



Triangle Trail Association/Triangle Trail LLC

August 6, 2025

USDA Forest Service

Attn: Gordon Blum - Reviewing Officer, Objections & Litigation

Gaslight Building, Mailroom LL

626 East Wisconsin Avenue

Milwaukee, WI 53202

Via Email: objections-eastern-region@usda.gov

Via Fax: (414) 944-3963, Attn: Gordon Blum

Re: Objection to Draft Decision Notice for Fernberg Corridor Landscape Management Project (Project #65214)

Dear Reviewing Officer Blum,

Pursuant to 36 CFR Part 218, Subparts A and B, I am filing this objection on behalf of the Triangle Trail Association/Triangle Trail LLC and its members to the Draft Decision Notice (DDN) proposing Alternative 2 for the Fernberg Corridor Landscape Management Project. Triangle Trail LLC is a Minnesota LLC representing a minimum of 7 properties, 120 acres, and 16 owners, including: 28-6310-13790, 28-6310-13505, 28-6310-13515, 28-6310-13520, 28-6310-13490, 28-6310-13500, 28-6310-13670, whose land is located in the center of the 84,000 acres the Forest Service plans to burn. We submitted timely and specific written comments during the public scoping and Draft Environmental Assessment (EA) comment periods in the name of Troy Venjohn and Triangle Trail Association/Triangle Trail LLC, including feedback on fire risk mitigation, access needs, watershed health, and roadless area boundaries (attached as Exhibit A). However, the Forest Service's Response to Comments (Appendix F, Pages 37-38, 49-50) addressed only Troy Venjohn personally,

failing to recognize our collective representation. We request that the Forest Service address the group as a whole or all members individually in future communications. We retain our rights both individually and collectively to pursue all available remedies under applicable laws.

While we appreciate the incorporation of some public input into Alternative 2, as noted in the DDN and Final EA (Chapter 1 and Appendix F), the selected alternative fails to adequately address our concerns regarding access to private inholdings in a high fire-risk zone, environmental sustainability, and compliance with the Forest Plan's objectives for balanced land use. Alternative 2 effectively meets ecosystem objectives for age class distribution and species diversity but does not sufficiently minimize wildfire risks in the wildland-urban interface (WUI) for private properties south of Triangle Lake, nor does it respond to our comments on access under the Alaska National Interest Lands Conservation Act (ANILCA, Section 1323). We object on the grounds that the DDN does not fully comply with the National Forest Management Act (NFMA), National Environmental Policy Act (NEPA), and the 2004 Superior National Forest Land and Resource Management Plan (Forest Plan). See Exhibit D for relevant laws and regulations.

Contrast in Objectives

The Triangle Trail Association/Triangle Trail LLC and its members are committed to making our private lands safe from wildfire threats, keeping the waters of Triangle Lake and downstream BWCA clean through proper sewage and maintenance measures, and preserving the natural setting of the area for all users. Our proposals—such as diverting Forest Route 439 with no net new roads, a minor roadless area boundary adjustment, and infrastructure improvements like portage widening and parking expansion—are designed to achieve these goals while providing public benefits like hiking trails and enhanced fire safety. However, the Forest Service's response in Appendix F (Pages 37-38) inaccurately characterizes our current access as "reasonable water access," which misleads readers into thinking it is a simple motorboat ride across a lake. In reality, this access involves crossing multiple lakes and portages, which is dangerous, seasonal, and impractical due to low water levels from climate change and thin ice in shoulder seasons. Travel is limited to very small boats such as Kayaks, Canoes or small fishing boats. We respectfully request that the Forest Service withdraw this inaccurate characterization and refer to it as "Multiple Lakes and Portages Access" in all future communications to accurately reflect the challenges. Downplaying our access in this way will not bear legal scrutiny under ANILCA (Exhibit D, 16 U.S.C. § 3210) nor withstand review by USDA leadership, as it directly contradicts the requirement for "adequate and feasible" access to secure reasonable use and enjoyment of our properties. **Courts have upheld that access restrictions cannot**

violate statutory rights under ANILCA (Exhibit D, *United States v. Jenks*, 22 F.3d 1513 (10th Cir. 1994)). By standing in the way of these practical solutions, the Forest Service is hindering efforts to protect both private and public lands from fire risks, pollution, and degradation.

