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https://www.fs.usda.gov/r01/kootenai/projects/68787 .

Dear District Ranger Hernandez and staff:

Please accept these additional comments on the proposed Upper Bunk Project (Project) (Kootenai National Forest) from me, representing the Council on Wildlife and Fish, and on behalf of the Alliance for the Wild Rockies, Native Ecosystems Council, and the Center for Biological Diversity.

The Upper Bunk Project, located near Yaak, MT in the Three Rivers Ranger District of the Kootenai National Forest, encompasses 'treating' approximately 10,747 acres (2,160 acres of harvest, 501 acres of non-harvest) on private and public (USFS) lands, with a total of 2,661 acres of proposed treatment.

The proposed project purports to *restore* forest stands and enhance forest *resiliency* from their current condition towards desired conditions, as outlined in the 2015 Kootenai Forest Plan. These highlighted terms of art are not sufficiently defined to have real meaning to a lay commoner (average American citizen).

NFMA (the National Forest Management Act) was written to prevent the very type of "type conversion" being proposed. NFMA, Section 6(g)(3)(B) has three (3) complementary meanings in the context of programmatic timber planning:

1) …bring timber production into balance with wildlife and ecological values.

2) …limits 'forest conversions' only where conversion benefits non-timber resources.

3) … it prohibits monoculture.

When taken together these three policy principles require the Forest Service to take a hard look at the forest as an ecological whole and to ensure that the forest is not converted into a "tree farm."

Bingo! This proposed in precisely what Congress was trying to prevent: A giant tree farm where a natural forest once stood. Wildfire risk, <1% chance, is no excuse for violating the intent and bedrock purposes of NFMA.

To deliberately shift species composition away from natural succession and native species, toward (allegedly, with no in depth study or peer-reviewed ecological scientific rationale) "fire- and drought-tolerant conifers by promoting tree species that are naturally more resistant to insects and disease; reduce stand densities to improve resource availability and reduce competition; and manage fuel loads to support mixed-severity wildfire regimes" is exactly the type of conflicts between multiple-use policy and "conversions" tried to resolve in the U.S. Senate in April, 1976, when NFMA was enacted.

NEPA Hard Look

The Kootenai N.F. must take a "hard look" (NEPA) and accept meaningful public comments. This applies in this instance. A critical first step in the NEPA's "hard-look" process is to: "Determine the scope and the significant issues to be analyzed in depth in the environmental impact statement." See: §1508.25.

By jumping immediately without any analysis whatsoever, this was not even considered.

A Forest Plan amendment is necessary when finding that a proposed Project, or significant portion of a site-specific project, is found to be "non-conforming" to the information, assumptions, analysis, standards, or guidelines, and/or non-disclosure of substantive, non-discretionary, Plan components and processes.

Categorical Exclusion (NEPA)/Scoping

The Public Notice was too short, and fails to meet the primary objectives of meaningful public participation before a decision is made.

Scoping is required for all Forest Service proposed (programmatic and site-specific) actions, including those that would appear to be categorically excluded from further analysis and documentation in an EA or an EIS.

The ESA and HFRA issues preclude this project from normal exemption criteria. An EA or EIS is required.

(Pfister et al.) Old Growth Habitat Types/ 2012/2015 NFMA Planning Rule

The 2012/21015 Planning Rule requires that: *Ecosystem diversity. The plan must include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and* ***habitat types*** *throughout the plan area. In doing so, the plan must include plan components to maintain or restore;…(ii) Rare…terrestrial… animal communities…"*[1] See also: 36 C.F.R. §219.9 (a)(2). Emphasis added.

Generally, compliance with this 36 C.F.R. §219.9…*is intended to… support the persistence of most native species in the plan area.* Old growth is the ecosystem upon which the rarest "terrestrial animal community" on the Forest is found.

Mandatory, non-discretionary growth forest standards in the 1982 (Regs) Forest Plans protected old growth associated/co-dependent wildlife species.

