1446 n.5 (9th Cir. 1996) (as amended June 17, 1996) (emphasis added).

Respectfully,



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