Specific Objections and Rationale

Our objections are tied to the project's purpose and need (minimizing wildfire effects in the WUI and advancing Forest Plan desired conditions) and the DDN's rationale for Alternative 2. The following issues were raised in our prior comments but not adequately resolved in the Final EA or DDN, as confirmed by the Forest Service's responses in Appendix F (Pages 37-38, 49-50):

- **Inadequate Fire Risk Mitigation for Private Inholdings:** Alternative 2 prioritizes prescribed burning (up to 84,000 acres, including a Forest Plan amendment for activities inside the Boundary Waters Canoe Area Wilderness [BWCA], Final EA, Page 17) but does not provide mechanisms for private landowners to mitigate risks on or near their properties prior to the burn. The area south of Triangle Lake is one of the highest fire-risk zones in the nation, as confirmed in discussions with the Kawishiwi District Ranger, with flame lengths exceeding 4 feet and high crown fire potential in untreated areas (Final EA, Figures 1-3, 1-4, 3.4-2 to 3.4-5, Pages 7-8, 38-45). Current access limitations restrict landowners to hand tools, preventing the creation of defensible space. Denying landowners the ability to mitigate these risks as a part of this plan could lead to severe damage to both private properties and adjacent government-owned lands, as unmanaged fuels on private inholdings could ignite and spread wildfires into National Forest areas, exacerbating WUI threats and undermining the project's wildfire minimization goals (Final EA, Page 8).

Furthermore, if the Forest Service prevents reasonable mitigation efforts by restricting access, this could absolve landowners of potential liability for fire spread under both federal and state law, as they would be unable to take preventive actions due to federal policies (Exhibit D, Minnesota Statutes § 88.16; 16 U.S.C. § 594; 28 U.S.C. § 1346(b); *United States v. Sierra Pacific Industries*, 2012). An out-of-control burn could destroy multiple structures in a single afternoon. The DDN's flexible implementation approach (DDN, p. [reference if available]) should include provisions for landowner coordination on burns and access for heavier equipment, but it does not. This violates NEPA by not fully analyzing alternatives that enhance WUI safety for inholdings (Exhibit D, 42 U.S.C. § 4332). The RTC (Appendix F, Pages 37-38) acknowledges our fire concerns but relies

on existing water access and Firewise measures without addressing equipment access needs, which is insufficient.

- **Failure to Address Access Needs Under ANILCA:** Private properties south and east of Triangle Lake (approximately a dozen inholdings, representing 7 properties, 120 acres, and 16 owners under Triangle Trail LLC) are only accessible via multiple lakes and portages, which is inadequate for the growing number of cabins (from ~5 to ~10 in five years, potentially 15). This access is dangerous, not year-round, and exacerbated by climate-driven low water levels (e.g., two summers in the 2020s with impassable portages). ANILCA requires “adequate and feasible” access to secure reasonable use and enjoyment of inholdings (Exhibit D, 16 U.S.C. § 3210). **Courts have ruled that the Forest Service cannot deny access rights to inholdings, especially where historical access existed (*United States v. Jenks*, 22 F.3d 1513; *Montana Wilderness Ass’n v. USFS*, 496 F. Supp. 880 (D. Mont. 1980)).** Alternative 2 does not incorporate our proposal to divert Forest Route 439 southwest from the BWCA/Kawishiwi boundary to the fire-prone area south of Triangle, with decommissioning of the southern portion to ensure no net new roads. This extension would enable fire management, allow equipment for mitigation (similar to Forest Service tools), and create public benefits like hiking/skiing trails. The forest service could use mechanical means to clear underbrush near our properties. The RTC (Appendix F, Pages 37-38) dismisses this by stating “reasonable access does include water access,” ignoring the dangerous and seasonal nature of our access, which contradicts ANILCA’s requirements. This undermines the project’s wildfire minimization goals (Final EA, Page 8).
- **Insufficient Consideration of Roadless Area Boundary Adjustment:** The Greenstone Lake East roadless area (added to the Forest Plan roadless inventory in 2004, not a RACR IRA) borders our properties. Historically, this area had walking trails, snowmobile/ATV paths, and roads, but was administratively designated roadless (Final EA, Pages 74-75). Alternative 2 does not address our request for a minor boundary adjustment (a few hundred yards south) to connect at-risk properties to a diverted Forest Route 439, using the old east-west snowmobile trail as the new boundary to maintain a BWCA buffer. This could be achieved via an administrative exception. **Federal laws and policies ensure roadless designations do not cut off pre-existing access rights: ANILCA mandates access (16 U.S.C. § 3210), RACR allows exceptions for inholdings and safety (36 CFR § 294.12), BWCAWA minimizes inholding impacts (Public Law 95-495), and FSM 1923.03 permits access consistent with multiple-use objectives. Courts have upheld that roadless rules cannot eliminate historical access (*High Sierra***