The 2015 Revised Forest Plan removed these quantifiable standards, replaced them with ***nothing*** or a plethora of vague, meaningless narratives defined as "desired (future) condition" and a suite of "squishy" highly subjective (arbitrary), unenforceable guidelines that give priority to commercial values over all other multiple-use values. This new hierarchy of forest values is incredibly biased in favor of increasing clearcut logging, thinning and prescribed burning, or in other words, a radical expansion/inflation of "active management" for commerce, over against wildlife, water, wilderness and other non-commercial values.

Within old growth stands, timber harvest or other vegetation management activities should not be authorized if the activities would likely modify the characteristics of the stand to the extent that the stand would no longer meet the definition of old growth (see glossary for old growth definition).

Nothing kills (murders) old growth forest faster than heavy machinery looking for sawlogs to liquidate into cash. Logging in old growth is totally unnecessary. Succession and natural disturbance perpetuate old growth, it seldom replicates the industrial exploitation that has reduced old growth to its present "rare" status. It is rare due to logging, not natural processes.

[1] *Forest Habitat Types of Montana,* Pfister et al. (1977).

This Project is no exception. Management has never "provided" for an ***increase*** in old growth quantity or quality, it has consistently destroyed it. Emphasis Added.

Old growth is naturally resilient to impacts that might result in the loss of old growth characteristics, such as insect infestations, wildfire, and drought. And let us not forget loss associated with logging, thinning and prescribed burning.

Old growth contains ***dynamic*** components that contribute to high quality habitat, including large or very large live trees with rot or broken tops, snags, downed woody material, and a diversity of tree size classes and multi-layered canopies. Emphasis added. Old growth is not a thing, it is a series of interdependent relationships, of in other words, an ever-changing ecological process. Old growth is not static.

Each of these components which contribute to old-growth habitat must be analyzed for past, present and foreseeable future actions, and natural events. Each component must be subjected to a "hard look" (NEPA) of habitat quality and quantity will continue to decline. Baseline conditions for very large live trees, rot, broken tops, snags, downed woody material and size and age classes and canopy condition are needed to properly assess and analyze the old-growth patch size, connectivity, and habitat capability now and in the foreseeable future (post-project).

Please list plant and animal species present in old growth in the Project area. Please map habitat areas and estimate population size, health and connectivity within individual stands, and between old growth stands.

All this is site-specific analysis is necessary because the forest-wide existing condition(s) (baseline) shown is the mean percent of old growth (See: Forest Plan glossary) with the 90 percent confidence interval shown in parenthesis. Source is Northern Region Summary Database, Forest Inventory and Analysis (FIA) data, updated in 2015. Can you see the problem? FIA data is one plot per >6,000 acres and is over 10 years old. This is in serious need of an upgrade – greater resolution and more recent data.

Old Growth Habitat/Wildlife: FS Goals, Objectives, Standards and Guidelines

Standards FW-STD-VEG-01. Within old growth stands, timber harvest or other vegetation management activities shall not be authorized if the activities would

likely modify the characteristics of the stand to the extent that the stand would no longer meet the definition of old growth (see glossary for old growth definition).

Guidelines FW-GDL-VEG-01. Timber harvest or other vegetation management activities may be authorized in old growth stands if the activities are designed to increase the resistance and resiliency of the stand to disturbances or stressors, and if the activities are not likely to modify stand characteristics to the extent that the stand would no longer meet the definition of old growth (see the glossary for the definitions of resistance and resilience). FW-GDL-VEG-02. Road construction (permanent or temporary) or other developments should generally be avoided in old growth stands unless access is needed to implement vegetation management activities for the purpose of increasing the resistance and resilience of the stands to disturbances. Plan, p. 19

FW-DC-WL-11. Old growth, or other stands having many of the characteristics of old growth, exists for terrestrial species associated with these habitats (refers to FW-DC-VEG-03, FW-STD-VEG-01, FW-STD-VEG-02, FW-GDL-VEG-01, and FW-GDL-VEG-02). Plan, p. 29.

Wildlife Goals GOAL-WL-01. The KNF manages wildlife habitat through a variety of methods (e.g., vegetation alteration, prescribed burning, invasive species treatments, etc.) to promote the diversity of species and communities and to contribute toward the recovery of threatened and endangered terrestrial wildlife species.