***Hikers Ass’n v. Blackwell*, 390 F.3d 630 (9th Cir. 2004); *Montana Wilderness Ass’n v. USFS*, 496 F. Supp. 880; *United States v. Jenks*, 22 F.3d 1513).** The recent addition of new entry points for the North Country National Scenic Trail (NCNST) in the BWCAW (effective January 2025), which routes through similar protected areas in the Superior National Forest (Final EA, Page 19), demonstrates precedent for permitting and enhancing non-motorized trails in roadless or wilderness-adjacent zones. A portion of the NCNST could potentially be utilized or shared to provide access to our properties, minimizing new environmental impacts while supporting multi-use objectives (Exhibit D, 36 CFR § 294.12). The RTC (Appendix F, Pages 49-50) states no roadless boundary changes are proposed, relying on existing management, which fails to address our request and violates NFMA by not balancing multiple uses (Exhibit D, 16 U.S.C. § 1604). The Final EA (Section 1.6, Page 17) amends the Forest Plan for burning but ignores roadless adjustments that support WUI safety.

- **Lack of Coordination on Prescribed Burns:** Any burns near Triangle/Ojibway must be coordinated with landowners after they implement protective measures. The Final EA’s amendment for 84,000 acres of BWCA burning (Page 17) increases risks without mandating coordination, as required for WUI safety (Pages 8-9). Alternative 2’s amendment for BWCA burning increases risks without mandating this, potentially endangering lives and property. This was not adequately analyzed under NEPA (Exhibit D, 42 U.S.C. § 4332). The RTC (Appendix F, Pages 37-38) mentions general public notification but does not commit to landowner-specific coordination, ignoring our comment.
- **Unresolved Watershed Health and Environmental Concerns:** Increased development around Triangle Lake, without access for proper sewage and maintenance, risks water quality in a top-tier lake draining into the BWCA. The Final EA identifies Triangle Lake in high-risk watersheds (Figure 3.11-1, Table 3.11-1, Page 79), supporting the need for access to prevent pollution. Alternative 2’s ecosystem objectives do not address this, despite our comments. The RTC (Appendix F, Pages 37-38) does not respond to our watershed concerns, focusing only on fire measures.
- **Inadequate Infrastructure Improvements:** Ojibway Lake parking is insufficient for summer construction and recreation; a minor redesign (e.g., pushing edges back 20 feet) is needed. The Triangle-Ojibway portage requires slight widening to prevent damage from UTV traffic. Alternative 2’s flexible component should include these to reduce congestion and protect features like the roller portage (Final EA, Page 15).

The RTC (Appendix F, Pages 37-38) does not address these infrastructure needs, despite our comments.

Requested Resolution

We request that the Objection Reviewing Officer direct the Forest Supervisor to modify Alternative 2 to incorporate our proposals, including the Forest Route 439 extension, roadless boundary adjustment, and infrastructure improvements. **We further request that the Forest Service recognize our historical access rights (pre-2004 roads, trails, snowmobile paths) and ensure roadless designations do not eliminate these, consistent with ANILCA, RACR, BWCAWA, and case law (*Blackwell, Jenks, Montana Wilderness*).** We also request withdrawal of the inaccurate “reasonable water access” characterization, using “Multiple Lakes and Portages Access” to reflect true challenges. These modifications would better meet the project’s purpose and need, comply with ANILCA, NFMA, and NEPA, and respond to Tribal and public interests. We are available for a resolution meeting and can provide additional documentation (e.g., maps of proposed routes, fire risk evidence).

Thank you for considering this objection. We look forward to a resolution that balances access, safety, and environmental stewardship.

Sincerely,

/s/ Troy Venjohn, Manager

Triangle Trail Association/Triangle Trail LLC

Attachments:

- Exhibit A: Copy of Prior Comments Submitted During Scoping/Comment Period
- Exhibit B: Map of Proposed Forest Route 439 Extension and Roadless Boundary Adjustment
- Exhibit C: Evidence of Fire Risks and Access Challenges (e.g., photos, District Ranger correspondence)
- Exhibit D: Appendix of Relevant Laws and Regulations Supporting Objection Points

cc: Linda Merriman, West Zone NEPA Planner
Thomas Hall, Forest Supervisor
Brooke Rollins, Secretary of Agriculture
Congressman Pete Stauber
Vice President JD Vance
Members of Triangle Trail LLC
Scott Neff, Attorney, Trenti Law Firm