GOAL-WL-02. The KNF manages and schedules activities to avoid or minimize disturbance to sensitive species and manages habitat to promote their perpetuation into the future. Plan, p.29

Desired Condition

MA6—General Forest Description Most of this MA consists of relatively large areas with roads, trails, and structures, as well as sign of past and ongoing activities designed to actively manage the forest vegetation. This MA provides a wide variety of recreation opportunities, both motorized and non-motorized. The density of motorized routes in this MA is higher than most of the other MAs. Constructed improvements in this MA generally consist of campgrounds, picnic or day use areas, trails, lookouts, and cabins. Most of the WUI on the Forest occurs within MA6 and activities designed to reduce hazardous fuels are common. Vegetation and watershed restoration is accomplished predominantly through

active management. Evidence of past management activities vary across the landscape, but are generally more noticeable in this MA than others. Many of the acres within this MA are suitable for the production of timber on a regulated basis, providing wood fiber in response to regional and national demand. However, there are other areas within this MA that are not suitable for timber production due to the value they have for other purposes. For example, old growth stands, riparian areas, and grizzly bear management units are common within this MA and are not managed for timber production. Plan, p. 64

Before this Project can proceed, and meet/'pass' NEPA "muster," a massive field survey effort must be conducted to evaluate all the characteristics of old growth, old-growth habitat and all the species co-dependent/associated with old growth stands of varying patch size, and varying security and connectivity. Migratory songbirds, the Northern Goshawk and Great Gray Owl would be a good place to start. A failure to gather viable data and conduct credible is a failure to follow NEPA procedures, which will undoubtedly result in significant adverse ecological and biological impacts to the human environment.

Maintaining diversity in old growth is about relationships, from underground to the tops of ancient trees, and the air above and around. Logging fragments, breaks relationships in old growth forests. Analyze and disclose the damage being proposed, NEPA requires this, at least.

Language

> *In the end, if all of legal fiction and language were to be destroyed, we must realize that nothing in Nature, nothing in Reality, and therefore no man would actually be harmed. The rabbit would carry on in its ambiguous substance as if the word rabbit never fictionally existed. And the Law of Nature would be untouched, for Its True, self-Existence never required anything of man, no names or titles, and certainly no language arts.*
> Clint Richardson, Strawman, p. 1140.

What does *restore* forest stands and enhance forest *resiliency* from their current condition towards desired conditions mean? Please disclose these term of art, their origin, definition, and meaning in the context of conforming to the Forest Plan and proposed Project.

> *Legalese is the king's language. To the legal societies and*

Religious sects, illiteracy is merely a lack of juristic and scriptural knowledge, and this publicly imposed ignorance and trickery is the tool of their general control over we, the common people. Thus, the common or general language of the common people bounded and burdened by public citizen-ship is viciously twisted and turned into a language of fraud and deceit in direct opposition to Life, Law, God, and Nature Itself. This magical spell (the spelling and construction of words) therefore must first be realized as a state of despotic dualism, where we are intentionally and unwittingly tripped up on our own false comprehension and wrongful understanding of the meaning of legal words, as our common everyday words in fact mean the opposite of the True intent under which we speak them, even while unwittingly acting in a legal capacity (in persona). We are in Rome, and so we must learn Rome's language or be helpless under its deception. This is the realm of legalese — the legal language — where fantasy and Reality collide to create the jurisdiction of legal law that so entraps all good men as one body politic under false names (nouns). Ibid, pps. 55,56.

Wildland Urban Interface (WUI)

What is the baseline wildfire risk today? What is the Mean Risk to Structures, and what is the Mean Probability of Ignition? This is the 'baseline' risk.

What percentage of risk will be reduced (net change), and/or, "protected" (post-Project) from fire impacts in the wildland urban interface (WUI)? What will be the net reduction in risk if everything goes according to plan?

Please provide the WUI definition, and the source of that definition, being used, specific to this Project.

Please cite examples of where, in similar habitat types, a "coordinated risk management approach to promote landscapes that are resilient to fire-related disturbances and preparing for and executing a safe, effective, and efficient response to fire" has produced the results you are expecting in this Project area.

Please refer generally to:
Montana Wildfire Risk Assessment: Methods and Results; Prepared by:
Julie W. Gilbertson-Day, Kevin C. Vogler, Jim Napoli,
April Brough, Chris J. Moran, Joe H. Scott

Prepared for: Montana Department of Natural Resources and Conservation Forestry Division; May 8, 2020
See also: A2.1 Mean Risk to Structures
The Mean Risk to Structures for counties and communities is displayed as a scatterplot of Mean Burn Probability versus Mean Conditional Risk to Structures (Figure A.2).

What is the expected effective duration of the proposed 'treatments.' When do you expect re-treatment to begin? This is a 'foreseeable' action, no? NEPA requires more than aspirational statements, it requires data analysis, and disclosure after taking a hard look.

Roads/Grizzlies, elk, mule deer, moose and other displaced wildlife

Among the chief threats to grizzly bears and other wildlife species in the sights of legal hunters and illegal poachers are roads (past, present and foreseeable) that have already encroached in their once-secure habitat, plus proposed roads in future management actions that have priorities other than wildlife security.

Let me help the USFS-USDA remember, right here, right now, the purpose of the Endangered Species Act (ESA) is to …***protect and recover imperiled species of fish, wildlife, and plants, and the ECOSYSTEMS UPON WHICH THEY DEPEND. It aims to prevent extinction and promote the recovery of species facing threats to their survival. The ESA also includes provisions for interagency cooperation to avoid harming listed species and their habitats.*** Emphasis added.

Roads and associated human use displace grizzly bears (and other 'shootable' wildlife) and increase grizzly mortality risk from poaching and conflicts with humans during the bears' non-denning season.

Displacement occurs because wildlife, especially grizzly bears form negative association[s] with roads (adverse conditioning) aris[ing] from the fear of vehicles, vehicle noise, and other human-related activities around roads, as well as from human scent along roads and hunting and shooting along or from roads.

As a result, grizzly bears (elk, moose, etc.) avoid roads, adjusting their habitat use patterns in part according to **the density of open and closed roads** in an area. Emphasis added. Crucially, a well-documented and longstanding body of scientific evidence demonstrates that this impact extends to low-use (even 'administrative-only use') and even closed roads.

Given the preponderance of evidence that roads displace, harm, kill and 'take' wildlife, especially grizzly bears, it is critically important to properly inventory **all** roads, map **all** roads, and analyze and disclose; 1) total miles/square mile of roads and trails, 2) same for open roads and trails, and 3) analyze the results in the context of the best available science as described above. In other words, calculate the loss of habitat effectiveness, estimate the displacement effect, describe the loss of connectivity within a project area, and looking at the loss of connectivity ecosystem-wide and between ecosystems.

Where "roads [are] closed to public travel, researchers have documented bear "avoidance of high total road densities areas."

The USFWS has acknowledged that grizzly bears learn quickly to avoid the disturbance generated by roads and may not choose to use these habitats even long after road closures. Once conditioned to avoid the disturbance and annoyance generated by roads, grizzlies may not change this resultant avoidance behavior for long periods after road closures and lack of negative reinforcement.

The impacts of high road density especially injure ("harm) female grizzly bears by significantly disrupting normal behavioral patterns, including breeding, feeding, and/or sheltering. In particular, high road density impairs female grizzly bears' "inherent reproductive potential" because displacement and disturbance impact(s) mean females may fail to breed at their potential frequency or they would fail to complete gestation due to decreased fitness.

Thus, according to seminal research by biologists Richard Mace and Timothy Manley in the Flathead Forest in the 1990s, "if unroaded habitats are reduced in quantity or size, the number of adult females will eventually decline," harming the grizzly bear population (Singular, Lower 48 population) as a whole.[2]

Conclusion

This Project requires an EIS. Without significant changes in favor of wildlife, especially grizzly bears and other T & E species the Project violates the Forest Plan; and the Project DEA violates NEPA, violates the NFMA planning

[2] See: *South Fork Flathead River Grizzly Bear Project: Progress Report for 1992*, Richard Mace and Timothy Manley, (1993).

regulations, and the APA regarding old growth, wildfire risk assessment and analysis of the loss of biodiversity (NFMA) at the programmatic level.

Thank you for considering our issues and concerns.

Sincerely,

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